

Resolution No.: 20-927
Introduced: September 9, 2025
Adopted: September 30, 2025

**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-155 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Heather Dlhopsky, Esquire, Attorney for the Applicant, Pike Center Fee 1807, LLC; OPINION AND RESOLUTION ON APPLICATION; Tax Account No. 04-00134890.

Opinion

Pike Center Fee 1807, LLC (Applicant or Pike Center) filed its Local Map Amendment (LMA) Application which was certified by the Planning Department on September 18, 2024. LMA No. H-155 seeks to rezone approximately 6.71 acres of property from CR 2.0, C-0.75, R-1.5, H-200' (Commercial Residential) to CRF-2.5, C-0.75, R-2.25, H-200' (Commercial Residential Floating). Exhibit 1a. The subject property is located at 12101 Rockville Pike on the east side of Rockville Pike and west of Chapman Avenue, north of Bou Avenue and directly south of the boundary for the City of Rockville. Exhibit 44, p. 4.

Staff of the Montgomery County Planning Department (Planning Staff or Staff) transmitted a report and the Planning Board's written recommendation to the Office of Zoning and Administrative Hearings (OZAH) on April 29, 2025. Exhibits 44 and 43. Staff recommended approval of the application with three binding elements, required the Applicant address additional issues at future Preliminary Plan and/or Site Plan approval and recommended approval with conditions of the Preliminary Forest Conservation Plan (FCP) No. F20240990. *Id.* The Planning Board also recommended approval of the Application. *Id.* The public hearing before the Hearing Examiner proceeded as scheduled on May 15, 2025. The Applicant presented five witnesses, one representing a principal of the Applicant and four expert witnesses. No one else appeared at the public hearing either in opposition or support of the Application. The Hearing Examiner issued a Report and Recommendation (*HE Report*) on July 10, 2025, recommending approval incorporating all three binding elements suggested by Staff with one additional binding element to memorialize the heights of the two proposed structures.

Subject Property

The subject property contains approximately 6.71 acres of land and is currently developed with an approximately 81,007 square foot strip style shopping center comprised of three buildings and surface parking fronting Rockville Pike. Exhibit 16, p. 1. The property, also known as 12101 Rockville Pike, is bounded by Rockville Pike to the east, Chapman Avenue to the west, Bou Avenue to the North and directly south and west of the County's boundary line with the City of Rockville. *Id.* at 2.

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 Floating Zone Plan will be compatible with the impacted area

Staff defined the neighborhood boundaries as, "bounded by the CSX rail tracks (i.e. B&O Railroad) to the east, Montrose Road to the South, East Jefferson Street to the west and Rollins Avenue/Twinbrook Parkway to the north." Exhibit 44, p. 5. Staff further identified the neighborhood as primarily defined by commercial properties abutting the subject property in all directions as well as "medium density residential uses to the west which includes Miramont Condominiums." *Id.* Staff further noted the property is located one-half mile north of Pike and Rose, a mixed use, residential and commercial district in the "heart of the White Flint/North Bethesda area." *Id.* The Hearing Examiner agreed with Staff's determination of the boundaries of the neighborhood and Staff's characterization of the neighborhood as primarily defined by commercial properties within walking distance to high-quality transit. *HE Report* pp. 6-7.

Proposed Development

Pike Center proposes to redevelop a single use shopping center and its large surface parking lot into "compact, walkable blocks for mixed-use buildings" framed by the existing roads. Exhibit 44, p. 9. The project proposes two new mixed-use buildings containing 90,000 square feet of ground floor commercial development, 806,880¹ square feet of residential development above the commercial space and two structured parking garages at and below grade. *Id.* The proposed site layout divides the lot, creating two blocks traversed by private streets with Street A, connecting to Chapman Avenue and Rockville Pike while Street B connects to Street A and Rockville Pike. *Id.* Each new block will contain a multifamily residential building with retail spaces at ground levels facing Rockville Pike and the central neighborhood green. *Id.* at 10.

Development will occur in two phases. Phase I will partially demolish the existing main building and the two smaller freestanding pad sites that front onto Rockville Pike and construct the smaller building (Building A) that includes approximately 35,000 square feet of ground floor retail facing Rockville Pike and an estimated 322,536 square feet of residential uses on the upper 7 floors. *Id.* The remainder of the existing shopping center and the existing surface parking lot

¹ The Staff Report noted the development would contain up to 780 units. Ms. Oklak confirmed an error in the Staff Report and that the development would contain up to 760 units.

will remain during Phase I. *Id.* Phase II will demolish the remainder of the existing shopping structure and the non-conforming surface parking between the building and the road. Phase II includes construction of Building B, the taller of the two proposed buildings, and will include ground floor commercial space with an estimated 484,844 square feet of residential uses on the upper 17 floors, and a minimum of one-half acre for the neighborhood green open space, per the Sector Plan. *Id.*

The Floating Zone Plan (FZP) contains four binding elements with five additional issues for the Applicant to address at the time of preliminary plan and/or site plan approval. *HE Report* pp. 13-14. These are listed on Appendix A and attached hereto and herein.

Criteria for Approval

Every application for rezoning to a Floating Zone must be accompanied by an FZP that meets certain requirements. *Zoning Ordinance*, §59-7.2.1.B.2.g. The Applicant has filed an FZP (Exhibit 48 and related documents) which is described in the Hearing Examiner's Report. *HE Report* pp. 10-14.

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) in-line with the public interest, (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.

Conformance with the Master Plan²

The property falls within the Montrose Crossing sub-area of the *2018 White Flint 2 Sector Plan*, (Sector Plan). The Hearing Examiner and Staff concluded that the project substantially conforms to the Sector Plan and *Thrive Montgomery 2050* (General Plan). Exhibit 44, pp. 20-22. The Sector Plan specifically references the property noting its underutilization as a shopping center, proximate location to two metro stations, as having "the potential to serve as a major mixed-use destination along Rockville Pike." *Id.* and Sector Plan p. 44. The Sector Plan specifically states redevelopment of the Pike Center Property must:

- Create a network of short blocks and internal streets.
- Provide a 0.5-acre neighborhood green and local street connection.
- Create building frontages along Rockville Pike and Bou Avenue that enhance the public realm, including landscaping and bicycle infrastructure.

² 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.

Id. and Sector Plan, p. 45.

Staff and the Hearing Examiner found the proposal satisfied the objectives identified in the Sector Plan. *HE Report* p. 24. The proposed redevelopment is also in line with the recommendations of the Sector Plan including creating a network of short blocks and internal streets, the creation of the 0.5-acre neighborhood green, local street connections and moving building frontages along Rockville Pike and Bou Avenue.

In addition, the proposal conforms with the recommendations of the General Plan by focusing the growth in a “large activity center” and providing a wide choice of housing types for all people of all income levels close to amenities and public transportation. *Id.* Based on this record the District Council finds that the LMA substantially conforms to Sector Plan and General Plan.

Compatibility with Adjacent uses and the Surrounding Area³

Multiple standards for approval require the District Council to find that the FZP be compatible with adjacent uses and the surrounding area. The District Council agrees with the Planning Staff that the project will be compatible with the surrounding area because the proposed development mirrors the land use, scale and density of the existing urban context. Staff determined the project protects the character of the adjacent neighborhoods by providing appropriate transitions using a change in scale to reinforce the transition from mixed use towards a residential character located at the edges of the defined neighborhood boundaries. The height restrictions for the two buildings will be maintained by a binding element. *HE Report*, pp. 13, 36. The Applicant’s expert opined that given the age of the adjacent commercial uses, it is likely they too will redevelop in a similar scale as the Pike Center proposal. He further noted that no single-family residences are located near the property and that the surrounding properties are all zoned for significantly greater height and density to what currently exists. *HE Report* p. 26.

Based on the findings in the Staff Report and expert testimony provided by the Applicant’s land planner, the District Council finds the proposed development to be compatible with the adjacent uses and surrounding area. Specifically, the redevelopment design removes vast amounts of asphalt and surface parking; replacing it with appropriate density, a wide range of commercial uses and green space compatible with adjacent development. The District Council also finds the project to be compatible with the adjacent properties comprised of primarily commercial and retail uses and further the mixed-use development with the requested density to be compatible with the transit-proximate site.

³ The FZP must further the intent of the Floating Zones in general and the purpose of the CR Zone. *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 CR Zone is to “allow development of mixed-use centers and community at a range of densities and heights flexible enough to respond to various settings.” *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.”

Public Interest

The District Council must also find the development to be in the public interest focusing on the adequacy of other facilities that serve the FZP. While a more detailed review will occur later in the public development process, a threshold analysis must be performed at the rezoning stage.⁴

The Applicant submitted a traffic study to determine multi-modal adequacy because the development will generate more than 50 new weekday peak hour trips. *Zoning Ordinance* §59.7.2.1.E.2.e and *LATR Guidelines*. See Exhibits 15a-d. The Applicant submitted the first LATR in July 2024 and updated the report several times with the last version submitted in February 2025. The Applicant analyzed 17 intersections.⁵ In addition, the Applicant's expert notes that specific traffic analysis will be conducted again during preliminary plan phase. The Applicant's expert explained that the study considers not just vehicle trips, but also pedestrian and bicycle trips. T. 70. The Applicant's expert opined that none of the intersections studied would exceed the LATR standards. *HE Report* p. 29. The Hearing Examiner found the transportation study and testimony of the Applicant's traffic planning expert persuasive.

Regarding the public interest, the Hearing Examiner agreed with Planning Staff that the location of redevelopment capitalizes on the project's convenient transit accessible location increasing the amount of housing available in an area equipped with the infrastructure to support it. The Hearing Examiner also agreed with Staff and the Applicant's expert that the redevelopment of an underutilized site represents an efficient and sustainable land use that will connect future residents to local and regional destinations. Further the Sector Plan specifically called for redevelopment of the property because of its location near transit in an area equipped to handle the additional density. In addition, 15% of the projected 760 units will be MPDUs addressing the need for affordable housing in the area. *HE Report* p. 41.

Based on this record the District Council agrees with the Hearing Examiner and finds at a threshold review those public facilities, including transportation, will be adequate to serve the proposed use and that the specific details of those public facilities will be determined with the opportunity for public comment as the development process proceeds through the next stages. Additionally, the District Council finds that the project is in the public interest because the

⁴ 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 will be consistent with a coordinated and systematic development of the Regional District" under State law. *Zoning Ordinance*, §59-7.2.1.E.2.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.2.b; 59-5.1.2.A.2.

⁵ Staff noted the property is within an "orange policy area" and is immediately adjacent to two "red policy areas." Red policy areas do not require a vehicle analysis. Orange policy areas require "vehicle, pedestrian, bike, transit, vision zero." See *HE Report*, p. 28

redevelopment represents an efficient and sustainable use of land near high-quality transportation and addresses a need for affordable housing in the area.

