



**Committee:** Directly to Council  
**Staff:** Livhu Ndou, Legislative Attorney  
**Purpose:** Final action – vote expected  
**Keywords:** #LMA H-141, #WhiteOakApartments #CRFZ

AGENDA ITEM #9A  
January 11, 2022  
**Action**

## **SUBJECT**

Local Map Amendment (LMA) H-141

## **EXPECTED ATTENDEES**

Lynn Robeson Hannan, Hearing Examiner

## **COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

Approve, disapprove, or remand the Hearing Examiner's recommendation to approve Local Map Amendment H-141

## **DESCRIPTION/ISSUE**

Local Map Amendment H-141 is an amendment to the Zoning Map to rezone 7.83 acres of property from the Commercial Residential zone (CR) to the Commercial Residential Floating zone (CRF). The property is currently zoned CR-0.75, C-0.75, R-0.25, H-75; the applicant requests to rezone the property to CRF-1.25, C-0.25, R-1.25, H-85. The property address is 2220 Broadbirch Drive, White Oak, MD, is in the 5<sup>th</sup> Election District. The Floating Zone Plan (FZP) includes three binding elements limiting the type and density of the proposed use and committing to restrict 15% of the units constructed as moderately priced dwelling units (MPDUs).

## **SUMMARY OF KEY DISCUSSION POINTS**

This LMA is for the development of 400 multi-family dwelling units. The dwelling units will be in three buildings, including one apartment-style building and two "two-over-two" buildings. The "two-over-two" units appear like townhouses from the street, but are actually two, two-story multi-family units on top of each other, each with an internal garage. The requested zone will allow a moderate increase in density and height, and a change in the mix of uses to enable solely residential development.

The District Council must find that the proposal will meet the standards required by the Zoning Ordinance and that the local rezoning will be consistent with the coordinated and systematic development of the regional district. Specifically, the Council must find that the application: 1) substantially conforms with the master plan, 2) is compatible with adjacent uses and the surrounding area, 3) will be served by adequate public facilities, and 4) satisfies the intent and standards of the proposed floating zone.

The President of the Greater Colesville Citizens' Association appeared at the public hearing and testified as an individual. He testified that he supported a residential project at this location but did not support a public connection between Broadbirch Drive and White Horn Court. The Planning

Board, Planning Staff, and Hearing Examiner recommend approval. A simple majority vote (5) from District Council is required for approval.

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Resolution No.: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

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

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By: District Council

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**SUBJECT:** APPLICATION NO. H-141 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Soo Lee-Cho, Esquire, Attorney for the Applicant, White Oak Apartments, LLC; OPINION AND RESOLUTION ON APPLICATION; Tax Account No. 05-03268832.

**OPINION**

White Oak Apartments, LLC (White Oak or Applicant) filed Local Map Amendment (LMA) Application No. H-141 on May 19, 2021. The LMA seeks to rezone approximately 7.83 acres of property from the CR 0.75, C-0.75, R-0.25, H-75 (Commercial Residential Zone) to the CRF 1.25, C-0.25, R-1.25, H-85 (Commercial Residential Floating Zone). Exhibit 1. The subject property is located at 2220 Broadbirch Drive, White Oak, MD, further identified as Parcel EEEE in the Westfarm Technology Park subdivision (Tax Account No. 05-03268832). *Id.*

Staff of the Montgomery County Planning Department (Planning Staff or Staff) recommended approval of the application on August 27, 2021. Exhibit 33. The Planning Board recommended approval of the LMA on September 10, 2021 and approved a Preliminary Forest Conservation Plan (PFCP) for the proposed development on September 9, 2021. Exhibit 34. OZAH's public hearing proceeded as noticed on September 24, 2021. The Hearing Examiner issued her report recommending approval on November 4, 2021.

To avoid unnecessary detail in this Opinion, the Hearing Examiner's Report 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.

**Subject Property**

The subject property consists of approximately 7.83 acres and is improved with a 66,000 square foot office building and associated parking. The property is subject to an access easement for two adjacent auto storage lots owned by DARCARS. Approximately one-third of an acre of

forest is in the southwest corner of the property. This area also contains a stream channel that outfalls into the public storm drain system. Currently, there is no stormwater management on-site.

The record demonstrates that the property lies within a federally designated “Opportunity Zone.” According to Staff, the IRS defines as “an economic development tool that allows people to invest in distressed areas...to spur economic growth and job creation in low-income communities while providing tax benefits to investors.” Exhibit 33, p. 2.

### **Surrounding Area**

The “surrounding area” is identified and characterized in a Floating Zone application to assess whether the development proposed by the Floating Zone Plan (FZP) will be compatible with the properties directly impacted by the use. Those properties that are directly impacted form the boundaries of the surrounding area. Once delineated, the surrounding area is “characterized” to compare the compatibility of the development proposed by the Floating Zone with the character of the area.

The Hearing Examiner agreed with the uncontroverted evidence presented by Staff and the Applicant that the surrounding area is defined by Columbia Pike (U.S. 29) to the west, Cherry Hill Road to the north, Plum Orchard Drive to the east, and Industrial Parkway and properties to the south, as depicted on an aerial photograph in the Staff Report (Exhibit 33, p. 4). Staff characterized the area’s character as non-residential, consisting of commercial office, retail, industrial, and service uses (a hotel and hospital). The Applicant’s expert land planner opined that the relevant master plan (the *2014 White Oak Science Gateway Master Plan* (Master Plan or Plan)), views future development of this area with a mix of uses including residential development.

The Hearing Examiner found that the existing character of the area was entirely non-residential but agreed that the Master Plan envisions future development to include residential uses. Based on this record, the District Council agrees with the Hearing Examiner and so finds.

### **Proposed Development**

White Oak proposes a residential development with up to 400 multi-family dwelling units. Approximately 28 of those units will be “two-over-two” units. These units appear like townhouses from the street, but are two, two-story multi-family units on top of each other, each with an internal garage. For that reason, they will be approximately 50-55 feet in height. The Applicant’s expert land planner testified that the balance of the units will be apartment-style multi-family units in one building. The maximum height of the apartment-style units will be 85 feet, the maximum permitted in the zone requested.

The Floating Zone Plan (FZP) includes the following three binding elements:

1. Residential development may not exceed 400 dwelling units.
2. A minimum of 15% of the dwelling units constructed must be Moderately Priced Dwelling Units under Chapter 25A of the Montgomery County Code.

②

- 3. Uses shall be limited to multi-family dwelling units inclusive of two-over-two or stacked multi-family units.

**Criteria for Approval**

To approve an LMA, the District Council must find that the proposal will meet the standards required by the Zoning Ordinance and that it will be consistent with the coordinated and systematic development of the Regional District. See, *Md. Land Use Art.*, §21-101(a) and (b). While many of the site-specific requirements for development are addressed by later approvals, the Zoning Ordinance contains various standards, or “Necessary Findings,” that the Council must make to approve the application. See, *Zoning Ordinance*, §59.7.2.1.E. These standards incorporate the requirements of other sections of the Zoning Ordinance, and most fall within three main categories: (1) conformance with the Master Plan, (2) compatibility with the surrounding area and adjacent properties, and (3) whether the project is supported by adequate public facilities.

**Conformance with the Master Plan<sup>1</sup>**

The 2014 *White Oak Science Gateway Master Plan* (Master Plan or Plan) guides the development of this property. The Plan’s primary goal was to recreate and reinvest in existing centers to “create a community that offers more opportunities to live-work-play locally.” *Plan*, p. 9. The subject property lies in one of three “major activity centers” targeted for redevelopment.

Located in the Life Sciences Center/FDA major activity area, the Hearing Examiner and Planning Staff found that the residential development proposed furthers the Plan’s goal to add residential to the existing commercial/retail development to spur redevelopment and create a “live-work-play community. The Applicant’s expert land planner opined that the proposed single-use residential development furthers the “mixed use” community concept envisioned by the Plan when viewed in the context of the larger surrounding area. The District Council agrees and finds that the proposed development conforms to the Master Plan, as did the Hearing Examiner.

**Compatibility**

Several sections of the Zoning Ordinance require the District Council to decide whether the FZP is compatible with adjacent uses and the surrounding area.<sup>2</sup> The Hearing Examiner found

<sup>1</sup> Section 59-7.2.1.E.2.a. of the Zoning Ordinance requires the District Council to find that the FZP “substantially conforms with the recommendations of the applicable master plan, general plan, and other applicable County plans.” Section 59-7.2.1.E.2.b requires the FZP to be “in the public interest,” which includes a review of conformity with County plans and policies and whether the development will be consistent with the coordinated and systematic development in the Regional District under State law. Section 59-7.2.1.E.2.c requires the application to satisfy the intent of Floating Zones. The intent of Floating Zones incorporates compliance with the applicable master plan. *Zoning Ordinance*, §59-5.1.2.A.1.

<sup>2</sup> The application must satisfy the intent and standards of the proposed zone and, to the extent the Hearing Examiner finds it necessary to ensure compatibility, meet other applicable requirements of this Chapter. *Zoning Ordinance*, §59.7.2.1.E.1.c. The intent of the Floating Zones requires the applicant to “ensure protection of established neighborhoods” by “establishing compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses” and “providing development standards and general compatibility standards to protect the character of adjacent neighborhoods.” *Id.*, Section 59.5.1.2.C.1 and 2. One purpose of the

that the FZP would be compatible with both adjacent properties and the surrounding area because the maximum height of the apartment building will be adjacent to an existing hotel and office building. The zero-foot setback there allows the site to transition from the maximum height of 85 feet to the two-by-two units and then open space and forest conservation easement along Broadbirch Drive. Based on this record, the District Council finds that the proposed development is compatible with the surrounding area.

### **Adequacy of Public Facilities/Public Interest**

The District Council must also find that public facilities will be adequate to serve the FZP.<sup>3</sup>

The FZP must comply with the Planning Board's Local Area Transportation Review (LATR) Guidelines. *Zoning Ordinance*, 59.7.2.1.E.1.c. Evidence demonstrates that the property falls within the White Oak Local Area Transportation Improvement Program area (LATIP), which is exempt from review under the Local Area Transportation Review (LATR) Guidelines. Exhibit 33, p. 15. Development within the LATIP area must pay a fee based on the number of trips generated or build improvements as a credit toward the fee. *Id.*

Nevertheless, the Applicant's expert in transportation planning opined that the proposed development would generate 519 fewer person trips than would development under the existing zoning. The Hearing Examiner found that traffic facilities would be adequate to serve the use, as does the District Council.

The Applicant's expert civil engineer testified that other public facilities will be adequate to serve the use. At present, there is no stormwater management on-site. Stormwater facilities will be installed with the development. He also opined that all utilities are present at the site. Adequacy of school facilities will be decided at the time of preliminary plan review. Exhibit 33, p. 11.

### **The Intent of Floating Zones (§59.5.1.2)**

The District Council must determine whether the FZP fulfills the intent of the Floating Zones. Several of these have already been addressed.<sup>4</sup> The balance of those (from Section 59-5.1.2) are:

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Commercial/Residential Floating Zones (which includes the CRF Zone), is to "provide mixed-use development that is compatible with adjacent development." *Id.*, 59.5.3.2.C.

<sup>3</sup>Section 59.7.2.1.E.2.e requires that an Applicant demonstrate that traffic generated from the proposed development "does not exceed the critical lane volume or volume/capacity ratio standard as applicable under the Planning Board's LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts . . ." The adequacy of other facilities is part of the Council's determination that an application will be "in the public interest..." and that it be "it will be consistent with a coordinated and systematic development of the Regional District" under State law. *Zoning Ordinance*, §59-7.2.1.E.1.b; *Md. Land Use Art.*, §21-101(a) and (b). The intent of the Floating Zones is to "implement comprehensive planning objectives by...ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure..." *Zoning Ordinance*, §59-7.2.1.E.1.b; 59-5.1.2.A.2.

<sup>4</sup> The intent of Floating Zones contained in Sections 59-5.1.2.A.1 and 2 and 59-5.1.2.C of the *Zoning Ordinance* has already been addressed in the Council's findings relating to the compatibility of the FZP with surrounding uses and the adequacy of public facilities. The balance of the Floating Zone intent clauses are discussed here.

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*Section 59-5.1.2.A.3. Implement comprehensive planning objectives by:*

3. *allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the property; and*

The Hearing Examiner found that the FZP met this standard by using flexible perimeter setbacks to create space for the dwelling units, public and private open space, forest conservation, and a 60-foot-wide potential right-of-way to connect to areas north of the property, recommended by the Master Plan. Whether the road will be a public connector or private road will be determined later in the development process. At this point, either can be accommodated. The District Council agrees and finds that the application meets this intent of the Floating Zones.

*Section 5.1.2.B. Encourage the appropriate use of land by:*

1. *providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive District or Sectional Map Amendments;*

2. *allowing various uses, building types, and densities as determined by a property's size and base zone to serve a diverse and evolving population;*

3. *ensuring that development satisfies basic sustainability requirements, including open space standards and environmental protection and mitigation; and*

The District Council finds that the development proposed meets this intent. The record demonstrates that the Master Plan envisioned redevelopment of the area as a mixed-use community with a significant residential component. This is the first residential development in the area since 1988, responding both to the Master Plan's vision but also "the County's acute need for additional housing." Exhibit 33, p. 12. The Applicant testified that the proposed development would provide housing near five major employers and approximately 20,000 jobs. Staff recommended, as did the Hearing Examiner, that this satisfies the County's sustainability goals due to its proximity to the BRT Flash Station. The project will also upgrade stormwater facilities on the site.

**Purposes of the Commercial/Residential Floating Zones (§59.5.3.2.)**

The Commercial/Residential Floating Zones have three purposes:

- A. *allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;*
- B. *allow flexibility in uses for a site; and*
- C. *provide mixed-use development that is compatible with adjacent development.*

*Zoning Ordinance*, §59.5.3.2. The District Council has already addressed the third purpose (*i.e.*, providing compatible development) above. The Hearing Examiner found that that the proposed development fulfills the remaining purposes of the Commercial/Residential Floating Zones. The FZP uses the additional height of the zone requested and flexible setbacks to accomplish a transition height adjacent to non-residential uses towards the public open space along Broadburch Drive. It also proposes a new type of multi-family unit, the two-over-two units, that create a transition from the apartment style building to the rear of the property. Based on this record, the District Council finds that this standard has been met.

