

Parcel Identification Numbers: 05-00267476
05-00267454
05-00267465
05-00276141
05-00276130
05-00261218
05-00257477

Exhibit 26
OZAH Case No: H-159

Title Insurance: None

**COVENANTS
FOR FLOATING ZONE LOCAL MAP AMENDMENT**

DECLARATION OF COVENANTS

This Declaration of Covenants, made this ____ day of _____, 202____, by Notley Assemblage LLC, a _____ limited liability company; the Estate of Bernard Kaplan; and Zachary Parzow (collectively, the “Owners”), owners of the property located at 13704 New Hampshire Avenue and 13707, 13711, 13715, 13719, 13727, 13733 Notley Road in Silver Spring, Montgomery County, Maryland, and described on Exhibit A attached hereto (the "Property").

WITNESSETH:

WHEREAS, on July 08, 2025, the Owners and/or those in privity with them (“Applicant”), filed Zoning Application H-159, requesting the reclassification of the Property from the R-200 zone to the CRNF-1.0, C-0.0, R-1.0, H-50' Zone, in accordance with Section 59-7.2.1 of the 2014 Montgomery County Zoning Ordinance; and

WHEREAS, the Applicant submitted a Floating Zone Plan ("FZP") (Ex. ____) and proposed covenant (Ex. ____) as part of the rezoning application pursuant to Zoning Ordinance §59-7.2.1.B.2.g.iv. for the purpose of clarifying various development restrictions (*e.g.* building height, allowed uses, maximum density), as depicted on the FZP; and

WHEREAS, Section 59-7.2.1. of the Zoning Ordinance requires that Zoning Application H-149 and the FZP (Ex. ____) be submitted to the Montgomery County Council, sitting as the District Council ("Council"), for approval; and

WHEREAS, upon approval of the rezoning and the FZP by the Council, Section 59-7.2.1.F.3. of the Zoning Ordinance requires the submission and filing in the Land Records of Montgomery County, Maryland, of an executed covenant reflecting in specific language any restricted development standards, development program, or limitation on uses contained in the approved FZP.

NOW, THEREFORE, in consideration of the foregoing and in compliance with the Zoning Ordinance, the Owners on behalf of themselves, and their heirs, personal representatives, successors or assigns, hereby declare, covenant and agree, that so long as the Property remains in the CRNF-1.0, C-0.0, R-1.0, H-50' Zone, the Property (and all its parts or subparts) shall be transferred, sold conveyed and occupied subject to the conditions, covenants and restrictions set forth herein:

1. So long as the Property is zoned CRNF-1.0, C-0.0, R-1.0, H-50' Zone, no development, construction or use will be started, erected or maintained on the Property that does not conform to the binding elements of the FZP (Ex. ____), amended as may be authorized by law, ordinance or regulation. Further, the FZP contains the following binding restrictions and limitations by which the Owner shall be bound. All other elements will be governed by the provisions of the Montgomery County Code:

- A. The maximum number of units, including MPDUs, is 130 dwelling units.
- B. The development must provide a minimum 30-foot building setback for rear and side property boundaries that abut existing single-family homes on the northern and western boundaries.
- C. The use of the Property is limited to residential development with the following building types: townhouse, triplex, duplex, and detached house.
- D. The development must provide a minimum of 15 percent (15%) Moderately Priced Dwelling Units (MPDUs) or Montgomery County Department of Housing and Community Affairs (MCDHCA)-approved equivalent consistent with the requirements of Chapter 25A.
- E. No assemblage of attached units or a singular building along Notley Road may have a combined width greater than 100 feet, measured along the foundation of the group of units or building.

2. These Covenants will be recorded among the Land Records of Montgomery County, Maryland, immediately following the grant of the CRNF-1.0, C-0.0, R-1.0, H-50' Zone for the Property.

Further, these Covenants shall run with the land; shall be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns; shall inure to the benefit of each owner thereof and to Montgomery County, Maryland, so long as the Property is zoned CRNF-1.0, C-0.0, R-1.0, H-50' and shall remain in effect until such time as the Property is rezoned or the restrictions on development are removed or are amended by action of the Council or other governmental body having jurisdiction, or are declared invalid by any court of competent jurisdiction, at which time the covenants and restrictions shall terminate and have no further force and effect. These Covenants shall not take effect until the Property is rezoned to the CRNF-1.0, C-0.0, R-1.0, H-50', and the Council approves the FZP (Ex. No. ____).

3. The binding elements contained in this Declaration of Covenants and in the FZP shall be enforceable by the Council pursuant to Section 59-7.2.1.J. of the Zoning Ordinance.

4. This Declaration of Covenants may be amended by the Owners or their successors or assigns to conform to any modification made by the Council in the binding elements contained in the FZP, or any amendment thereof.

5. This Declaration of Covenants may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together, shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Owner has set their hands and seals on the day and year written below.