Intent of the Floating Zones (Section 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.⁶ The remaining (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*

Planning Staff concluded that the project met this intent by capitalizing on the Project's convenient and transit accessible location to increase the amount of housing available in an area with the infrastructure to support it. Exhibit 44, p.26. The Applicant's expert opined that the proposed redevelopment satisfies the County's smart growth goals by creating dense compact development with mixed uses served by transportation infrastructure and design. T. 103. Additionally, the expert opined that the design encourages walking, biking, and transit use in an area that can support additional development while minimizing environmental impacts elsewhere in the County. T. 103. The Hearing Examiner agreed with Staff and the Applicant's expert that the project design responded to the transit accessible location, takes advantage of existing infrastructure, and that the design of the development integrates and connects it with the surrounding neighborhood. *HE Report*, 32. The District Council finds that the project 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*

Both Staff and the Applicant cited the fact that the proposed LMA addresses recommendations in both the Sector Plan and General Plan. *HE Report*, p. 32. The LMA addresses the need for additional housing located a short distance from transit and repurposing an underutilized shopping center responds to recent real estate development concentrating population

⁶ 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 public interest. The balance of the Floating Zone intent clauses is discussed here.

and commerce centers along major corridors with existing infrastructure. Exhibit 44, p. 27. Staff determined rezoning remains flexible in a number of ways that can be adjusted since the development will be constructed in phases, and determined the proposal is suitable for the property based on the size and base zone. *Id.* Additionally, Staff noted the property is located within a fast-growing corridor “slated for new residential uses and mixed-uses to serve a broader range of needs, satisfying a growing, diverse and evolving population.” *Id.*

The District Council agrees with the Hearing Examiner and Staff that the project is an appropriate use of land because it is in conformance with the Sector Plan, is flexible in design and implementation, redevelops an underutilized site surrounded by existing infrastructure that can support the density proposed, and serves a growing diverse and evolving County population. *HE Report* p. 32. The District Council finds that the development project encourages appropriate use of the land and meets the intent of the Floating Zones.

Applicability of the Zone (Section 59.5.1.3)

Section 59-5.1.3 B states if a Floating Zone is recommended in a master plan no prerequisites or locational criteria are required for a Local Map Amendment. The Sector Plan recommends the property be rezoned to a CR-2.0, C-0.75, R-1.5, H-200’ Zone⁷ to “promote mixed use development along Rockville Pike to contribute to the Sector Plan’s public benefits, including parks and housing.” Sector Plan, p. 45. The District Council finds that the requirements of this section are met as did the Hearing Examiner. *HE Report*, p. 43.

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

Zoning Ordinance Division 59-5.3 specifies the purposes of the Commercial/Residential Floating Zone , and establishes the allowed uses, building types, and development standards. The FZP must fulfill the purposes of the Commercial/Residential Floating Zones and meet all technical standards.

Purpose of the Zone (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.*

Zoning Ordinance, §59.5.3.2.

⁷ The Application follows the recommendations for rezoning as proposed in the Sector Plan but proposes an increase in the CR total floor area ratio (FAR) to 2.5 and an increase in the R component to a 2.25 (FAR) above the recommendation in the Sector Plan. The base zone proposed is consistent with the Sector Plan’s recommendations and the increased density matches the Sector Plan’s goals.

The District Council has already found the proposed FZP features include mixed uses, varying building heights, appropriate density, and open space that will better suit the community than the existing strip shopping center. Additionally, the District Council has already found that the phasing of construction and proposed mixed uses create flexibility for the site. Finally, the District Council has also already found that the proposed mixed-use development is compatible with the adjacent development. The District Council finds this standard has been met.

Permitted Uses and Building Types in the Zone (5.3.3 & 5.3.4)

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 and a variety of commercial uses including retail and restaurant uses are permitted in a CR Zone.⁸ Section 59.5.3.4 permits any building type allowed in the CRF Zone. The District Council finds this standard has been met.

Development Standard of the Zone (Section 5.3.5)

Planning Staff prepared a table comparing the development standards in the CRF Zone with those shown on the FZP. Exhibit 44, pp. 29-30. The table demonstrates that the proposed development may meet all the development standards of the required zone. Remaining development standards may be finalized later during the preliminary plan and/or site plan process unless so restricted by a binding element. The District Council agrees with the Hearing Examiner that the FZP meets all the development standards of the Zone.

General Development Standards (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 specific requirements during preliminary plan and/or site plan review.

Conclusion

Based on the foregoing analysis and after a through review of the entire record, including the Hearing Examiner’s Report and Recommendation issued July 10, 2024, 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:

⁸ See *Zoning Ordinance* Use Table 3.1.6.

Local Map Amendment Application No. H-155, requesting reclassification from the existing CR-2.0, C-0.75, R-1.5, H-200' Zone to CRF-2.5 C-0.75, R-2.25, H-200' (Commercial/Residential Floating) for property located at 12101-12151 Rockville Pike, Rockville, Maryland 20852 Parcel B, "Washington-Rockville Industrial Park", Plat Book 71, Plat No. 6708 (Tax Account No. 04-00134890), is hereby **approved** in the amount requested and subject to the specifications and requirements of the Floating Zone Plan, Exhibit 48, provided that the Applicant files a final executed Declaration of Covenants reflecting the binding elements in the land records and submits to the Hearing Examiner for certification a true copy of the full 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 a correct copy of Council action.



Sara R. Tenenbaum
Clerk of the Council

APPENDIX ABinding Elements

1. Permitted uses on the Property include up to 806,880 square feet of residential uses (up to 760 units including a minimum of 15% MPDUs) and up to 90,000 square feet of commercial uses.
2. Provide a minimum of 10% of the Site Area as usable public open space.
 - a. The Applicant must provide a minimum half-acre neighborhood green identified for the site by the Sector Plan, with this space to be provided as public open space. Specific location and design features will be specified at the time of future Site Plan applications(s).
3. The maximum building height on the Property will be 200 feet, with the maximum building height of Building A not to exceed 90 feet and Building B not to exceed 200 feet.
4. Loading access for residential and commercial uses must be entered internal to the blocks and out of view from public spaces.
 - a. Phase I (Building A) entrance access must occur from the Rollins Avenue Extension (Private Street A).
 - b. Phase II (Building B) entrance access must occur from the Rollins Avenue Extension (Private Street A).
 - c. No back-up maneuvers will be permitted from the adjacent public rights-of-way.

The Applicant must address at the time of Preliminary Plan and/or Site Plan approval the following:

1. Update the data table to reflect all setback dimensions of the Property.
2. The Applicant must provide a phasing plan for public open space to address the open space requirements for the Phase I residential development
3. Update the LATR Transportation Study consistent with the 2024-2028 GIP and LATR Guidelines, including the development of a list of off-site mitigation projects and associated costs.
4. Address MCDOT's comments on movement restrictions for the Bou Avenue access and the ability to provide loading access on Chapman Avenue.
5. The undergrounding of existing utilities must be reviewed and analyzed with the Preliminary Plan.

**BEFORE THE COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THE MARYLAND-
WASHINGTON REGIONAL DISTRICT IN MONTGOMERY COUNTY, MARYLAND**

**Office of Zoning and Administrative Hearings
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850
(240) 777-6660**

<p>IN THE MATTER OF</p> <p>Pike Center Fee 1807, LLC</p> <p>Applicant</p> <p>Amy Oklak Miguel Iraola Michael Workosky Matthew Fitzsimmons Mark Morelock</p>	<p>Local Map Amendment Application No. H-155</p>
<p>Heather Dlhopsky, Esq. Attorney for the Applicant</p>	
<p>Before: Kathleen E. Byrne, Hearing Examiner</p>	

HEARING EXAMINER’S REPORT AND RECOMMENDATION

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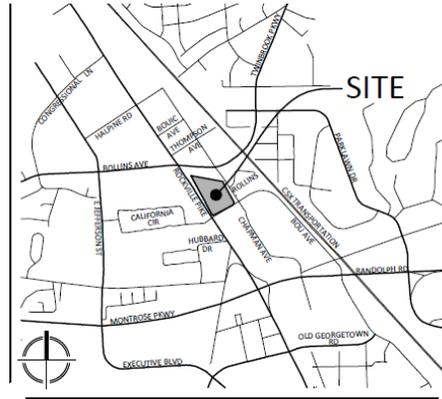
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I. CASE SUMMARY

Applicant: Pike Center Fee 1807, LLC
LMA No. & Date of Filing: H-149, filed September 18, 2024



Current Zone: CR-2.0, C-.75, R-1.5, H-200
Current Use: Strip shopping center with associated parking.
Requested Zone: CRF-2.5, C-0.75, R-2.25, H-200' (Commercial Residential Floating Zone).
Proposed Use: Construct mixed-use residential development consisting of multifamily residential and commercial uses with public amenities.
Consistency with Master Plan: Consistent with the *2018 White Flint 2 Sector Plan* and consistent with *Thrive Montgomery 2050*, General Plan.
MPDUs Provided: 15%
Neighborhood Response: Neither OZAH nor Planning received public correspondence in support or opposition of this Application.
Planning Board Recommends: Approval
Technical Staff Recommends: Approval
Hearing Examiner Recommends: Approval
District Council Votes Needed to Approve: 6

II. STATEMENT OF THE CASE

Pike Center Fee 1807, LLC (Applicant or Pike Center) filed its LMA Application, which was certified by Planning on September 18, 2024. LMA No. H-155 seeks to rezone approximately 6.71 acres of property from CR 2.0, C-0.75, R-1.5, H-200' (Commercial Residential) to CRF-2.5, C-0.75, R-2.25, H-200' (Commercial Residential Floating). Exhibit 1a. The subject property is located at 12101 Rockville Pike on the east side of Rockville Pike and west of Chapman Avenue, north of Bou Avenue and directly south of the boundary for the City of Rockville. Exhibit 44, pg. 4. Notice of the public hearing was mailed on March 26, 2025, and posted on OZAH's website. Exhibit 37. The notice established a hearing date of May 15, 2025. Staff of the Montgomery County Planning Department (Planning Staff or Staff) transmitted a report and the Planning Board's written recommendation on April 29, 2025. Exhibits 44 and 43. Staff recommended approval of the application with three binding elements, required the Applicant address additional issues at future Preliminary Plan and/or Site Plan approval and recommended approval with conditions of the Preliminary Forest Conservation Plan (FCP) No. F20240990. *Id.* The Planning Board also recommended approval of the Application. *Id.*

The public hearing proceeded as scheduled on May 15, 2025. The Applicant presented five witnesses, one representing a principal of the Applicant and four expert witnesses. No one else appeared at the public hearing either in opposition or support of the Application. At the conclusion of the hearing, the Hearing Examiner held the record open for a period of 10 business days to receive the transcript of proceedings. The Hearing Examiner received the transcript on May 28, 2025 closed the record the same day.