**The Applicability of the Zone (Section 59.5.1.3.)**

Section 59.5.1.3 of the Zoning Ordinance sets out certain prerequisites a property must meet to be eligible to apply for a Floating Zone. Section 59.5.1.3.C.3 states that there are no prerequisites for properties with a base zone of CR. This standard is inapplicable.

**Uses and Building Types Permitted (Section 59.5.3.3 and 59.5.3.4)**

The CRF Zone permits only the uses allowed in the Euclidean CR (Commercial/Residential) Zone and permits any building type. *Zoning Ordinance*, §§5.3.3.3, 59.5.3.4. The FZP includes a binding element limiting the use to 400 multi-family dwelling units, which are permitted in the CR Zone. These standards have been met.

**Development Standards of the Zone (Section 5.3.5)**

Planning Staff and the Hearing Examiner detailed the reasons for their findings that the property met the development standards of the CRF Zone. The Applicant will be required to provide public benefits under Section 59.5.3.5.E. Staff advises that this may be met in several ways, and the Hearing Examiner found that the property can meet this requirement. The public benefits required will be finally determined at site plan. Uncontroverted testimony and evidence in this record supports a finding that the FZP meets the remaining development standards of the CRF Zone.

**Conclusion**

Based on the foregoing analysis and after a thorough review of the entire record, including the Hearing Examiner’s Report issued November 4, 2021, the District Council concludes that the proposed reclassification and development will meet the standards set forth in the Zoning Ordinance, and that it will be consistent with the coordinated and systematic development of the Regional District under State law.

**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, Maryland, approves the following resolution:

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Local Map Amendment Application No. H-141, requesting reclassification from the existing CR 0.75, C-0.75, R-0.25, H-75 (Commercial Residential Zone) to the CRF 1.25, C-0.25, R-1.25, and H-85 (Commercial Residential Floating Zone), for property located at 2220 Broadbirch Drive, White Oak, MD, further identified as Parcel EEEE in the Westfarm Technology Park subdivision (Tax Account No. 05-03268832), is hereby **approved** in the amount requested and subject to the specifications and requirements of the Floating Zone Plan, Exhibit 40, provided that the Applicant files an executed Declaration of Covenants (Exhibit 41) reflecting the binding elements in the land records and submits to the Hearing Examiner for certification a true copy of the Floating Zone Plan approved by the District Council within 10 days of approval, in accordance with §§59.7.2.1.H.1.a. and b. of the Zoning Ordinance.

This is a correct copy of Council action.

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Selena Mendy Singleton, Esq.  
Clerk of the Council

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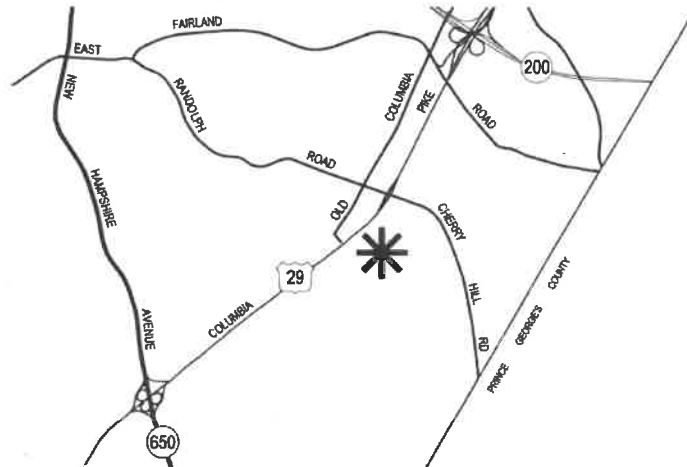
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### I. CASE SUMMARY

Applicant: White Oak Apartments, LLC

LMA No. & Date of Filing: H-141, filed May 19, 2021.



Current Zone: CR-0.75, C-0.75, R-0.25, H-75 (Commercial/Residential Zone).

Current Use: 66,150 square-foot office building and associated surface parking.

Requested Zone: CRF-1.25, C-0.25, R-1.25, H-85 (Commercial Residential Floating Zone). Moderate increase in density, height, and change in mix of uses to enable solely residential development.

Proposed Use: Multi-unit residential with up to 400 dwelling units in three buildings, including one apartment-style multi-family building and 2 "two-over-two" multi-family buildings.

MPDUs: Binding element requiring 15% of units constructed to be MPDUs.

Consistency with Master Plan: Located within the Life Sciences Center/FDA major activity area of the *2014 White Oak Science Gateway Master Plan*. Consistent with the Master Plan.

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Neighborhood Response: Support residential use but oppose possibility of public roadway.

Planning Board Recommends: Approval

Technical Staff Recommends: Approval

Hearing Examiner Recommends: Approval

District Council Votes Needed  
to Approve: 5

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## II. STATEMENT OF THE CASE

White Oak Apartments, LLC (Applicant or White Oak) filed LMA Application No. H-141 on May 19, 2021. The application seeks to rezone approximately 7.83 acres of property from the CR 0.75, C-0.75, R-0.25, H-75 (Commercial Residential Zone) to the CRF 1.25, C-0.25, R-1.25, and H-85 (Commercial Residential Floating Zone). Exhibit 1. The subject property is located at 2220 Broadbirch Drive, White Oak, MD, further identified as Parcel EEEE in the Westfarm Technology Park subdivision (Tax Account No. 05-03268832). *Id.*

Notice of the public hearing was mailed and posted on OZAH's website on August 12, 2021. Exhibit 23. The notice established a hearing date of September 24, 2021. The Applicant submitted revisions to its Floating Zone Plan (FZP) and other application documents on August 25, 2021. Exhibits 24-31.

The public hearing proceeded as scheduled on September 24, 2021. The Applicant presented six witnesses, one representing a principal of White Oak and five expert witnesses. At the public hearing, the Applicant agreed to binding elements limiting the type and density of the proposed use and committing to restrict 15% of the units constructed as MPDUs. Mr. Dan Wilhelm, President of the Greater Colesville Citizens' Association, appeared and testified as an individual. The Hearing Examiner held the record open to receive final binding elements and an executed declaration of covenant. These were received and the record closed on October 4, 2021. Exhibit 48.

## III. FACTUAL BACKGROUND

### A. Subject Property

Containing about 7.83 acres, the subject property is located north of Broadbirch Drive in the Westfarm Technology Park subdivision, generally southeast of the intersection of U.S. 29 and Cherry Hill Road. An aerial photograph of the property (Exhibit 33, p. 4) is on next page.

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The lot is now developed with a 66,150 square foot office building with associated surface parking. Exhibit 33. A driveway from Broadbirch Drive provides access. DARCARS holds an easement over portions of the access drive, which connects two vehicle storage lots. Staff advises that a six-foot tall chain-link fence borders the west, north and east sides of the property, as shown on the photograph below (*Id.*, p. 6):





White Oak's expert in land planning, Ms. Jane Pryzgocki, testified that the property is rectangular and slopes from the south to north. While the grade is gentle on most of the site, there are some steep slopes at the perimeter and closer to the southern end of the site. T. 31. The site has been mostly cleared. About one-third of an acre of forest exists in the southwest corner of the site. There is a small stream channel within the forested area that picks up from an outflow, which is a daylighted storm drainpipe on the adjacent western property. This flows into another storm drainpipe, which carries the water into the public storm drain system within the right-of-way. T. 32.

Staff reports that several easements constrict development on the property. In addition to the DARCAR's easements, these include a storm drain easement in the southwest corner, a Pepco right-of-way near the western property line, and a 20-foot storm drain and public utility easement along Broadbirch Drive.

### **B. Surrounding Area**

The surrounding area is typically identified and characterized in a Floating Zone case. The boundaries are defined by those properties that will experience the direct impacts of the use. This area is then characterized to determine whether the FZP will be compatible with the impacted area.

Staff defined the boundaries of the surrounding area as Columbia Pike (U.S. 29) to the west, Cherry Hill Road to the north, Plum Orchard Drive to the east, and Industrial Parkway and properties to the south, as shown on the aerial photograph from the Staff Report (Exhibit 33, p. 4, on the next page).

Staff described the character of the area as non-residential, consisting of commercial, retail, industrial, and service uses. Uses in the area include hotels, restaurants, car dealerships, business parks, a MCPS bus depot and a portion of the Adventist White Oak Hospital. There are no residential uses in the area.



Figure 1: Vicinity Map/Staff-Defined Neighborhood  
(Staff-Defined Neighborhood outlined in yellow, Property in red)

Exhibit 33, p. 10

Future development in the area will include a shopping center at the intersection of Old Columbia Pike and Industrial Parkway and a new BRT FLASH station. *Id.*, p. 2. Except for the hospital, the entire area is in the CR (Commercial/Residential) Zone. A portion of the hospital property is zoned LSC (Life Sciences Center). *Id.* Staff advises that the area falls within a federally designated “Opportunity Zone.” According to Staff, the IRS defines as “an economic development tool that allows people to invest in distressed areas...to spur economic growth and job creation in low-income communities while providing tax benefits to investors.” *Id.*<sup>1</sup> Ms. Pryzgocki, testified

<sup>1</sup> The Staff Report quotes from the IRS’ website at <https://www.irs.gov/businesses/opportunity-zones>.

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that the Master Plan calls for redevelopment of the area with a mix of uses, including residential, discussed later in this Report. *Id.*

Based on this record, the Hearing Examiner agrees with Staff that the existing area is non-residential and characterized by commercial office, retail, industrial, and service uses. She also agrees with Ms. Pryzgocki that the Master Plan encourages redevelopment to a mixed-use area, including residential uses.

### **C. The Applicant's Proposal**

Mr. Josh Wooldridge testified on behalf of the NRP Group, a principal of the White Oak. Based in Montgomery County, NRP is the third-ranked developer and manager of multi-family housing nationwide. Their market research demonstrated that there hasn't been a market-rate multi-family development in this area since 1988. Their company believes that this proposal is a "critical opportunity" to provide multi-family housing near the FDA, the new Adventist hospital campus, the new FLASH Bus Rapid Transit (BRT) system, and other major employers with over 20,000 jobs. T. 9-10, 16. He believes that all the ingredients for a "live-work-play" environment, including the FLASH BRT Station at Tech Road, are in place except for multi-family residential development. T. 17.

The development will include up to 400 multi-family dwelling units. Approximately 28 of those units will be "two-over-two" units, a product introduced by NRP. These provide significantly larger units than the one to three-bedroom units in the apartment style building and are very attractive to families. There is enough room for residents to work from home so they don't have to commute and may live and work in the community. T. 25. These units appear like townhouses from the street, but are actually two, two-story multi-family units on top of each other, each with an internal garage. For that reason, they will be approximately 50-55 feet in height. Ms. Pryzgocki testified that the balance of the units will be apartment-style multi-family units in one building, with

a mix of one- to three-bedroom units. T. 100. The apartment-style building will be a maximum of 85 feet in height, or four to five stories. T. 39-40.

### **1. Floating Zone Plan**

Under Zoning Ordinance §59.7.2.1.B.2.g., every application for rezoning to a Floating Zone must be accompanied by a Floating Zone Plan that contains required information and often a list of “binding elements” that restrict future development of the property. The Applicants have submitted the required plan. Exhibit 40. An excerpt of the FZP showing the proposed building layouts, drive aisles, road reservations, and forest conservation areas is reproduced on the following page.

Ms. Pryzgocki testified that access to the units will be from Broadbirch Drive. Parking for the multi-family structure is provided in a structure on the north end of the property, with units above. Residents will have the choice to park in the garage or in a surface lot on the southern side of the building. There is an internal circulation road that goes from east to west, which serves the two-over-two units. Each of those units will have one space in a garage and one in a driveway. T. 38. Sidewalks, natural surface paths, and an eight-foot shared-use path along the main entrance road provide pedestrian circulation on-site. T. 38-39. The minimum required public and private open space and recreational facilities are provided on-site as well. T. 39.

### **2. Binding Elements**

The FZP includes three binding elements (Exhibit 40):

1. Residential development may not exceed 400 dwelling units.
2. A minimum of 15% of the dwelling units constructed must be Moderately Priced Dwelling Units under Chapter 25A of the Montgomery County Code.
3. Uses shall be limited to multi-family dwelling units inclusive of two-over-two or stacked multi-family units.

### **3. Access**

Mr. Michael Workosky, the Applicant's expert transportation planner, testified that the FZP shows an access road with a 60-foot right-of-way, which can be either private or public. At present,



there are two alternative designs - one is for a public street that would have a potential future connection. The other design is for a site driveway that could be a private street. T. 91-94.

### **3. Environment**

Mr. Daniel Park, White Oak's expert in landscape architecture and forestry, testified that there are "a few" steep slopes to the southwest, where the site drains. The drainage area consists of a shored exposed channel, approximately 150 feet in length, which conveys off-site and on-site drainage into a culvert that flows into the public storm drain system. T. 71. As this area contains existing forest, it will be preserved through a Category I Forest Conservation Easement. T. 72.

There are 0.35 acres of forest in the southwest corner of the property. Of this, approximately 0.24 acres will be preserved in the forest conservation easement and 0.1 acres will be cleared to provide public open space. The total mitigation required is .89 acres. White Oak will meet the balance by payment of a fee-in-lieu when the Final Forest Conservation Plan is approved. T. 73.

The conditions of approval for the PFCP require them to submit a FFCP at the time of site plan. The Planning Board asked the Applicant to install additional plantings between the proposed forest conservation easement and the proposed pedestrian connection. These plantings will not be part of the Forest Conservation Easement, although White Oak will work with the Planning Department to install appropriate riparian plantings. T. 75.

### **D. Community Concerns**

Mr. Daniel Wilhelm appeared at the public hearing. In general, he supports a residential project at this location, but does not support a public connection between Broadbirch Drive and White Horn Court.

