

IN THE CIRCUIT COURT
FOR MONTGOMERY COUNTY, MARYLAND

VILLAGE OF FRIENDSHIP HEIGHTS, :
et al., :

Plaintiffs, :

v. :

Civil Action No.: 15-CV-26-002907

MONTGOMERY COUNTY PLANNING :
BOARD, et al., :

Defendants. :

PLAINTIFFS' SUMMARY JUDGMENT REPLY MEMORANDUM

I. INTRODUCTION

Plaintiffs seek a declaratory judgment that establishes as a matter of law that the Planning Board cannot take action on plans submitted to it for development on property subject to Binding Elements where the submitted plans repudiate compliance with the Binding Elements without the applicant having first obtained the District Council's approval for such repudiation. In support of the requested judgment, plaintiffs simultaneously submitted a motion for summary judgment demonstrating that applicable law requires a separate proceeding leading to a District Council decision approving modification or elimination of the Binding Elements before the Board can adjudicate plans that do not comply with the existing Binding Elements. In opposing summary judgment the Planning Board offers no disagreement with our legal analysis concluding that approval by the District Council of such noncompliance necessarily must precede action by the Board on the noncompliant plans (as to Binding Elements) presented to it. In its opposition to summary judgment, FCP makes no attempt to explain the lawfulness of its

continued insistence that the Binding Elements have been negated or invalidated, presumably making it unnecessary for FCP to first go through the separate process of seeking the District Council's endorsement of its claim of abrogated Binding Elements. Equally importantly, neither the Board nor FCP has taken exception in any way to the sworn affidavit of Village Vice-Chair Francine Kerner Klein, documenting the facts and the law that underlie plaintiffs' declaratory judgment claim that the Binding Elements have not been negated or invalidated, and must be complied with by FCP unless changed by the District Council. The remaining defendant, the District Council, has not at this time filed any opposition to plaintiffs' motion for summary judgment.

Instead of responding on the merits regarding the legal question presented for declaratory relief, all three defendants have filed motions to dismiss this case, offering a panoply of reasons the Court must not rule on the legal issue presented by plaintiffs. Those meritless claims are dealt with separately in opposition to those motions. Plaintiffs explain in those separate filings why the various rationales defendants have advanced to deter this Court from addressing this legal issue with timely declaratory relief do not apply here. If those motions are denied, as they should be, the issue of summary judgment has been joined without defendants' having identified with particularity in their responses of "material fact as to which it is contended that there is a genuine dispute," as required by Md. Rule 2-501(b)(1).

II. THE DECLARATORY RELIEF BEING SOUGHT IS BASED ON THE ESTABLISHED LEGAL PROCESS FOR AMENDING OR DISSOLVING BINDING ELEMENTS

The Amended Complaint Prayer for Relief seeks the following declaration:

A declaration that the Preliminary Plan, Sketch Plan and Site Plan submitted by Friendship Commons Partners LLC for the Property are not consistent with the Binding Elements of LMA G-760, and thus cannot lawfully be favorably acted upon by the Board in their present form, and

declare that to obtain Board approval of its Plans, FCP must either modify the Plans to remove all such inconsistencies, or obtain a finally approved amendment to those Binding Elements that eliminates all inconsistencies between the FCP plans, as they may be amended, and the LMA G-760 Binding Elements.

The predicate part of this request, i.e., inconsistency between FCP's plans and the Binding Elements of LMA G-760, has been effectively conceded by FCP here by maintaining its previously expressed position that the Binding Elements may be disregarded in that they have been extinguished or were never valid in the first place. Such an extraordinary claim would not be necessary if its plans were fully consistent with the Binding Elements. FCP's response also confirms that it has no intention of modifying its plans to reflect such consistency before the plans are adjudicated in the Board's July 30th public hearing. This leaves as the only other lawful option amendment of the Binding Elements by the District Council such that any inconsistency between the Binding Elements, as they may be amended or dissolved, is eliminated. In this respect, plaintiffs' Prayer for Relief is based on the established legal process for amending or dissolving Binding Elements, as detailed more fully below. In seeking summary judgment, plaintiffs have contended that this process culminates in a final decision by the District Council on what Binding Elements are to apply, which is then to be reflected in the project plans submitted to the Board for review and approval. Skipping over this essential step of District Council review and approval on any change to the Binding Elements contravenes established procedure. It is also highly prejudicial to the adjacent residential community, in that protection from possible adverse effects of the rezoning precipitated application of the Binding Elements in the first place. Just as Binding Elements are determined by the District Council, the procedure for amending Binding Elements culminates in a decision by the authority that imposed the Binding Elements in the first place: the District Council.

While the foregoing analysis is presented in plaintiffs' summary judgment motion without dispute, plaintiffs wish to emphasize, utilizing public record information that has become available, more precisely why there can be no doubt about the correctness of the legal ruling sought by declaratory judgment. When the owner (or designated agent) of a rezoned property seeks to modify any or all Binding Elements previously applied to the property, the process starts with the owner or agent submitting a modification request to the Office of Zoning and Administrative Hearings ("OZAH"), a legislative branch office of the County Council that is not under the supervision of the Board. **Exhibit A** consists of relevant excerpts from OZAH Regulations governing requests to amend Binding Elements on Development Plans approved by the District Council before the Zoning Rewrite that went into effect on October 30, 2014. Those regulations apply here, as LMA G-760 long predates the 2014 Rewrite. In summarized form, those rules require the owner or agent to file with OZAH an application to amend Binding Elements and to send notice of the application to adjoining and confronting property owners and nearby citizens associations. The Planning Board reviews the modification request and may address it in a Board public hearing. The Board makes no final decision on the request; it sends a recommendation to OZAH. OZAH, in turn, sets a public hearing date on the request before the OZAH Hearing Examiner if there is public opposition, or a hearing is recommended by the Board, or an aggrieved party requests a hearing. Standard OZAH hearing procedures are then employed for scheduling and conducting the hearing if needed, after which the Hearing Examiner prepares a report and recommendation to the District Council. All hearing participants are given notice of the report and are entitled to request oral argument before the Council on the OZAH report. The process ends with a final decision on the application by the District Council.

The required process is well-illustrated by an example from 2013, culminating in Council Resolution 17-863, a relevant excerpt of which is attached as **Exhibit B**. It shows clearly that although the Board has an advisory role to play in amending Binding Elements, any actual amendment is the product of a proceeding separate from plan review by the Board, with the final decision on Binding Element amendments made by the District Council, following any needed evidentiary hearing conducted by the OZAH Hearing Examiner, not the Board. In the **Exhibit B** case, the Board staff reviewed the amendments, followed by Board review and a recommendation of approval with the addition of several new binding elements. As a result, the application prepared a revised development plan amendment, which, after another round of staff and Board level review and recommendations, was the focus of the OZAH hearing. This was followed by a report and recommendation from the Hearing Examiner to the District Council, whose approval of the changes to the Binding Elements is documented and detailed in Council Resolution 17-863.

While the above proceeding took place 2012-13, the procedures that are followed for modifying local map amendments approved by the District Council today have been retained for local map amendments approved by the District Council before the Zoning Rewrite went into effect on October 30, 2014. At this point, the occasions for requests to modify pre-October 30, 2014 binding elements may have become less frequent but they are **unchanged**.

Indeed, just last year, the District Council approval process was followed in DPA 2025-01, Willow Manor at Clarksburg, a case where the applicant sought a change in a Binding Element to a Development Plan approved before October 30, 2014—i.e., on September 9, 2003. **Exhibit C** documents the steps taken leading to approval of a Binding Element change in that case. The Exhibit perfectly illustrates compliance with the established procedures that should

have been followed in this case but were not. **Exhibit C** begins with the first page of the Executive Summary of the June 16, 2025 staff report on the application. In three brief sentences, staff sets out the review prioritization followed last year and disregarded now:

Cabin Branch is subject to a Development Plan, which includes a binding element that limits the number of “Service/Public Units” (senior living units) to 500 within Cabin Branch. A total of 500 units have already been built or entitled for future development. Therefore, approval of an amendment to the Development Plan to adjust the cap on senior living units is needed **before the Applicant can submit Preliminary and Site Plan applications.**

Staff Report Executive Summary at 1 (emphasis added). Next in **Exhibit C** is the Board’s July 8, 2025 letter of recommendation of approval to the Hearing Examiner following its review of the application at a Board hearing on June 26, 2005. It included a recommendation that no OZAH hearing was necessary in light of the lack of opposition to the request. Next is the Hearing Examiner’s September 4, 2025, required report and her recommendation of approval to the District Council, noting that she did not conduct an additional hearing. Despite lack of opposition, the OZAH report included a detailed explanation of the zoning-based rationale for granting the requested Binding Element modification. Next is a memorandum of September 30, 2025, from Council legislative staff to the District Council, summarizing the case and preparing the Council to act on the Hearing Examiner’s recommendation after a briefing from the Hearing Examiner at the Council session of October 14, 2025. Lastly, **Exhibit C** includes District Council Resolution 20-941 approving the Binding Element modification request.

The process employed leading to approval of the **Exhibit B** and **Exhibit C** development plan amendments is important here not with respect to their substance, but rather with respect to their confirmation that the current Board is well aware of the legally required, long established process leading to modification of Binding Elements, making clear that **final Board action on plans comes after, not before, District Council review and approval of amendments to**

Binding Elements. The Board's response to this lawsuit also confirms the Board's awareness that that process has not been applied to date in this case, and that the Board has no intention of insisting that it be employed to reconcile any inconsistencies between FCP's plans and the applicable Binding Elements. How the Board, the Hearing Examiner and the District Council handled the modification request in DPA 2025-01 also confirms the necessity of District Council action before the Board conducts its review of plans that are dependent upon the outcome of the District Council proceeding. In DPA 2025-01, all involved found the Binding Element modification request to be substantively meritorious, but a favorable analysis of its substance by the District Council is nonetheless essential for subsequent Board action on plans consistent with the changed Binding Elements. While no OZAH Hearing Examiner hearing was deemed necessary in that case due to lack of opposition, that would, with complete certainty, not be the case here. Plaintiffs speak for hundreds of citizens where there is strong opposition to FCP's complete repudiation of the Binding Elements.