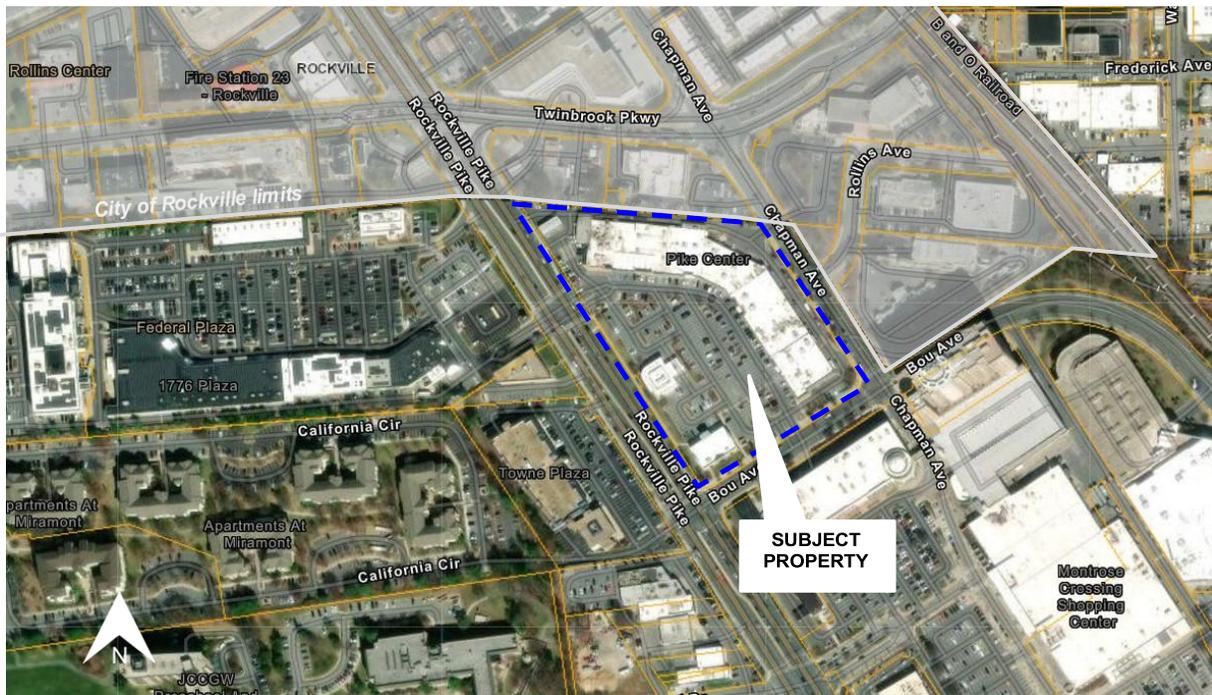
III. FACTUAL BACKGROUND

A. Subject Property

The subject property contains approximately 6.71 acres of land and is currently developed with an approximately 81,007 square foot strip style shopping center comprised of three buildings and surface parking fronting Rockville Pike. Exhibit 16, pg. 1. The property also known as 12101

Rockville Pike, is bounded by Rockville Pike to the east, Chapman Avenue to the west, Bou Avenue to the North and directly south and west of the County's boundary line with the City of Rockville.

Id. at 2. The property to the west of the subject property is the Federal Plaza and Towne Plaza shopping centers containing restaurants and retail. T. 32. To the south on Bou Avenue is Montrose Crossing Shopping Center with large surface parking area serving one- and two-story retail uses with several major anchor stores. *Id.* Also to the south of the property is an 18-story midtown Bethesda North condominium building. To the east on Chapman Avenue are retail stores, a car wash and offices located within the City of Rockville. *Id.* To the north of the property located within the City of Rockville limits are various retail, restaurants, gas station and a cannabis dispensary. T. 33.

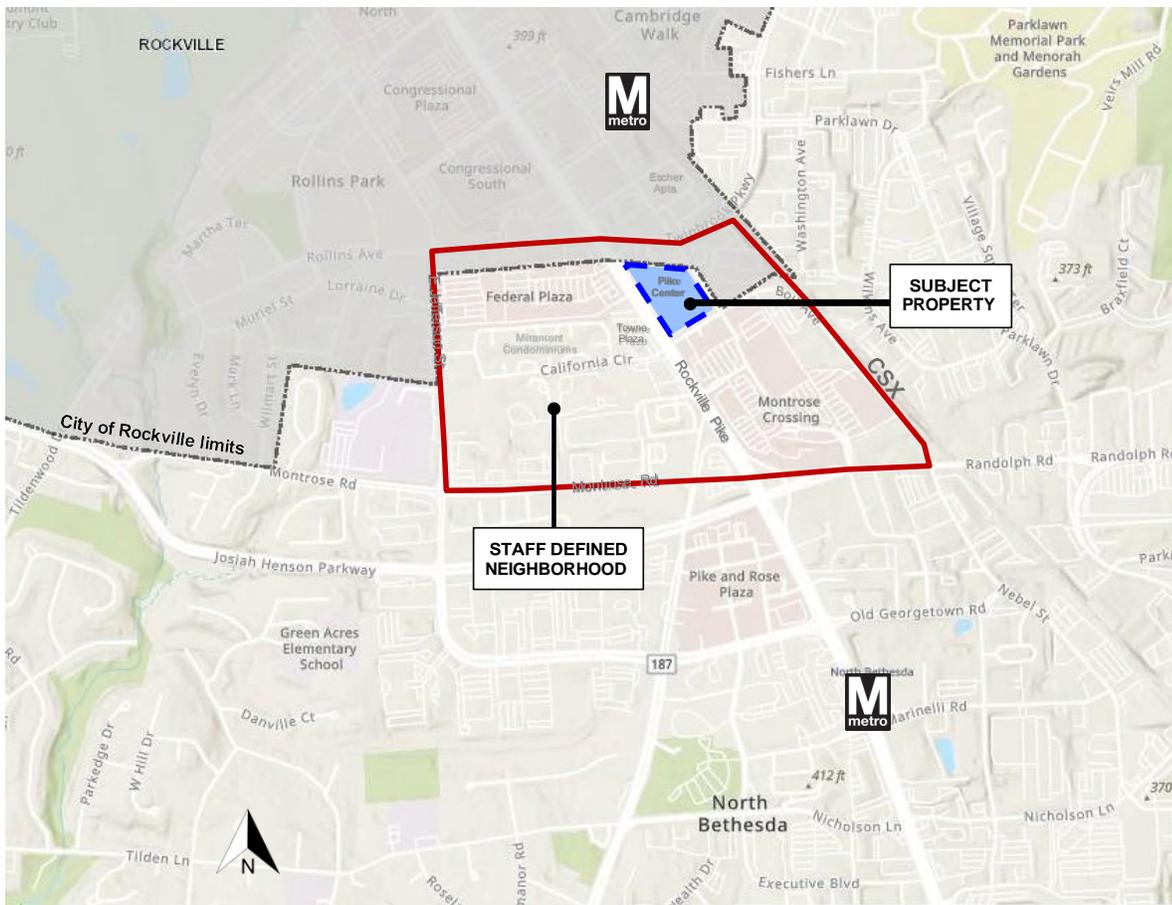


Staff Report, Exhibit 44, Figure 2, pg. 6

B. Surrounding Area and Zoning Context

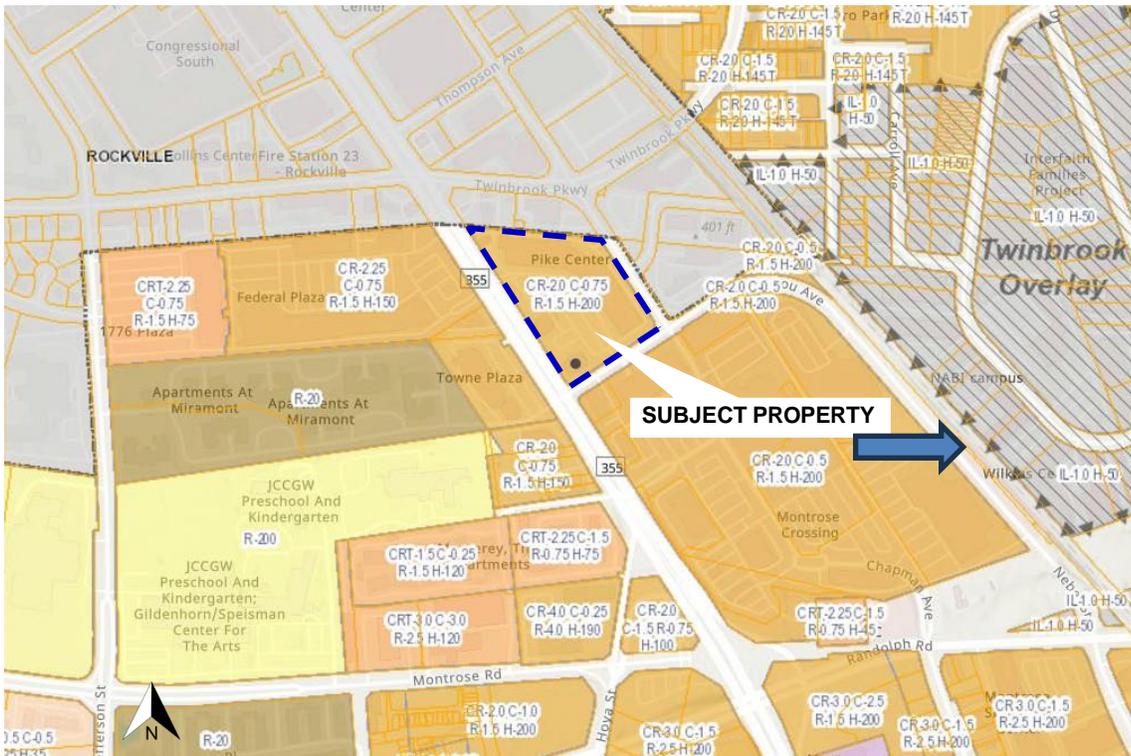
The surrounding area is typically identified and characterized in a Floating Zone case. The boundaries are defined by those properties that will experience the direct impacts of the use. This area is then characterized to determine whether the Floating Zone Plan will be compatible with the impacted area.

Staff defined the neighborhood boundaries as, “bounded by the CSX rail tracks (i.e. B&O Railroad) to the east, Montrose Road to the South, East Jefferson Street to the west and Rollins Avenue/Twinbrook Parkway to the north.” Exhibit 44, pg. 5. Staff further identified the neighborhood as primarily defined by commercial properties abutting the subject property in all directions as well as “medium density residential uses to the west which includes Miramont Condominiums.” *Id.*



Staff Report, Exhibit 44, Figure 1, pg. 5

Staff further noted the property is located one-half mile north of Pike and Rose, a mixed use, residential and commercial district in the “heart of the White Flint/North Bethesda area.” *Id.* Based on the record, the Hearing Examiner agrees with Staff’s determination of the boundaries of the neighborhood and Staff’s characterization of the neighborhood.



