

Resolution No.:	<u>19-402</u>
Introduced:	<u>March 31, 2020</u>
Adopted:	<u>March 31, 2020</u>

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

Lead Sponsor: District Council

SUBJECT: APPLICATION NO. H-131 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Elizabeth Rogers, Esquire, Attorney for the Applicant, Kingsview Station, A Joint Venture; OPINION AND RESOLUTION ON APPLICATION; Tax Account Nos. 06-01483728, 06-02687740, 06-00396261, 06-0040561, 06-00396215, 06-03282924.

OPINION

Kingsview Station, A Joint Venture (Kingsview or Applicant) filed LMA Application No. H-131 on March 6, 2019. The application seeks to rezone approximately 10.27 acres of property from the R-200 and R-200/TDR 6 (Residential) Zones to the CRNF (Commercial Residential Neighborhood Floating Zone) 1.0, C-0.25, R-0.75, H-55. Exhibit 1. The subject property consists of six parcels (N210, P. 220, P. 274, Pt. P. 322, Pt. P 330, P.536) and a portion of the Liberty Mill Road right-of-way, in the southeast quadrant of the intersection of Germantown Road (Md. Rte. 118) and Clopper Road (Md. Rte. 117).

Staff of the Montgomery County Planning Department recommended approval of the application, as did the Planning Board. Exhibits 44, 48. The Planning Board approved a Preliminary Forest Conservation Plan (PFCP) at a meeting on December 5, 2019. Exhibit 74. The Hearing Examiner held a public hearing on January 3, 2020. No one appeared in opposition to the application. The Hearing Examiner left the record open to receive comments from Staff on the delineation of the environmental buffer, from the Department of Permitting Services (DPS) on the Applicant's preliminary stormwater management strategy and the Planning Board's resolution approving the PFCP. These were submitted and the record closed on February 11, 2020.

The Hearing Examiner issued her report on February 19, 2020. She recommended approval of the application because it meets the standards for rezoning in the Zoning Ordinance and will be consistent with the coordinated and systematic development of the Regional District under State law. *Md. Land Use Art.*, §21-101(a) and (b). To avoid unnecessary detail in this Opinion, the Hearing Examiner's Report and Recommendation 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 property is unimproved except for a paved portion of Liberty Mill Road, which terminates in a cul-de-sac in the center of the property. Non-local transmission lines bisect the property from north to south. Wetlands and stream valleys are located along the southeastern and southwestern parts of the property.

Surrounding Area

The “surrounding area” is identified and characterized in a Floating Zone application to measure whether the FZP will be compatible with those properties directly impacted. Once delineated, the surrounding area is “characterized” to compare the Floating Zone with the character of the area.

The Hearing Examiner agreed with Planning Staff and the Applicant that the surrounding area is bounded by Shaeffer Road, Kingsview Road, and MD 117 to the west; Dawson Farm Road to the north; MD 119 to the east; and Richter Farm Road to the south. Staff characterized the area as “primarily residential”, with a variety of residential densities and housing types. Although primarily residential, Staff found that the neighborhood includes a mix of commercial and institutional uses as well as public facilities and local parks.

The Hearing Examiner agreed that the area is primarily residential but found that the immediate environs are a mix of residential, commercial, public, and institutional uses. The non-residential uses include a fire station, the Kingsview Village Center, the Kingsview Park and Ride, and school sites, which are adjacent to or near the property. The District Council agrees with the Hearing Examiner’s characterization and so finds.

Proposed Development

The Applicant proposes 61 townhouse units and 12,000 square feet of retail, which will be in two buildings of 6,000 square feet each. Exhibits 37(c). The project will include 8 moderately priced dwelling units, the minimum number required (i.e., 12.5%). The FZP includes three binding elements. Two limit the total number of townhouses and commercial space to amounts described. The third limits building height to 50 feet. *Id.*

Criteria for Approval

Every application for rezoning to a Floating Zone must be accompanied by a Floating Zone Plan (FZP) that meets certain requirements. *Zoning Ordinance*, §59-7.2.1.B.2.g. The Applicant has filed an FZP (Exhibit 37(c)) and related documents, which are described in the Hearing Examiner’s Report.

As stated, a Floating Zone application must meet the standards required by the Zoning Ordinance and State law. Generally, these standards fall into five categories (1) conformity to the applicable Master Plan, (2) compatibility with adjacent uses and the surrounding area, (3) the adequacy of public services to support the proposed development, (4) technical requirements regarding whether the property is eligible to apply for a Floating Zone, and (5) whether the FZP meets the development standards of the zone requested.