Yet despite the Board's recent recognition in DPA 2025-01 of its subordinate (recommendation only) role in evaluating a change in the Binding Elements, it nevertheless failed in this case to stop the processing of FCP's plan, despite the Village's pointing out to staff that there was no legal foundation to FCP's claim that the Binding Elements had been negated or invalidated, and that disregarding the Binding Elements would require District Council approval. Klein Aff. ¶ 25. The inexplicable shift in handling such requests, as between DPA 2025-01 and this matter, is not only contrary to established District Council procedure; it is also contrary to the Zoning Ordinance's requirements that both sketch and site plans must be found to satisfy the Binding Elements of LMA G-760. § 59.7.3.3.E.3. (sketch plan) and § 59.7.3.4.E.2.b. (site plan). Moreover, accepting for review plans noncompliant with these provisions is contrary to the

Board's own procedures for handling site plans and sketch plans, as set forth in the Board's "Administrative Procedures for Development Review," the relevant excerpt of which is included as **Exhibit D**.

The Board offers no explanation for why it did not reject FCP's plans outright for their disregard of the Binding Elements. It is certainly puzzling that the Board accepted for review plans that stand in stark contrast to action it took only last year, when the Board specifically upheld the applicability of the Binding Elements in approving the existing approved Preliminary Plan for development of the GEICO property. Klein Aff. ¶¶ 19-24. One possibility is that the Board accepted at face value FCP's certifications that its applications conform "to all applicable Federal, State and County laws and regulations," and that no waiver was needed or requested. *Id.* at 20. In light of the above, this certification was legally erroneous but may have gone unquestioned at the time of initial review. But the problem should have been highlighted and addressed in the course of the Development Review process that followed, especially since the Village had, by the time of the initial Development Review Committee meeting, made the Lead Reviewer aware of it and had requested that processing of the FCP plans be immediately stopped to permit the required District Council's Binding Element amendment review process to take place first. Klein Aff. ¶ 25. Indeed, the Board's Development Review regulations, in Section 6.(a), expressly contemplate that when it becomes clear that the application is dependent upon obtaining the zoning-based approval of another County agency (here, the District Council), the process must be stopped until that approval is obtained.¹

¹ Section 6.(a) of the Regulations provides that "[i]f a proposed development application requires approval of a variance of a zoning standard by the Montgomery County Board of Appeals, Planning Department staff **will not process the application** until the Board of Appeals acts." (emphasis added). The Board of Appeals is the exclusive authority for grant or denial of variance requests in the County. Similarly, the District Council is the exclusive authority in the

CONCLUSION

For the foregoing and previously stated reasons, the motion for summary judgment filed by plaintiffs should be granted. Plaintiffs reiterate their request for a hearing on their motion for summary judgment, which has not been opposed by defendants. Plaintiffs also reiterate their request that their legal counsel be allowed to participate remotely in the hearing, regardless of whether the Court agrees to limit that request to their counsel or orders the entirety of the hearing to be remote.

Respectfully submitted,

/S/ David W. Brown

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June 26, 2026

County for amendment of Binding Elements, as detailed above. The rationale for stopping work on an application lacking a needed District Council approval is no less compelling than the rationale for awaiting the outcome of a variance hearing process at the Board of Appeals.

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EXHIBIT A

**Excerpt from OZAH Regulations
Regulations for Development Plans**

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NOTICE REGARDING AMENDMENTS TO FLOATING ZONE PLANS, DEVELOPMENT PLANS OR SCHEMATIC DEVELOPMENT PLANS

On March 4, 2014, the Council voted to approve a new Zoning Ordinance, effective October 30, 2014 (Ordinance No.: 17-43; Zoning Text Amendment No.: 13-04) ("New Zoning Ordinance"), which was amended on September 30 2014, in Zoning Text Amendment 14-09 (Ord. No. 17-52).

For rezoning applications filed after October 29, 2014, the New Zoning Ordinance eliminates the two plans (a Development Plan (DP)) or a Schematic Development Plan (SDP)) that previously accompanied applications for floating zones and created a single plan, a Floating Zone Plan (FZP), to be approved with these applications. The New Zoning Ordinance also permits amendments to Floating Zone Plans (FZPA) and sets procedures for these amendments.

Applicants who have a previously approved DPs or SDPs may apply for amendments to those plans under the old Zoning Ordinance until October 30, 2039. Applications for a Development Plan Amendment (DPA) or Schematic Development Plan Amendment (SDPA) for a plan approved prior to October 30, 2014, are governed by the previous Zoning Ordinance, pursuant to Section 59-7.7.1.B.1 of the New Zoning Ordinance, with certain exceptions specified in Sections 7.7.1.B.3. and 7.7.1.C.

To implement the new Zoning Ordinance, the Council also adopted new filing fees for FZPAs, DPAs, and SDPAs (Resolution No. 17-1168) and approved new Rules of Procedure to govern all OZAH proceedings in zoning matters (Resolution No. 17-1249). The new fee schedule and the new rules are set forth on this website.

This notice sets forth administrative procedures for amending a DP or an SDP. Procedures for amending FZPs are listed under a separate heading. Applicants for any of these plan amendments must submit four sets of its application and documents to Montgomery County Planning Department, at 8787 Georgia Avenue, Silver Spring, (301) 495 - 4610, for its assessment and certification of completeness. *Twenty - five percent of the filing fee approved by the District Council must be paid directly to the Planning Department when the application is submitted for verification of completeness.* Payment of the remaining 75% of the filing fee and the entire sign fee must be included with the application when it is filed with OZAH. Once Planning Staff certifies completeness of the application, the Applicant must file the certified original and fees with OZAH, which will accept the application and establish a hearing date. OZAH will maintain the original certified application and the record of the case; three complete copies of the application will be retained by M - NCPPC Technical Staff for its review and recommendation.

Forms and checklists for DPA and SDPA amendment applications follow this notice.

DEVELOPMENT PLAN AMENDMENTS AND SCHEMATIC DEVELOPMENT PLAN AMENDMENTS

Amendments to DPAs and SDPAs are governed by the Zoning Ordinance in effect on October 29, 2014, and the procedures are substantively different than those for amendments to Floating Zone Plans. A checklist for items required for DPA and SDPA applications is included in the pages that follow. The procedure for an SDPA is generally the same as for a DPA.

The Applicant must send written notice of the filing of the application to adjoining and confronting property owners and to civic associations within ½ mile of the property. For condominiums, notice must be sent to the Council of Unit Owners. Applicants must also post a sign on the property within three days of filing the application with OZAH.

After a DPA or SDPA application is filed with OZAH, an administrative record will be maintained by the Planning Board, which will include an exhibit list and identification of the parties. The record will be returned to our office after the Planning Board's meeting and completion of their recommendation. See, §59-D-1.74 of the 2004 Zoning Ordinance.

A public hearing before the Hearing Examiner is not required if the Planning Board determines that a public hearing is not necessary and there is no objection to the application. In these cases, the Planning Board's recommendation will be sent to OZAH, along with the proposed plan amendment, an executed copy of any amended covenants, the record the Planning Board has developed and a transcript of the Planning Board hearing. OZAH then forwards the Planning Board recommendation and a draft resolution to the District Council for its action. The administrative record will be maintained in our office for public inspection in the same manner as local map amendment applications.

If the District Council approves the amendment, a mylar and three copies of the amended plan approved by the District Council must be submitted by the applicant to OZAH for certification within 10 days, along with proof that any amended covenants have been filed with the Recorder of Deeds.

A public hearing will be required if there is public opposition, or it is recommended by the Planning Board, or requested by an aggrieved party within ten days of the Planning Board's meeting. In the event that a public hearing is required under §59-D-1.74(d), the following procedures will apply:

1. A prompt hearing date will be selected, after consulting with the parties, and OZAH will send out a formal hearing notice.
2. The applicant and any group opposing the application must submit prehearing statements which list witnesses and briefly summarize the subject matter of their testimony. A time estimate for case presentation should also be included, as well as a brief statement of the issues presented. The applicant's statement must be submitted 15 days before the hearing and the opposition's statements 5 days before the hearing. If the hearing itself is scheduled with only 15 days notice, the applicant's statement is due 10 days before the hearing.
3. OZAH's report and recommendation will be prepared and forwarded to the District Council within 30 days of the close of the record, unless the Hearing Examiner extends that time period. All hearing participants are provided notice of the Hearing Examiner's report and are entitled to request oral argument before the District Council. Any such request must be filed within ten days of the issuance of the Hearing Examiner's report.
4. If the District Council approves the amendment, a mylar and three copies of the amended plan approved by the District Council must be submitted to OZAH for certification within 10 days, along with proof that any amended covenants have been filed with the Recorder of Deeds.

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
RULES OF PROCEDURE FOR ZONING, CONDITIONAL USE & BOARD OF
APPEALS REFERRAL CASES

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INTRODUCTION

Authorizing Laws and Council Resolutions:

The procedures of the Montgomery County Office of Zoning and Administrative Hearings (OZAH) are governed by the following laws:

Maryland Annotated Code, Land Use Article

Montgomery County Code:

Section 2-140 (OZAH's General Powers, Duties and Functions)

Sections 2-113 and 2-113A (Board of Appeals Cases)

Chapter 59 (Zoning Ordinance)

The cited laws are further explained and supplemented by these Zoning Rules of Procedure, adopted by OZAH and approved by the County Council in Resolution No. 17-1210, adopted September 9, 2014. These Zoning Rules of Procedure were modified by the Council on October 21, 2014 in Resolution No.: 17-1249, to conform to changes made to the 2014 Zoning Ordinance in ZTA 14-09, enacted by the Council on September 30, 2014, in Ord. No. 17-52. On December 1, 2015, the Council enacted Ord. No. 18-08, approving Zoning Text Amendment No. 15-09, which further amended certain provisions of the Zoning Ordinance, effective December 21, 2015. These Zoning Rules of Procedure were modified by the Council on February 2, 2016 in Resolution No.: 18-391, to conform to those additional changes in the Zoning Ordinance. These Zoning Rules were amended again on April xx, 2017, by Council Resolution xx-xxx, to conform to changes made to the Zoning Ordinance by ZTA 16-16 (Ord. No. 18-25), adopted on February 7, 2017, and to add Rule 27.0 governing transfers of conditional uses.

