



December 8, 2025

VIA ELECTRONIC DELIVERY

Ms. Khandikile Sokoni, Esq.
Office of Zoning and Administrative Hearings
100 Maryland Avenue, Suite 200
Rockville, Maryland 20850

Re: Response To Objections to Opponents' Testimony Related to Pedestrian Activity
Within Glen Way Gardens Community
Glenmont Forest Remand - LMA No. H-149 (the "Application")

Dear Hearing Examiner Sokoni:

Please accept this response, filed on behalf of my clients Glen Way Gardens Condominium, Inc., Vicki Vergagni, President, and in her individual capacity, and Mr. James E. Johnston, to the above-referenced objections filed by the Applicant.

I. Introduction

The Applicant's objection to Glen Way Gardens' submission on pedestrian traffic and transportation-related impacts misstates both the scope of the Circuit Court's remand and the nature of "compatibility" under Montgomery County zoning law. While the Court limited the remand to two issues—(1) school adequacy and (2) compatibility with the surrounding neighborhood, particularly to the north—it did not exclude transportation-related facts insofar as they bear on neighborhood compatibility, which is a core and required zoning criterion under §59-7.2.1.E.2.d of the Montgomery County Zoning Ordinance.

II. The Court Did Not Preclude All Transportation Evidence—It Limited It Only as a Standalone Adequacy Issue

The Applicant relies on selected excerpts of the transcript to argue that all transportation issues were resolved or excluded by the Court. However, a full reading of the Court's discussion demonstrates a more nuanced position:

The Court found that the record contained sufficient evidence to support the Council's prior findings on transportation adequacy, and therefore declined to remand on that issue alone.

Nonetheless, the Court was clear that this ruling "does not at all foreclose the ability of the petitioners to raise issues about transportation adequacy during the preliminary plan stage." (Transcript at p. 60, lines 13–25). Further, and most importantly, the Court did not state that pedestrian traffic impacts were irrelevant to the issue of neighborhood compatibility, which was remanded. In fact, the Court acknowledged that "compatibility with respect to the larger community to the north of the property... who offered direct testimony in connection with the compatibility issues" remained open and subject to further review.

III. Pedestrian Traffic Is a Direct Compatibility Issue Under §59-7.2.1.E.2.d

The Montgomery County Zoning Ordinance requires the Hearing Examiner to find that:

“The floating zone plan is compatible with existing and approved adjacent development” (§59-7.2.1.E.2.d).

The compatibility standard necessarily includes not just visual or architectural harmony, but also impacts on the use, enjoyment, and safety of adjacent properties, including from:

- Increased pedestrian or vehicular traffic
- Privacy intrusions
- Safety and welfare concerns stemming from site layout or pedestrian pathways

In this case, Glen Way Gardens has documented significant existing cut-through pedestrian traffic via Greenery Lane and shown that the proposed 4-fold increase in residential units will further exacerbate that problem. The impacts are not hypothetical:

- Increased pedestrian crossings behind parked vehicles (raising safety concerns for children and the elderly)
- Increased litter, privacy disruptions, and degradation of shared space
- Overwhelmed private access ways not designed for public pedestrian flow

All of these are classic compatibility issues, and entirely within the scope of the remand and the requirements of the Zoning Ordinance.

IV. The Requested Binding Element Is a Reasonable Compatibility Mitigation Tool

The Community’s request that a binding element be adopted requiring a shuttle from the development to the Metro Station is narrowly tailored and proportionate. The proposal:

- Mitigates known cut-through traffic and safety risks
- Supports transit-oriented development (TOD) goals in the Glenmont Sector Plan
- Preserves the residential character and privacy of Glen Way Gardens while improving regional transit use

It is supported by record evidence of existing pedestrian patterns and is consistent with past County practice of requiring mitigation in floating zone approvals.

V. Pedestrian Traffic and Compatibility Are Properly Considered at the Floating Zone Stage

Even though the Court referenced that pedestrian traffic issues could be considered at the preliminary plan stage, nothing in its ruling excludes or bars review of those issues now as part of the floating zone application. Several legal and policy grounds confirm that pedestrian traffic impacts—particularly when they relate to compatibility—must be addressed at this stage:

1. Montgomery County Zoning Ordinance §59-7.2.1.E.2.d requires that the floating zone plan be compatible with existing and approved adjacent development. Compatibility includes not only architectural and design harmony but also functional impacts such as increased pedestrian

flows, safety hazards, and interference with the reasonable use and enjoyment of adjacent property.

2. Maryland courts, including in *People's Counsel v. Beachwood I Ltd. P'ship*, 107 Md. App. 627 (1995), have recognized that zoning approvals must assess whether a proposed development can be properly integrated into the surrounding neighborhood. *See, e.g., Aubinoe v. Lewis*, 250 MD 645, 660 (1967) (sustaining Circuit Court reversal of rezoning approval because expert testimony, principally directed at the rezoning's effect on adjoining single-family residential area, lacked any "specific testimony in regard to its *effect on the other uses* in the general neighborhood") (emphasis added). As in *Aubinoe*, the proposed testimony (including adverse impacts relating to increased pedestrian traffic through the Glen Way community) goes to the proposed rezoning's "effect on the other uses in the general neighborhood," and not to the adequacy of the surrounding transportation system.

Properly viewed, a "compatibility" assessment necessarily must take into consideration the proposed rezoning's impacts on a variety of community elements, including pedestrian traffic, environmental disruption, and nuisance conditions.

3. The floating zone is a discretionary, quasi-legislative process. The Hearing Examiner is empowered to consider a broad range of impacts, including public health, safety, and community welfare concerns. This supports consideration of the Opposition's testimony now.

4. The Court's statement that transportation adequacy could be addressed at the preliminary plan stage was permissive—not a limitation on current consideration. The Court's remand on compatibility issues inherently leaves room to assess how the development's increased pedestrian volumes affect neighboring properties.

5. The Glenmont Sector Plan envisions TOD that enhances pedestrian safety while maintaining compatibility with existing residential areas. Cut-through traffic and unsafe conditions are directly contrary to this vision.

For all these reasons, the Hearing Examiner must consider pedestrian traffic as part of the compatibility analysis required at the floating zone stage, and Glen Way Gardens' evidence and proposed mitigation are both appropriate and necessary.

VI. Conclusion

The Applicant's objection should be overruled. Testimony and evidence regarding pedestrian impacts and their bearing on neighborhood compatibility are directly within the scope of the remand and are required considerations under the applicable zoning standards. Glen Way Gardens' submission, including its requested binding element, is properly before the Hearing Examiner and should be fully considered.

Respectfully Submitted,

Michele McDaniel Rosenfeld
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