Substantial Conformance with the Master Plan¹

The 1989 Germantown Master Plan (Master Plan or Plan) guides development of this property. The Plan's central goal is to provide a "greater sense of community" within Germantown. *Plan*, p. 1. To achieve this, the Plan increasing the number single-family detached homes from 18% to percentage to 29% and decreasing the percentage of townhouses from 54% to 31%. *Id.*

The Plan also recommended "townscape design" guidelines to create a sense of community. *Plan*, p. 1. The "townscape design" guidelines are focused on creating linkages between community centers (*i.e.*, town and village centers) and neighboring residential areas. *Id.*, p. 17.

The Plan divided the Germantown area into smaller "analysis areas". This property lies within Analysis Area CL-6. The Plan recommended that Kingsview Village Center, with up to 170,000 square feet of retail, be in this area. It recommended the PD-11 Zone for a portion of the area (multi-family units at 11 units per acre). *Id.*, p. 64-65. It also recommended 2 acres of local commercial uses. *Id.* The southwestern corner of the subject property was recommended for the R-200/TDR 6 Zone. The "townscape design" goals for this area were to encourage pedestrian access to the Kingsview Village Center. *Plan*, p. 17.

Planning Staff concluded that this FZP meets the goals of the Master Plan because the number of residential units proposed fall under the residential density recommended by the Plan. Staff concluded that, "[w]hile the proposal does not include garden apartments, as originally recommended, the attached units proposed will contribute to an overall mix of attached and garden apartment units in the analysis area, which is consistent with the Master Plan recommendation and desirable." Exhibit 44, p. 11.

The Applicant's expert in land planning testified that development of this property fills in the "hole in the donut" of the Kingsview Village Center by extending retail along Clopper Road and fulfilling the residential component recommended for the balance of the property. As developed, the Village Center consists of 110,000 commercial square feet; the additional 12,000 square feet will increase the amount of commercial closer to the Plan's goal. T. 87. The residential

¹ 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 further 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.

portion fulfills the goals of the Master Plan because it brings the housing mix closer to the one recommended in the Plan. Townhouses comprise only 20% of the unit types in the defined surrounding area. The additional 61 units will have little impact on this percentage. In Analysis Area CL-6, only 7% of the units are townhouses, 11% are single-family detached homes, and are 82% multi-family units. T. 37. The 61 townhouse units proposed brings the percentage of townhouses within the Analysis Area to 15 percent, closer to the goal of the Plan. *Id.* Aside from the unit mix, the expert land planner opined that the current design of townhomes, which has changed from when the Plan was adopted, better contributes to the goal of creating communities. The townhouses proposed have rear loaded garages, permitting more streetscape, open space, and pedestrian connections. T. 37-38.

The Applicant presented expert testimony that the development proposed furthers the townscape design goals of the Plan by placing residential units next to a park and ride, facilitating pedestrian access to transit. T. 38. Sidewalks will provide pedestrian access to the Kingsview Village Center. The FZP establishes missing road linkages by connecting Liberty Mill Road between Clopper Road and Leaman Farm Road.

The District Council finds that the FZP conforms to the Master Plan, as did the Hearing Examiner. The townhouses bring the residential unit mix closer to the Plan's goals. While not multi-family as the Plan recommended, the percentage of multi-family in the analysis area is already high. The commercial portion of the FZP brings the total for the Village Center closer to the 170,000 square feet recommended. The FZP fulfills the townscape design goals by providing a pedestrian linkage to the existing park and ride and to the Kingsview Village Center. It also completes an unfinished road linkage by connecting Liberty Mill Road from Clopper Road and to Leaman Farm Road.

Compatibility with Adjacent Uses and the Surrounding Area

Multiple standards for approval require the District Council to find that the FZP be compatible with adjacent uses and the surrounding area.² Planning Staff found that the FZP would be compatible with development adjacent and in the surrounding area because the units complement the existing housing mix and are similar in design, height and massing. Exhibit 44, pp. 20, 21 23. The Applicant's expert opined that the project would complement the scale and architecture of adjacent developments and the townhouses will diversify the current mix of units. T. 87, 96-97. The commercial portion buffers the activity and noise from Germantown and Clopper Roads from the residences. T. 73-74. The Hearing Examiner agreed with this analysis.