Staff Report, Exhibit 44, pg. 8, Figure 3

Staff further described the recent zoning history and mix of uses surrounding the property as follows:

When Montgomery County adopted a new Zoning Ordinance in 2014, the Property was rezoned from the C-4 zone to the family of CR zones which allows higher density and building height, and mixed- uses within a transit accessible urban format. The Subject Property's current zoning is CR-2.0, C-0.75, R-1.5, H-200. Montrose Crossing Shopping Center to the south is zoned CR- 2.0, C-0.5, R-1.5, H-200, with roughly the same development potential. The confronting Federal Plaza and Towne Plaza, both of which are zoned CR- 2.25, C-0.75, R-1.5, H-150, are 50 feet in height less than the Property is zoned for, but with a total density permitted of 0.25 FAR greater than the Pike Center Property.

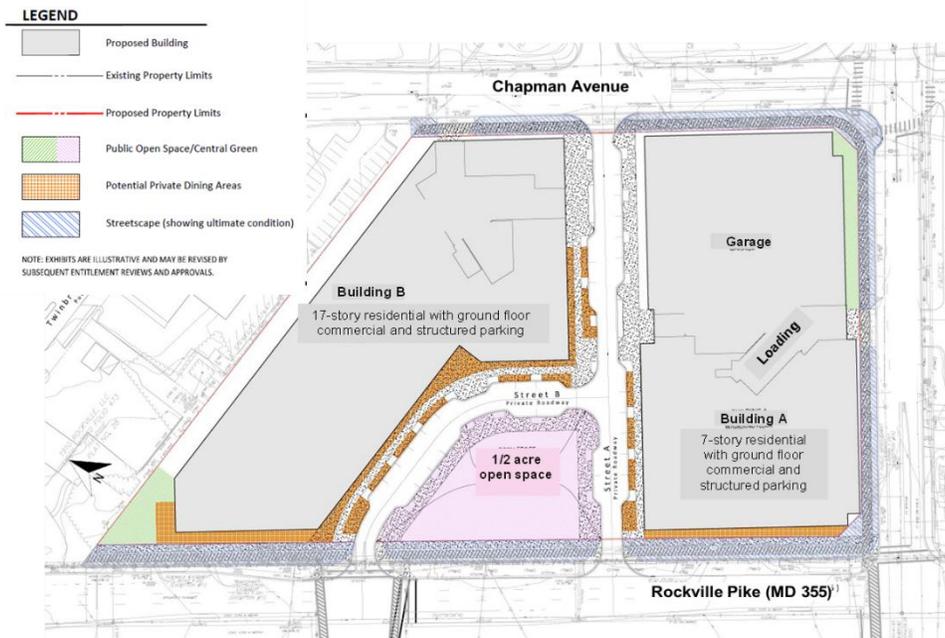
This collection of nearby shopping centers that line Rockville Pike are adjoined by transitional zones, Commercial Residential Town (CRT) and lower density properties. Located to the south of Federal Plaza and to the west of Towne Plaza is the Apartments of Miramont which is zoned Residential Multi- Unit Medium Density (R-20). To the west of the standalone strip buildings on Rockville Pike between Bou Avenue and Hubbard Drive is a swath of property zoned Residential 200 (R-200) and used for an institutional use – it is the main building and grounds of the Bender JCC of Greater Washington. These residential zones are within close walking distance to

existing and planned commercial, retail, and services along the Rockville Pike corridor. The property to the north of the Subject Property is located within the City of Rockville and is zoned for commercial uses at higher densities which complement the high-density mixed-use corridor within Montgomery County's boundaries

Exhibit 44, pg. 7.

C. The Applicant's Proposal

The Applicant request the rezoning to redevelop a single use shopping center and its large surface parking lot into "compact, walkable blocks for mixed-use buildings" framed by the existing roads. *Id.* at 9. The project proposes two new mixed-use buildings containing 90,000 square feet of ground floor commercial development, 806,880¹ square feet of residential development above the commercial space and two structured parking garages at and below grade. *Id.* The proposed site layout divides the lot, creating two blocks traversed by private streets with Street A, connecting to Chapman Avenue and Rockville Pike while Street B connects to Street A and Rockville Pike.



Staff Report, Exhibit 44, pg. 14, Figure 9

Each new block will contain a multifamily residential building with retail spaces at ground

¹ The Staff Report noted the development would contain up to 780 units. Ms. Oklak confirmed an error in the Staff Report and that the development would contain up to 760 units.

levels facing Rockville Pike and the central neighborhood green. *Id.* at 10. Development will occur in two phases. Phase I will partially demolish the existing main building and the two smaller freestanding pad sites that front onto Rockville Pike and construct the smaller building (Building A) that includes approximately 35,000 square feet of ground floor retail facing Rockville Pike and an estimated 322,536 square feet of residential uses on the upper 7 floors. *Id.* The remainder of the existing shopping center and the existing surface parking lot will remain during Phase I. *Id.*

Phase II will demolish the remainder of the existing shopping structure and the non-conforming surface parking between the building and the road. Phase II includes construction of Building B, the taller of the two proposed buildings, and will include ground floor commercial space with an estimated 484,844 square feet of residential uses on the upper 17 floors, and a minimum of one-half acre for the neighborhood green open space, per the Sector Plan. *Id.*

Abbey Oklak, representing the ownership, testified that the Applicant proposes 760 multifamily units, 15% of which will be MPDs, and 90,000 square feet of nonresidential uses across both buildings. T. 20. Additionally she stated parking will be provided in structures rather than surface and will provide a half-acre neighborhood green as well as frontage improvements along Chapman Avenue, Bou Avenue and Rockville Pike. T. 20. Ms. Oklak further confirmed agreement with the proposed binding elements and Planning Staff's minor amendments to those elements. T. 20. When asked about the timing of construction and phasing, Ms. Oklak stated the first phase would occur within the next 5 years to allow for lease expirations, planning and permitting. T. 21. Regarding Phase 2, Ms. Oklak stated company policy dictates a minimum two-year waiting period before the start of the next phase. T. 21. The Applicant's supplemental submittal confirmed 290 mid-rise and 470 high-rise apartments, 90,000 square feet of retail space including a supermarket with Phase 1 expected to be built in 2034 and Phase 2 in 2039. Exhibit 38. See images on following page depicting the proposal viewed from Rockville Pike.



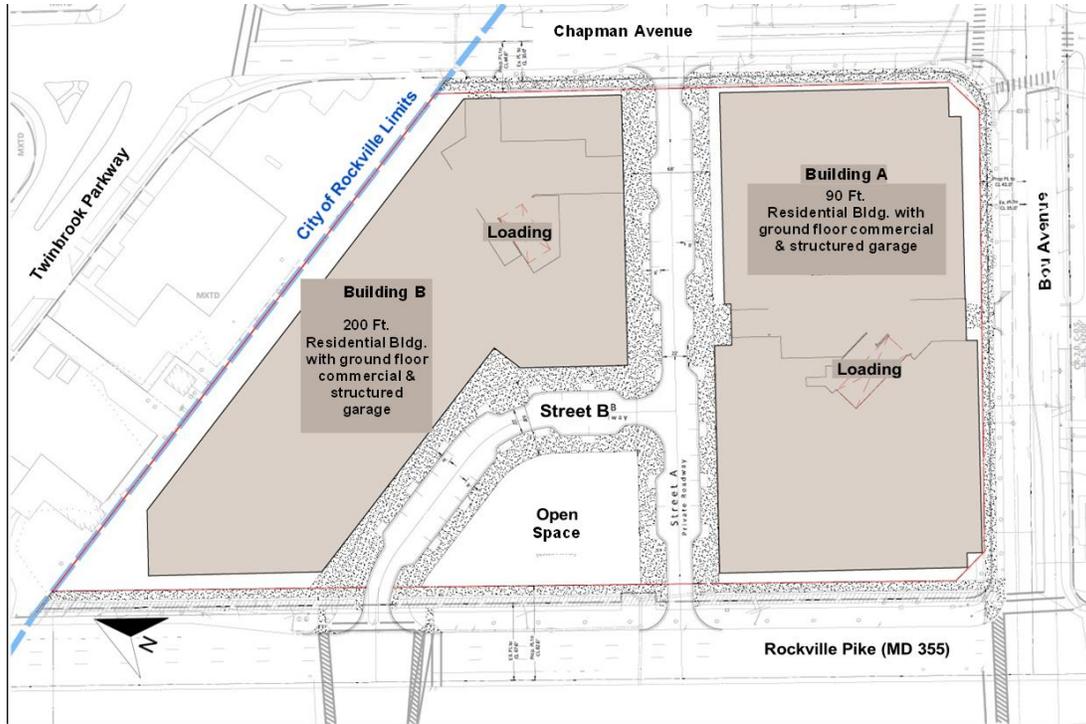
Exhibit 44, Staff Report, pg. 12, Figure 5



Exhibit 44, Staff Report, pg. 12, Figure 6

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 (FZP) 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 48. See an excerpt of the FZP showing the proposed building layouts, open space and street frontage. The image below is taken from the Staff report



Staff Report, Exhibit 44, Figure 4 – Floating Zone Plan

Mr. Miquel Iraola testified on behalf of the Applicant and was admitted as an expert in land planning. T. 25. Mr. Iraola testified to the existing conditions noting the existing improvements describing a “conventional suburban strip style shopping center comprised of a main E-shaped building and two freestanding buildings.” T. 30. Further Mr. Iraola testified to the location of the property to the adjacent uses and parcels as being primarily commercial and multifamily within the location of the boundary of the surrounding neighborhood. T. 30. Mr. Iraola noted that the Twinbrook Metro station is a 5-to-10-minute walk from the subject property with the North Bethesda Metro station about a 15 minute walk to the south. T. 30-35. See existing conditions site plan on the following page.