## **IV. FINDINGS AND CONCLUSIONS**

A floating zone is a flexible device that allows a legislative body to establish development

standards and uses for a particular district before "attaching" to individual properties. The zone may be applied to individual properties with the approval of a Local Map Amendment.

For approval, the District Council must find that the proposal will meet the standards required by the Zoning Ordinance and that it will be consistent with a coordinated and systematic development of the Regional District. *See, Md. Land Use Art.*, §21-101(a) and (b). While many of the site-specific requirements for development are addressed by later approvals, the Zoning Ordinance contains various standards, or "Necessary Findings" that the Council must make. These standards incorporate the requirements of other sections of the Zoning Ordinance, as set forth below.

**A. The "Necessary Findings" Required by Zoning Ordinance §59.7.2.1.E.2.**

**1. Substantial Conformance with the Master Plan**

Several sections of the Zoning Ordinance require an applicant to demonstrate that the proposed rezoning conforms to the applicable Master Plan:

*Section 7.2.1.E.1.a. For a Floating zone application the District Council must find that the floating zone plan will:*

*a. substantially conform with the recommendations of the applicable master plan, general plan, and other applicable County plans;*

\* \* \*

*Section 59.7.2.1.E.1.b: ...further the public interest...*

\* \* \*

*Section 59.7.2.1.c: ...satisfy the intent and standards of the proposed zone...*

\* \* \*

*Section 59.5.1.2.A.1. (Intent of Floating Zones): Implement comprehensive planning policies by... furthering the goals of the general plan, applicable master plan, and functional master plan...*

Staff concluded that the project substantially conforms to the 2014 *White Oak Science Gateway Master Plan* (Master Plan or Plan). According to Staff, the “overarching” goal of the plan is to “transform the built environment from auto-oriented single-purpose nodes into vibrant mixed-use centers.” Exhibit 33, p. 7 (*quoting, Master Plan, p. 23*). Located in the Life Science/FDA major activity area, staff advises that the Plan recommended CR zoning to provide “land use flexibility” and spur redevelopment. *Id.* Staff found that the proposed development will take advantage of the County’s major investment in the BRT line to introduce residential development to the predominantly light industrial area. The also found that the master planned connection to Whitehorn Court conformed to the Plan’s recommendations (*See, Exhibit 33, p. 9, below*):



According to Staff, when adjacent properties redevelopment, road dedications will be required to complete the connection from Broadbirch Drive and Whitehorn Court. In Staff’s opinion, this will improve area circulation and extend dead-end streets as the Plan recommends. *Id.*, p. 8.

Staff also found that the Master Plan sought to allow higher densities without impacting environmental goals. They concluded that the FZP meets this objective because it retains the existing forested area within a stream valley and includes a large portion of the on-site stream buffer



as public open space. Exhibit 33, p. 9. Because the existing stream is significantly degraded, Staff advises that the buffer will not improve water quality. However, Staff found that preservation of the area "creates an asset from a degraded environmental feature." *Id.*

The project also furthers the public interest, recommends Staff, because it alleviates a potential housing shortage in the County, takes advantage of the County's investment in the BRT station near the property, and will provide more than the minimum number of MPDUs required.

Ms. Pryzgocki opined that the use conformed to the Master Plan because it recommended changing the industrial zoning to CR to provide more flexible development standards and land uses. White Oak is proposing the CRF Zone that seeks a slight difference in the density permitted and mix of uses for the property. The Plan's goal was to create vibrant mixed-use centers. Ms. Pryzgocki opined that a "mixed use" center can combine single-use properties in conjunction with surrounding employment, retail, restaurants, and transit. T. 47.

Conclusion: Aside from the explicit requirement to "substantially conform" to the Master Plan, OZAH has interpreted the "public interest" requirement as conformance to adopted County plans and policies, including the relevant master plan. The Hearing Examiner agrees with both Staff's and Ms. Pryzgocki's characterization of the goals and recommendations of the Master Plan, which states (*Plan*, p. 9):

Reimagining existing centers – and providing a framework for reinvestment – is vital to this community's longevity. This Plan seeks to leverage White Oak's assets and establish the foundation upon which the area can evolve into a community that offers more opportunities to live-work-play locally.

Key to the Plan's vision is development of three "major activity centers." *Plan*, p. 25. Located in the Life Sciences Center/FDA activity area, the residential development proposed here furthers the Plan's goal to utilize a mix of uses to spur redevelopment. Obviously, residential development, which is currently absent, is key to a live-work-play environment. The Hearing

Examiner agrees with Ms. Pryzgocki's testimony that the proposed single-use residential property furthers the "mixed use" community concept envisioned by the Plan when viewed in the context of the surrounding area. Having no evidence to the contrary, the Hearing Examiner finds that the project furthers the Plan's environmental goals for the reasons stated by Staff. The FZP substantially conforms to the Plan's transportation goal because it enables the connection to White Horn Court recommended. While Mr. Wilhelm opposes a public connection, this will be determined at later stages of development. For now, the FZP does not foreclose the opportunity and therefore is consistent with the Plan and furthers the public interest.

## 2. Compatibility<sup>2</sup>

Several sections of the Zoning Ordinance require the District Council to analyze the compatibility of the proposed FZP with adjacent uses and the surrounding area. The application must:

***Section 7.2.1.E.1.c.: satisfy the intent and standards of the proposed zone and, to the extent the Hearing Examiner finds it necessary to ensure compatibility, meet other applicable requirements of this Chapter;***

\* \* \*

***Section 5.1.2.C. (Intent of Floating Zones). Ensure protection of established neighborhoods by:***

- 1. establishing compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses;***
- 2. providing development standards and general compatibility standards to protect the character of adjacent neighborhoods; and***
- 3. allowing design flexibility to provide mitigation of any negative impacts found to be caused by the new use.***

---

<sup>2</sup> Section 59.7.2.1.E.1.d also addresses compatibility, but only when the existing zone is a Residential Detached Zone: "...when applying a non-Residential Floating zone to a property previously under a Residential Detached zone, not adversely affect the character of the surrounding neighborhood." The CR Zone is not a residential detached zone. *Zoning Ordinance*, §59.2.1.3.C.1. For this reason, the Hearing Examiner does not address this standard.

\* \* \*

***Section 5.3.2.C. (Purpose of Commercial/Residential Zones). The purpose of the Commercial/Residential Zones is to ... provide mixed-use development that is compatible with adjacent development.***

***Section 7.2.1.E.1.d. be compatible with existing and approved adjacent development...***

Staff determined that the project would be compatible with adjacent and surrounding development due to the modest increase in density and height requested and the lack of nearby residential uses. Staff also viewed the two-over-two buildings and public open space as an “appropriate” density transition. The public open space will enhance the pedestrian experience in the area. Exhibit 33, p. 14. Ms. Pryzgocki testified that the highest part of the development would be adjacent to a hotel that is four to five stories as well, and there are other buildings in the area that are approximately that high. The height of the apartment-style building steps down approaching Broadbirch Drive to be more compatible with the lower-rise buildings across that road. T. 39-40. The zero-foot perimeter setback runs along the northern property line, adjacent to the hotel and office building.

Mr. Workosky testified that the Floating Zone requested gives the Applicant flexibility in the setbacks to accommodate existing easements and provide the option of a public or private road. White Oak is proposing a 10-foot setback from the property line, as well as an additional 10-foot PUE easement. The rear setback will also be at least 10 feet from the property line. On the eastern property boundary, they are proposing a 60-foot setback. The western setback will be zero, adjacent to the Hilton Garden Hotel and an office building. T. 42-44.

**Conclusion:** Based on this record, the Hearing Examiner agrees with Staff that White Oak has used the design flexibility of the CRF Zone to ensure compatibility with adjacent and surrounding properties. The zero-foot setback along the northern property line locates the highest part of the

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building adjacent to buildings of like height, transitioning down toward Broadbirch Drive. It also permits public open space along the western and southern boundary, and preservation of much of existing forest. These flexible setbacks also enable the Applicant to accommodate either a public or private roadway on the property. This standard has been met.

### **3. Adequate Public Facilities/Public Interest**

Several sections of the Zoning Ordinance require an applicant for a Floating Zone to demonstrate that public facilities will be adequate to serve the property. The Council must find that the application meets the following standards:

*Section 7.2.1.E.1.e: generate traffic that does not exceed the critical lane volume or volume/capacity ratio standard as applicable under the Planning Board's LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts; and...*

\* \* \*

*Section 7.2.1.E.1.b: further the public interest...*

\* \* \*

*Section 7.2.1.E.1.c.: satisfy the intent and standards of the proposed zone and, to the extent the Hearing Examiner finds it necessary to ensure compatibility, meet other applicable requirements of this Chapter;*

\* \* \*

*Section 5.1.2.A.2: (Intent of the Floating Zones). "...implement comprehensive planning objectives by...ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure..."*

Staff advises that the property falls within the White Oak Local Area Transportation Improvement Program area (LATIP), which is exempt from review under the Local Area Transportation Review (LATR) Guidelines. Exhibit 33, p. 15. Development within the LATIP area must pay a fee based on the number of trips generated or build improvements as a credit toward the fee. *Id.* Nevertheless, Mr. Workosky submitted an LATR exemption statement to demonstrate

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that residential development will generate fewer trips than permitted under the existing zoning. According to him, the residential development would generate 256 and 123 site-generated vehicle trips, respectively, and 355 and 199 person trips, respectively, a reduction of 389 vehicle trips and 519 person trips. T.88-89. The development is still subject to the Local Area Transportation Review Improvement payments, which will be evaluated at the site plan stage. T. 89. Staff agreed, comparing the two development scenarios (Exhibit 33, p. 15):

<b>Development Scenario Generating the Most Peak Hour Vehicle Trips</b>	<b>Square Feet or Units</b>	<b>Site-Generated Peak-Hour Vehicle Trips</b>	<b>Site-Generated Peak-Hour Person Trips</b>
<b>Existing CR-0.75, C-0.75, R-0.25, H-75 Zone</b>			
Commercial - Retail @ 0.75 FAR	255,691	768	1,064
<b>Proposed CRF-1.25, C-0.25, R-1.25, H-85 Zone</b>			
Commercial - Retail @ 0.25 FAR	85,230	256	355
Residential - High Rise Residential & 1.0 FAR	359	123	190
<b>Net Change in Peak-Hour Trips</b>		<b>-389</b>	<b>-519</b>

The project's civil engineer, Mr. Tim Stemann, testified that other public facilities will be available as well. There is no existing stormwater management on site. As part of this project, White Oak will install micro-bioretenion areas along the west side of the property to treat the apartment building, the parking area, and the access road. There are two smaller planter micro-bioretenion facilities located near the two-over-two units to treat that drainage. T. 80. In his opinion, there is sufficient space on-site to provide required treatment according to State standards. T. 80-81. Sewer and water are also available. There is an existing 8-inch sewer line and a 12-inch waterline along Broadbirch Drive. They will be able to connect to that line to serve the entire site. T. 81.

Mr. Stemann testified that they have preliminarily reviewed fire access with the Montgomery County Department of Fire and Rescue Services (DFRS). This indicates that adequate fire access for the apartment-style units will proceed from the access road to the northern edge of the garage. The additional roadway that extends west/east, can provide access to the southern end

of the apartment-type units and the two-over-two multi-family units. T. 82. The sides where access is not available to fire trucks will be served by foot. T. 83. The propose to install new fire hydrants along the access roads to the site. T. 85.

Conclusion: Based upon the uncontroverted testimony and evidence in this record, the Hearing Examiner finds that public facilities will be adequate to serve the proposed use and will be finally determined at a later stage of the development process.

**B. The Intent and Standards of the Zone (Section 59.7.2.1.E.2.c)**

As already stated, Section 59.7.2.1.E.2.c of the Zoning Ordinance requires the District Council to find that the FZP “satisfy the intent and standards of the proposed zone.” The Zoning Ordinance includes an “intent” clause for all Floating Zones and a “purpose” clause” for particular Zone requested. Several of these have already been analyzed in Part IV.A of this Report. The balance of the intent findings for Floating Zones and the purposes of the CRF Zone are discussed below.

**1. Intent of Floating Zones (Section 59.5.1.2)**

The intent of Floating Zones is in Section 59.5.1.2 of the Zoning Ordinance. The Hearing Examiner has already discussed whether the application has met the intent Sections 59.5.1.2.A.1 and 2. This section discusses whether the FZP meets the remaining intents of the CRF Zone.

*Section 59.5.1.2.A.3 ... The intent of the Floating zones is to:*

*A. Implement comprehensive planning objectives by...*

*3. allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the property...*

Staff found that the FZP meets this standard because the zone requested “allows flexibility to provide a residential project that is compatible with the surrounding area, respects and enhances the existing environmental features and begins to improve connectivity within the area.” Exhibit

33, p. 12. Ms. Pryzgocki opined that the FZP uses flexibility in setbacks and development standards to enable a mixed-use development at a range of densities and heights that is flexible enough to respond to the setting, provides a range of different housing types, and includes public and private open space that is compatible with adjacent development. T. 50-51. Mr. Workosky testified that flexible setbacks enable White Oak to permit a public road connection if ultimately determined at site plan. T. 94.

Conclusion: The Hearing Examiner agrees with Staff and White Oak that the FZP utilizes the flexible setbacks to permit a residential use that is compatible with surrounding uses. The zero-foot setback along the northern property line enables the density proposed while accommodating a compatible transition to lower-intensity uses in height and public open space to buffer the higher intensity development on the site. The FZP also utilizes flexible setbacks to accommodate a public road connection, which will be finally determined at site plan.

***B. Encourage the appropriate use of land by:***

- 1. providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive District or Sectional Map Amendments;***
- 2. allowing various uses, building types, and densities as determined by a property's size and base zone to serve a diverse and evolving population; and***
- 3. ensuring that development satisfies basic sustainability requirements including:***
  - a. locational criteria,***
  - b. connections to circulation networks,***
  - c. density and use limitations,***
  - d. open space standards,***
  - e. environmental protection and mitigation; and***

Staff determined that the FZP meets this standard because (Exhibit 33, p. 12):

The Master Plan envisioned significant amounts of residential development at nearby properties that has yet to materialize. The proposed zone allows the Subject Property to provide the first residential development in the area, responding to the County's acute need for additional housing. This Project may help spur the evolution of this area into the mixed-use community envisioned in the Plan.