² The FZP must further the intent of Floating Zones in general and the CRTF Zone in particular. *Zoning Ordinance*, §§59-7.2.1.E.2.c; 59-5.1.2.C; 59-5.3.2. Floating zones are intended to (1) establish compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses, (2) provide development standards and general compatibility standards to protect the character of adjacent neighborhoods; and (3) allow design flexibility to mitigate any negative impacts found to be caused by the new use. *Id.*, §59-5.1.2.C. One purpose of the CRNF Zone is to provide "provide mixed-use development that is compatible with adjacent development." *Id.*, §59-5.3.2.C. Similarly, Section 59-7.2.1.E.2.d of the Zoning Ordinance requires the Council to find that the FZP is "compatible with existing and approved adjacent development." Section 59-7.2.1.D.2.f applies when a Floating Zone is applied to a property with a single-family detached zone, such as the R-200 Zone. It mandates that the FZP be compatible with the surrounding area. *Id.*

The District Council finds that the proposed development will be compatible with adjacent properties and the surrounding area in terms of scale, density, and design for the reasons stated by the Hearing Examiner. The commercial area is appropriately located near the busy intersection of Clopper and Germantown Roads to buffer the residential from traffic noise and activity. The proposed commercial will complement the existing commercial in the Kingsview Village Center. At the same time, the residential units balance the mix of housing types in the area and support the commercial uses.

Adequacy of Public Facilities/Public Interest

To approve a Floating Zone, the District Council must find that public facilities will be adequate to serve the FZP. While a more detailed review will occur later in the development process, a threshold analysis must be performed at the rezoning stage.³

The Applicant in this case submitted a traffic study under the LATR Guidelines. *Zoning Ordinance*, §59.7.2.1.E.2.e; Exhibit 62. Critical Lane Volumes (CLVs) of all intersections fall below the maximum threshold of 1350 for the relevant policy area. Exhibit 44, p. 13. Having no evidence to the contrary, the District Council determines that there is adequate traffic and transit capacity to serve the proposed development, as did the Hearing Examiner.

Uncontroverted evidence establishes that most other public facilities are adequate as well. The Applicant's expert in civil engineering testified that gas, electric, water and sewer, and cable utilities are located at the property. He also testified that fire and police stations are within an acceptable distance from the site. The District Council finds that these public facilities are adequate to support the proposed development.

Stormwater Management/Environmental Issues

Stormwater management and environmental issues factor into the rezoning review for several reasons: (1) stormwater management is a public facility that must be adequate to serve the use, (2) an intent of Floating Zones is to ensure that development meets basic sustainability requirements such as "environmental protection and mitigation," and (3) the County Code requires approval of a Preliminary Forest Conservation Plan before the Council may act on a rezoning application. *See, Zoning Ordinance*, §§59-5.1.2.B.3.e, 59.7.2.1.E.2.b; *Montgomery County Code*, §22A-11(a)(1). Some issues arose at the public hearing regarding these requirements.

There are two streams in the southwest and southeast portions of the property, one of which includes a significant wetland. Staff noted that the Master Plan identified this stream section as

³Section 59.7.2.1.E.2.e requires that an Applicant demonstrate 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.

“important for protection...This wetland, as well as the other sensitive areas and their buffers should be left in an undisturbed condition. Exhibit 44, p. 16.

Testimony at the public hearing suggested that the Planning Department approved a Preliminary Forest Conservation Plan (PFCP) that permitted stormwater management facilities to encroach into environmental buffers as a “compromise” for a mistake it made earlier in the approval process. T. 132. The Planning Department approved a Natural Resources Inventory (NRI) in 2018 that did not show the full length of a stream in the southeastern corner of the property. Exhibit 21. In July 2019, Planning Staff performed a field inspection of the property and determined that the stream extended further north than shown on the NRI, which increased the amount of environmental buffer. The Applicant argues that the stream discovered during the field inspection need not be shown on the NRI because it is “ephemeral” (i.e., created by stormwater runoff) and not “intermittent”, which is fueled by groundwater. Exhibit 21, T. 40-46. The environmental buffer shown on the FZP is larger, however, than shown on the original NRI. Compare, Exhibit 37(c) and 21.

The Applicant testified that it asked the Planning Department to allow stormwater management facilities in the buffer as a “compromise” because the Planning Department did not identify the full length of the stream earlier in the process. T. 132. The Planning Board approved the PFCP at a meeting on December 5, 2019, with the stormwater facilities encroaching into the environmental buffer. Exhibit 73. The Board found that the development would not degrade the existing wetlands and met all environmental requirements. *Id.*

While the NRI typically requires streams and buffers to be field-verified, the Planning Department did not require the Applicant to revise its NRI to field verify the larger buffers. Exhibit 69. Kingsview advises that the a revised NRI was not required because the Planning Board had already approved the PFCP showing the facilities in the buffer. *Id.* Planning Staff stated the boundaries were “a reasonable determination of the revised buffer based on site visits and desktop tools.” *Id.*

