Resolution No.:	20-1236
Introduced:	September 29, 2026
Adopted:	October 13, 2026

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

By: District Council

SUBJECT: Opinion and Resolution on Application Number H-160 for Amendment to the Zoning Ordinance Map, Patrick L. O'Neil, Esq., and Vincent Biase, Esq., Attorneys for the Applicant, Foundation for Advanced Education in the Sciences; Tax Account Number 07-437247.

Opinion

Foundation for Advanced Education in the Sciences ("FAES" or "Applicant"), by and through its attorneys, Patrick L. O'Neil, Esq., and Vincent Biase, Esq., of Lerch, Early & Brewer, Chtd., submitted Local Map Amendment (LMA) Floating Zone application number H-160 on November 28, 2025. The Application seeks to rezone a 1.85-acre property from R-60/TDR-8.0 to CRTF-1.25, C-1.0, R-1.0, H 55' located at 9101 Old Georgetown Road, Bethesda, Maryland 20814, Plat Number 25853, 0 feet Northeast of West Cedar Lane, Tax Number 07-437247 (Property). Exhibit 45.c.

Planning Staff recommended approval with binding elements. Exhibit 57. The Planning Board also recommended approval of this application with binding elements (Exhibit 44) and a Forest Conservation Plan (FCP) Number F20260270 with conditions. Exhibit 54.

On June 9, 2026, the Office of Zoning and Administrative Hearings (OZAH) mailed out a Notice of Rescheduled Public Hearing and Notice of Motion to Amend.[1] Exhibit 46. The Notice, sent to an updated Notice List supplied by Applicant, scheduled a public hearing for July 13, 2026. The hybrid hearing was held as scheduled on July 13, 2026. The Record was held open for 10 business days until June 11, 2026, to allow for receipt of the Court Reporter Transcript, the signed Affidavit of Posting, and a replacement Floating Zone Plan.

To avoid unnecessary detail in this Opinion, the Hearing Examiner's Report is incorporated herein by reference, including the Errata correcting the acreage of the property from 1.48 to 1.85 acres.

[1] See Exhibits 43 and 45. On April 30, 2026, the Hearing Examiner had sent a notice of hearing scheduling the hearing for June 5, 2026. However, this hearing was postponed to allow the Applicant to file a motion to amend the application.

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 and Surrounding Area

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

The Hearing Examiner agreed with the Staff-defined surrounding area delineated as follows:

> "…defined by major roadways which border this area of Bethesda: Alta Vista Road to the north, West Cedar Lane to the south, and Locust Avenue to the east. The western boundary of the Neighborhood is defined by Old Georgetown Road and a limited portion of the R-60 zoned neighborhood along Old Georgetown Road…". Exhibit 57, p. 5.

The District Council accepts this identification of the surrounding area.

Proposed Development

FAES proposes to rezone 1.85 acres of land from the R-60 Zone/TDR-8.0 Overlay Zone to the CRTF-1.25, C-1.00, R-1.00, H-55' (Commercial Residential Town) Floating Zone. The rezoning would allow the redevelopment of the Property, which was most recently used as a private club and surface parking (low-intensity special exception), to a residentially scaled compact mixed-use community. The Applicant proposes to remove the existing building and surface parking lot to construct this Project, which consists of a maximum mixed-use density of up to 66,000 square feet, including up to eighteen (18) dwelling units, comprised of nine (9) townhouse units and nine (9) multi-family residential units, and up to 5,000 square feet of community clubhouse/institutional uses (the Project). The clubhouse is centrally located directly adjacent to the community open spaces and will provide flexible space for meetings, events, on-site programming and neighborhood gatherings.

This proposal provides a four-story mixed-use building at the corner of Old Georgetown Road and West Cedar Lane. On the ground floor of this building, there are amenity spaces fronting on Old Georgetown Road with direct sidewalk access, as well as a side entry that opens onto a patio and the proposed open space. The portion of the ground floor fronting onto West Cedar Lane consists of parking spaces, which will be architecturally screened from the public realm along this frontage. In addition to the mixed-use building, there are nine (9) townhouse units fronting the central open space.

Binding Elements

The Applicant's Floating Zone Plan has the following five (5) binding elements:

1. Use of the property will be limited to a mixed-use residential development, with no more than 5,000 square feet of community clubhouse/institutional use.
2. The Applicant must maintain minimum building setbacks as shown on the Floating Zone Plan, and a maximum building height of fifty-five (55) feet.
3. Total residential units on-site will not exceed eighteen (18) units.
4. Limited access on West Cedar Lane and Old Georgetown Road remains with a right-in, right-out configuration.
5. The existing conditional uses and special exceptions on the Subject Property must be vacated before approval of either the Preliminary Plan or Site Plan.

Criteria for Approval

To approve an LMA, the District Council must find that the proposal will meet the standards required by the Zoning Ordinance and that it will be consistent with the coordinated and systematic development of the Regional District. See, *Md. Land Use Art.,* Section 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 District Council must make to approve the application. *See, Zoning Ordinance*, Section 59.7.2.1.E. These standards incorporate the requirements of other sections of the Zoning Ordinance, and most fall within three (3) main categories: (1) conformance with the Master Plan, (2) compatibility with the surrounding area and adjacent properties, and (3) whether the project is supported by adequate public facilities.