Witness:

NOTLEY ASSEMBLAGE, LLC
a _____ limited liability company

By: _____

By: _____

Date: _____

Name: David Muller

Title: Manager

STATE OF _____

COUNTY OF _____; to wit,

I hereby certify that on this _____ day of _____, 202__, before the subscriber, a Notary Public of the State of _____, and for the County of _____, personally appeared _____ on behalf of Notley Assemblage, LLC, a _____ limited liability company, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, who did acknowledge that he, having been properly authorized, executed the same in the capacity therein stated and for the purposes therein contained.

IN TESTIMONY WHEREOF, I have affixed my hand and official seal.

Notary Public

My Commission expires: _____

[NOTARIAL SEAL]

Witness:

Estate of Bernard Kaplan

By: _____

Date: _____

STATE OF _____

COUNTY OF _____; to wit,

I hereby certify that on this _____ day of _____, 202__, before the subscriber, a Notary Public of the State of _____, and for the County of _____, personally appeared _____, the authorized representative of the Estate of Bernard Kaplan, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, who did acknowledge that he, having been properly authorized, executed the same in the capacity therein stated and for the purposes therein contained.

IN TESTIMONY WHEREOF, I have affixed my hand and official seal.

Notary Public

My Commission expires: _____

[NOTARIAL SEAL]

Witness:

Zachary Parzow

By: _____

Date: _____

STATE OF _____

COUNTY OF _____; to wit,

I hereby certify that on this _____ day of _____, 202__, before the subscriber, a Notary Public of the State of _____, and for the County of _____, personally appeared Zachary Parzow, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, who did acknowledge that he, having been properly authorized, executed the same in the capacity therein stated and for the purposes therein contained.

IN TESTIMONY WHEREOF, I have affixed my hand and official seal.

Notary Public

My Commission expires: _____

[NOTARIAL SEAL]

ATTORNEY'S CERTIFICATION

I HEREBY CERTIFY that I am an attorney duly admitted to practice before the Court of Appeals of Maryland and that the foregoing instrument was prepared by me or under my supervision.

Elizabeth C. Rogers

Exhibit "A"

Property Description

13727 and 13733 Notley Road.

Parcel 1:

All that tract, part of a tract, piece or parcel of land situate, lying and being in Montgomery County, Maryland which is known as and called "Beall's Manor Enlarged", which is described by metes and bounds, courses, and distances, to wit:

Beginning for same at the end of 921.98 feet on the second line of a conveyance made November 26, 1909, by Jacob V. Van Horn to Basil W. Nicholson for part of said tract and recorded among the aforesaid Land Records in Liber 212 at folio 293 and running thence with the outlines thereof North 68 degrees 00 minutes West 183.52 feet to an iron pipe, thence South 22 degrees 00 minutes West 593.41 feet to a point on the west side of County Road leading to the Colesville-Ashton Road, thence with said road South 68 degrees 00 minutes East 183.52 feet, thence leaving said road to include a parcel of said tract North 22 degrees 00 minutes East 593.41 feet to the place of beginning. Containing 2.5 acres more or less.

NOTE FOR INFORMATIONAL PURPOSES ONLY:

Tax I.D. No. 05-00257477
13733 Notley Road, Silver Spring, Maryland 20904

Parcel 2:

All that tract, part of a tract, piece or parcel of land situate, lying and being in Montgomery County, Maryland which is known as and called "Beall's Manor Enlarged", which is described by metes and bounds, courses, and distances, to wit:

Beginning at the end of 738.46 feet on the second line of a conveyance made the 26th day of November in the year 1909 by Jacob V. Van Horn to Basil W. Nicholson for part of said tract and recorded in Liber 212 at folio 293 in the aforesaid Land Records, and running thence with part of said line North 68 degrees, 00 minutes, West 183.52 feet, then leaving the outlines and to include a parcel of said tract South 22 degrees, 00 minutes West 593.40 feet, to a point on the south side of the county road leading to the Colesville-Ashton Road, thence on the south side of said road south 68 degrees, 00 minutes, East 183.52 feet, thence leaving said road North 22 degrees, 00 minutes, East 593.40 feet to the place of beginning. Containing 2.5 acres of land more or less.

NOTE FOR INFORMATIONAL PURPOSES ONLY:

Tax I.D. No. 05-00261218
13727 Notley Road, Silver Spring, Maryland 20904

13707, 13711, 13715, 13719 Notley Avenue and 13704 New Hampshire Avenue

Lots numbered One (1), Two (2), Three (3), Four (4), and Five (5) in a subdivision known as “PRICE’S SUBDIVISION, NORTH OF COLESVILLE” as per plat thereof recorded in Plat Book 28 at Plat 1767 among the Land Records of Montgomery County, Maryland.

SAVING AND EXCEPTING therefrom that portion described in Inquisition recorded in Montgomery County, Maryland at Liber 13769 at folio 557.

Commonly referred to as:

Address	Montgomery County Parcel ID
13704 New Hampshire Ave.	05-00267476
13707 Notley Rd.	05-00267454
13711 Notley Rd.	05-00267465
13715 Notley Rd.	05-00276141
13719 Notley Rd.	05-00276130