Because the Applicant’s stormwater strategy plan shows facilities within the environmental buffer, the Hearing Examiner referred it to DPS for a preliminary determination whether it could approve the stormwater management strategy shown on the FZP. DPS was unable to determine whether the strategy was approvable. Exhibit 66. DPS stated, although they prefer to keep facilities out of the environmental buffer, they “MAY” allow facilities to encroach into buffers if “absolutely necessary” and the Planning Department agrees. (emphasis in original). According to DPS, there wasn’t enough information to determine whether the stormwater facilities shown are in areas that will receive the runoff, are sized to provide enough treatment, and are feasible to construct. *Id.* DPS reported that it would need a study to determine whether the hydrology of a gravel wetland would allow the wetland to survive. It also needed a geotechnical evaluation to determine whether permeable paving shown on the plan is feasible. Finally, DPS assured the Hearing Examiner that it would not support a subdivision if full stormwater runoff treatment could not be demonstrated and a waiver of treatment requirements was requested. *Id.*

The Applicant’s submitted a supplemental statement advising that the stormwater facilities were of enough quantity and size to meet current requirements. The Applicant’s civil engineer

stated that preliminary information on infiltration rates and groundwater levels for the micro bioretention and permeable pavement sections showed that they would be adequate to treat runoff. He concluded that the size of the drainage area and depth of the ground water table would create enough hydrology to support the gravel wetland. Exhibit 77. The Applicant's engineer stated that the project would not need environmental or stormwater management waivers because the Planning Board had already approved the encroachments in the PFCP. *Id.*

The Hearing Examiner concluded that the application met the intent of the Floating Zone to maximize sustainable development. While not identified as precisely as is typical, the environmental buffer shown on the PFCP treats the full extent of the stream as intermittent, and the evidence is that the boundaries of the buffer are "reasonably" accurate. The Planning Board conditioned its approval of the PFCP on reducing the encroachment into the buffers to the extent practicable, and Staff advises that this will be further refined during the development process. Exhibit 70. Without further evidence that the FZP does not adequately protect the environment, the Hearing Examiner finds that this purpose of the Commercial/Residential Floating Zones has been sufficiently met at the rezoning stage.

Similarly, while the Applicant's preliminary stormwater strategy still leaves some open questions, the Hearing Examiner found that the Applicant had provided enough evidence to demonstrate that stormwater management could be accommodated on the site. Rezoning is an early stage of the development process. The Applicant did provide additional information responding to DPS comments in its supplemental statement. DPS recognizes that the Planning Department is the lead agency on encroachments into the environmental buffer, and the Planning Board has already approved the PFCP with the encroachments shown. Finally, DPS provides assurance that it will not approve a stormwater management plan that does not meet all applicable requirements when the more detailed plans are submitted. For the reasons stated by the Hearing Examiner, the District Council finds that the Applicant has demonstrated adequately at the rezoning stage that full compliance with stormwater management requirements may be accommodated.

The Intent and Standards of the Zone as set forth in Section 59.5.1.2.⁴

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

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*

⁴ 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, the adequacy of public facilities, and creation of a sustainable development. The balance of the Floating Zone intent clauses is discussed here.

Staff concluded that the FZP meets this goal because it will provide “safe and convenient roadway, and internal circulation systems including sidewalks and pathways.” Exhibit 44, p. 17. Expert testimony established that the FZP uses the flexibility of the floating zones to integrate development with the existing site constraints. T. 84. The District Council finds that the FZP meets this intent of the Floating Zones for these reasons, as did the Hearing Examiner.

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; ...*

Planning Staff concluded that the FZP met this intent “by introducing a mixed-use development responding to the changing nature of the area in terms of economics, demography and planning trends” that conformed to the Master Plan. Exhibit 44, p. 17. Expert testimony demonstrated that ultimate build-out of the Germantown Master Plan did not result the desired mix of within the surrounding area or Analysis Area CL-6; this development brings it closer to the Plan’s goals. Trends that have evolved in the design of townhomes better address the sense of community sought by the Master Plan. T. 37-38. The smaller building pad for townhouses affords more flexibility to preserve the natural features within the site and provide internal and external connections. T. 84. The District Council finds that the FZP meets this intent of the Floating Zone, as did the Hearing Examiner.

The Applicability of the Zone (Section 59.5.1.3.)