According to Staff, the project is sustainable due to its proximity to the new BRT station, retail, office, and service uses. It will mitigate current degraded environmental conditions and provide stormwater management on-site.

Conclusion: The Hearing Examiner agrees with Staff that the project meets the intent of the floating zones. Staff notes that housing recommended at other sites failed to develop. Mr. Wooldridge testified that no residential project has been developed within the area since 1988. This will provide housing near at least five major employers and approximately 20,000 jobs within walking distance of transit, retail, restaurants, and other amenities. The proposed development introduces a new type of dwelling unit, a two-over-two unit, to permit additional space for families that may want to work at home. The record demonstrates that the proposed development is sustainable, as it is located within walking distance of mass transit and services, provides the requisite public and private open space, preserves most of the existing forest on-site, and uses the public open space to enhance current environmental conditions.

## **2. Purpose of the Commercial Residential Floating Zones (Section 59.5.3.2)**

In addition to meeting the intent of Floating Zones, the FZP must meet the purpose of the zone requested. The purposes of the CRF Zone are in Section 59.5.3.2. The Hearing Examiner has already discussed Section

### ***Section 5.3.2. Purpose***

***The purpose of the Commercial/Residential Floating zones is to:***

- A. allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;***
- B. allow flexibility in uses for a site; and***
- C. provide mixed-use development that is compatible with adjacent development.***

Staff concluded that the FZP met this standard, restating that the FZP uses the flexibility in the CRF to “increase the amount of residential density allowed” and to “modestly increase the building height.”

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Conclusion: The Hearing Examiner already found that the FZP furthers the purpose of §5.3.2.C in Part IV.A.2 of this Report (relating to compatibility of the use with surrounding development). The remaining purposes listed here are redundant of the findings already made. The FZP uses the additional height of the zone requested and flexible setbacks to accomplish a compatible residential project through height transition and provision of public open space. This standard has been met.

**C. Applicability of a Floating Zone (§59.5.1.3)**

Section 59.5.1.3. of the Zoning Ordinance sets up a series of threshold tests to determine whether a Floating Zone may be applied to properties current in a Residential Zone. Staff advises, and the Hearing Examiner agrees, that there are no prerequisites for property already within the CR Zone.

**D. Development Standards and Uses Permitted in the CRF Zone (Div. 59.5.3)**

**1. Uses and Building Types Permitted (§§59.5.3.3 and 59.3.3.4)**

Section 59.5.3.3 of the Zoning Ordinance limits the uses permitted in the CRF Zone to “only” those uses permitted in the CR Zone. Multi-unit living is permitted in the CR Zone and this standard is met. The CRF Zone permits any building type, thus, the multi-family buildings are permitted in the requested zone.

**2. Development Standards of the CRF Zone**

**Section 5.3.5. Development Standards.**

Staff found that the FZP meets the development standards of the CRF-1.25, C-0.25, R-1.25, H-85 Zone, (Zoning Ordinance, §59.5.3.5), as demonstrated in the table from the Staff Report (Exhibit 33, p. 14, shown on the next page).

White Oak will have to provide public benefits that conform to the Master Plan recommendations during approval of a Sketch and Site Plan. Staff advises that potential major

<b>Table 1: Development Standards for Optional Method in the CRF-1.25, C-0.25, R-1.25, H85 Zone</b>		
	<b>Required/Allowed</b>	<b>Proposed</b>
<b>Tract Area</b>	n/a	358,008 sf (8.22 acres)
Parcel EEEE	n/a	340,838 sf (7.83 acres)
Prior R.O.W Dedication	n/a	17,170 sf (0.39 acres)
<b>Density (max)</b>	<b>8 FAR<sup>1</sup></b>	<b>1.25 FAR (447,510 sf)</b>
Commercial	6 FAR	0 FAR <sup>2</sup>
Residential	6 FAR	1.25 FAR (447,510 sf)
<b>Setbacks from site boundary</b>	Established by Floating Zone Plan	
Front (Broadbirch Drive)		10 ft
Side (west)		0 ft
Rear (north)		10 ft
Side (east)		60 ft
<b>Height (max)</b>	<b>85 ft</b>	<b>85 ft</b>
<b>Lot Size (min)</b>	Established by Site Plan	
<b>Public Open Space (min)</b>	10% of Site	10% of Site*
<b>Parking</b>	Established by Site Plan	Approximately 530*
<b>Public Benefits (minimum)</b>	100 points in 4 Categories	100 points in 4 Categories*

<sup>1</sup> Since a floating zone is not recommended in the Master Plan, the maximum density allowed on the Property is established by Section 59.5.3.5.A.2.

<sup>2</sup> The proposed zone allows up to 0.25 commercial FAR, but the Applicant is not currently proposing any commercial development.

\*Final amounts to be determined at Site Plan.

**Table Comparing Development Standards of Zone Requested and Proposed FZP (Ex. 33)**

public benefits may include a public road connecting White Horn Court and Broadbirch Drive, providing more than the minimum MPDUs, and quality building design, including providing more structured parking than required by the Zoning Ordinance. Exhibit 33, p. 9. While the public benefits provided are not part review at the rezoning stage, the record demonstrates that the Applicant will be able to provide public benefits when required.

### 3. Requirements of Article 59.6

Article 59.6 of the Zoning Ordinance contains general development standards for most developments. These standards regulate the number and design of parking spaces, drive aisles,

landscaping, lighting, and public and private open space. Based on the undisputed evidence at this stage, the Applicant's proposal will be able to meet these standards, subject to review and modification of the particulars during site plan review.

#### V. RECOMMENDATION

For the foregoing reasons, the Hearing Examiner concludes that the proposed reclassification and Floating Zone Plan will meet the standards set forth in the Zoning Ordinance and that it will be consistent with a coordinated and systematic development of the Regional District, under State law. Therefore, I recommend that Local Map Amendment Application No. H-141, requesting reclassification from the existing CR-0.75, C-0.75, R-0.25, H-75 to the CRF-1.25, C-0.25, R-1.25, H-85 of Parcel EEEE in the Westfarm Technology Park subdivision (Tax Account No. 05-03268832), located at 2220 Broadbirch Drive, White Oak, Maryland, be **approved** in the amount requested and subject to the specifications and requirements of the Floating Zone Plan (Exhibit 40), provided that the Applicant files an executed Declaration of Covenants (Exhibit 41) reflecting the binding elements in the land records and submits to the Hearing Examiner for certification a true copy of the Floating Zone Plan approved by the District Council within 10 days of approval, in accordance with §§59.7.2.1.H.1.a. and b. of the Zoning Ordinance.

Issued: November 4, 2021.

Respectfully submitted,



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Lynn Robeson Hannan  
Hearing Examiner

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LOCAL MAP AMENDMENT APPLICATION  
DISCLOSURE STATEMENT  
(Revised February 7, 2019)

State law requires that each and any Applicant for a local zoning map amendment, or Party of Record, who has made a contribution to a candidate for County Executive or County Council of \$500.00 or more, calculated cumulatively for the four-year election cycle either before the filing of the application or during the four-year cycle within which the application is pendent, must disclose the name of the candidate to whose treasurer, political committee, or slate the contribution was made, the amount and the date of the contribution.

A Disclosure Statement must be filed when the application is filed or within two weeks after entering the proceeding by a Party of Record and be updated within 5 business days of any contribution made after the filing of the initial disclosure and before final disposition of the application by the District Council. If more than one contribution is made, please specify in the space provided below each contribution and to whom it was made. If more than one applicant is involved in a single application, each applicant must file this statement.

Subject to the penalties of perjury, I, Apple Real Estate LLC  
(NAME OF APPLICANT FOR LOCAL MAP AMENDMENT  
OR PARTY OF RECORD)

HEREBY AFFIRM that the contents of this statement are true to the best of my

knowledge, information and belief, and that: (SELECT EITHER 1 OR 2 BELOW AND CHECK  
APPROPRIATE STATEMENT)

1.  I HAVE made a contribution of \_\_\_\_\_  
(FILL IN AMOUNT OF CONTRIBUTION IF \$500  
OR MORE, OR STATE N/A IF NOT APPLICABLE)

on \_\_\_\_\_  
(FILL IN DATE (MONTH, DAY AND YEAR) OF CONTRIBUTIONS),

to the following candidate's treasurer, political committee, or slate:

\_\_\_\_\_  
(FILL IN NAME OR NAMES OF CANDIDATE, OR STATE N/A IF INAPPLICABLE)  
(If more space is required, use the back of this form.)

2.  I HAVE NOT made a contribution requiring disclosure.

Thomas P. Rosato - Managing Member  
SIGNATURE OF DECLARANT Thomas P. Rosato

This Statement is filed in compliance with the public ethics requirements of Md. Code Ann, General Provisions, §§5-842 through 5-845; 2014 Md. Laws Ch. 94. A person who knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 1,000.

For convenience, several definitions in State law are contained on the next page.

Subscribed and sworn to me, a Notary Public for Montgomery County, Maryland, this

14<sup>th</sup> day of April, 2021.

Exhibit 5

H-141

Donna Washington

NOTARY PUBLIC  
My Commission Expires:

DONNA WASHINGTON  
Notary Public-Maryland  
Baltimore County  
My Commission Expires  
December 30, 2021

35

LOCAL MAP AMENDMENT APPLICATION  
DISCLOSURE STATEMENT  
(Revised February 7, 2019)

State law requires that each and any Applicant for a local zoning map amendment, or Party of Record, who has made a contribution to a candidate for County Executive or County Council of \$500.00 or more, calculated cumulatively for the four-year election cycle either before the filing of the application or during the four-year cycle within which the application is pendent, must disclose the name of the candidate to whose treasurer, political committee, or slate the contribution was made, the amount and the date of the contribution.

A Disclosure Statement must be filed when the application is filed or within two weeks after entering the proceeding by a Party of Record and be updated within 5 business days of any contribution made after the filing of the initial disclosure and before final disposition of the application by the District Council. If more than one contribution is made, please specify in the space provided below each contribution and to whom it was made. **If more than one applicant is involved in a single application, each applicant must file this statement.**

Subject to the penalties of perjury, I, Thomas P. Rosato  
(NAME OF APPLICANT FOR LOCAL MAP AMENDMENT  
OR PARTY OF RECORD)

HEREBY AFFIRM that the contents of this statement are true to the best of my knowledge, information and belief, and that: (SELECT EITHER 1 OR 2 BELOW AND CHECK APPROPRIATE STATEMENT)

1.  I HAVE made a contribution of \_\_\_\_\_  
(FILL IN AMOUNT OF CONTRIBUTION IF \$500  
OR MORE, OR STATE N/A IF NOT APPLICABLE)

on \_\_\_\_\_  
(FILL IN DATE (MONTH, DAY AND YEAR) OF CONTRIBUTIONS),

to the following candidate's treasurer, political committee, or slate:

\_\_\_\_\_  
(FILL IN NAME OR NAMES OF CANDIDATE, OR STATE N/A IF INAPPLICABLE)  
(If more space is required, use the back of this form.)

2.  I HAVE NOT made a contribution requiring disclosure.

Thomas P. Rosato  
SIGNATURE OF DECLARANT Thomas P. Rosato

This Statement is filed in compliance with the public ethics requirements of Md. Code Ann, General Provisions, §§5-842 through 5-845; 2014 Md. Laws Ch. 94. A person who knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 1,000.

For convenience, several definitions in State law are contained on the next page.

Subscribed and sworn to me, a Notary Public for Montgomery County, Maryland, this

14<sup>th</sup> day of April, 2021.

Donna Washington  
NOTARY PUBLIC

My Commission Expires:

(36)

DONNA WASHINGTON  
Notary Public-Maryland  
Baltimore County  
My Commission Expires  
December 30, 2021

LOCAL MAP AMENDMENT APPLICATION  
DISCLOSURE STATEMENT  
(Revised February 7, 2019)

State law requires that each and any Applicant for a local zoning map amendment, or Party of Record, who has made a contribution to a candidate for County Executive or County Council of \$500.00 or more, calculated cumulatively for the four-year election cycle either before the filing of the application or during the four-year cycle within which the application is pendent, must disclose the name of the candidate to whose treasurer, political committee, or slate the contribution was made, the amount and the date of the contribution.

A Disclosure Statement must be filed when the application is filed or within two weeks after entering the proceeding by a Party of Record and be updated within 5 business days of any contribution made after the filing of the initial disclosure and before final disposition of the application by the District Council. If more than one contribution is made, please specify in the space provided below each contribution and to whom it was made. If more than one applicant is involved in a single application, each applicant must file this statement.

Subject to the penalties of perjury, I, GINA DUBBE  
(NAME OF APPLICANT FOR LOCAL MAP AMENDMENT  
OR PARTY OF RECORD)

HEREBY AFFIRM that the contents of this statement are true to the best of my

knowledge, information and belief, and that: (SELECT EITHER 1 OR 2 BELOW AND CHECK  
APPROPRIATE STATEMENT)

1.  I HAVE made a contribution of \_\_\_\_\_  
(FILL IN AMOUNT OF CONTRIBUTION IF \$500  
OR MORE, OR STATE N/A IF NOT APPLICABLE)

on \_\_\_\_\_  
(FILL IN DATE (MONTH, DAY AND YEAR) OF CONTRIBUTIONS),

to the following candidate's treasurer, political committee, or slate:

\_\_\_\_\_  
(FILL IN NAME OR NAMES OF CANDIDATE, OR STATE N/A IF INAPPLICABLE)  
(If more space is required, use the back of this form.)

2.  I HAVE NOT made a contribution requiring disclosure.

Gina Dubbe  
SIGNATURE OF DECLARANT Gina Dubbe

This Statement is filed in compliance with the public ethics requirements of Md. Code Ann, General Provisions, §§5-842 through 5-845; 2014 Md. Laws Ch. 94. A person who knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 1,000.