Application of OZAH's Zoning Rules of Procedure:

The Office of Zoning and Administrative Hearings provides administrative hearings for a number of different types of cases, some of which originate from other agencies of government. These include the County Council, the Board of Appeals, the Commission on Human Rights, the Commission on Common Ownership Communities, the County Executive and the Montgomery County Planning Board. The Hearing Examiner will use these rules to govern zoning, conditional use and Board of Appeals referral cases. These rules will be referred to as OZAH Zoning Rules of Procedure. Additional rules may be adopted to govern non-zoning matters. Currently, non-zoning matters are governed by the referring agency's regulations, the Montgomery County Administrative Procedures Act, County Code, Article 2A or both.

Please consult the Office of Zoning and Administrative Hearings at 100 Maryland Avenue, Room 200, Rockville, Maryland, phone 240-777-6660, for further information and assistance.

14.0 Refunds of Filing Fees. The District Council may refund or waive all or part of a filing fee for the following reasons:

- a) The public hearing has not commenced;
- b) The public hearing has commenced, but a master plan, sector plan, sectional map amendment, or zoning text amendment that materially affects the property is approved, or condemnation proceedings or public acquisition of the subject property has been initiated, in the last 90 days; or
- c) The applicant demonstrates that undue hardship will result if the refund is not approved.
- c) The Hearing Examiner may refund all or a portion of filing fees of less than \$25,000, if an applicant demonstrates that any of the conditions listed above have been met.

15.0 Dismissal. The Hearing Examiner may recommend that the District Council dismiss an application if:

- a) The application has been pending for 2 years or longer; and
- b) The applicant has not actively pursued the application;
- c) The Hearing Examiner must notify the applicant of contemplated dismissal at its last known address at least 30 days before issuing a recommendation to dismiss the case.
- d) The District Council may dismiss the application unless the applicant demonstrates good cause that the application should not be dismissed.

16.0 Major Amendments to Previously Approved Floating Zone Plans. A request to increase the density or height, decrease a setback, add a new use, or modify any binding element of a previously approved floating zone plan must follow the same procedures applicable to a local map amendment application. Applicants who have a Development Plan (DP) or Schematic

Development Plan (SDP) approved before October 30, 2014, through a Local Map Amendment may apply, until October 30, 2039, for amendments to their DP or SDP under the procedures in effect on October 29, 2014 (*i.e.* under the pre-2014 Zoning Ordinance), if they meet conditions spelled out in Sections 59.7.7.1.B.5 and 59.7.7.1.C of the 2014 Zoning Ordinance. In addition to the items required to be included in an original application, the major amendment application must also include:

- a) the date and resolution number of the original approval.
- b) The currently approved Floating Zoning Plan (FZP), Development Plan (DP) or Schematic Development Plan (SDP).
- c) The proposed amended FZP, DP or SDP.
- d) A “redline” version of the proposed amended FZP (or proposed amended DP or SDP, if footnote 1 applies), highlighting the changes proposed from the current FZP, DP or SDP.

17.0 Recording Procedures. If a floating zone plan contains any binding elements, the applicant must file an executed covenant stating that use of the property will conform to the binding elements included on the development plan before the close of the record. The covenant must include a legal description of the property, the Local Map Amendment case number, the name of the applicant and the existing property owner, and state that a copy of the development plan is on file with the Planning Department and OZAH. The covenant must be in a form acceptable for filing in the land records, and in a format supplied by the Hearing Examiner.

- a) If the floating zone plan is approved, the applicant must file an executed covenant, identical to the one submitted into the administrative record, in the land records of Montgomery County.
 - b) Within 10 days after the District Council's resolution approving the floating zone plan, the applicant must submit an original and three copies of the floating zone plan to the Hearing Examiner for certification. The floating zone plan must include a certification block and any other information required by OZAH and in a format approved by OZAH.
 - c) The applicant must provide a copy of the floating zone plan certified by the Hearing Examiner to the Planning Department.
 - d) OZAH must publish an electronic copy of the approved floating zone plan on its website and maintain a copy in its files.
- 18.0 Oral Argument. Any party of record or aggrieved party may request the District Council to grant oral argument before the District Council under Zoning Ordinance §59.7.2.1.D.3.c. If oral argument is granted, the District Council may direct inquiries to the participants and the Hearing Examiner during oral argument about matters of record.
- 19.0 Decision on Local Map Amendments. The District Council's procedures regarding its decisions on Local Map Amendment applications are in Zoning Ordinance §59.7.2.1.E and F, and in the Council's own rules.

ADDITIONAL RULES GOVERNING CONDITIONAL USES

- 20.0 Applications. Applicants for Conditional Uses must submit four sets of their application and documents to the Planning Department for its assessment and certification of completeness. Twenty-five percent of the filing fee approved by the District Council must be paid directly to the Planning Department when the application is submitted for verification of completeness. Payment of the remaining 75% of the filing fee and the entire

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EXHIBIT B

Excerpt from District Council Resolution 17-863 (Sept. 10, 2013)

/s/ David W. Brown

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June 26, 2026

Resolution No.: 17-863
Introduced: September 10, 2013
Adopted: September 10, 2013

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY, MARYLAND**

By: District Council

**SUBJECT: APPLICATION NO. G-954 FOR AMENDMENT TO THE ZONING
ORDINANCE MAP AND DEVELOPMENT PLAN AMENDMENT 13-01, C.
Pat Harris, Esquire, Attorney for Applicant, 4831 West Lane LLC, OPINION
AND RESOLUTION ON APPLICATION. Tax Account Numbers
07-00490821 and 07-00487286**

OPINION

Filed on November 15, 2012, by 4831 West Lane LLC, Local Map Amendment Application (LMA) G-954 requests reclassification of approximately 11,847 square feet of land from the R-60 to the TS-R Zone (Transit Station-Residential), consisting of Lot 26 of the Edgemoor subdivision and the rights-of-way for Lots 24 and 25 of the Edgemoor subdivision. In addition, Development Plan Amendment No. 13-01 seeks to amend a development plan approved as part of LMA G-843 to include Lot 26 and the right-of-way associated with Lots 24 and 25.¹ The gross tract area of the development plan amendment is 38,804 square feet.² Exhibit 2. The subject site is located in the northwest quadrant of the intersection of Montgomery Lane and West Lane in Bethesda, Maryland, in the 7th Election District.

The property subject to the development plan amendment is currently improved with single-family detached structures used for office and retail purposes.

Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC) recommended approval of both the rezoning application and the development plan amendment in a report dated December 7, 2012. The Montgomery County Planning Board (Planning Board) considered the application on December 20, 2012 and also recommended

¹ LMA G-843 rezoned Lots 24, 25 and 27 from the R-60 to the TS-R Zone, but did not rezone the right of way associated with Lots 24 and 25 nor did it include Lot 26. The Applicant previously filed a local map amendment application (G-912) to add Lot 26 to the TS-R Zone, but inadvertently failed to include the rights-of-way that had not been rezoned in G-843. The Council permitted the Applicant to withdraw G-912 without prejudice.

² All exhibit references are to the record of LMA G-954, rather than to DPA 13-01, unless otherwise noted.

approval, subject to the addition of several new binding elements and suggesting that the public use space located on the northern portion of the site be moved to Montgomery Lane. Exhibit 55.

The Applicant submitted a revised development plan amendment at the public hearing before the Hearing Examiner on January 11, 2013. The public hearing was continued to January 15, 2013, and the Hearing Examiner referred the amended plan to Technical Staff and the Planning Board. *See, Montgomery County Zoning Ordinance, §59-D-1.72.* In a supplement report dated February 25, 2013, Technical Staff again recommended approval, finding that the revised development plan increased the compatibility of the development with the surrounding area. Exhibit 105(a). The Planning Board also found that the revised building design increased the project's compatibility, although it still recommended additional binding elements. Exhibit 105.

The public hearing was reconvened on April 8, 2013, and was continued to April 9, April 15, April 16, April 17, April 19, April 29, 2013, and May 13, 2013. The record was left open to permit the Applicant to submit a revised development plan (Exhibit 127) changing one of the binding elements and for the Villages of Bethesda Homeowners Association to submit written testimony on the plan. These were received into the record, as well as responses from those opposing the application, and the record closed on May 30, 2013. Exhibits 126-129.

The applications were opposed by the City Homes of Edgemoor and Edgemoor Condominium Residences as well as individual residents of those associations; it was supported by the Villages of Bethesda Homeowners Association and the owners of Edgemoor at Arlington North and 4825 Montgomery Lane.

To avoid unnecessary detail in this Resolution, the Hearing Examiner's Report and Recommendation dated July 15, 2013, is incorporated herein by reference. Based on its review of the entire record, the District Council finds that the application meets the standards required for approval of the requested rezoning for the reasons set forth by the Hearing Examiner.

Surrounding Area

The surrounding area must be delineated in a floating zone case for the purpose of determining the compatibility of the proposed development. Technical Staff delineated the boundaries of the "surrounding area" as Moorland Lane to the north, Arlington Road to the west, Woodmont Avenue to the east, and Elm Street to the south. Exhibit 54. This includes the entire Transit Station Residential District designated in the Sector Plan and is shown on the following page. The parties agreed with Technical Staff's delineation, although those opposing the application argue that because of its unique designation as a "Mixed Street" in the Sector Plan, projects fronting Montgomery Lane should carry more weight when determining the compatibility of the proposed development. 4/17/13 T. 215.

There are several existing and approved (but un-built) residential buildings in the surrounding area. Of these, at least two were built prior to adoption of the 1994 Sector Plan. These include two high-rise multi-family buildings, the Chase and the Christopher, both of which are approximately 120 feet in height. Exhibits 54, p. 7; 101(f), p. 6. The below-grade

parking garage for the Chase is located directly to the north of the subject property and includes an outdoor recreation area on the surface for residents of the Chase. Exhibit 54, p. 7. A single-family home owned by Mr. and Mrs. Theodore Chipouras confronts the property across West Lane and remains within the R-60 Zone. Exhibit 38(nn).