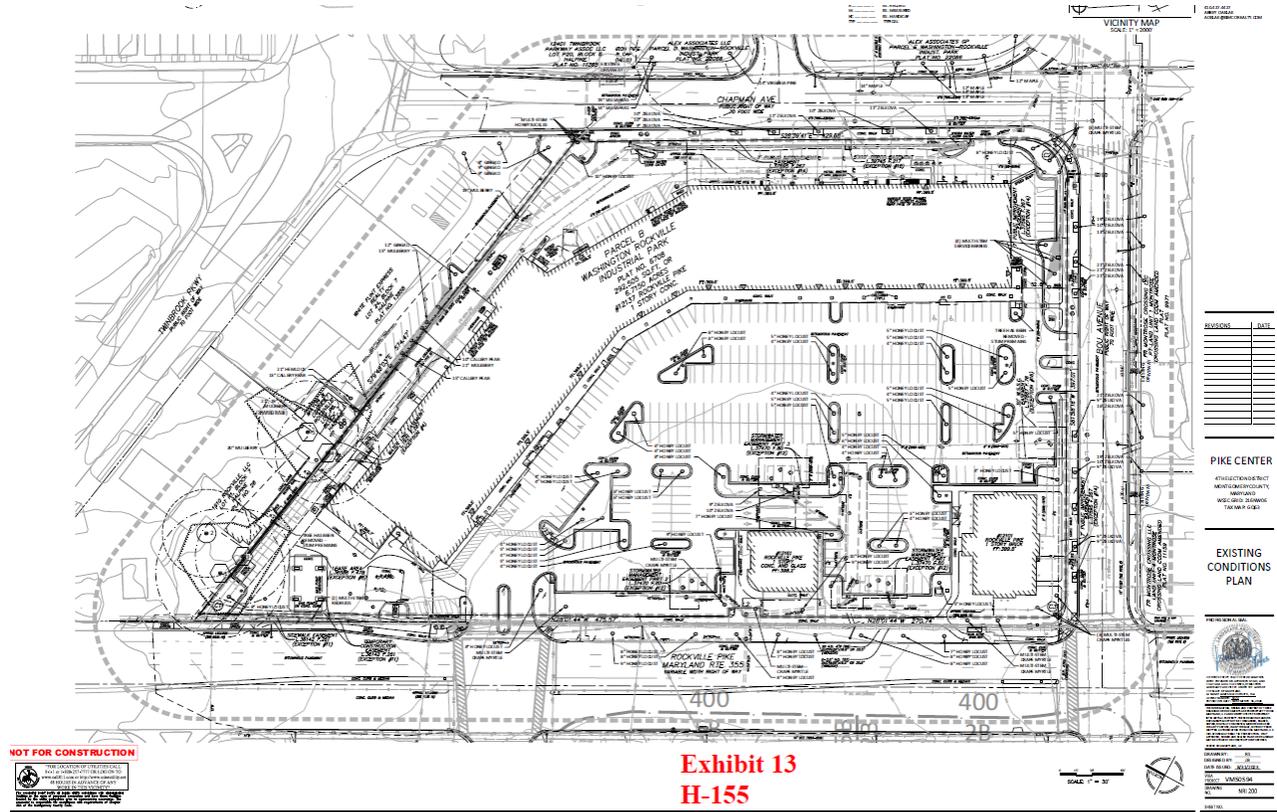


Exhibit 13 – Existing Conditions Site Plan

Using Exhibit 12a, Mr. Iraola testified to the development proposal describing the two-phase redevelopment plan with up to 760 multifamily dwelling units with 15 percent MPDUs in the two buildings and up to 90,000 square feet of non-residential space with parking to be accommodated in both structure and on street configurations. T. 37. The development will construct two new streets, a new half-acre public neighborhood green as well as bicycle, street and pedestrian improvements. T. 37. He further described the initial phase of construction including partial demolition of the existing structures, creation of internal Street A and Building A to be constructed up to 90 feet in height with ground floor retail oriented towards Rockville Pike. T. 37. Phase 2 would complete the remaining demolition and surface parking, adding new Building B with a height up to 200 feet, retail on the ground floor oriented towards Rockville Pike, a new neighborhood green and the addition of Street B. T. 38.

2. Binding Elements

The Staff Report includes three binding elements (Exhibit 44, pg. 6):

1. Permitted uses on the Property include up to 806,880 square feet of residential uses (up to 760 units including a minimum of 15% MPDUs) and up to 90,000 square feet of commercial uses.
2. Provide a minimum of 10% of the Site Area as usable public open space.
 - a. The Applicant must provide a minimum half-acre neighborhood green identified for the site by the Sector Plan, with this space to be provided as public open space. Specific location and design features will be specified at the time of future Site Plan applications(s).
3. Loading access for residential and commercial uses must be entered internal to the blocks and out of view from public spaces.
 - a. Phase I (Building A) entrance access must occur from the Rollins Avenue Extension (Private Street A).
 - b. Phase II (Building B) entrance access must occur from the Rollins Avenue Extension (Private Street A).
 - c. No back-up maneuvers will be permitted from the adjacent public rights-of-way.

Staff further required the Applicant address at the time of Preliminary Plan and/or Site

Plan approve the following:

1. Update the data table to reflect all setback dimensions of the Property.
2. The Applicant must provide a phasing plan for public open space to address the open space requirements for the Phase I residential development
3. Update the LATR Transportation Study consistent with the 2024-2028 GIP and LATR Guidelines, including the development of a list of off-site mitigation projects and associated costs.
4. Address MCDOT's comments on movement restrictions for the Bou Avenue access and the ability to provide loading access on Chapman Avenue.
5. The undergrounding of existing utilities must be reviewed and analyzed with the Preliminary Plan.

The Hearing Examiner asked Applicant's counsel about adding an additional binding element memorializing the building heights as previously proposed by the Applicant. T. 116-120. After further discussion, a new binding element number three was added to capture maximum building heights. The final proposed binding elements are as follows:

1. Permitted uses on the Property include up to 806,880 square feet of residential uses (up to 760 units including a minimum of 15% MPDUs) and up to 90,000 square feet of commercial uses.
2. Provide a minimum of 10% of the Site Area as usable public open space.
 - a. The Applicant must provide a minimum half-acre neighborhood green identified for the site by the Sector Plan, with this space to be provided as public open space. Specific location and design features will be specified at the time of future Site Plan applications(s).
3. The maximum building height on the Property will be 200 feet, with the maximum building height of Building A not to exceed 90 feet and Building B not to exceed 200 feet.
4. Loading access for residential and commercial uses must be entered internal to the blocks and out of view from public spaces.
 - a. Phase I (Building A) entrance access must occur from the Rollins Avenue Extension (Private Street A).
 - b. Phase II (Building B) entrance access must occur from the Rollins Avenue Extension (Private Street A).
 - c. No back-up maneuvers will be permitted from the adjacent public rights-of-way.

3. Access

Mr. Michael Workosky testified on behalf of the Applicant as an expert in transportation planning and engineering. T. 57- 82. Using Exhibit 13, Mr. Workosky testified to the existing access points identifying a signalized intersection currently serving the main entrance and two additional entrances to the north of the main entrance. T. 61. Mr. Workosky described the surrounding streets as follows:

Bou is a four-lane undivided street. It has a posted speed of 25 miles an hour and there are no turn lanes at this location. There is one driveway that serves the site which is between Rockville Pike and Chapman Avenue and it's a full movement intersection that allows left and right turns in and out....on the East side of the site is Chapman Avenue...a four-lane roadway. It has a posted speed limit of 30 miles an hour. And there are two driveways that serve the site on Chapman. One is just to the north of Rollins Avenue and one is just to the south of Twinbrook Parkway. And then another one is south of Rollins Avenue and just north of Bou Avenue.

T. 62

Staff described vehicular access as follows:

[V]ia three public roads, Rockville Pike (MD 355) on the east, Bou Avenue on the

south, and Chapman Avenue on the West. As previously noted, there are two access points on Rockville Pike (MD 355). One is a signalized intersection, and the other is a right-in/right-out driveway access to an existing gas station located on the north side of the Property. Bou Avenue has one full access driveway, and there are two service entrance driveway access points on Chapman Avenue.



Exhibit 44, Staff Report– Existing Vehicular Access, Future 10

Mr. Workosky then testified to the proposed vehicular, pedestrian, bicycle, ingress, egress and circulation for the property. T. 63. Referring to Exhibit 17a, Mr. Workosky explained that the existing traffic signal to the entrance of the property will remain and the two driveways that serve the gas station will be eliminated. T. 63. A new street connection will be made connecting Rollins Avenue through the development and connecting with Rockville Pike as a right in right out driveway. T. 63. Further he explained that a new full movement intersection that's opposite Rollins Avenue and the Bou Avenue access will remain in its current location and is planned as a full movement driveway with the driveways on Chapman Avenue to remain and become loading access. T. 63 The additional existing driveway to the south would be eliminated. T. 63. See Exhibit 17a, Circulation Plan on the following page.

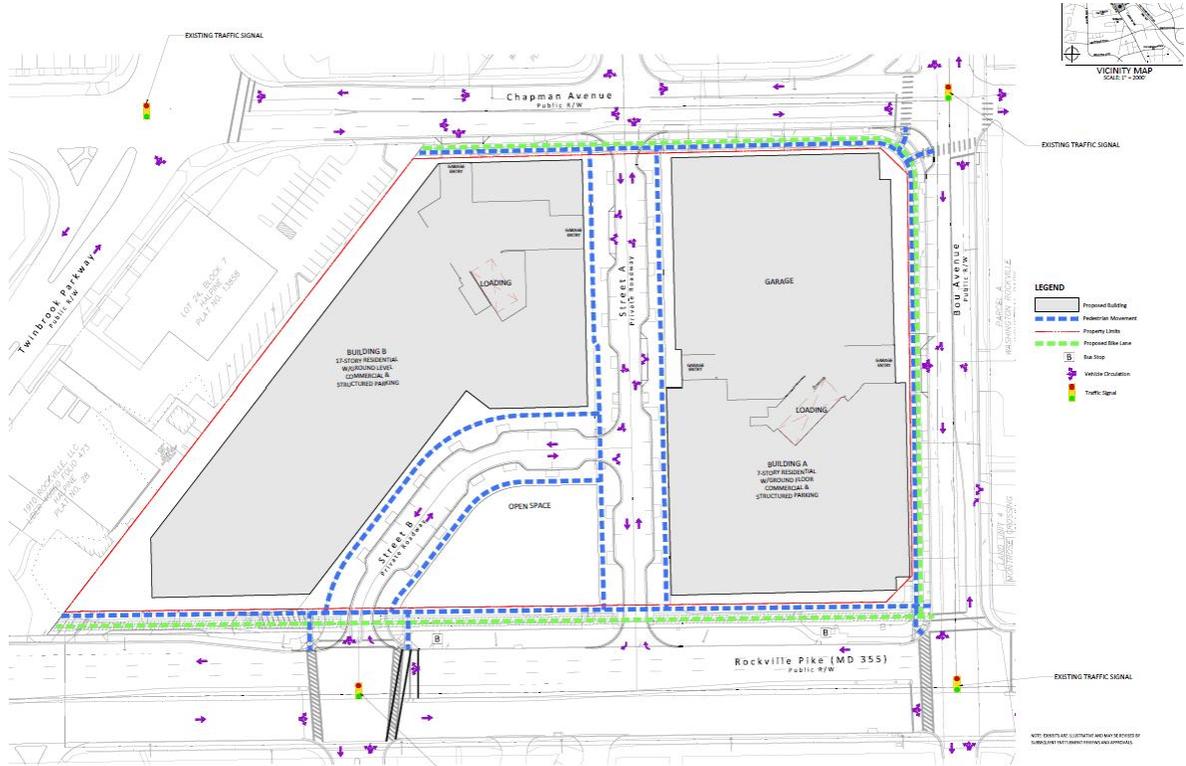


Exhibit 17a – Circulation Plan

Staff also detailed the proposed transportation plan and access points. Noting as follows:

[T]wo (2) new access points will be provided via a new private street (Private Street A/Rollins Avenue) providing a connection between Chapman Avenue and Rockville Pike (MD 355). This street's intersection with Chapman Avenue is anticipated to have full movement, while the connection to Rockville Pike (MD 355) will be a right-in/right-out access. The existing southern service driveway entrance on Chapman Avenue will be eliminated, but all other access points will remain including the signal on the northernmost access point on Rockville Pike. The access on Bou Avenue will be modified as part of the Project.