Section 59.5.1.3. of the Zoning Ordinance sets up a series of threshold tests to determine whether a site may apply for a Floating Zone. No prerequisites are required, however, if the floating zone is recommended by the Master Plan. *Zoning Ordinance*, §5.1.3.B. If the Master Plan recommends a floating zone that no longer exists, the current Zoning Ordinance identifies an “equivalent” floating zone for which an applicant may apply. *Id.* One equivalent of the PD Zone is the CRNF Zone. *Id.*

Planning Staff determined that no prerequisites for the application are required because the property was recommended for the PD-11 Zone in the Master Plan and the density proposed by the FZP is under 11 dwelling units per acre. Exhibit 44., p. 20. The District Council agrees with the Hearing Examiner that there are no prerequisites required for this FZP.

The Purpose of Commercial/Residential Floating Zones (Purpose, Permitted Uses, and Permitted Building Types, Sections 59.5.3.2 through 59.5.3.4)

Zoning Ordinance Division 59-5.3 lists the Commercial Residential Floating Zones, specifies their purpose, lists the allowed uses and building types and sets forth the applicable

development standards. Section 59.5.3.1. establishes the Commercial/Residential Town Floating Zone. Density must be expressed in increments of 0.25 FAR and height in increments of 5 feet. The Zone applied for here is the CRNF 1.0, C-0.25, R-0.75, H-55, which meets those requirements.

Purpose. The District Council has already found that the FZP is compatible with adjacent development, one of the purposes of the Commercial/Residential Zones. *Zoning Ordinance*, §5.3.2.C. The remaining purposes are:

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...*

The Hearing Examiner found that the FZP utilized the flexibility of townhouse design to accommodate site constraints and provide mixed use development appropriate to its location near the Kingsview Village Center. The commercial portion extends and complements the existing Village Center and buffers the residences to the south from noise and activity at the intersection of Germantown and Clopper Roads. The FZP fulfills this purpose.

Uses and Building Types Permitted (Section 59.5.3.3 and 59.5.3.4): The CRNF Zone permits only the uses allowed in the CRN (Commercial/Residential Neighborhood Zone) and permits any building type. *Zoning Ordinance*, §§5.3.3.3, 59.5.3.4. The binding elements of the FZP limit the uses to townhouse living and commercial uses, both of which are permitted in the CRNF Zone and any building type is permitted. *Zoning Ordinance*, §59.3.1.6. The FZP meets this standard.

Development Standards of the Zone (Section 5.3.5)

Density. Where a floating zone is recommended in a Master Plan, the Master Plan recommendation governs the permitted density. *Zoning Ordinance*, §59.5.3.5.A.1. The Germantown Master Plan recommended a density of 11 dwelling units per acre and permitted 3.0 acres of commercial retail. The density proposed is well under the Master Plan recommendation.

Height and Setbacks. If a floating zone is recommended in a Master Plan, height is normally determined by the Master Plan. *Id.* §59.5.3.5.B. The Master Plan did not recommend a specific height limit for this property. The Applicant presented expert testimony that the height permitted in the former PD Zone was four stories. The binding element limiting height to 50 feet would permit 4 stories with a gable roof. T. 92. The Hearing Examiner found this a fair interpretation of the height intended by the Master Plan. The District Council does as well.

Setbacks from the site perimeter are established by the FZP. Both Staff and the Applicant have submitted testimony and evidence finding that the setbacks are compatible with the surrounding area and adjacent properties. Having no evidence to the contrary, the District Council agrees and so finds.

Lot size, parking, recreation and open space. Lot sizes are not part of the District Council's review at the rezoning stage. *Id.*, §59.5.3.5. C. The FZP demonstrates the requisite amount of common open space for the residential development and public open space for the commercial development. *Id.*, §59.5.3.5.D. The FZP also shows the required parking for both the residential and commercial uses. Exhibit 37(c).

Conclusion

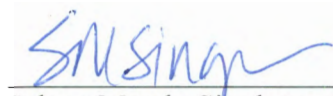
Based on the foregoing analysis and after a thorough review of the entire record, the District Council concludes that the proposed reclassification and development will meet the standards set forth in the Zoning Ordinance, and that it will be consistent with a coordinated and systematic development of 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:

Local Map Amendment Application No. H-131, requesting reclassification from the existing R-200 and R-200/TDR-6 Zones to the CRNF (Commercial Residential Neighborhood Floating Zone) 1.0, C-0.25, R-0.75, H-55, of property described as N210, P. 220, P. 274, Pt. P. 322, Pt. P 330, P.536 and a portion of right-of-way for Liberty Mill Road, is hereby **approved** in the amount requested and subject to the specifications and requirements of the Floating Zone Plan, Exhibit 37(c), provided that the Applicant files an executed Declaration of Covenants (Exhibit 52) 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.



Selena Mendy Singleton, Esq.
Clerk of the Council