Developments built after adoption of the Sector Plan include the Edgemoor Condominium (Edgemoor High-Rise), a 10-story multi-family building rising to a height of 100 feet. Exhibit 54, p. 7. At the time of zoning approval (G-763), the Edgemoor High-Rise intended to provide between 147 and 149 units, including 20 moderately priced dwelling units. Exhibit 102(f). While developed to its full height, the High-Rise now contains only 52 condominium units and no MPDUs. 4/9/13 T. 269-270. The Council found that the height substantially complied with the 65-foot height limit recommended by the Sector Plan and was compatible with the surrounding area. The Hearing Examiner justified the excess height by the property's location immediately south of the 120-foot Chase and confronting much higher buildings in the CBD Core. Because of its unique location, the Hearing Examiner found that the Edgemoor would not "create a precedent for deviation from the height limits" set in the Sector Plan. Exhibit 106(f), p. 14. The Hearing Examiner in that case also noted that the six-story development recommended by the Sector Plan had not materialized because market conditions made it uneconomical due to the need to provide structured parking. *Id.*

The rezoning of the High-Rise was considered in conjunction with a rezoning and development plan amendment for the City Homes of Edgemoor (City Homes), a development of 29 single-family attached townhouses (LMA G-769) and no MPDUs. At the time of the rezoning, City Homes was approved for development at 27 dwelling units per acre, well under the minimum of 45 dwelling units per acre recommended by the Sector Plan. The developer of the Edgemoor High-Rise sought to "transfer" the unused density from City Homes to the Edgemoor High-Rise.

The Edgemoor at Arlington, located in the southeast corner of the intersection of Montgomery Lane and Arlington Road, is 35-feet high along Arlington Road and steps up to 46 feet high proceeding to the east. It contains 12 multi-family condominium units and no MPDUs for a density of 27 units per acre. The Edgemoor at Arlington North contains 31 condominium units and has 4 MPDUs for a density of 35 dwelling units per acre. It also steps up in height from 35 feet along Arlington Road to 48 feet adjacent to the subject property. The Villages of Bethesda (VOB), northwest of the subject property, is located in the southeast quadrant of the intersection of Arlington Road and Edgemoor Lane. The VOB is a townhouse community consisting of 21 dwelling units with no MPDUs at a density of 23 dwelling units per acre. These units rise to a maximum height of 42 feet. Directly east of the subject property (between the High-Rise and West Lane) is 4825 Montgomery Lane, recently approved by the District Council for a maximum of 4 dwelling units (LMA G-908, approved December 4, 2012, in Resolution 17-626). The Council approved a maximum 65-foot height at the time of zoning; the record reflects that this has been reduced at site plan to 60 feet with a 4-foot parapet. Exhibits 54, 84.

The Council has also recently approved developments along Woodmont Avenue and Hampden Lane. These include 4901 Hampden Lane (LMA G-819, initially approved July 25, 2006), at the northwest corner of Hampden Lane and Woodmont Avenue. That development

originally proposed a density of between 50-70 dwelling units. Exhibit 102(d). In 2012, the minimum density was reduced to between 40 and 70 dwelling units per acre to permit the developer to respond to market demand for larger units. Council Resolution 17-559 (adopted November 11, 2012).³ Exhibit 102(k). Approved for a maximum height of 70 feet, an exhibit submitted by the Applicant indicates that this building will now contain 34 dwelling units at a density of 48 dwelling units per acre. Exhibit 84. This approval was accompanied by an increase from 12.5% to 15% of the MPDUs provided. Resolution 17-559.

Further to the west along Hampden Lane is a building (HOC Building) developed by the Montgomery County Housing Opportunities Commission (HOC). The HOC Building provides "transitional housing" for individuals with very low or no incomes who will move as their income increases, as opposed to those who intend to occupy the unit long term. 4/9/13 T. 289. Land for the HOC building was contributed by the developer of the Edgemoor High-Rise to meet its affordable housing requirement. Subsequently, the HOC swapped the land donated for a parcel owned by the developer of Hampden Lane so that the latter project would be developed cohesively. Exhibit 106(o). The HOC Building contains 12 dwelling units and testimony at the public hearing indicated that the building is approximately 48 feet high. Exhibit 54, 4/17/13 T. 211. Traveling west on Hampden Lane, the District Council approved a development located in the northwest corner of the intersection of Hampden Lane and Arlington Road (G-842, approved September 26, 2006 in Resolution 15-1617). Exhibit 106(o). This building steps back from lower heights along Arlington Road to a maximum of 71 feet in height proceeding east. Because there is no setback between this development and several rows of the City Homes townhouses, the Applicant included "cut-outs" to provide light to City Homes. 4/17/13 T. 242.

Technical Staff characterizes the area as primarily residential with limited commercial uses. Several of those opposing the application assert that Montgomery Lane has a unique character different than other streets within the TS-R District because of its design as a "Mixed Street" in the Sector Plan. They also argue that, unlike other streets in the neighborhood which front commercial uses, all approved and constructed development along Montgomery Lane is exclusively residential. 4/17/13 T. 213-215; 4/29/13 T. 33.

The area that will be most directly impacted by the use determines the "surrounding area" in a rezoning case. The area demarcated by Staff is a logical boundary defining the impact of this development, as the entire District is within walking distance of the property. Based on this criterion, the District Council finds that Staff's delineation of the surrounding area is reasonable, as did the Hearing Examiner. The District Council characterizes the area as primarily residential with limited commercial uses, but finds that Montgomery Lane is unique in its design and will exclusively consist of single-family attached and multi-family residential uses.

Zoning History

The property rezoned in LMA G-843 included Lots 24, 25, and 27 of the Edgemoor Subdivision (Holladay Project). The development plan originally proposed up to 50 market rate units and 7 MPDUs, for a total density of 74 dwelling units per acre. Exhibit 101(c). Because of

³ Because only excerpts from the Council's opinion in DPA 12-02 are in the record, the Hearing Examiner took official notice of the full text of Resolution 17-559. OZAH Rules of Procedure, Rule 4.8.

the L-shaped configuration of the site, the project consisted of two four- and six-story "wings." The four-story wing fronted on Montgomery Lane and had a significant step back until rising to 65 feet nearer the northern end. The building had a 15-foot setback from the sidewalk along Montgomery Lane. Exhibit 101(d). While the Hearing Examiner in LMA G-843 concluded that the project technically met the recommendations of the Sector Plan, he found that the building's massing was incompatible with the Villages of Bethesda, the single-family detached structures on Lot 26, and the single-family detached dwelling confronting the property on West Lane. The District Council agreed with the Hearing Examiner's recommendation to remand the case to permit the Applicant to revise the development plan, in part, to address these issues. *Id.*

After remand, the Zoning Hearing Examiner recommended approval of a revised application requesting a minimum of 40 and maximum of 48 dwelling units (including six MPDUs), for a maximum density of 73 dwelling units per acre. *Hearing Examiner's Supplemental Report and Recommendation*, LMA G-843, p. 3 (June 21, 2007).⁴ Exhibit 101(c). The Hearing Examiner found the changes to the building massing sufficient to address the Council's compatibility concerns, as did the Council. Exhibit 101(c).

Development Plan Amendment

Unlike the former development plan, the development plan amendment before the Council now includes Lot 26, eliminating the need for the "winged" configuration of the Holladay Project. The Applicant proposes a building at a maximum height of 70 feet and a maximum FAR of 3.05. It also commits to a minimum number of 100 dwelling units and a maximum of 120 dwelling units *provided* that the 3.05 FAR is approved. Exhibit 127. The maximum density requested equates to 135 dwelling units per acre.

The Applicant testified that the addition of Lot 26 to the previous development plan permitted the Applicant to design a more efficient building and enables them to further the County goals to provide higher density, and diversity in housing types and affordable housing units. 1/15/13 T. 36-37. She testified that the existing neighborhood consists of larger condominium units averaging between 1,700 and 2,000 square feet. The Applicant proposes units that range between 585 square feet and 1,200 square feet because it believes this is more consistent with goals of the Bethesda Sector Plan. 1/11/13 T. 38. The average unit size of 860 square feet will diversify housing types within the Sector Plan area and create an opportunity to introduce rental units into the surrounding neighborhood. The binding elements do not require the development to be rental units and the Applicant desires flexibility in this regard. The Applicant believes that designating 15% of the units as MPDUs is also important because there are no existing MPDUs on Montgomery Lane itself, although the HOC Building on Hampden Lane does have affordable units. 1/11/13 T. 38-41.

In response to the Planning Board's recommendations, the Applicant amended the development plan originally submitted to include a concave curve or scallop at the corner of Montgomery and West Lanes and designated it as public use space. The scalloped corner rises to the full height of the building, thus reducing the building's frontage on Montgomery Lane

⁴ The Hearing Examiner took official notice of the Zoning Hearing Examiner's Supplement Report and Recommendation dated June 21, 2007, and the District Council's Order of Remand dated March 20, 2007.

from 120 feet to approximately 80 feet and mitigating its mass along the southern frontage. The Applicant's expert land planner opined that the public use would function as a pocket park and enhance the pedestrian environment.

The Applicant's expert architect testified that other features will reduce the mass of the building as well. These include a 12-foot step back of the roof beginning at 50 feet. According to him, this creates a compatible transition with the City Homes across Montgomery Lane, as these are of approximately the same height. The architect testified that the building's height of 70 feet blends with the height of the very large Edgemoor High-Rise to the east and the lower heights along Arlington Road to the west, creating a compatible east-west transition. The Applicant also incorporated undulations of approximately one foot in depth along the West Lane frontage so the façade will be reminiscent of townhomes. 5/13/13 T. 27-32.

Twenty-six percent of the site area will constitute private amenity area. The Applicant included a binding element limiting lighting in the western setback area to 24 inches in height to address the concerns of the owner of the Edgemoor at Arlington North. 5/13/13 T. 145. The roof top will include a green roof (which has not yet been designed). It also may include an additional private amenity area. 4/16/13 T. 97-101.

The Applicant's architect testified that the Applicant worked hard to mitigate the additional FAR needed to accommodate the MPDUs. According to the architect, the building could not make many more small adjustments, such as moving the setbacks further back. Residential buildings have a very precise program that must be followed. For instance, the units became "pinched" when they increased the step back from nine to twelve feet. Increasing the step back further could further constrain the units so that they do not meet current regulations or market demand. The Applicant tried to mitigate the building's height by reducing the typical spacing between slabs; the typical standard residential ceiling height of 10' 7" from slab to slab has been reduced to a nine-foot distance between slabs. He opined that the design is an optimal means of balancing these competing factors. 4/15/13 T. 19-21.

Binding Elements

Development in the TS-R Zone is permitted only in accordance with a development plan that is approved by the District Council when the property is reclassified to the TS-R Zone. The Development Plan consists of several components that are binding on the applicant except where particular elements are identified as illustrative or conceptual. Illustrative elements may be changed during site plan review by the Planning Board, but the binding elements cannot be changed without a separate application to the District Council for a development plan amendment. The binding elements incorporated into the development plan (Exhibit 127) are attached as an appendix to this Resolution.