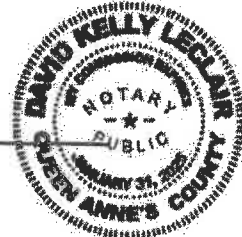
For convenience, several definitions in State law are contained on the next page.

Subscribed and sworn to me, a Notary Public for Montgomery County, Maryland, this

14<sup>TH</sup> day of APRIL, 2021.

David Kelly Leclair  
NOTARY PUBLIC

My Commission Expires: 01/31/2025



(37)

**LOCAL MAP AMENDMENT APPLICATION  
DISCLOSURE STATEMENT**  
(Revised February 7, 2019)

State law requires that each and any Applicant for a local zoning map amendment, or Party of Record, who has made a contribution to a candidate for County Executive or County Council of \$500.00 or more, calculated cumulatively for the four-year election cycle either before the filing of the application or during the four-year cycle within which the application is pendent, must disclose the name of the candidate to whose treasurer, political committee, or slate the contribution was made, the amount and the date of the contribution.

A Disclosure Statement must be filed when the application is filed or within two weeks after entering the proceeding by a Party of Record and be updated within 5 business days of any contribution made after the filing of the initial disclosure and before final disposition of the application by the District Council. If more than one contribution is made, please specify in the space provided below each contribution and to whom it was made. **If more than one applicant is involved in a single application, each applicant must file this statement.**

Subject to the penalties of perjury, I, CHRISTOPHER KING  
(NAME OF APPLICANT FOR LOCAL MAP AMENDMENT  
OR PARTY OF RECORD)

HEREBY AFFIRM that the contents of this statement are true to the best of my

knowledge, information and belief, and that: (SELECT EITHER 1 OR 2 BELOW AND CHECK  
APPROPRIATE STATEMENT)

1.  I HAVE made a contribution of \_\_\_\_\_  
(FILL IN AMOUNT OF CONTRIBUTION IF \$500  
OR MORE, OR STATE N/A IF NOT APPLICABLE)

on \_\_\_\_\_  
(FILL IN DATE (MONTH, DAY AND YEAR) OF CONTRIBUTIONS),

to the following candidate's treasurer, political committee, or slate:

\_\_\_\_\_  
(FILL IN NAME OR NAMES OF CANDIDATE, OR STATE N/A IF INAPPLICABLE)  
(If more space is required, use the back of this form.)

2.  I HAVE NOT made a contribution requiring disclosure

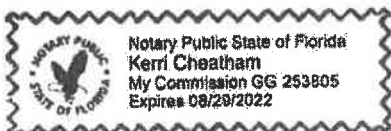
  
\_\_\_\_\_  
SIGNATURE OF DECLARANT Christopher King

This Statement is filed in compliance with the public ethics requirements of Md. Code Ann, General Provisions, §§5-842 through 5-845; 2014 Md. Laws Ch. 94. A person who knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 1,000.

For convenience, several definitions in State law are contained on the next page.

Subscribed and sworn to me, a Notary Public for Collier County, Florida  
~~Montgomery County, Maryland~~, this

15 day of April, 2021.



  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: 8/29/2022

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**LOCAL MAP AMENDMENT APPLICATION  
DISCLOSURE STATEMENT**  
(Revised February 7, 2019)

State law requires that each and any Applicant for a local zoning map amendment, or Party of Record, who has made a contribution to a candidate for County Executive or County Council of \$500.00 or more, calculated cumulatively for the four-year election cycle either before the filing of the application or during the four-year cycle within which the application is pendent, must disclose the name of the candidate to whose treasurer, political committee, or slate the contribution was made, the amount and the date of the contribution.

A Disclosure Statement must be filed when the application is filed or within two weeks after entering the proceeding by a Party of Record and be updated within 5 business days of any contribution made after the filing of the initial disclosure and before final disposition of the application by the District Council. If more than one contribution is made, please specify in the space provided below each contribution and to whom it was made. **If more than one applicant is involved in a single application, each applicant must file this statement.**

Subject to the penalties of perjury, I, White Oak Apartments LLC  
(NAME OF APPLICANT FOR LOCAL MAP AMENDMENT  
OR PARTY OF RECORD)

HEREBY AFFIRM that the contents of this statement are true to the best of my knowledge, information and belief, and that: (SELECT EITHER 1 OR 2 BELOW AND CHECK APPROPRIATE STATEMENT)

1.  I HAVE made a contribution of \_\_\_\_\_  
(FILL IN AMOUNT OF CONTRIBUTION IF \$500  
OR MORE, OR STATE N/A IF NOT APPLICABLE)

on \_\_\_\_\_  
(FILL IN DATE (MONTH, DAY AND YEAR) OF CONTRIBUTIONS),

to the following candidate's treasurer, political committee, or slate:

\_\_\_\_\_  
(FILL IN NAME OR NAMES OF CANDIDATE, OR STATE N/A IF INAPPLICABLE)  
(If more space is required, use the back of this form.)

2.  I HAVE NOT made a contribution requiring disclosure. By: Noam Magence on behalf of NEM Ventures LLC

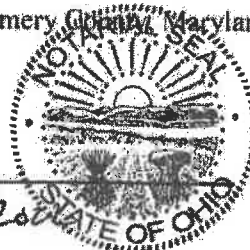
  
\_\_\_\_\_  
Managing Member  
SIGNATURE OF DECLARANT

This Statement is filed in compliance with the public ethics requirements of Md. Code Ann, General Provisions, §§5-842 through 5-845; 2014 Md. Laws Ch. 94. A person who knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 1,000.

For convenience, several definitions in State law are contained on the next page.

Subscribed and sworn to me, a Notary Public for Montgomery County, Maryland, this  
7 day of April, 2021

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: 12/11/2022



AMBER KINZEL  
NOTARY PUBLIC  
FOR THE  
STATE OF OHIO  
My Commission Expires  
December 11, 2022





**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

September 10, 2021

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

SUBJECT: Local Map Amendment Application H-141  
White Oak Apartments

Dear Ms. Hannan:

At its meeting on September 9, 2021, the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission reviewed Local Map Amendment Application H-141, a request to rezone the 7.83-acre property located at 2220 Broadbirch Drive, White Oak, from the CR-0.75, C-0.75, R-0.25, H-75 Zone to the CRF-1.25, C-0.25, R-1.25, H-85 Zone. The Planning Board also reviewed a Preliminary Forest Conservation Plan, application number H-141, associated with the Local Map Amendment. During the hearing, the Planning Board received a presentation from Planning staff and brief comments from the applicant team. In response to a question from Commissioner Cichy, a member of the applicant team explained that the two-over-two buildings will be rental units.

Staff concluded that the proposed CRF-1.25, C-0.25, R-1.25, H-85 Zone and the associated Floating Zone Plan are consistent with the 2014 *White Oak Science Gateway Master Plan*; satisfy all applicable requirements and findings for approval of a Local Map Amendment as specified in the Montgomery County Zoning Ordinance; and that the applicant has met the burden of proof by showing that the proposed zone is in the public interest and will not alter the character of the surrounding neighborhood.

On a motion by Commissioner Cichy, seconded by Commissioner Patterson, with Chair Anderson and Commissioner Verma voting in favor, the Board recommended (4-0) that Local Map Amendment H-141 be approved. The Board also approved Preliminary Forest Conservation Plan H-141. We hope the Planning Board's recommendations and the staff report will be helpful to your proceedings.

Sincerely,

Casey Anderson  
Chair


Exhibit 34  
H-141

CA:et:ha

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# Montgomery Planning

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

 2425 Reedie Drive  
Floor 14  
Wheaton, MD 20902

 [MontgomeryPlanning.org](http://MontgomeryPlanning.org)

## White Oak Apartments, Local Map Amendment H-141

Completed: 8/27/21

 Emily Tettelbaum, Planner Coordinator, Mid-County Planning, [Emily.Tettelbaum@montgomeryplanning.org](mailto:Emily.Tettelbaum@montgomeryplanning.org), 301-495-4569

 Matthew Folden, Supervisor, Mid-County Planning, [Matthew.Folden@montgomeryplanning.org](mailto:Matthew.Folden@montgomeryplanning.org), 301-495-4539

 Carrie Sanders, Chief, Mid-County Planning, [Carrie.Sanders@montgomeryplanning.org](mailto:Carrie.Sanders@montgomeryplanning.org), 301-495-4653

### Description

Request to rezone 7.83 acres from the CR-0.75, C-0.75, R-0.25, H-75 Zone to the CRF-1.25, C-0.25, R-1.25, H-85 Zone to construct a multi-family residential project.

**Location:** 2220 Broadbirch Drive, White Oak.

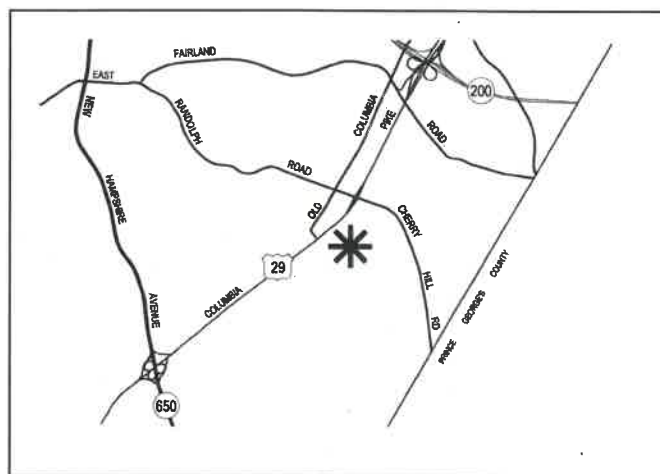
**Master Plan:** 2014 *White Oak Science Gateway*.

**Applicant:** White Oak Apartments LLC.

**Application Acceptance:** 5/19/21.

**Public Hearing by the Hearing Examiner:** 9/24/21.

**Review Basis:** Chapter 59, Zoning Ordinance.



### Summary

- Staff recommends approval of Local Map Amendment (LMA) H-141 to rezone the Property from CR-0.75, C-0.75, R-0.25, H-75 Zone to the CRF-1.25, C-0.25, R-1.25, H-85 Zone.
- The Property is currently improved with a single-story 66,150-square-foot office building and associated surface parking areas that will be removed from the site to accommodate the proposed development.
- The Applicant seeks to increase the residential density and building height allowed on the property to build a multi-family residential project which will include two-over-two dwelling units and a separate mid-rise multi-family building.
- Preliminary Forest Conservation Plan H-141, associated with this project, is recommended for approval in a separate staff report.
- Subsequent Sketch, Preliminary, and Site Plan applications are required if the LMA is approved.
- Staff has not received any correspondence about this Application.

Exhibit 33  
H-141

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## SECTION 1: STAFF RECOMMENDATION

Staff recommends approval of Local Map Amendment H-141 and the associated Floating Zone Plan with the following binding element:

1. Future residential development on the Subject Property must provide 15 percent MPDUs.

At the time of subsequent regulatory applications, the Applicant must address the following:

1. Implementation of the road connection along the east side of the Subject Property (Whitehorn Court Extended).

## SECTION 2: PROPERTY AND PROJECT DESCRIPTION

### Vicinity

The 7.83-acre Property, identified as Parcel EEEE on Plat No. 21173, is located at 2220 Broadbirch Drive and currently zoned CR-0.75, C-0.75, R-0.25, H-75. The abutting and confronting properties include the following uses:

- North: DARCARS car storage parking lot, Home Depot
- West: Hilton Garden Inn, Restaurant Manager POS Headquarters
- South: Business Park, WSSC Lab
- East: DARCARS Storage Lot

Staff generally concurs with the Applicant's description of the Neighborhood within the Statement of Justification but proposes a slightly smaller area that would be most impacted by the proposed development. The Staff-defined Neighborhood, outlined in yellow in Figure 1, is generally bounded by Columbia Pike (US 29) to the west, Cherry Hill Road to the north, Plum Orchard Drive to the east, and Industrial Parkway to the south. The Staff-defined Neighborhood is primarily commercial/industrial in character and includes hotels, restaurants, car dealerships, business parks, a MCPS bus depot, various retail/service uses, and a portion of the Adventist White Oak Hospital property. The Planning Board recently approved a site plan for a new shopping center at the intersection of Old Columbia Pike and Industrial Parkway (Site Plan No. 820180240, White Oak Town Center). The Neighborhood does not currently contain any residential uses. The majority of the Neighborhood is classified in the same zone as the Subject Property, CR-0.75, C-0.75, R-0.25, H-75. A portion of the White Oak Adventist Hospital site, zoned LSC- 1.0, H-200, is the only property within the Neighborhood with a different zoning classification.

The Neighborhood is within a Federally-designated Opportunity Zone, which the IRS defines as "an economic development tool that allows people to invest in distressed areas in the United States." The purpose of an Opportunity Zone is "to spur economic growth and job creation in low-income communities while providing tax benefits to investors."<sup>1</sup>

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<sup>1</sup> <https://www.irs.gov/credits-deductions/businesses/opportunity-zones>

**Property Description**

The Property is currently improved with a single-story 66,150-square-foot office building, surface parking areas, and satellite dishes. According to the SDAT, the existing building was constructed in 1985. A driveway from Broadbirch Drive provides access and the Property frontage has mature street trees. The existing sidewalk along Broadbirch Drive is approximately five feet wide with a nine-foot wide green panel. A six-foot-tall chain link fence borders the west, north, and east sides of the Property.

The Property lies within the Little Paint Branch Watershed. An intermittent stream, with associated stream valley buffers, is located in the southwestern corner of this Site. The stream is surrounded by 0.35 acres of forest. The Property is not within a special protection area or primary management area, and there are no other significant environmental features on-site.

A stormdrain easement occupies the southwest corner of the Property, and a Pepco right-of-way and easement is located close to the western property line (see Subdivision plat, Attachment A). A 20-foot wide storm drain and public utility easement encumbers a portion of the Property along Broadbirch Drive. In addition, the Property has access easements on the eastern side for the benefit of the DARCARS lots located to the north and east. The northeast corner of the Property is a fenced-off vehicular connection for the two DARCARS lots (Figure 3 and Attachment B).