Exhibit 44, pg. 15

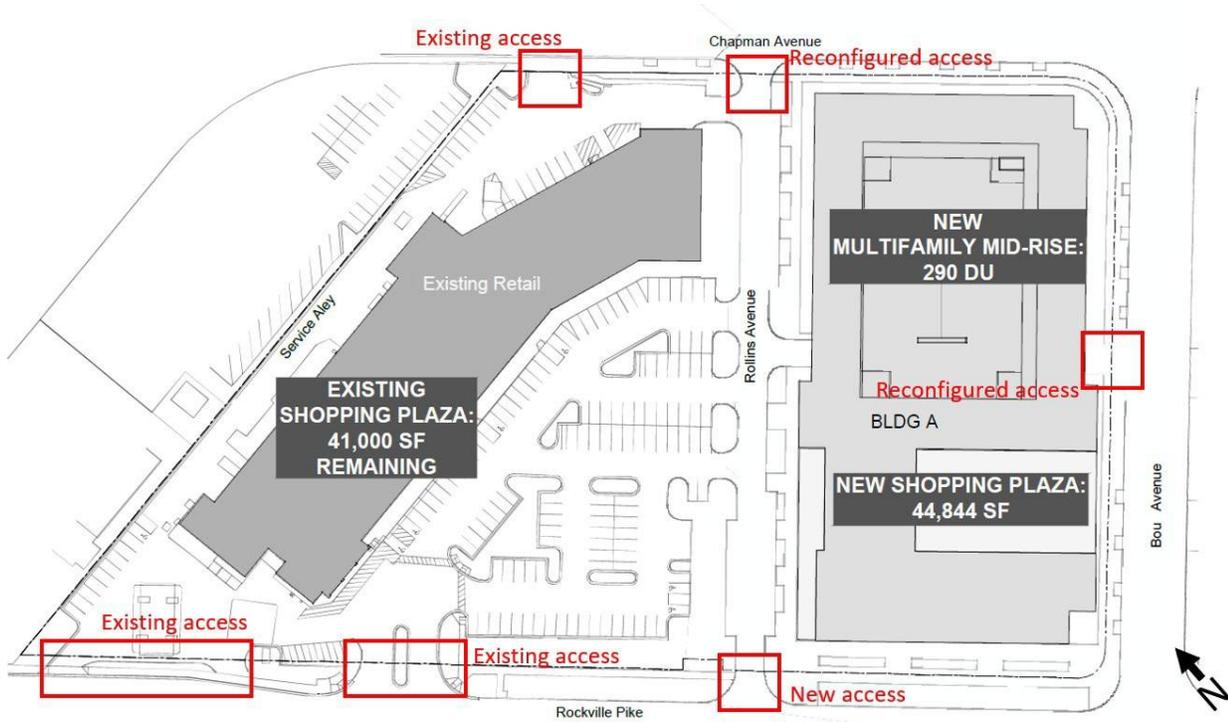


Exhibit 44, Staff Report, pg. 16, Figure 11
Proposed Phase I Vehicular Access

Staff described the Phase 2 vehicular access plan as follows:

In Phase II of the Project, the northern right-in/right-out driveway access on Rockville Pike (MD 355) that serves the existing gas station will be removed. All other access points will remain but both the signalized access on Rockville Pike (MD 355) and the service drive access on Chapman Avenue will be reconfigured. Additionally, another new private street (Private Street B) will be constructed to connect the signalized intersection at Rockville Pike (MD 355) and the private street constructed in Phase I (Private Street A/Rollins Avenue).²

Exhibit 44, pg. 16. See image on the following page.

² Staff note the specific location of access points and movements will be determined during Preliminary Plan review

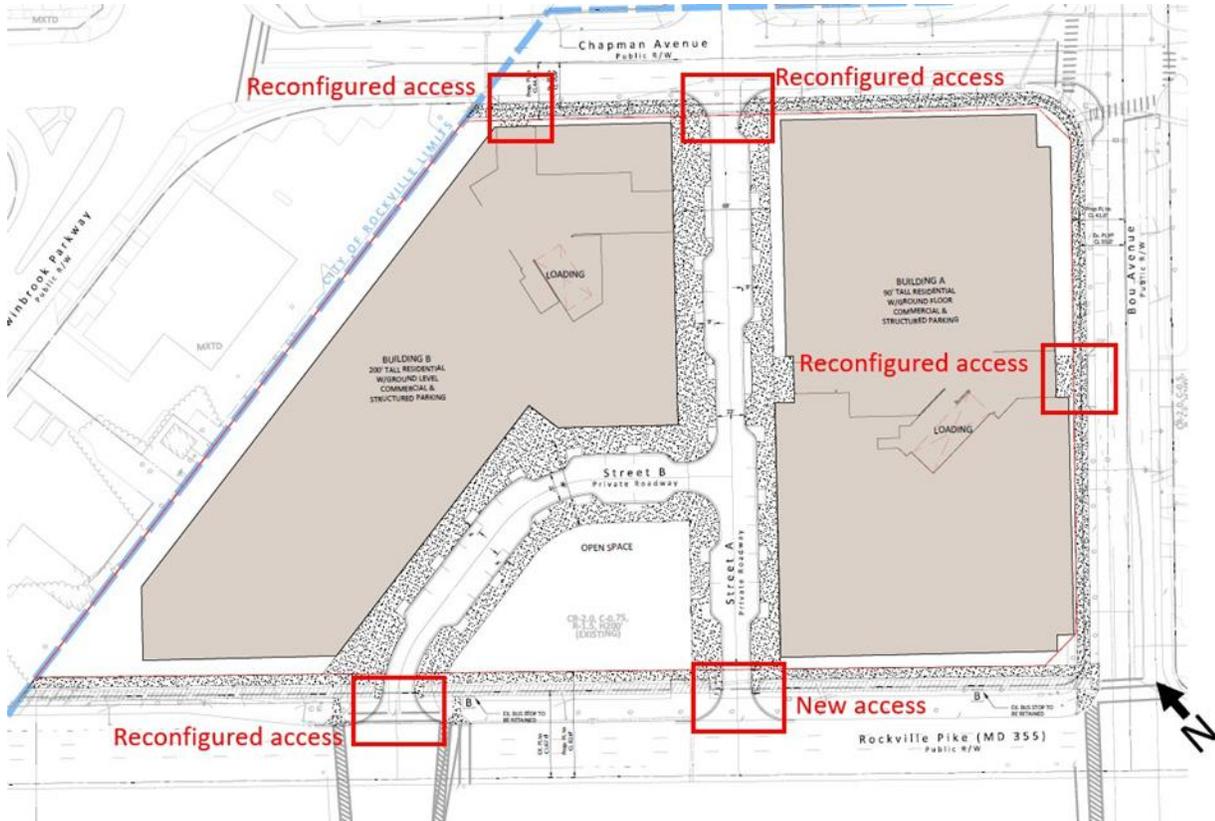


Exhibit 44, Staff Report, pg. 17, Figure 12
Proposed Phase II Vehicular Access

Staff further described the planned improvements for pedestrian and bicycle access noting as follows:

Pedestrian and bicycle access to the Site is proposed via improved frontages along the roadways. The 2018 *Bicycle Master Plan*, 2018 *White Flint 2 Sector Plan*, and 2019 *Urban Design Guidelines for Rock Spring and White Flint 2 Sector Plans* identify a two-way separated bike lane facility along Rockville Pike (MD 355) on the Property's frontage which is buffered from the travel lanes with a landscape buffer. A separate sidewalk is also planned. Both Bou Avenue and Chapman Avenue are planned to have a sidepath and a street buffer along the Property frontages. The new internal private road (Private Street A) is an extension of Rollins Avenue and will also include sidewalks and street buffers. The exact design and dimensions of these improvements will be determined at the time of the Preliminary Plan in consultation with MCDOT, MDOT State Highway Administration (SHA), and the City of Rockville as the project borders the City boundary.

Exhibit 44, pg. 17.

4. Environment

Staff noted no environmental features on the site and only small trees located within the existing surface parking Lot. *Id.* at 18. Additionally, Staff determined that because the proposal includes higher density development without an increase in impervious surfaces that it will include

greener more energy efficient construction close to transit. *Id.* Mr. Matthew Fitzsimmons, the Applicants expert in architecture and planning, opined that the proposed redevelopment supports the County's smart grown coals of creating dense compact development with mixed uses served by transportation infrastructure. T. 103. Further Mr. Fitzsimmons opined that there are no wetlands, highly erodible soils, streams, wetlands or environmental buffers and no existing forest cover on-site, nor is the property located within a County Special Protection Area. T. 108-109. Additionally, Mr. Fitzsimmons referred to Maryland DNR's statement that there are no federal or state records of rare, threatened, or endangered species or critical habitats on the property. T. 109.

D. Community Concerns

Staff noted that the Applicant complied with all submittal and signage requirements. Exhibit 44, pg. 19. Even though a pre-submittal community meeting was not necessary for the pending LMA Application, Applicant held a virtual community meeting on June 28, 2024. *Id.* Questions raised during this community meeting were addressed and detailed by Staff in the "Proposal" section of its report and were as follows:

1. Timing of construction of each of the project phases;
 - a. Response: *The first phase would begin in the near to mid-term (three to ten years) and the second phase would likely follow at a minimum of three years after the first phase is open and occupied.*
2. Amenity details of the proposed park;
 - a. Response: *The space programming details of the proposed neighborhood green will be provided with the next application submission.*
3. Timing of a traffic study;
 - a. Response: *The Applicant submitted a Local Area Transportation Review (LATR) study, and the traffic generated by the Application will not exceed area capacity and will conform to the LATR Guidelines.*
4. Incorporation of the proposed Bus Rapid Transit (BRT).
 - a. Response: *The future BRT will be accommodated within the proposed right-of-way that will be dedicated along the Project's Rockville Pike frontage.*

Id. at pg. 39. Staff also noted it responded to any emails received requesting information and maintained the Application materials on its website. OZAH also maintained those same documents on its website and received no correspondence from community members regarding the application.

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.2.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.2.b: ...further the public interest...

* * *

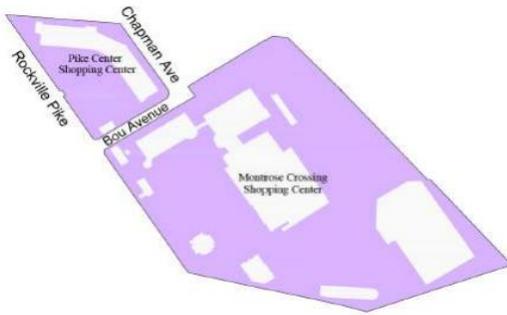
Section 59.7.2.2.c: ...satisfy the intent and standards of the proposed zone...

* * *

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...

Sector Plan Discussion

Staff determined that the property falls within the Montrose Crossing sub-area of the *2018 White Flint 2 Sector Plan*, (Sector Plan) located north of Montrose Parkway, east of Rockville Pike and west of the CSX rail tracks. Exhibit 44, pg. 20.