The Applicant has included some, but not all, of the Planning Board's recommended binding elements. The Applicant has conditioned its commitment to provide 15% MPDUs only if the full amount of the FAR requested (i.e., 3.05 FAR) is approved (Binding Element 3). Similarly, the Applicant has committed to a minimum of 100 dwelling units, conditioned upon the approval of a 3.05 FAR (Binding Element 2). It has also removed a binding element

requiring access to the parking garage to be located below the grade. *Compare*, Exhibits 105 and 127. The development plan amendment does contain binding elements recommended by Planning Board, including a commitment that the public use space substantially conform to the representations included in the February 25, 2013, Technical Staff Report and to the 12-foot step back at the 5th floor (Binding Elements 20 and 18, respectively). In response to concerns raised at the public hearing regarding the location of the mechanical penthouse, the Applicant includes a binding element that the penthouse will be set back from the building face on Montgomery Lane by a minimum distance of 25 feet, as shown on the renderings submitted with the application (Binding Element 22). It also added a binding element that it will propose landscaped amenity areas on the roof at the time of site plan (Binding Element 23). In response to other concerns expressed at the hearing, the Applicant added Binding Element No. 24, prohibiting location of a lay-by along Montgomery Lane. Exhibit 127.

The Applicant is providing 123 spaces for the 120 units because the Zoning Ordinance requires only ½ a parking space for each MPDU unit. T. 325. If each unit is assigned one parking spot, they will have three spaces for visitors, assuming the project is developed to the maximum density.

Conformance with the Sector Plan

The property is within the area covered by the 1994 *Bethesda Central Business District Sector Plan* (Plan or Sector Plan). Generally, the 1994 Plan called for greater heights at the CBD Core (near the Bethesda Metro Station) stepping down to the edges of the Sector Plan area (some outside the CBD), to “ensure compatible transitions to adjacent neighborhoods...” Exhibit 110, p. 12. The Plan recommends heights of 65 feet for most of the properties along Montgomery Lane, stepping down to 35 feet closer to Arlington Road. The subject property is within the area recommended for 65-foot heights. *Id.* at 39.

The subject property is located within the Transit Station Residential District of the Sector Plan. Exhibit 110, p. 80. The objectives for the district include:

1. Provide incentives for and remove barriers to achieving high-density housing in the TS-R District.
2. Increase flexibility in the TS-R Zone to allow the district to achieve a low-rise, high-density “urban village” pattern.
3. Retain residential scale along Arlington Road. *Id.*

The Plan recommends the property for residential (high-rise or garden apartment) land use and the TS-R (Transit Station-Residential) Zone. *Id.* at 81. The Plan characterized the achievement of high-density housing as “an important objective” for this District. *Id.* It recommended only limited commercial and retail uses. The Plan envisioned a “low-rise, high-density urban village” and recommended changes to the TS-R Zone to make concept more feasible. Changes recommended included (1) reducing the required amount of green space permit buildings to fill out a sight, and (2) to reduce heights in order to lower construction costs.

**IN THE CIRCUIT COURT
FOR MONTGOMERY COUNTY, MARYLAND**

VILLAGE OF FRIENDSHIP HEIGHTS, :

Et al., :

Plaintiffs, :

v. :

Civil Action No.: 15-CV-26-002907

MONTGOMERY COUNTY PLANNING :

BOARD, et al., :

Defendants. :

PLAINTIFFS' SUMMARY JUDGMENT REPLY

EXHIBIT C

**WILLOW MANOR AT CLARKSBURG,
DEVELOPMENT PLAN AMENDMENT NO. DPA 202501**

Excerpt from Staff Report

Planning Board Letter of Recommendation to OZAH

OZAH Report and Recommendation to District Council

Legislative Staff Report to District Council

Excerpt from District Council Resolution No. 20-941 (Oct. 14, 2025)

/s/ David W. Brown

David W. Brown (0206070001)

KNOPE & BROWN

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Seattle, Washington 98116

(301) 335-5646

dwb@comcast.net

Attorney for Plaintiffs

June 26, 2026

WILLOW MANOR AT CLARKSBURG DEVELOPMENT PLAN AMENDMENT NO. DPA202501



Description

The Applicant seeks to amend Binding Element No. 8 of the previously approved Development Plan to increase the maximum number of senior living units permitted for the entire Development Plan area from 500 to 650 units and within "Study Area A" from 100 to 150 units.

COMPLETED: 6/16/2025

PLANNING BOARD HEARING DATE: 6/26/2025

MCPB ITEM NO. XX

SECTION 1: EXECUTIVE SUMMARY

The Applicant, Willow Manor at Clarksburg, LLLP, would like to replace an approved but unbuilt hotel in the Cabin Branch development with a senior living facility with up to 150 units. Typically, this would only require amendments to the associated Preliminary and Site Plans for the property. However, Cabin Branch is subject to a Development Plan, which includes a binding element that limits the number of "Service/Public Units" (senior living units) to 500 within Cabin Branch. A total of 500 units have already been built or entitled for future development. Therefore, approval of an amendment to the Development Plan to adjust the cap on senior living units is needed before the Applicant can submit Preliminary and Site Plan applications.

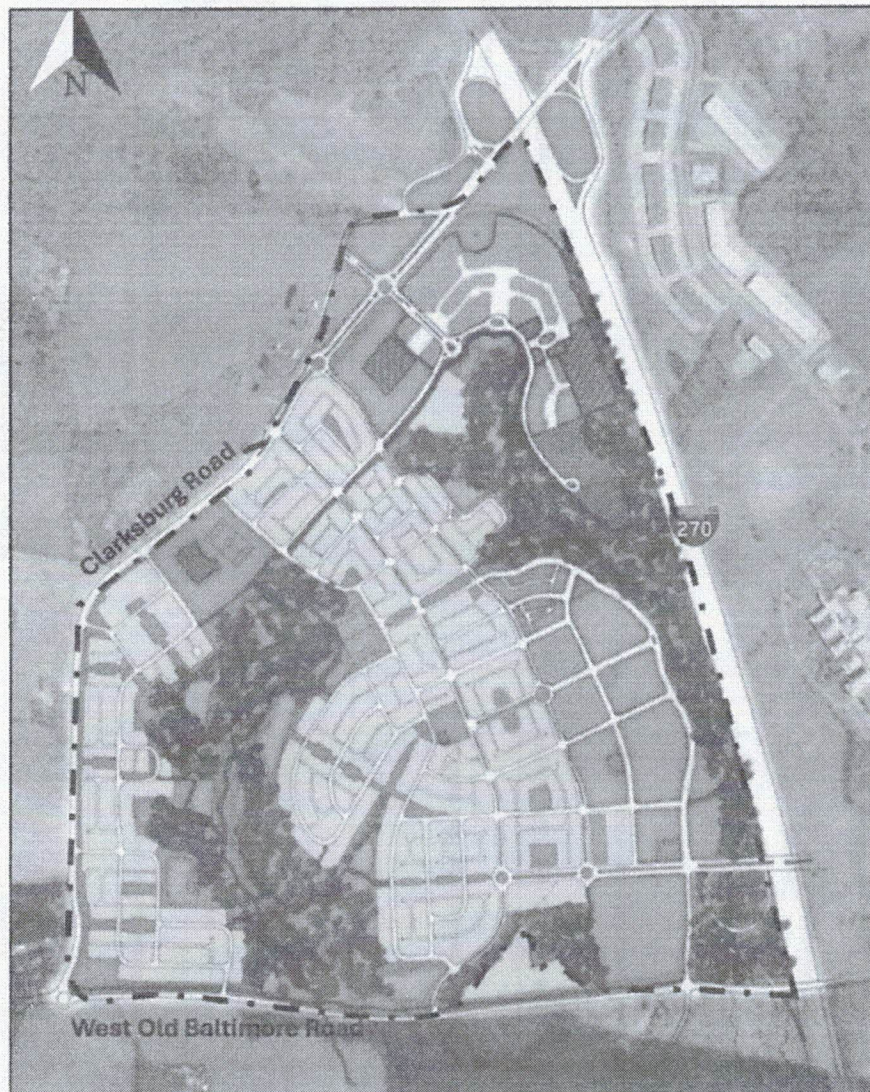


Figure 1: Approved Development Plan for Cabin Branch (Overall Site)



July 8, 2025

Ms. Kathleen Byrne, Hearing Examiner

Montgomery County Office of Zoning and Administrative Hearings
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850

SUBJECT: Development Plan Amendment 2025-01
Willow Manor at Clarksburg

Dear Ms. Byrne:

On behalf of the Montgomery County Planning Board, I am pleased to transmit to the Office of Zoning and Administrative Hearings the Planning Board's unanimous approval recommendation for Development Plan Amendment Application No. DPA 2025-01.

On June 26, 2025, the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission reviewed Development Plan Amendment DPA 2025-01 at a public hearing. On a motion by Commissioner Hedrick seconded by Commissioner Bartley, with Chair Harris voting in favor, (Vice Chair Pedoeem and Commissioner Linden were absent) the Planning Board unanimously recommended approval (3-0) of DPA 2025-01.

The Planning Board found DPA 2025-01 for Cabin Branch in Clarksburg is in substantial conformance with the 1994 *Clarksburg Master Plan and Hyattstown Special Study Area* and *Thrive Montgomery 2050*, specifically to modify Binding Element 8 allowing an additional 150 senior living units (650 total) within the previously approved Land Use Development Plan. DPA 2025-01 is consistent with the purposes of the Mixed Use Planned Development (MXPD) Zone and meets all applicable standards of the MXPD Zone per the 2004 Zoning Ordinance. The Applicant will be required to submit future Preliminary and Site Plan applications before any building permits can be released.

The Planning Board made no changes to the modified binding element, as written by staff. They also did not recommend another public hearing with the Hearing Examiner.

There was no testimony from the public in attendance at the public hearing or received in-writing. The public record remained open until July 7, and staff received no correspondence from the public on the Subject Application.

We hope the Planning Board's recommendations and the staff report will be helpful to your proceedings. Should you have any questions, please contact Katherine (Katie) Mencarini at 301-495-4549 or katherine.mencarini@montgomeryplanning.org.