Metrobus Route Z6 operates along Broadbirch Drive and there is a Montgomery County Flash Bus Rapid Transit (BRT) station within approximately 1/4 to 1/2 mile of the Property at the intersection of US 29 and Tech Road. The BRT route serves the US 29 corridor. Additionally, Ride On Route 10 operates along Tech Road to the west of the Property.

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Figure 1: Vicinity Map/Staff-Defined Neighborhood  
(Staff-Defined Neighborhood outlined in yellow, Property in red)



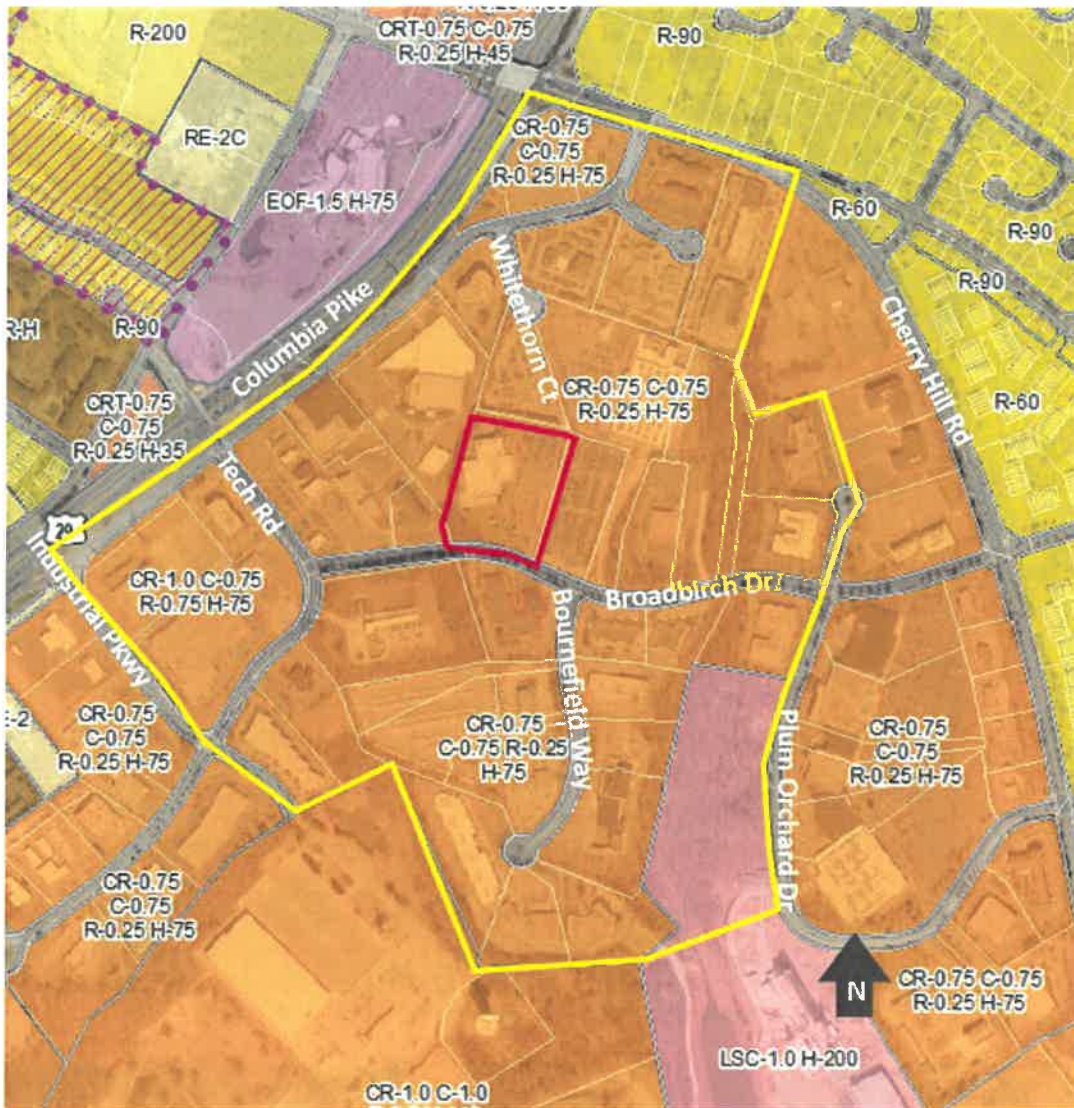


Figure 2: Vicinity Zoning Context  
 (Staff-Defined Neighborhood outlined in yellow, Property in red)

### Zoning/ Regulatory History

Prior to October 30, 2014, the Property was zoned I-1 (Light Industrial) and was located in the Cherry Hill Employment Overlay Zone. The Property was rezoned to the IM-2.5 (Moderate Industrial) Zone when the County enacted a District Map Amendment in conjunction with a new Zoning Ordinance on October 20, 2014. On October 31, 2014, the County Council adopted Sectional Map Amendment G-966 to implement the zoning recommendations of the *White Oak Science Gateway Master Plan* and the Property was zoned CR-0.75, C-0.75, R-0.25, H-75.



Figure 3: Aerial View of Property (Property outlined in red)



Figure 4: Access easement partially located on the Subject Property between two DARCARS lots (As viewed from the Subject Property, looking northeast)

**Proposal**

The Applicant seeks approval to rezone the Property from CR-0.75, C-0.75, R-0.25, H-75 to CRF-1.25, C-0.25, R-1.25, H-85 for the future construction of a multifamily residential project with up to 447,510 square feet or 1.25 FAR, consisting of 390 dwelling units (Figure 5). The proposal includes a five-story multifamily residential building and two-over-two multifamily structures with both surface and structured parking, public open space, and residential amenities (“Project”).

The two over two units are proposed along the Broadbirch Road frontage with the multifamily building, including a structured parking garage and interior courtyard, located at the rear of the Property. A proposed surface parking lot is located west of the multifamily building. A main driveway/potential future road connection (Whitehorn Court extended) provides access to the Project and connects to the structured garage in the multifamily building. Internal driveways connect to the surface parking lot and two-over-two buildings.

The proposed Public Open Space is located along Broadbirch Drive on the south side of the Property and it encompasses much of the stream valley buffer. An interior courtyard space provides an amenity area inside the proposed apartment building. Future development on the Subject Property will provide a minimum of 10% of the Site area as Public Open Space; the exact amount and details of the open space will be determined by the Planning Board as part of subsequent regulatory applications.

Architecture, landscaping, road cross-sections and site design details will be reviewed and approved by the Planning Board at subsequent Sketch, Preliminary, and Site Plan applications.

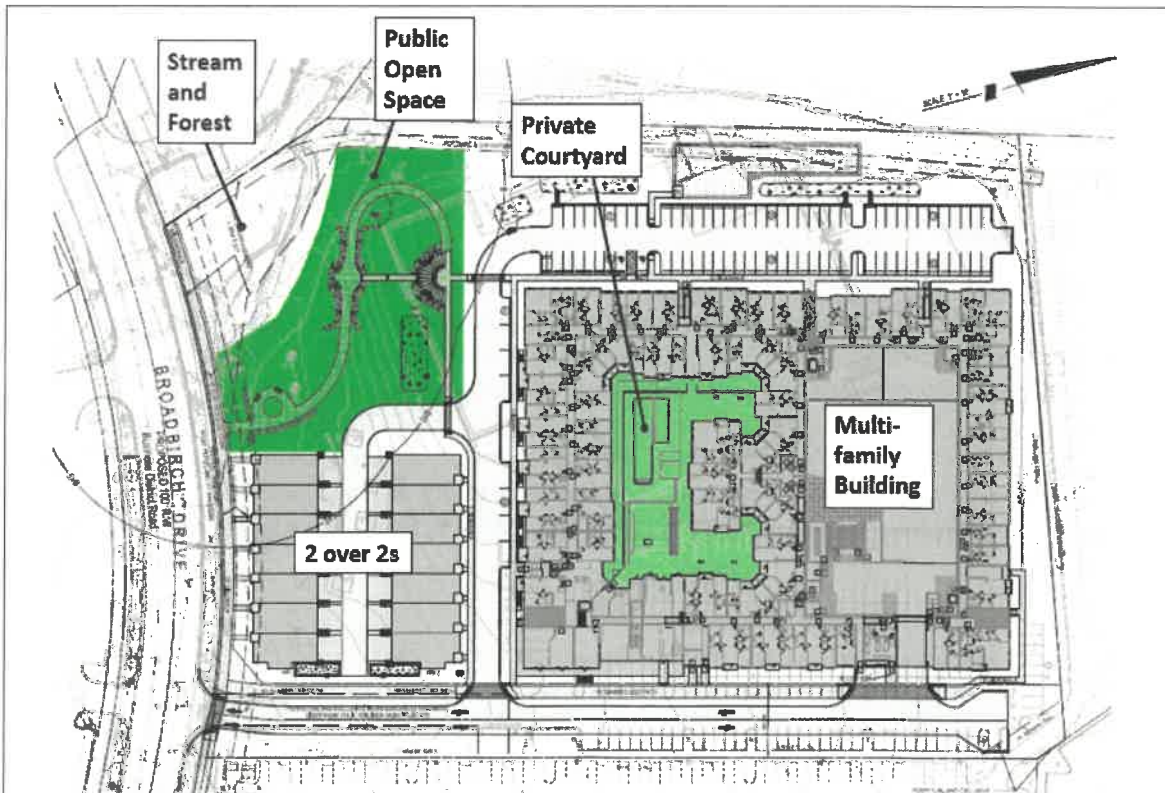


Figure 5: Floating Zone Open Space Plan

### Community Outreach

The Applicant has complied with the required notification signage. Staff has not received any correspondence about this Application.

### SECTION 3: LOCAL MAP AMENDMENT H-141 ANALYSIS AND FINDINGS

For a Floating zone application, the District Council must find, under Section 59.7.2.1.E.2, that the floating zone plan will:

1. *substantially conform with the recommendations of the applicable master plan, general plan, and other applicable County plans;*

The Project substantially conforms to the recommendations of the 2014 *White Oak Science Gateway Master Plan*. The overarching goal of this Master Plan is “to transform the built environment from auto-oriented single-purpose nodes into vibrant mixed-use centers” (p. 23). The Property is within the Plan’s Life Science/FDA Village Center which is identified as one of the Plan’s three major activity centers (p. 27). This Plan recommended the CR Zone for this Property to “encourage redevelopment and provide land use flexibility” (p. 50) and the Property is identified as a potential redevelopment site on the Illustrative Concept Plan for the area (Figure 4, p. 47).

The US 29 BRT network envisioned in the Plan is now operating along the corridor, and the Project will take advantage of the County’s major investment in this new transit infrastructure. The Plan recommendations support the introduction of residential uses and pedestrian-oriented amenities. While the master plan discussion focuses primarily on the 300-acre Percontee property, it also recommends that properties such as the Subject Property and others adjacent to it “introduce mixed uses and improve key properties to create adequate gateways to the area and enhance vehicular and pedestrian connections” (p. 50). The proposed development will further other Master Plan goals by improving frontages along an important existing street (Broadbirch Drive); and introducing a mix of residential uses into an otherwise light industrial area.

The Applicant intends to construct a portion of master planned “potential” connection, “Whitehorn Court (extended)” (Figure 5). When redevelopment of adjacent properties occurs in the future, dedications to complete this road will be required that will ultimately connect Broadbirch Drive and Whitehorn Court, improving area circulation and extending dead-end streets as recommended in the Master Plan (p. 50). The Application includes a conceptual/illustrative cross-section for the Property’s portion of Whitehorn Court extended, but the final cross-section will be determined in coordination with Montgomery Planning, the Montgomery County Department of Transportation (MCDOT), and the Montgomery County Department of Permitting Services (MCDPS) Staff during subsequent regulatory applications.

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Figure 5: Illustrative Concept of the Life Sciences/FDA Village from *White Oak Science Gateway Master Plan* (Figure 4, p. 47).

**Public Benefits**

The Plan recommends the following Public Benefits (p. 96):

- Provision of major public facilities, including: Bus Rapid Transit; a bus circulator to connect centers and/or transit; conveyance of an acceptable site for (or construction of) a new public elementary school, fire station or library; and dedication of land for parks and trails.
- Connectivity and mobility, including but not limited to: transit access improvement and trip mitigation.
- Diversity of Uses and Activities, particularly care centers and affordable housing, including workforce housing.
- Quality building and site design, including: structured parking, exceptional design, and the amenities listed on pages 87-90 to the extent they exceed the requirements of the zone.

Although public benefits will be established at the time of Sketch and Site Plan, Staff has done a preliminary analysis of the proposed public benefit package. Depending on the construction details,

Applicant participation, and timing of the dedication for the “potential” road (Whitehorn Court (extended)) as illustrated in the Plan (p.47), the Project may be eligible for public benefits under the major public facility category. Final determination of the Project’s eligibility for public benefit points for the potential Whitehorn Court (extended) road connection will be made as part of subsequent regulatory applications and pursuant to the *Commercial/Residential and Employment Zones Incentive Density Implementation Guidelines*. The Applicant has committed to providing more than the minimum required amount of MPDUs and has proffered a binding element to deliver 15% MPDUs. The Applicant also proposes several public benefits within the Quality Building and Site Design category including architectural elevations, structured parking, and exceptional design. Other categories of anticipated public benefits include Transit Proximity, Connectivity and Mobility, and Protection and Enhancement of the Natural Environment.

#### Environment and Sustainability

The key environmental goal of the Plan is to “allow development at higher densities without compromising the environmental quality of this unique area” (p. 69). Relevant Plan recommendations include the following:

- Use required forest and tree planting to enhance and expand existing resources, especially in stream valley buffers.
- Maximize invasive plant removal to maintain plant diversity.
- Preserve and restore stream valley buffers in forest.
- Incorporate stormwater management into the interior of development projects to maximize infiltration.
- Maintain tree canopy coverage in the Plan area and increase tree canopy of redeveloped properties to a minimum of 25%.
- Building new streets and retrofitting existing roads as green streets, with stormwater management facilities in the right-of-way.