2018 White Flint 2 Sector Plan
Pg. 44

Map 35: Montrose Crossing - Property Key

The Sector Plan specifically references the property noting its underutilization as a shopping center, proximately to two metro stations, as having “the potential to serve as a major mixed-use destination along Rockville Pike.” *Id.* and Sector Plan pg. 44. The Sector Plan specifically states redevelopment on the Pike Center Property must:

- Create a network of short blocks and internal streets.
- Provide a 0.5 acre neighborhood green and local street connection.
- Create building frontages along Rockville Pike and Bou Avenue that enhance the public realm, including landscaping and bicycle infrastructure.

Id. and Sector Plan, pg. 45. Staff determined the proposed redevelopment addresses these three recommendations as follows: 1) constructing streets A and B that contribute to the “network of short blocks and internal streets”, 2) providing a 0.5-acre public green along Rockville Pike, and 3) pulling the planned building frontages up to Rockville Pike and Bou Avenue. *Id.* The Applicant’s land use report also references recommendations made by the Sector Plan regarding many elements including urban design, affordable housing, sustainability, and neighborhood compatibility. Exhibit 16. Mr. Iraola also testified at length to the project’s compatibility with the Sector Plan. T. 43-52. Regarding urban design, the Applicant’s expert opined that the proposal creates variety in building heights and massing to maximize access to natural light and air, using quality architectural design. Exhibit 16, pg. 5. To address affordable housing, the project proposes at least 15% MPDUs, nothing additional density also increases the proportional amount of MPDUs. *Id.*

Regarding sustainability, the report notes that the proposed redevelopment will increase the amount of pervious surfaces through the implementation of the neighborhood green, landscaping, street trees and integrating stormwater management facility into the design of the public spaces. *Id.* at 16. While the current land uses are predominantly commercial, the proposed redevelopment with its density and height brings to life the Sector Plan's vision for mixed use developments designed with new sidewalks on all street frontages and bikeways. *Id.*

The Sector Plan recommends a zoning change for the property to CR-2.0, C-0.75, R-1.5, H-200' to "promote mixed-use development along Rockville Pike and to contribute to the Sector Plan's public benefits, including parks and housing options. Sector Plan, pg. 45. The Applicant proposes rezoning the property to CR-2.5, C-.75, R-2.25, H-200' stating that the slight increases in density will result in a better redevelopment for the property and be more consistent with nearby properties. Exhibit 16, pg. 7. Mr. Iraola opined that these increases are more consistent with nearby properties and that allowing that additional floor area ratio for both the commercial and residential space will result in a better project by adding more residential density including more MPDUs in close proximity to the Twinbrook Metro Center. T. 49-50.

General Plan Discussion

The County's General Plan (*Thrive Montgomery 2050*) provides recommendations intended to promote compact growth along corridors and diversify and add to the housing stock for the County. Exhibit 44, pg. 22, *citing Thrive Montgomery 2050*, pgs. 70, 121. Regarding compact growth, Staff determined the property is in a "large activity center" envisioned as the highest intensity area close to high-quality transit suggesting that this area has the infrastructure to support additional development to "maximize the efficiency of land use and public investment." Exhibit 44, pg. 22 *citing Thrive*, pgs. 71, 73. Staff determined that the specific policies addressed by the proposed development regarding compact growth include:

- Improve the environmental sustainability of growth by encouraging infill and redevelopment to curb sprawl and bring areas built out in an era with little or no environmental regulations up to robust standards for stormwater management and other state-of-the-practice environmental standards.
- Limit growth beyond corridors to compact, infill development and redevelopment in Complete Communities to prevent sprawl (p. 73).

Staff also found that the project satisfies *Thrive's* "housing for all" goals by adding up to 760 additional dwelling units and during the subsequent regulatory review process the goals of diversifying the housing stock across incomes, building types and geography will be refined. *Id.* Staff concluded that the rezoning request is consistent with both the Sector and General Plans. *Id.*

Mr. Iraola opined that several items in *Thrive* are addressed by the pending Application, specifically focusing growth along a major corridor, providing equal access to affordable housing, and providing new economic opportunities such as retail and transit. T. 51.

Public Interest Discussion

The Applicant's expert Mr. Iraola opined that the project is in the public interest because the increase in density better utilizes the public investment in transit given its proximity to the Twinbrook Metro station. T. 52. Further he determined that this kind of transit-oriented development reduces the need for single occupancy vehicles creating environmental benefits. T. 53. Mr. Iraola also opined that the project would add vitality providing new housing choice, retail, services and amenities to the community as well as causing improvements to sidewalks, bikeways and green space. T. 53.

Staff determined that the project will further the public interest through the following:

- Proper and efficient use of the land and appropriate density with respect to the surrounding neighborhood.
- Redevelopment of an obsolescent and inefficient strip center.
- Provision for updated stormwater management and other infrastructure.
- Appropriate building massing that complements the existing character, including density and height, of the surrounding neighborhood.
- Provides adequate light and open space for public access via the neighborhood green.
- Provides a desirable visual environment through good urban design.
- Provision of new road connections that creates permeability for vehicle and non-vehicle travel.
- Provision of new streetscape and a sidewalk along Property's frontages.
- Provision of retail space for economic development.
- Reviving a neighborhood center that anchors the surrounding area and provides goods and services.

Exhibit 44, pg. 23-24.

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 land use plans. The Hearing Examiner agrees with both Staff’s and Mr. Iraola’s characterization of the goals and recommendations of both the Sector Plan and the General Plan for the property.

The Hearing Examiner agrees with Staff and Mr. Iraola’s testimony and representations in Exhibits 16 and 38 that the proposed redevelopment is inline with the recommendations of the Sector Plan including creating a network of short blocks and internal streets, the creation of the .5-acre neighborhood green, local street connections and creating building frontages along Rockville Pike and Bou Avenue.

The Hearing Examiner finds the increased density sought, the design of the redevelopment also be in keeping with the goals of the General Plan focusing the growth a “large activity center” and providing a wide choice of housing types for all people of all income levels close to amenities and public transportation. The Hearing Examiner also finds the project will take an underutilized shopping center with easy access to Metro and the addition of housing with 15% MPDUs to be in conformance with both the Sector and General Plans and to be in public interest.

The Hearing Examiner also finds Staff’s review and application of the Sector Plan to proposed redevelopment to be correct and further finds that the Application satisfies the intent and standards of the proposed zone. The Hearing Examiner finds it significant that the Sector Plan identified the subject property as one ripe for a rezoning and the proposals made by the Applicant in keeping with the goals of the Sector Plan. *See Sector Plan*, pg. 44.

2. Compatibility

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.2.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.***

* * *

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

Section 7.2.1.E.2.d. be compatible with existing and approved adjacent development...

Regarding compliance with Section 5.1.2.C, Staff determined that the “proposed development is compatible with the land use, scale and density of the existing urban context”, the “project proposes to protect the character of the adjacent neighborhoods by providing appropriate transitions” using a change in scale to reinforce the transition from “mixed use towards a residential character that defines the edges of the defined neighborhood boundary” Exhibit 44, pgs. 28-29. The Applicant’s land use report states the proposed development “works to mitigate any negative impacts to the overall site through streetscape and architectural design.” Exhibit 16, pg. 12.

The Applicant addressing Section 5.3.2 in its land use report stated as follows:

The Application satisfies all three of these purposes. It will allow redevelopment of what is currently a strip-type shopping center with vast amounts of asphalt and surface parking into a mixed-use development with appropriate density for such a transit-proximate site, a wide range of uses permitted by the CR Zone, and significant open space. As discussed throughout, the Project is compatible with adjacent development,

as such is primarily comprised of commercial and retail uses with their own large areas of asphalt and surface parking (with an 18-story condominium building directly to the south), which under their current zoning could redevelop similar to what is now proposed for the Property by this Application.

Exhibit 44, pgs. 12.

The Applicant's expert Mr. Iraola opined that the project is compatible with the existing and approved adjacent development noting that there are no single-family residences located anywhere near the property nor any other residentially zoned land. T. 55. Additionally, Mr. Iraola determined that the subject property and all the surrounding properties areas are zoned for significantly greater density and height to what is currently developed. T. 55. He further opined that given the age of the adjacent commercial uses, it is likely they will also redevelop in a similar scale to what is being proposed by this project. T. 55.

Conclusion: As identified at the start of this section, the Zoning Ordinance requires review of several different sections to determine a proposed development's "compatibility" with the surrounding established neighborhoods and existing development. The Hearing Examiner agrees with Staff and Mr. Iraola that the proposed floating zone plan is compatible with the existing and approved adjacent development. The Hearing Examiner finds persuasive the fact that the property is surrounded by existing commercial and retail uses and an 18-story condominium building to the South and the fact that the other underutilized commercial shopping centers in the area that are also zoned for higher density and will more than likely redevelop in the foreseeable future.

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.2.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.2.b: further the public interest...

* * *

Section 7.2.1.E.2.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..."

Traffic

Staff referenced the *2020-2024 Growth and Infrastructure Policy* (GIP) requiring the evaluation of all transportation modes, including auto-driver, transit, walking and biking. Exhibit 44, pg. 32. Because the proposed development will generate more than 50 net new peak hour person trips, the Applicant prepared the local transportation area review (LATR) first in July 2024 and then updated the same several times with the last version submitted in February 2025. T. 60. Staff in reviewing the proposed development determined the Project is estimated to "generate 805 total peak hour person trips in the morning and 1,066 total peak hour person trips in the evening." Exhibit 44, pg. 32. Further, determining "after accounting for peak hour person trips currently associated with the existing 81,000 square feet of retail on the Site, (193 morning peak hour person trips and 347 evening peak hour person trips), the Project is estimated to generate 612 net new morning peak hour person trips and 719 net new evening peak hour person trips." *Id.* See chart below, *Id.*

Table 3: Pike Center Estimated Person Trip Generation

Land Use	Morning Peak Hour	Evening Peak Hour
Existing (credit)		
Shopping Plaza (no supermarket) 81,000 square feet	193	347
Proposed		
Multifamily Housing (Mid-Rise) 290 units	179	174
Multifamily Housing (High-Rise) 470 units	188	224
Shopping Plaza (with supermarket) 90,000 square feet	438	668
Net New Person Trips	+612	+719

Source: Local Area Transportation Review (LATR) Study by Wells and Associates dated October 21, 2024, modified by Planning Staff

Additionally, Staff note that the property is located in an Orange Policy area which permits an intersection congestion standard of 71 seconds of delay per vehicle, and the property is also immediately adjacent to two Red Policy areas which do not have a congestion standard. *Id.*

Regarding the analysis performed by the Applicant, Staff noted the following:

Additionally, the Applicant also analyzed two different future condition scenarios. The first reflected their preferred proposed plan. The second was developed in consultation with MCDOT, and assumed more limited access to the Subject Property. Specifically, this scenario assumed that the driveway access on Bou Avenue would be limited to right-in- right-out movements only. The scenario also assumed the intersection of Chapman Avenue and Rollins Avenue would be signalized and that the driveway access on Chapman Avenue would be limited to service vehicles only. MCDOT has not yet determined if these restrictions will be required. However, the Applicant was requested to study this scenario to understand the worst case access scenario.