Sincerely,



Artie L. Harris
Chair

Enclosure

DPA 25-01
Exhibit 28



MONTGOMERY COUNTY, MARYLAND

MEMORANDUM

September 4, 2025

TO: County Council

FROM: Kathleen Byrne, Director/Hearing Examiner 
Office of Zoning and Administrative Hearings

SUBJECT: Development Plan Amendment (DPA) 25-01

The Office of Zoning and Administrative Hearings (OZAH) accepted the application for Development Plan Amendment (DPA) No. 25-01 on February 18, 2025 as filed by the Applicant, Willow Manner at Clarksburg LLLP. The Applicant seeks to amend the development plan previously approved by the Council on September 9, 2003, in Local Map Amendment (LMA) G-806, which was subsequently amended on February 4, 2014, in DPA 13-02. This matter must be decided under the 2004 Zoning Ordinance (*i.e.*, the one in effect on October 29, 2014) because it is grandfathered under the terms of Section 59.7.7.1.B.1. of the current Zoning Ordinance.

The property is located within the "Cabin Branch" property which contains 535 acres of land and lies to the west side of Interstate 270 between Old Clarksburg Road and West Old Baltimore Road. Exhibit 27, p. 6. More specifically located in the northern quadrant of the intersection of Clarksburg Road (Rt. 12) at Gosnell Farm Drive, Tax Account No. 02-0384915 also known as 22705 Gosnell Farm Drive, Boyds, Maryland 20841. Exhibit 1. "Area A" within the Development Plan Amendment seeks a "modest change" to the density mix within the larger Development Plan area. Exhibit 27, p. 6.

The Development Plan Amendment received seeks only to modify Binding Element #8. See Exhibit 23. Binding Element #8 as previously approved provides:

8. Service/Public Uses. Service/Public uses may include up to 500 units for independent living for Senior Adults or person with disabilities, assisted living, life care or continuing care.

Planning Staff of the Maryland-National Capital Park and Planning Commission (hereinafter, "Planning Staff" or "Staff") describes the subject property as follows (Exhibit 27, pp. 6-7):

[T]he area within Cabin Branch that was previously rezoned MXPDP is substantially developed and establishes the boundary of the subject Development Plan Amendment (Figure 4). The original Development Plan was divided into five study areas: A, B, C, D, and E. The Subject Development Plan Amendment pertains to Areas A, B, C, and D, which are collectively outlined in Figure 4. The Applicant is requesting a modest change to the density mix of Study Area A within the larger Development Plan Amendment Area (Figure 5). Study Area A is located in the northmost area of the Development Plan Area, bounded by I-270 to the east, Old Clarksburg Road to the north, and Gosnell Farm Drive to the west. Study Area A is developed with commercial development including the Clarksburg Premium Outlets, several surface parking lots, and a CVS Pharmacy with a drive-thru.

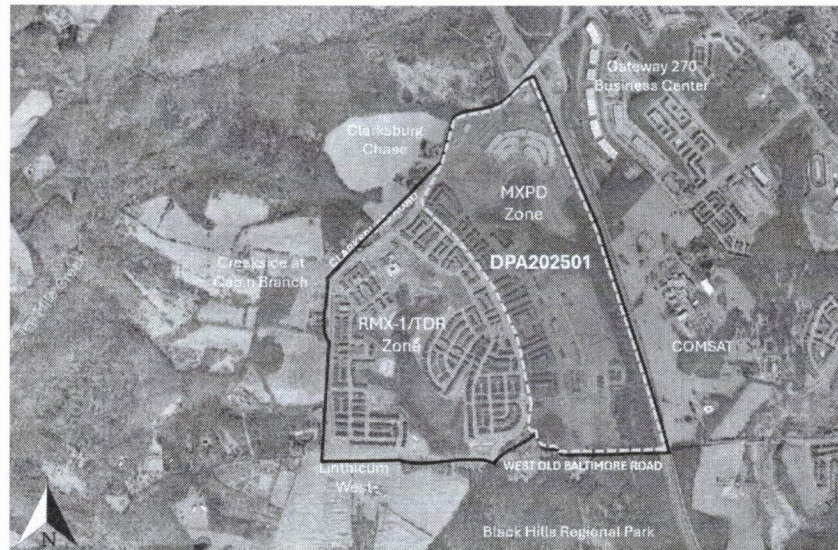


Exhibit 27, Staff Report – Figure 4, p. 6

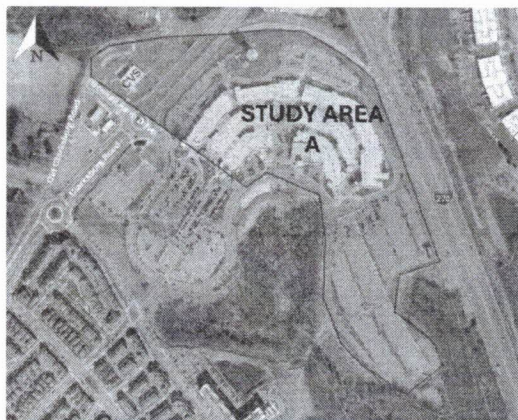


Exhibit 27, Staff Report,
Figure 5, p. 7

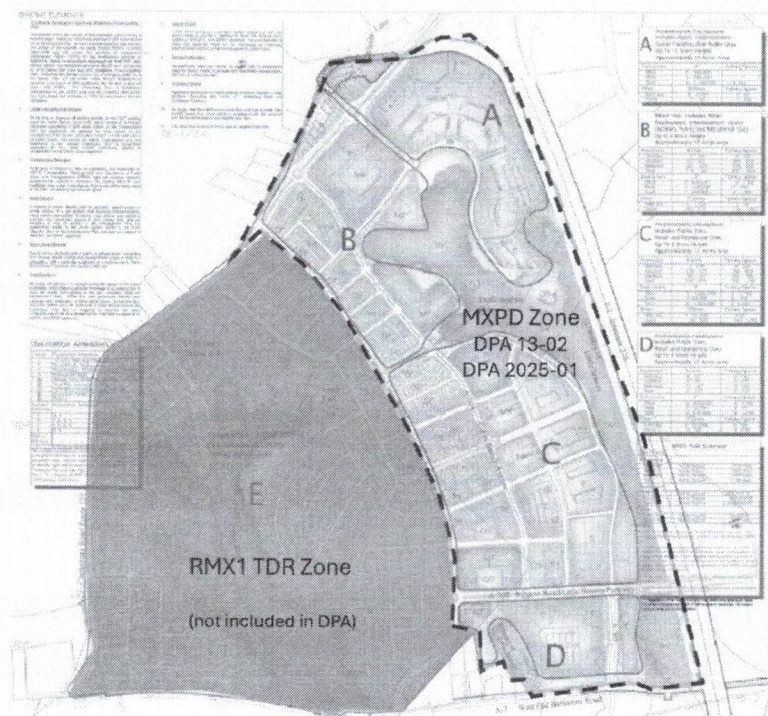


Exhibit 27, Staff Report, Figure 5, p. 10

The Applicant seeks modification of Binding Element 8 to increase the density from 500 to 650, adding up to 150 additional units of “affordable, age-restricted, multi-family”. Exhibit 27, p. 9. An amendment to Binding Element No. 8 would allow future replacement of a previously approved, unbuilt hotel with a senior living facility. *Id.* The Applicant intends to locate the senior living facility in roughly the same footprint as the previously approved hotel. *Id.* at 10. Staff note that approval of the use change as well as changes to the site layout, onsite circulation, landscaping, etc. will be subject to preliminary and site plan review and approvals. *Id.* Additionally, Staff note that forest conservation, open space, setbacks, shared facilities, energy resources and applicability of a traffic study may all be required of the Applicant during the preliminary plan and/or site plan review process. *Id.*

Both Staff and the Montgomery County Planning Board recommended approval of DPA 25-01 and request that the amendment be placed on the District Council agenda without the necessity of a public hearing by the Hearing Examiner. Exhibits 27 and 28. Staff report that “the subject application is generally consistent with the recommendations” of the *Clarksburg Master Plan* and *Thrive Montgomery 2050*. Exhibit 27, p. 12. Staff also found that DPA 25-01 satisfies the purposes of the MXPD zone because senior living units were a use explicitly envisioned for this area within the original development and an increase in that number of units will “continue to ensure internal compatibility of residential and nonresidential uses, envisioned for the multi-use center.” *Id.* at 13. Additionally, Staff note the DPA plan boundary is substantially built and the increase in units will contribute to the orderly and staged development plan, not preclude higher density residential uses to be integrated, and placing the new senior housing facility near retail contributes to the “envisioned multi-use center”. *Id.* at 14. Further Staff determined, that the “internal roadway and sidewalk

networks have largely been constructed” and that the estimated peak hour vehicle trips to be 29 in the morning and 38 in the evening. *Id.* at 20.

The Planning Board unanimously recommended approval of DPA 25-01. Finding that DPA 25-01 is

- consistent with the purpose of the MXPDP Zone,
- meets all applicable standards of the MXPDP Zone per the 2004 Zoning Ordinance; and
- in substantial conformance with *Clarksburg Master Plan and Hyattstown Special Study* area and *Thrive Montgomery 2050*.

There has been no opposition to DPA 25-01, and no request has been made for an OZAH hearing. Therefore, under the provisions of 2004 Zoning Ordinance §59-D-1.74(c)(3), “the office of zoning and administrative hearings [OZAH] must forward the Planning Board’s report and recommendation directly to the Council,” without a hearing by OZAH. In these kinds of cases, a draft resolution is prepared by OZAH based solely on the record prepared by Staff and the Planning Board’s transmittal letter.

Staff forwarded a transcript of the proceeding before the Planning Board (Exhibit 29). Staff received no correspondence from the public on this Application. Exhibit 27, p. 10. The Applicant properly posted the property and sent written notice of the Application per 59-D-1.74. Exhibits 30 and 31. The record is complete, and the matter can be considered directly by the District Council without the need for a hearing or recommendation by the Hearing Examiner. A proposed resolution is attached for your consideration.

cc: Livhu Ndou, Senior Legislative Attorney for the County Council
Sara Tenenbaum, Clerk of the Council
Jody S. Kline, Esquire, Applicant’s counsel
Kathrine Mencarini, M-NCPPC



Committee: Directly to Council
Committee Review: N/A
Staff: Livhu Ndou, Senior Legislative Attorney
Purpose: To introduce agenda item – no vote expected

AGENDA ITEM #2A
September 30, 2025
Introduction

SUBJECT

Development Plan Amendment (DPA) 25-01, Willow Manner at Clarksburg LLP (22705 Gosnell Farm Drive, Boyds, Maryland 20841)

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To introduce agenda item – no vote expected

DESCRIPTION/ISSUE

DPA 25-01 is an amendment to previously-approved Development Plan G-806, where the applicant requests an amendment to increase the cap on Service/Public Use (Senior Living) from 500 to 650 units.