The Project retains the existing forested area within the stream valley buffer and includes a large portion of the on-site buffer as Public Open Space. Due to the extremely degraded nature of the existing stream system in the area and the short length of exposed channels, increased preservation of the stream valley buffer will not result in increased water quality. However, the proposed design will protect and enhance the forested area and most of the stream valley buffer, creating an asset from a degraded environmental feature. The Preliminary Forest Conservation Plan requires additional planted areas between the existing forest and the proposed pedestrian connection through the Public Open Space, an invasive management plan for the existing forest and tree protection measures.

#### Master-Planned Roadways and Bikeways

In accordance with the 2014 *White Oak Science Gateway Master Plan* and the 2018 *Bicycle Master Plan*, the master-planned roadway and bikeway designations are as follows:

1. Broadbirch Drive is designated as a Business Street, B-9, within a planned 100-foot right-of-way and a separated bikeway. According to the *Bicycle Master Plan*, a two-way sidepath, LB-5, is recommended along the southern frontage between Tech Road and Cherry Hill Road.
2. Whitehorn Court (Extended) is not listed in the Master Plan, however, this street is considered a Business District Street within a 60-foot right-of-way.

Right-of-way dedications will be determined at Preliminary Plan, but the Applicant intends to dedicate 10 feet along Broadbirch Drive and up to 60 feet along the proposed new road, Whitehorn Court (extended).

2. *further the public interest;*

The Project furthers the public interest in several ways. First, it adds to the supply of new housing for the more than 60,000 new households that Montgomery County expects to add before 2040.<sup>2</sup> The Applicant has committed to providing 15% MPDUs, which is beyond the typical requirement for MPDUs in this area. In addition, housing at this location will support the nearby employment centers and commercial businesses in the area as well as further support the County's significant investment in the Flash BRT route/station located in close proximity to the Property.

The Project will also provide environmental improvements to the Site with the addition of ESD stormwater management facilities and enhancement of the existing forest on-site.

3. *satisfy the intent and standards of the proposed zone and, to the extent the Hearing Examiner finds it necessary to ensure compatibility, meet other applicable requirements of this Chapter;*

Floating Zone Intent Statement (Section 59.5.1.2)

*The intent of the Floating zones is to:*

A. *Implement comprehensive planning objectives by:*

1. *furthering the goals of the general plan, applicable master plan, and functional master plans;*
2. *ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure in the general plan, applicable master plan, functional master plan staging, and applicable public facilities requirements; and*
3. *allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the property; and*

As described in Finding No. 1, above, the Project substantially conforms to the 2014 *White Oak Science Gateway Master Plan*. Although the Master Plan did not specifically envision residential development for this Property, the Plan encourages walkable, mixed-use development at key nodes, such as this area. The proposed zone, sought through the Subject Application, allows the Property to redevelop with a sizable residential development, adding a completely new use and helping the area evolve into the mixed-use community envisioned in the Plan.

The Project will be supported by the Flash BRT route along US 29, with a station in close proximity to the Property. The Applicant will provide a portion of a future road, Whitehorn Court (extended), that will provide additional connectivity within the vicinity once adjacent properties redevelop.

The Property is serviced by existing water and sewer and is located within water and sewer categories W-1 and S-1. Adequacy of public school facilities will be established by the Planning Board at the time of Preliminary Plan. Electric, gas, and telecommunications services will also be available. Other public facilities and services – including police stations, firehouses, and health care facilities – are currently

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<sup>2</sup> Montgomery County Housing Needs Assessment, Planning Department, July 2020.

<https://montgomeryplanning.org/wp-content/uploads/2020/07/MoCo-HNA-July-2020.pdf>

operating in accordance with the 2020-2024 *Growth and Infrastructure Policy* and will continue to be sufficient following construction of the Project.

The proposed zone allows flexibility to provide a residential project that is compatible with the surrounding area, respects and enhances the existing environmental features and begins to improve connectivity within the area.

*B. Encourage the appropriate use of land by:*

- 1. providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive District or Sectional Map Amendments;*
- 2. allowing various uses, building types, and densities as determined by a property's size and base zone to serve a diverse and evolving population; and*
- 3. ensuring that development satisfies basic sustainability requirements, including open space standards and environmental protection and mitigation; and*

The Master Plan envisioned significant amounts of residential development at nearby properties that has yet to materialize. The proposed zone allows the Subject Property to provide the first residential development in the area, responding to the County's acute need for additional housing. This Project may help spur the evolution of this area into the mixed-use community envisioned in the Plan.

The Property is ideal for residential development given its proximity to the BRT station, employment opportunities and other amenities within walking distance. The Project provides two different types of housing, a mid-rise multifamily residential building and two-over-two buildings that are appropriate to the Site and vicinity given the context.

The Project will provide ESD stormwater management facilities that will help to improve area water quality. The proposed development will provide a highly visible public open space along Broadbirch Drive and protect and enhance the existing on-site forest.

*C. Ensure protection of established neighborhoods by:*

- 1. establishing compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses;*
- 2. providing development standards and general compatibility standards to protect the character of adjacent neighborhoods; and*
- 3. allowing design flexibility to provide mitigation of any negative impacts found to be caused by the new use.*

The proposed development will be compatible with the existing surrounding development. It will introduce a new use to the area to help create a walkable, mixed-use neighborhood as envisioned in the Plan. Although the proposed density is higher than the density allowed for other Properties in the area, the Property is not located in close proximity to single-family neighborhoods and the additional density will not have any detrimental impacts on surrounding commercial and industrial uses. The proposed density is appropriate given that this Project will be a pioneering residential project in the area. Likewise, the modest ten-foot height increase requested by the Application is appropriate for the proposed Project.



The two-over-two multi-unit living structures proposed along Broadbirch Drive provide a level of development that is more pedestrian in scale and provide a transition to the higher density apartment building located further away from Broadbirch Drive. This transition will mitigate any perceived negative impacts from the additional density.

Applicability (Section 59.5.1.3)

The Property is currently classified in a CR Zone, rather than an Agricultural or Rural Residential zone, so a floating zone can be approved on this Property. No locational criteria or prerequisites are required for floating zones on a CR property.

Purpose (Section 59.5.3.2.)

*The purpose of the Commercial/Residential Floating zones is to:*

- A. allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;*
- B. allow flexibility in uses for a site; and*
- C. provide mixed-use development that is compatible with adjacent development.*

This Application seeks to take advantage of the flexibility afforded by the CR floating zone to increase the amount of residential density allowed on the Property and modestly increase the building height to build a residential Project. The proposed development is compatible with adjacent development and will be a pioneering residential use in the area as White Oak evolves from a purely commercial district to the mixed-use community envisioned in the Sector Plan.

Land Uses (Section 59.5.3.3)

The CRF Zone allows the same uses allowed in the Euclidean CR Zone. Multi-unit living is a permitted use in the CR Zone and thus permitted in the CRF Zone.

Building Types Allowed (Section 59.5.3.4)

The CRF Zone allows any building type, including the apartment building type proposed in this project.

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Development Standards for CRF Zone (Section 59.5.3.5)

<b>Table 1: Development Standards for Optional Method in the CRF-1.25, C-0.25, R-1.25, H85 Zone</b>		
	<b>Required/Allowed</b>	<b>Proposed</b>
<b>Tract Area</b>	n/a	358,008 sf (8.22 acres)
Parcel EEEE	n/a	340,838 sf (7.83 acres)
Prior R.O.W Dedication	n/a	17,170 sf (0.39 acres)
<b>Density (max)</b>	<b>8 FAR<sup>1</sup></b>	<b>1.25 FAR (447,510 sf)</b>
Commercial	6 FAR	0 FAR <sup>2</sup>
Residential	6 FAR	1.25 FAR (447,510 sf)
<b>Setbacks from site boundary</b>	Established by Floating Zone Plan	
Front (Broadbirch Drive)		10 ft
Side (west)		0 ft
Rear (north)		10 ft
Side (east)		60 ft
Height (max)	85 ft	85 ft
Lot Size (min)	Established by Site Plan	
Public Open Space (min)	10% of Site	10% of Site*
Parking	Established by Site Plan	Approximately 530*
Public Benefits (minimum)	100 points in 4 Categories	100 points in 4 Categories*

<sup>1</sup> Since a floating zone is not recommended in the Master Plan, the maximum density allowed on the Property is established by Section 59.5.3.5.A.2.

<sup>2</sup> The proposed zone allows up to 0.25 commercial FAR, but the Applicant is not currently proposing any commercial development.

\*Final amounts to be determined at Site Plan.

Other general requirements of Article 59.6 will be analyzed at Site Plan.

4. *be compatible with existing and approved adjacent development;*

The Project will be compatible with existing and approved adjacent development. While the requested zone allows more density and a modest increase in height, the proposed development will not be out of character with the existing adjacent development. The Property is not located in close proximity to single-family neighborhoods and the additional density will not have any detrimental impacts on surrounding commercial and industrial uses. The proposed density and height are appropriate given that this Project will be a pioneering residential project in the area. Further, the two-over-two buildings and public open space that will line Broadbirch Drive will provide an appropriate density transition as viewed from the public realm in addition to enhancing the pedestrian experience.

5. *generate traffic that does not exceed the critical lane volume or volume/ capacity ratio standard as applicable under the Planning Board's LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts; and*

The Project is located within the White Oak Local Area Transportation Improvement Program (LATIP) area. As such, the Project is not subject to the County's Local Area Transportation Review (LATR). In the White Oak LATIP District, Applicants must pay a fee to the County based on the number of trips a proposed project will generate or implement LATIP improvements as a credit applied toward the required fee.

Although the Application is not subject to LATR analysis, the Applicant provided a LATR Exemption Statement and assessed trip generation rates to demonstrate that a transportation study is not required. A transportation study would be required for the Local Map Amendment Application if the incremental increase in vehicular peak-hour trips between the density of the base zoning and the density of the requested floating zone meets the minimum applicability requirement in the LATR Guidelines.

The Applicant compared development scenarios that would generate the maximum number of peak period vehicle trips under the existing (CR-0.75, C-0.75, R-0.25, H-75) and proposed (CRF-1.25, C-0.25, R-1.25, H-85) zones. Table 2 shows a net decrease in the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak period vehicle trips for the proposed zone compared to the existing zone.

**Table 2: Trip Generation Estimate**

Development Scenario Generating the Most Peak Hour Vehicle Trips	Square Feet or Units	Site-Generated Peak-Hour Vehicle Trips	Site-Generated Peak-Hour Person Trips
<b>Existing CR-0.75, C-0.75, R-0.25, H-75 Zone</b>			
Commercial - Retail @ 0.75 FAR	255,691	768	1,064
<b>Proposed CRF-1.25, C-0.25, R-1.25, H-85 Zone</b>			
Commercial - Retail @ 0.25 FAR	85,230	256	355
Residential - High Rise Residential & 1.0 FAR	359	123	190
<b>Net Change in Peak-Hour Trips</b>		<b>-389</b>	<b>-519</b>

In accordance with the 2020-2024 *Growth and Infrastructure Policy*, a transportation study is not required to analyze the congestion levels at the nearby intersections in order to satisfy the LATR test due to the net decrease in the number of peak-hour vehicular trips generated by the proposed rezoning compared to the existing zoning.

6. *when applying a non-Residential Floating zone to a property previously under a Residential Detached zone, not adversely affect the character of the surrounding neighborhood.*

Not applicable; the Property is currently classified in the CR Zone, not a Residential Detached Zone.

#### SECTION 4: CONCLUSION

The proposed CRF Zone complies with the standards and requirements for approval of a Local Map Amendment. The proposed zone and use are consistent with the goals and recommendations of the *White Oak Science Gateway Master Plan*, are in the public interest, and will not alter the character of the surrounding neighborhood. Staff recommends approval of the Local Map Amendment and the associated Floating Zone Plan with the proposed binding element.

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**ATTACHMENTS**

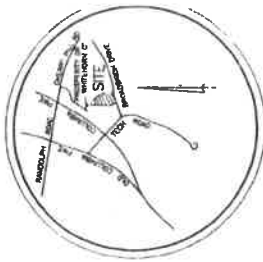
- A. Subdivision Plat
- B. Land Title Survey
- C. Floating Zone Plan

# ATTACHMENT A

PLAT NO 21173

## CURVE DATA TABLE

CURVE	RADIUS	TANGENT	LENGTH	CHORD	BEARING
1	1981.75'	11.30'	22.80'	22.80'	S 49°32'34"E
2	60.00'	18.25'	17.80'	18.25'	S 87°11'27"E
3	60.00'	148.25'	172.80'	147.02'	S 47°11'27"E
4	840.00'	223.43'	438.75'	431.85'	S 79°00'30"W



VICINITY MAP  
1" = 2000'

WHITEHORN COURT  
P 8 120 P 14000

PARCEL A  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

LOT 18  
MONTGOMERY INDUSTRIAL PARK  
P 8 111 P 13004

PARCEL F  
RANDOLPH PARK ASSOC  
L 5832 F 043  
L 5832 F 037

PARCEL G  
RANDOLPH PARK ASSOC  
L 5832 F 043  
L 5832 F 037

PARCEL H  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL I  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL J  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL K  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL L  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL M  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL N  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL O  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL P  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL Q  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL R  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL S  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL T  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL U  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL V  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL W  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL X  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL Y  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL Z  
WESTFARM TECHNOLOGY PARK  
P 8 120 P 14000

PARCEL FFFF  
ORIGINAL PARCEL C . . . 213,640 S.F. OR 4,819 AC.  
ADJUSTMENT . . . 114,018 S.F. OR 2,617 AC.  
NEW AREA PARCEL FFFF . . . 109,622 S.F. OR 2,644 AC.

PARCEL EEEE  
ORIGINAL PARCEL B . . . 228,400 S.F. OR 5,200 AC.  
ADJUSTMENT . . . 114,018 S.F. OR 2,617 AC.  
NEW AREA PARCEL EEEE . . . 114,382 S.F. OR 2,625 AC.