Id. The Staff report included “Table 4” for each of the 18 intersections that were studied which demonstrated acceptable levels of congestion. *Id.*

Mr. Workosky, Applicant’s transportation expert, testified at length to the efforts taken to study and document the multimodal adequacy tests required for the LATR. T. 64-82. Mr. Workosky and his team studied a total of 17 intersections, noting the original analysis was done in October 2024 and then updated several more times. T. 69. The team reviewed current conditions, future conditions without redevelopment, and pipeline projects and then added in the traffic generated by the new development looking at the different extensions, turns in and out, critical lane volume and highway capacity analysis to make sure the intersections operated within the acceptable

thresholds for each phase. T. 69-71. Ultimately, Mr. Workosky opined the intersections would meet the motor vehicle test requirements and there would be very minor, increases by the additional vehicle trips that the site would generate so no major queuing issue would impact traffic operations. T. 70. Regarding pedestrian and bicycle adequacy test, Mr. Workosky conducted review of the cross-walks and ramps identified for potential mitigation, and he also noted that the improvements being made by the redevelopment will help reduce the bicycle traffic stress. T. 72-73.

Both Staff and Mr. Workosky note that additional traffic analysis may be required by County Department of Transportation at the time of Preliminary Plan. T. 72, 82 and Exhibit 44, pg. 35. Mr. Workosky opined that based on the multi-modal traffic analysis evaluated "that the motor vehicle conditions, pedestrian evaluation, bicycle evaluation, transit evaluation and safety, the project circulation systems will adequately and efficiently serve the site." T. 81. Mr. Workosky also opined that the application and floating zone plan do not exceed the critical lane volume or volume capacity ration applicable under the LATR and further that planned improvements will accommodate the additional trips." T. 82.

Public Interest and Satisfaction of Intent and Standards of the Proposed Zone Discussion

Staff advise that the project furthers the public interest by "maximizing the properties uses, density and functions and provides housing, transportation improvements, environmental enhancements and community facilities." Exhibit 44, pg. 23. As discussed in Part V. A.1. above, the Sector Plan recommends a floating zone for the property to create a mixed-use destination in what is now an underutilized shopping center. *Id.* Additionally, Staff determined that with the increase to 2.5 FAR for commercial and 2.25 FAR for residential the project will address a need for housing, including MPDUs within close proximity to high-capacity transit and provide sufficient space for residential dwelling units. Exhibit 44, pg. 24.

Conclusion: Based upon the testimony of the Applicant's experts and the determinations made in the Staff report, and as stated in Part V. A.1. above the Hearing Examiner finds again that

the project to be in the public interest. Based on the LATR submitted, the testimony of Mr. Workosky, and the Staff report, the Hearing Examiner finds that multimodal analysis completed demonstrates that project's circulation systems will adequately and efficiently serve the site. Additionally, the Hearing Examiner notes that the finer details regarding transportation will be determined at a later stage of the development process. In addition, based on the testimony and evidence submitted and reviewed as part of Part V.A.1 above, the Hearing Examiner finds that the overall proposed development to be in balance with the existing and planned infrastructure.

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 the particular zone requested. Several of these have already been analyzed in Part V.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...

In analyzing Section 59.5.1.2.A., Staff determined the proposed redevelopment "capitalizes on the Project's convenient and transit accessible location to increase the amount of housing available in an area with the infrastructure to support it." Exhibit 44, pg. 26. Adding that the project

“represents an efficient and sustainable land use by redeveloping an underutilized site that will connect future residents to the surrounding community and regional destinations.” *Id.* Mr. Iraola, the Applicant's land use expert, concluded in the land use report he prepared that

[P]roposed development works to mitigate any negative impacts to the overall site through streetscape and architectural design. Streetscape enhancements on Rockville Pike, Bou Avenue, and Chapman Avenue, as well as on the internal private streets, are organized to be compatible with the vision of neighborhood streets as described in the White Flint 2 Sector Plan and the Complete Street Design Guidelines. These standards will enhance pedestrian and bike infrastructure. The proposed continuous edge of street trees offers shade for human comfort, but also adds a visual rhythm and unifying edge in front of the diverse storefronts, stoops, and other building conditions. As surrounding parcels redevelop, the application of these street standards will help unify the larger neighborhood while prioritizing a more pedestrian and transit-oriented place.

This proposed half- acre Neighborhood Green provides shared recreation, amenity, and green space to support the increase in density and intensity of this urban development. The Neighborhood Green located on Rockville Pike enables this space to feel publicly accessible to the greater neighborhood.

Services, loading bays, and parking facilities are located internal to the block. Active building uses enclose these facilities concealing them from the streetscape and public view. Access to both parking and services are limited to a few entrances and exits to minimize distribution to the sidewalk network.

Exhibit 16, pg. 12.

Conclusion: The Hearing Examiner agrees with Staff and the Applicant and finds that the project has been designed to in such a way to be compatible with the “vision of the neighborhood” and does capitalize on the convenient and transit-accessible location.

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

Both Staff and the Applicant point to the fact that the proposed LMA addresses recommendations in both Sector Plan and General Plan. Exhibit 44, pg. 27 and Exhibit 16, pg. 4. Both Staff and the Applicant also agree that the LMA addresses the need for additional housing located a short distance from transit and repurposing an underutilized shopping center responds to recent real estate development concentrating population and commerce centers along major corridors with existing infrastructure. *Id.* Staff note rezoning remains flexible in a number of ways that can be adjusted since the development will be constructed in phases. *Id.*

Staff determined the proposal is suitable for the property based on the size and base zone. *Id.* Additionally, Staff noted the property is located within a fast-growing corridor “slated for new residential uses and mixed-uses to serve a broader range of needs, satisfying a growing, diverse and evolving population.” *Id.* The Applicant’s expert Mr. Fitzsimmons opined that the proposed redevelopment satisfies the County’s smart growth goals by creating dense compact development with mixed uses served by transportation infrastructure and design. T. 103. Further the design encourages walking, biking, and transit use in an area that can support additional development while minimizing environmental impacts elsewhere in the County. T. 103.

Conclusion: The Hearing Examiner agrees with Staff and the Applicant that the project meets the intent of the floating zone. This project will provide additional transit-accessible housing in conformance with the Sector Plan. The development satisfies the sustainability requirements through redevelopment of an underutilized shopping center to create a mixed-use project serving a growing, diverse and evolving County population taking advantage of existing infrastructure.

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 59.5.3.2 above

Conclusion: The Hearing Examiner already found in Part V.A.2 of this Report (relating to compatibility of the use with surrounding development) that the FZP furthers the purpose of §5.3.2. To discuss again the remaining purposes are redundant considering the findings already made. The FZP has been designed to complement the character of the adjacent neighborhoods through building mass, varied building heights, and street activation. Additionally, the mixed-use transit oriented project is in keeping with both the City of Rockville and the County's vision for the area. 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 an Agricultural or Rural Residential Zone. The Hearing Examiner finds that the property is in neither an Agricultural or Rural Residential Zone, and additionally, the Hearing Examiner finds that the Sector Plan recommends rezoning the property to a CR Zone in the future. Considering this fact, no prerequisites are required for this application.

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 and a variety of commercial uses including retail and restaurant uses are permitted in a CR Zone³.

2. Development Standards of the CRF Zone

Section 5.3.5 Development Standards.

Staff correctly note that the design of the development will be finalized and reviewed by the Planning Board at the time of subsequent Preliminary and Site Plan review. Exhibit 44, pg. 29. Staff also note that the height and principal building setbacks from the site boundaries are shown on the Floating Zone Plan. *Id.* Staff

³ See Use Table 3.1.6.

determined that the FZP meets the development standards of the CRF (Zoning Ordinance, §59.5.3.5), as demonstrated in the table from the Staff Report (*Id.* at pgs. 29-30, shown below).

Table 1: Development Standards and Parking Requirements for the CRF Zone

Development Standard	Permitted/ Required	Proposed
Tract Area	n/a	358,752 sq. ft. (8.24 ac.)
Prior Dedication	n/a	66,312 sq. ft. (1.52 ac.)
Proposed Dedications	n/a	19,085 sq. ft. (0.44 ac.)
Site Area	n/a	273,355 sq. ft. (6.27 ac.)
Density		
Residential	807,192 sq. ft. (2.25 FAR)	806,880 sq. ft. (2.25 FAR)
Commercial	269,064 sq. ft. (0.75 FAR)	90,000 sq. ft. (0.25 FAR)
Minimum Lot Area	Determined at Site Plan	To be determined
Minimum Lot Frontage	Determined at Site Plan	To be determined
Minimum Lot width at B.R.L.	Determined at Site Plan	To be determined
Maximum Lot Coverage	Determined at Site Plan	To be determined
Building Height	200 ft.	90 ft. (Bldg. A); 200 ft. (Bldg. B)
Principle Building setbacks² (min.)		
Front	Determined at FZP	9 feet
Side Street (Bou Ave.)	Determined at FZP	2 feet
Side (interior lot line to a structure)	Determined at FZP	25 feet
Rear (Chapman Ave.)	Determined at FZP	2 feet
Site Plan Required	Yes	Future application
Public Open Space	27,336 sq. ft. (10% of Site area)	27,500 sq. ft.

Exhibit 44, Staff Report, Table 1, pg. 29

Table 2: Parking Requirements for the CRF Zone

	Permitted/ Required*	Proposed*
Multifamily Residential <i>1 space - Efficiency 1.25 spaces - 1 BR unit 1.5 spaces - 2 BR units 2.0 spaces for 3 BR units</i>	Determined at Site Plan	1,274 spaces ³
Commercial <i>5 spaces per 1,000 sf. of gross leasable space for retail sales and service</i>	Determined at Site Plan	To be determined

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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. As properly identified by Staff, these final design determinations will be made during the preliminary and site plan stages. Staff identified the number of proposed units against the parking requirements. See table on prior page.

Staff footnote the table above stating that because the Application has not provided the proposed bedroom mix in the two proposed buildings, confirmation of parking figures cannot be completed at this time but will be determined at site plan review. *Id.* The Hearing Examiner agrees with Staff and finds that project meets the development standards for the CRF-2.25, C-0.75, R-2.25, H-100 Zone.

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-155, requesting reclassification from the existing CR-2.0, C-0.75, R-1.5, H-200' Zone to CRF-2.5 C-0.75, R-2.25, H-200' (Commercial Residential Floating) located at 12101-12151 Rockville Pike, Rockville, Mayland 20852 (Tax Account No. 04-00134890), be **approved** in the amount requested and subject to the specifications and requirements of the Floating Zone Plan (Exhibit 48) provided that the Applicant files a final executed Declaration of Covenants 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: July 10, 2025.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'KB', with a long horizontal flourish extending to the right.

Kathleen E. Byrne
Hearing Examiner