SUMMARY OF KEY DISCUSSION POINTS

- The location of the property in question is the northern quadrant of the intersection of Clarksburg Road (Rt. 12) at Gosnell Farm Drive, Tax Account No. 02-0384915, also known as 22705 Gosnell Farm Drive, Boyds, Maryland. The parcel is in the "Cabin Branch" property which contains 535 acres and lies to the west side of Interstate 207 between Old Clarksburg Road and West Old Baltimore Road.
- On September 9, 2003, the District Council approved Zoning Application G-806. Approved under the prior Zoning Ordinance, this application was similar to what is currently called a local map amendment (LMA). Development Plan G-806 reclassified 283.5 acres of land from RE-1/TDR, RMX-1/TDR and I-3 Zones to the MXPD Zone.
- On February 4, 2014, the District Council approved DPA 13-02, which increased the amount of retail to 484,000 square feet and reduced the amount of office to 1,936,000 square feet to develop a retail outlet center on the northeastern portion of the property. No changes were proposed to the amount of residential and public uses at that time.
- DPA 25-01 seeks to modify "Binding Element 8" of the development plan, which limited the number of units for independent living for senior adults or persons with disabilities, assisted living, life care or continuing care to 500 units. The applicant requests a modification to increase that number of allowable units from 500 to 650.
- Action is tentatively scheduled for October 14, 2025, at which time the District Council will receive a briefing from the Hearing Examiner.

Resolution No.:	20-941
Introduced:	September 30, 2025
Adopted:	October 14, 2025

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: District Council

SUBJECT: DEVELOPMANT PLAN APPLICATION (DPA) 25-01, FOR DEVELOPMENT PLAN AMENDMENT of the development plan approved by the Council in LMA G-806 on September 9, 2003, and amended on February 4, 2014, in DPA 13-02; Jody S. Kline, Esquire, Attorney for the Applicant, Willow Manner at Clarksburg, LLLP; OPINION AND RESOLUTION ON APPLICATION; Tax Account No. 02-03849015.

Opinion

The application for Development Plan Amendment (DPA) No. 25-01 was filed on February 18, 2025 by Willow Manner at Clarksburg, LLLP.¹ The Applicant seeks to amend the development plan previously approved by the Council on September 9, 2003, in Local Map Amendment (LMA) G-806 and amended on February 4, 2014, in DPA 13-02. This matter must be decided under the 2004 Zoning Ordinance (*i.e.*, the one in effect on October 29, 2014) because it is grandfathered under the terms of Section 59.7.7.1.B.1. of the current Zoning Ordinance.

The current location of the property in question is the northern quadrant of the intersection of Clarksburg Road (Rt. 12) at Gosnell Farm Drive, Tax Account No. 02-0384915 also known as 22705 Gosnell Farm Drive, Boyds, Maryland. The parcel is located in the “Cabin Branch” property which contains 535 acres and lies to the west side of Interstate 207 between Old Clarksburg Road and West Old Baltimore Road. Exhibit 27, p. 6. The property seeking the change is in the MXPDP zone within “Study Area A.” Exhibit 8, p. 1. The MXPDP-zoned area is substantially developed. *Id.* The section of land within Study Area A for which a use change is proposed contains 2.1829 acres. *Id.* Study Area A is located in the northernmost area of the

¹ SMTM Cabin Branch East, LLC is the owner of the parcel that is the subject of this DPA Application and has authorized Willow Manner at Clarksburg, LLLP to proceed on its behalf. See Exhibit 2 - Authorization. Willow Creek Manner at Clarksburg, LLLP was created by Kirby Development, LLC to manage the entitlements, construction, and operation of an “affordable, age restricted multi-family rental project.” See Exhibit 21 – Amended Statement of Justification.

Development Plan Area and is currently developed with commercial uses including the Clarksburg Premium Outlets, several surface parking lots, and a CVS Pharmacy. Exhibit 27, p. 7.

The current Development Plan Amendment (Exhibit 23) seeks modification of Binding Element 8 to increase the density from 500 to 650, adding up to 150 additional units of “affordable, age-restricted, multi-family”. Exhibit 27, p. 9. Binding Element #8 as previously approved provides:

8. Service/Public Uses. Service/Public uses may include up to 500 units for independent living for Senior Adults or persons with disabilities, assisted living, life care or continuing care.

The Planning Staff of the Maryland-National Capital Park and Planning Commission (hereinafter, “Planning Staff” or “Staff”) describes the subject property as follows (Exhibit 27, pp. 6-7):

[T]he area within Cabin Branch that was previously rezoned MXPB is substantially developed and establishes the boundary of the subject Development Plan Amendment (Figure 4). The original Development Plan was divided into five study areas: A, B, C, D, and E. The Subject Development Plan Amendment pertains to Areas A, B, C, and D, which are collectively outlined in Figure 4. The Applicant is requesting a modest change to the density mix of Study Area A within the larger Development Plan Amendment Area (Figure 5). Study Area A is located in the northmost area of the Development Plan Area, bounded by I-270 to the east, Old Clarksburg Road to the north, and Gosnell Farm Drive to the west. Study Area A is developed with commercial development including the Clarksburg Premium Outlets, several surface parking lots, and a CVS Pharmacy with a drive-thru.

The Applicant seeks modification of Binding Element 8 to increase the allotted density for senior housing to 650 units, adding an additional 150 units to the previously approved 500. Exhibit 21. The property owner has determined the original hotel plan for this location within Study Area A is no longer a realistic use for the property and seeks to convert the hotel site to an affordable age restricted senior residential facility or another category of “service/public use” housing. *Id.* The original DPA called for a 76,800 square-foot hotel with 129 units. The current DPA proposes a 100,225 square-foot senior residential facility with up to 150 units. *Id.*

The Applicant’s proposal does not exceed the density of the plan and will not change the amount of Transferrable Development Rights (TDRs) under the plan. *Id.* The other senior housing projects approved in “Cabin Branch” have exhausted the capacity for senior housing across the entire project. *Id.* Nothing in the entire record for this project sought to limit or identified a justification for limiting the senior housing component to 500 units. *Id.* Further, in the early 2000s during planning phase of Cabin Branch it was determined that because senior housing had little to no impact on schools or traffic it could be placed anywhere in the planned area. *Id.* Adding more senior housing is not contrary to any planning principles inherent in the design of the overall community. *Id.* The Applicant notes that a May 2018 study found the County has a shortfall of

senior living opportunities and that additional senior housing units in Cabin Branch will “allow the community to evolve as a mixed-use community” to accommodate a range of residents. *Id.*

Both Staff and the Montgomery County Planning Board recommended approval of DPA 25-01 and that the amendment be placed on the District Council agenda without the necessity of a public hearing by the Hearing Examiner. Exhibits 27 and 28. Staff reports that previously approved preliminary and site plan applications have satisfied dedications related to parkland, forest conservation easements, and public open space implemented over the last 20 years, and that development of the proposed senior living facility will be evaluated under subsequent preliminary and site plan applications to set compliance with all zoning requirements. Exhibit 27, p. 15. Staff report that “the subject application is generally consistent with the recommendations” of the *Clarksburg Master Plan* and *Thrive Montgomery 2050*. *Id.* at 12. Staff also determined that DPA 25-01 satisfies the purposes of the MXP zone because senior living units were a use explicitly envisioned for this area within the original development and an increase in that number of units will “continue to ensure internal compatibility of residential and nonresidential uses, envisioned for the multi-use center.” *Id.* at 13. Additionally, Staff note the DPA plan boundary is substantially built and the increase in units will contribute to the orderly and staged development plan, will not preclude higher density residential uses to be integrated, and that placing the new senior housing facility near retail contributes to the “envisioned multi-use center”. *Id.* at 14. Further, Staff note that the “internal roadway and sidewalk networks have largely been constructed” and that the estimated peak hour vehicle trips are 29 in the morning and 38 in the evening. *Id.* at 20.

The Planning Board unanimously recommended approval of DPA 25-01. Finding that DPA 25-01 is:

- consistent with the purpose of the MXP Zone,
- meets all applicable standards of the MXP Zone per the 2004 Zoning Ordinance; and
- in substantial conformance with *Clarksburg Master Plan* and *Hyattstown Special Study* area and *Thrive Montgomery 2050*.

There has been no opposition to DPA 25-01, and no request has been made for an OZAH hearing. Therefore, under the provisions of 2004 Zoning Ordinance §59-D-1.74(c)(3), “the office of zoning and administrative hearings [OZAH] must forward the Planning Board’s report and recommendation directly to the Council,” without a hearing by OZAH.

Staff forwarded a transcript of the proceeding before the Planning Board (Exhibit 29). Staff received no correspondence from the public on this Application. Exhibit 27, p. 10. The Applicant properly posted the property and sent written notice of the Application per 59-D-1.74. Exhibits 30 and 31. With the record complete, the matter can be considered directly by the District Council without the need for a hearing or recommendation by the Hearing Examiner.

Based on the record developed by the Staff and the Planning Board, the District Council makes the following findings, as required by 2004 Zoning Ordinance §59-D-1.61:

- a. The proposed DPA is consistent with both the *Clarksburg Master Plan* and *Thrive Montgomery 2050*.** The 1994 *Clarksburg Master Plan* (Master Plan)

- h. The DPA Application continues to be consistent with Section 59-C-7.58 of the Zoning Ordinance regarding parking facilities in the MXPB Zone.** All off-street parking and all off-street surface parking areas must be provided, planned, sized, and landscaped pursuant to the code requirements and determined at the time of site plan review. The requirement that all internal vehicular and pedestrian circulation systems and points of external access are safe and adequate and efficient has for the most part been previously evaluated and largely constructed. Any additional internal vehicular and pedestrian system requirements for the construction of the senior housing facility must be reviewed, evaluated and refined as part of the future preliminary and site plan applications. Further as proposed in the DPA the senior housing facility will generate less than 50 person trips each morning and each evening. A local area transportation review study may be required at the time of preliminary and/or site plan.
- i.** To demonstrate compliance with Chapters 22A and 19 of the County Code, the Applicant may be required to submit a Final Forest Conservation Plan Amendment, a Preliminary Plan, Site Plan, and/or Water Quality Plan. Any public or quasi-public areas proposed with the future development will be evaluated at site plan review.