BROADBIRCH DRIVE  
80' R/W PER PB 120 P 14000

### NOTES

- 1) ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS OF THE MONTGOMERY COUNTY PLANNING BOARD ARE HEREBY INCORPORATED BY REFERENCE INTO THIS PLAT. THE MONTGOMERY COUNTY PLANNING BOARD HAS REVIEWED THIS PLAT AND HAS APPROVED IT FOR RECORDATION. THE PLAT IS SUBJECT TO THE TERMS AND CONDITIONS OF THE MONTGOMERY COUNTY PLANNING BOARD'S RESOLUTIONS, ORDINANCES, AND REGULATIONS, INCLUDING CHAPTER 50 OF THE COUNTY CODE. THIS PLAT INVOLVES THE CREATION OF A DEED, PROVIDED FOR IN SECTION 50-23A(01).
- 2) THE PROPERTY SHOWN HEREON IS TO BE SERVED BY PUBLIC WATER AND SEWER SERVICES ONLY.
- 3) THE LAND SHOWN HEREON IS ZONED I-1 (LIGHT INDUSTRIAL).
- 4) THE OWNER HAS BEEN ADVISED THAT THE MONTGOMERY COUNTY PLANNING BOARD IS NOT INTENDING TO SHOW EVERY RESTRICTIVE CONDITION AND USE OF THE PROPERTY. THE OWNER IS ADVISED TO CONTACT THE MONTGOMERY COUNTY PLANNING BOARD TO OBTAIN A COMPLETE LIST OF ALL RESTRICTIONS AFFECTING TITLE.
- 5) THE PROPERTY SHOWN HEREON IS IDENTIFIED ON 100 MAP 1033 AS PARCELS B AND C.
- 6) THIS PLAT CONFORMS WITH THE REQUIREMENTS OF SECTION 50-23A OF THE MONTGOMERY COUNTY SUBDIVISION REGULATIONS, BEING CHAPTER 50 OF THE COUNTY CODE. THIS PLAT INVOLVES THE CREATION OF A DEED, PROVIDED FOR IN SECTION 50-23A(01).
- 7) THIS PLAT IS SUBJECT TO THE TERMS AND CONDITIONS OF PUBLIC IMPROVEMENTS AGREEMENT NO. 82-045.
- 8) PRELIMINARY PLAT NO. 1-80290.

MONTGOMERY COUNTY PLANNING BOARD  
MONTGOMERY COUNTY PLANNING BOARD

APPROVED: Jan 6, 1999  
CHAIRMAN  
ASST. SECRETARY/TREASURER

APPROVED: August 11, 1999  
DIRECTOR

M-KUP-PC RECORDED PLAT FILE NO. 208-07610-01

RECORDED  
PLAT BOOK  
PLAT NO.

MONTGOMERY COUNTY, MARYLAND  
DEPARTMENT OF PERMITTING  
SERVICES

APPROVED: August 11, 1999  
DIRECTOR

Dewberry & Davis  
ENGINEERS - PLANNERS - SUBVISORS - LANDSCAPE ARCHITECTS  
804 WEST DIAMOND AVENUE  
GATHERSBURG, MARYLAND 20708  
PHONE: (301) 946-8900 FAX: (301) 268-7687

SUBMISSION RECORD PLAT  
PARCEL EEEE AND PARCEL FFFF  
WESTFARM TECHNOLOGY PARK  
COLESVILLE (53RD) ELECTION DISTRICT  
MONTGOMERY COUNTY, MARYLAND  
SCALE: 1" = 100' DATE: APRIL 1999  
2-99274(4)

OWNER'S CERTIFICATE  
THE UNDERSIGNED, OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY CERTIFIES THAT THE PROPERTY SHOWN AND DESCRIBED HEREON HAS BEEN ADJUSTED PER THE REQUIREMENTS OF SECTION 50-23A (MINOR REVISIONS) OF THE MONTGOMERY COUNTY CODE AND ESTABLISHES THE MINIMUM BUILDING RESTRICTIONS.

THE OWNER HEREBY GRANTS TO THOSE PARTIES LISTED IN THAT CERTAIN DECLARATION OF CONVEYANCE AND RECORDS IN THE MONTGOMERY COUNTY RECORDS, MONTGOMERY COUNTY, MARYLAND, A TEN (10) FOOT WIDE PUBLIC UTILITY EASEMENT, HEREON AS "P.U.E.", SUBJECT TO THE TERMS AND PROVISIONS FOR PUBLIC UTILITY EASEMENTS SET FORTH IN SECTION 50-23A OF THE MONTGOMERY COUNTY CODE. THE OWNER, ITS SUCCESSORS AND ASSIGNS, SHALL CAUSE PROPERTY CORNER MARKERS TO BE SET BY A REGISTERED MARYLAND LAND SURVEYOR, IN ACCORDANCE WITH THESE AND NO SURVEY, ACTIONS AT LAW, EASEMENT, LEASE OR TRUSTS ON THIS PROPERTY FOR GANNETT SATELLITE INFORMATION NETWORK, INC.

BY: Thomas L. Chapple 7-23-1999  
THOMAS L. CHAPPLE, SECRETARY DATE

### SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF AND INFORMATION, AND THAT IT IS A RESUBMISSION OF PART OF THE LAND CONVEYED TO GANNETT SATELLITE INFORMATION NETWORK, INC. BY DEED AND RECORDS IN THE MONTGOMERY COUNTY RECORDS, MONTGOMERY COUNTY, MARYLAND, ON MAY 1, 1988 AND RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND IN LIBS 87-24 AT FOLIO 508.

THE PROPERTY SHOWN HEREON IS ALSO A RESUBMISSION OF PART OF THE LAND CONVEYED TO GANNETT SATELLITE INFORMATION NETWORK, INC. BY DEED AND RECORDS IN THE MONTGOMERY COUNTY RECORDS, MONTGOMERY COUNTY, MARYLAND IN LIBS 87-24 AT FOLIO 508.

THE PROPERTY SHOWN HEREON IS ALSO A RESUBMISSION OF PART OF THE LAND CONVEYED TO GANNETT SATELLITE INFORMATION NETWORK, INC. BY DEED AND RECORDS IN THE MONTGOMERY COUNTY RECORDS, MONTGOMERY COUNTY, MARYLAND IN LIBS 87-24 AT FOLIO 508.

THE PROPERTY SHOWN HEREON IS ALSO A RESUBMISSION OF PART OF THE LAND CONVEYED TO GANNETT SATELLITE INFORMATION NETWORK, INC. BY DEED AND RECORDS IN THE MONTGOMERY COUNTY RECORDS, MONTGOMERY COUNTY, MARYLAND IN LIBS 87-24 AT FOLIO 508.

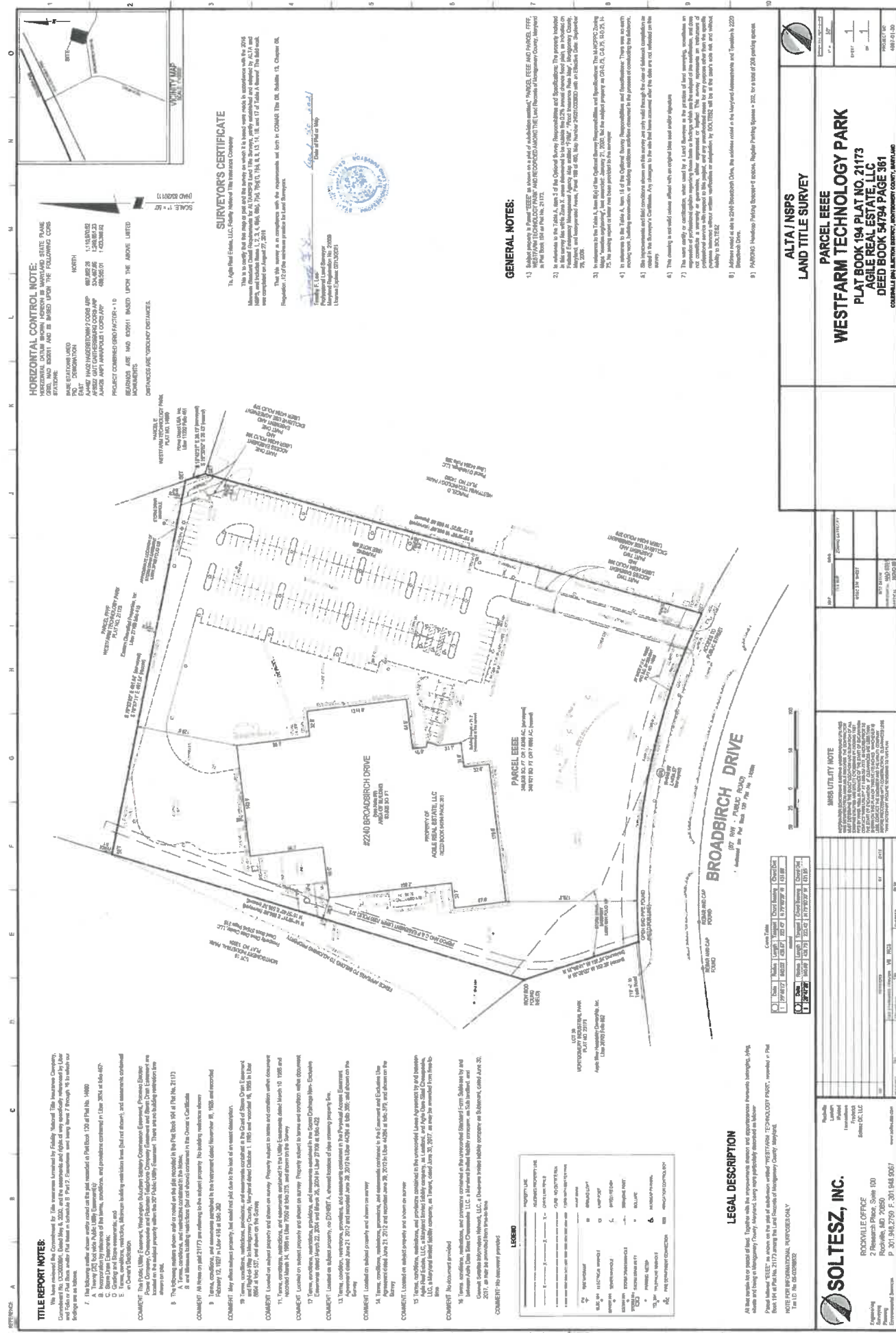
I HEREBY CERTIFY THAT THESE EASEMENTS ARE INCORPORATED IN THE OWNER'S DECLARATION HEREON. ALL PROPERTY CORNER MARKERS WILL BE SET AS DELINEATED HEREON IN ACCORDANCE WITH SECTION 50-23A(02) OF THE MONTGOMERY COUNTY CODE.

THE TOTAL AREA OF THIS PLAT IS 500,543 SQUARE FEET OR 11.4809 ACRES OF LAND, WITH NO DEDICATION TO PUBLIC USE MADE BY THIS PLAT.

BY: Eric V. Day 5/23/99  
ERIC V. DAY  
PROFESSIONAL LAND SURVEYOR  
MARYLAND REGISTRATION NO. 10771

MSA 55A 12AM-21085 610-07 208-07

# ATTACHMENT B



### TITLE REPORT NOTES:

1. This is a preliminary title report for information purposes only. It is not a final title report and should not be relied upon for any legal or financial transaction.
2. The information in this report is based on the records of the State of Maryland as of the date of the report. It does not include information that may have been recorded after the date of the report.
3. The information in this report is based on the records of the State of Maryland as of the date of the report. It does not include information that may have been recorded after the date of the report.
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### LEGAL DESCRIPTION

All lots shown on or attached to this map, together with the improvements thereon and appurtenant easements, are hereby conveyed to the State of Maryland, to be held in trust for the use and benefit of the people of the State of Maryland.

Lot No.	Area (Acres)	Dimensions	Notes
1	0.15	100' x 100'	As shown on Plat No. 1000
2	0.15	100' x 100'	As shown on Plat No. 1000
3	0.15	100' x 100'	As shown on Plat No. 1000
4	0.15	100' x 100'	As shown on Plat No. 1000
5	0.15	100' x 100'	As shown on Plat No. 1000
6	0.15	100' x 100'	As shown on Plat No. 1000
7	0.15	100' x 100'	As shown on Plat No. 1000
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9	0.15	100' x 100'	As shown on Plat No. 1000
10	0.15	100' x 100'	As shown on Plat No. 1000
11	0.15	100' x 100'	As shown on Plat No. 1000
12	0.15	100' x 100'	As shown on Plat No. 1000
13	0.15	100' x 100'	As shown on Plat No. 1000
14	0.15	100' x 100'	As shown on Plat No. 1000
15	0.15	100' x 100'	As shown on Plat No. 1000
16	0.15	100' x 100'	As shown on Plat No. 1000
17	0.15	100' x 100'	As shown on Plat No. 1000
18	0.15	100' x 100'	As shown on Plat No. 1000
19	0.15	100' x 100'	As shown on Plat No. 1000
20	0.15	100' x 100'	As shown on Plat No. 1000

### GENERAL NOTES:

1. The survey was conducted in accordance with the Maryland Surveying and Mapping Act of 1996, as amended.
2. The survey was conducted in accordance with the Maryland Surveying and Mapping Act of 1996, as amended.
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20. The survey was conducted in accordance with the Maryland Surveying and Mapping Act of 1996, as amended.

**SOLTESZ, INC.**  
 ROCKVILLE OFFICE  
 2 Research Place, Suite 100  
 Rockville, MD 20850  
 P: 301.948.2750 F: 301.948.9067  
 www.soltesz.com

**ABSOLUTE NOTE**  
 This is an absolute title report. It is not a final title report and should not be relied upon for any legal or financial transaction. It is based on the records of the State of Maryland as of the date of the report. It does not include information that may have been recorded after the date of the report.

**ALTA / NSPS LAND TITLE SURVEY**  
**PARCEL EEEB**  
**WESTFARM TECHNOLOGY PARK**  
 PLAT BOOK 194 PLAT NO. 21173  
 AGILE REAL ESTATE, LLC  
 DEED BOOK 54794 PAGE 361  
 COURTESY OF ALBERTON STREET, JEFFERSON COUNTY, MARYLAND