Based on the foregoing analysis and after a thorough review of the entire record, the District Council concludes that the proposed Development Plan Amendment will meet the standards set forth in the applicable 2004 Zoning Ordinance, and that it will be consistent with a coordinated and systematic development of the regional district, as required by the Maryland Land Use Article, Code Ann. § 21-101(a)(4)(i) (2012).

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, approves the following resolution.

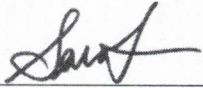
DPA 25-01, which requests an amendment to the Development Plan previously approved by the District Council on September 9, 2003, in Local Map Amendment (LMA) G-806, and amended on February 4, 2014, in DPA 13-02, is hereby approved, thereby amending Binding Element No. 8 from the Development Plan to read as follows:

8. Service/Public Uses. Service/Public uses may include up to 650 units for independent living for Senior Adults or person with disabilities, assisted living, life care or continuing care.

Further, this approval is subject to the specifications and requirements of the Development Plan Amendment, Exhibit 23, provided that the Applicant submits to the Hearing Examiner for certification, a reproducible original and three copies of the

Development Plan Amendment approved by the District Council, within 10 days of approval, in accordance with §59-D-1.64 of the 2004 Zoning Ordinance.

This is a correct copy of Council action.

A handwritten signature in dark ink, appearing to read 'Sara', is written over a horizontal line.

Sara R. Tenenbaum
Clerk of the Council

**IN THE CIRCUIT COURT
FOR MONTGOMERY COUNTY, MARYLAND**

VILLAGE OF FRIENDSHIP HEIGHTS, :

Et al., :

Plaintiffs, :

v. :

Civil Action No.: 15-CV-26-002907

MONTGOMERY COUNTY PLANNING :

BOARD, et al., :

Defendants. :

PLAINTIFFS' SUMMARY JUDGMENT REPLY

EXHIBIT D

PLANNING BOARD REGULATION 12-23 (April 18, 2023)

**Excerpt from Administrative Procedures for Development Review
Re Application Submission Requirements**

/s/ David W. Brown

David W. Brown (0206070001)

KNOFF & BROWN

2307 45th Avenue, SW

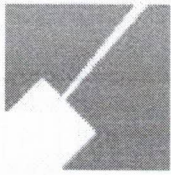
Seattle, Washington 98116

(301) 335-5646

dwb@comcast.net

Attorney for Plaintiffs

June 26, 2026



MONTGOMERY COUNTY PLANNING BOARD REGULATION

MNCPPC – 2425 Reddie Drive – Wheaton, Maryland 20902

Subject Administrative Procedures for Development Review	Number 12-23
Originating Department Montgomery County Planning Department	Effective Date April 18, 2023

Montgomery Planning Board Regulation on

ADMINISTRATIVE PROCEDURES FOR DEVELOPMENT REVIEW

Issued by: Montgomery County Planning Board
Regulation No.
COMCOR No. 50/59.00.01

Authority: Montgomery County Code Chapter 50, Section 10.1 and
Montgomery county code Chapter 59, Section 7.3.4
Council Review: Method (2) under Code Section 2A-15

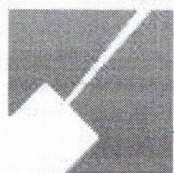
Effective Date: April 18, 2023
Comment Deadline: January 31, 2023

Summary: These regulations contain administrative requirements related to the review and processing of development applications that are acted upon by the Planning Board or Planning Director under Chapter 50 and Chapter 59 of the County Code.

Staff Contact: Neil Braunstein, Supervisor
Intake and Regulatory Coordination Division
Neil.Braunstein@montgomeryplanning.org

Address: 2425 Reddie Drive
Wheaton, MD 20902

Background: These regulations clarify and further develop administrative procedures to implement the submittal and review of development plans under Chapter 50 and Chapter 59, and facilitate participation in the process by interested parties. These regulations amend the Administrative Procedures for Development Review that were adopted by the Planning Board in 2017, and approved by the County Council under Method 2 procedures.



MONTGOMERY COUNTY PLANNING BOARD REGULATION

MNCPPC – 2425 Reddie Drive – Wheaton, Maryland 20902

Subject Administrative Procedures for Development Review	Number 12-23
Originating Department Montgomery County Planning Department	Effective Date April 18, 2023

B. Application. All applications covered by this manual must be filed with the IRC Intake Section staff. The applicant or its representative must fill out and sign the application form and checklist certifying that application and checklist are complete and ready for processing.

1. Applicant's Responsibility.

(a) Required submittal items. Applications for review and action by either the Board or Director are typically submitted and processed electronically through Montgomery Planning ePlans.⁶ Filing an application includes submittal of an application form, followed by uploading electronic copies of required drawings and documents. The application must include all information required in the application checklist.

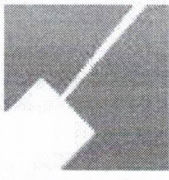
(b) Meeting required before plan amendment application. The required items for a plan amendment vary depending upon the specifics of the case. For each plan amendment, the applicant must contact the appropriate area team supervisor to determine the exact submission requirements. The amendment must clearly identify the items or areas of the approved plan proposed for revision.

2. Staff's Responsibility.

(a) Intake Review. Staff must review the application and, within 10 days, either accept the application, or provide initial comments containing all revisions or additional materials required to make the application consistent with the submission requirements. Staff's review consists of a pre-screen step to make any necessary corrections on the application form and compute the appropriate application fee, and then intake review of the initial application materials to determine if the information submitted is complete and meets the requirements of the application checklist. Intake review is not a review of the merits of the application. Applicants should strive to ensure that each application is complete and correct at the time of initial submission. Staff must not accept an incomplete application for review.

3. Items Required for all Applications. Applications filed with the Planning Department must contain:

- (a) plan drawings, documents, and other items as required by the application checklist;
- (b) a certificate of compliance;
- (c) a statement of justification; and
- (d) documentation of notice, including pre-submittal community meeting and site posting.



MONTGOMERY COUNTY PLANNING BOARD REGULATION

MNCPPC – 2425 Reedie Drive – Wheaton, Maryland 20902

Subject Administrative Procedures for Development Review	Number 12-23
Originating Department Montgomery County Planning Department	Effective Date April 18, 2023

The following are also required before an application is accepted:

- (e) a copy of the application form signed and dated by the property owner or applicant; and
- (f) payment of the appropriate fee.⁷

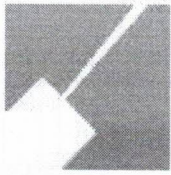
4. Plan drawings and documents. A digital copy of all submittal items required by the application checklist for each application type must be provided with the application in the appropriate file format, with the appropriate file name, and prepared following the submittal requirements on the Planning Department Webpage. Plan drawings must be legible and include appropriate notes and specifications and proper certification by a licensed professional or other qualified preparer.

5. Certificates of Compliance. The Certificate of Compliance⁸, signed and dated by the Applicant, attests that, to the best of the applicant's knowledge, information, and belief after reasonable investigation, the application conforms to all applicable Federal, State, and County laws and regulations, including standards of the applicable zone. The certification also confirms that the plans and documents in the application package provide complete and correct information on boundary, ownership, and other information on properties, topography, historic resources, etc.

6. Statements of Justification. The Statement of Justification is a written statement listing the facts and reasons that the applicant believes would support Board or Director approval of the application. The statement must address each finding that is required in either Chapter 50 or Chapter 59, depending on the type of application.

(a) Waiver requests. If the application includes a request for any waiver of any law or regulation, the statement must specifically identify the applicable code section and provide details of the facts and legal basis that support the granting of the requested waiver. If a waiver is requested for environmental reasons, the applicant should refer to the latest approved Environmental Guidelines: Guidelines for the Environmental Management of Development in Montgomery County, Maryland. If a proposed development application requires approval of a variance of a zoning standard by the Montgomery County Board of Appeals, Planning Department staff will not process the application until the Board of Appeals acts.

(b) Supporting information. The applicant must attach any diagrammatic or illustrative materials that support the facts asserted in the statement of justification. The Applicant, or the Applicant's representative, must certify that the information set forth in each statement of justification is true, complete, and correct to the best of their knowledge, information, and belief.



MONTGOMERY COUNTY PLANNING BOARD REGULATION

MNCPPC – 2425 Reedie Drive – Wheaton, Maryland 20902

Subject Administrative Procedures for Development Review	Number 12-23
Originating Department Montgomery County Planning Department	Effective Date April 18, 2023

e. item number on the agenda and approximate time of day that the Board will take up the item.

⁴ Applicants may use the Association Finder Interactive Map tool, a GIS-based map created and maintained by the Planning Department for convenience.

⁵ If an applicant does not maintain a properly posted sign on the project site, the Board may postpone a hearing on the application until the applicant has demonstrated that the site has been properly posted for at least 30 consecutive calendar days. Signs may be removed from the property after Board or Director action, as required, has been taken on the application.

50/59.10.01.05 Requirements for Application Submittal

A. Pre-submittal.

1. Required Meeting with the Community. The applicant must hold at least one pre-submittal community meeting before submitting a project plan, sketch plan, preliminary plan, site plan, signature business headquarters plan, or biohealth priority campus plan.

(a) Requirements of the meeting.

i. The applicant must schedule the meeting no more than 90 calendar days before the initial application date, on an evening or weekend, at a location that is convenient to the proposed project site.

ii. The purpose of the meeting is to present information about the proposed project and allow members of the community and the larger public to ask questions.

iii. The applicant must provide a sign-in sheet at the meeting so that attendees can identify themselves, provide a mailing address, and indicate whether they want to be added to the notice list.

iv. The applicant must take meeting minutes that include a summary of any issues or concerns raised by attendees.

2. Optional Meeting(s) with Staff. If site constraints or other issues related to the proposed development of a property raise questions about a future development application, an applicant may request one or more pre-submittal meetings with staff.