Conformance with the Master Plan[2]

The Hearing Examiner agreed with the Planning Staff analysis that the Property is located within the 1990 Bethesda-Chevy Chase Master Plan area, which does not contain any site-specific recommendations for the Property, nor does it recommend this site for a floating zone. Exhibit 57, p. 7. The Property is currently improved with an existing 3,274-square-foot private club and service organization building/use that was constructed under Special Exceptions BA-916 and BAS-615. *Id*. The Property is surrounded by predominantly R-60-zoned single-family neighborhoods and institutional and community-serving uses which support the NIH and residents, on all sides. The Master Plan generally reaffirms the existing uses within the Master Plan area; however, the Master Plan also includes an area-wide recommendation which endorses "housing as the primary future alternative use" if the institutional uses within the area were ever redeveloped. Exhibit 57, p. 8.

[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 satisfy the intent of Floating Zones. The intent of Floating Zones incorporates compliance with the applicable master plan. *Zoning Ordinance,* Section 59-5.1.2.A.1.

The Hearing Examiner also found compelling Planning Staff's analysis of how the proposed development aligns with Thrive Montgomery 2050, which is the County's General Plan. Exhibit 57, p. 14:

> "*The Application is strongly aligned with policies in the Compact Growth chapter and the Housing for All chapter, particularly in proposing a compact, infill residential project that will provide housing and density along the Old Georgetown Road corridor. Additionally, the Project aligns with the recommendation to provide more housing with a diversity of typologies (p. 121). The Application proposes nine townhouses and nine multi-family residential units, along with a community clubhouse, on land to be redeveloped as an infill project, while providing a greater density and diversity of options for housing. Additionally, the Project is located directly adjacent to the NIH and along the Old Georgetown Road corridor; there are several bus routes along Old Georgetown Road and the Bethesda Metro (Medical Center Station) is 1.2 miles away." Id.*

The District Council agrees with the Hearing Examiner who found that Planning Staff's assessment is supported by Applicant's evidence and the testimony of Applicant's experts, and that the proposed Floating Zone request to rezone the Property from the R-60 zone and TDR-8.0 overlay zone to the CRTF-1.25, C-1.0, R-1.0, H-55 zone to allow redevelopment of the Property with a residential mixed-use development is in conformance with the 1990 Bethesda-Chevy Chase Master Plan and Thrive Montgomery 2050.

Compability

Several sections of the Zoning Ordinance require the District Council to decide whether the FZP is compatible with adjacent uses and the surrounding area.[3] The Hearing Examiner found that the FZP would be compatible with both adjacent properties and the surrounding area. Based on this record, the District Council finds that the proposed development is compatible with the surrounding area.

Specifically, the District Council agrees with the Hearing Examiner's findings - agreeing with Staff - that the proposed Floating Zone Plan has been carefully designed to ensure compatibility with the surrounding neighborhood. The proposed density falls below the maximum allowed for the Property, while the layout ensures compatibility with nearby single-family homes and maintains the Old Georgetown Road corridor's residential character. The Floating Zone accommodates a compact, pedestrian-oriented layout that is organized around a centrally located community green, landscaped buffers and buildings sited to work with topography and complement neighboring properties. The Floating Zone permits flexibility in uses for the site. The CRTF zone supports the development of the site to include nine (9) townhouse units, nine (9)

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

multi-family units, and a 5,000-square-foot community clubhouse. The proposed building architecture is designed to ensure compatibility with the surrounding neighborhoods. The proposed development expands options for housing and maintains a predominantly residential character. The Floating Zone also enables redevelopment that supports local employment centers, such as NIH and Suburban Hospital, and does so without overwhelming public infrastructure or impacting surrounding neighborhoods. Exhibit 57, p. 21.

Adequacy of Public Facilities/Public Interest

The District Council must also find that public facilities will be adequate to serve the FZP.[4]

The FZP must comply with the Planning Board's Local Area Transportation Review (LATR) Guidelines. *Zoning Ordinance,* 59.7.2.1.E.1.c. The 2024-2028 Growth and Infrastructure Policy (GIP) requires a Transportation Impact Study (TIS) for any project that is estimated to generate a net increase of 30 or more motor vehicle trips in either the morning or evening peak hours. As that is not the case for this Application, the LATR review is satisfied with a transportation exemption statement. Applicant submitted a Transportation Exemption Statement. Exhibit 19 shows that the project generates fewer than 30 peak hour vehicle trips and is therefore exempt from requiring a full LATR transportation impact study.

A summary of the trip generation analysis provided by Planning Staff (Table 5 below, Exhibit 7, p.27) is reproduced below:

Use	**Quantity**	**AM ITE Vehicle Rates**	**PM ITE Vehicle Rates**	**AM Adjusted Policy Area Rates**	**PM Adjusted Policy Area Rates**
Existing Clubhouse ITE-495	3,279 sf	0	0	0	0
Proposed Single Family Attached Housing	9 units	4	5	3	4

[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 be "it will be consistent with a coordinated and systematic development of the Regional District" under State law. Zoning Ordinance, Section 59-7.2.1.E.1.b; *Md. Land Use Art*., Section 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, Section 59-7.2.1.E.1.b; 59-5.1.2.A.2.

ITE- 215					
Proposed Multifamily Low Rise ITE-220	9 units	4	5	4	5
			Net Change	**7**	**9**

Schools:

Even though a more comprehensive Adequate Public Facilities analysis will be done at the site plan stage, Planning Staff still performed an analysis of school capacity and concluded that if this Project were to proceed with a development application within fiscal year 2026, the Project would be subject to a Tier 1 Utilization Premium Payment at the middle school level. Exhibit 57, p. 17-19. According to Planning Staff, the Property is served by Wyngate Elementary School, North Bethesda Middle School and Walter Johnson High School. The Hearing Examiner's Report contains the enrollment and capacity projections of these schools reflected in the FY2026 Annual School Test, and the Utilization Premium Payment (UPP) tier placements by default. The FY2026 Annual School Test, approved by the Planning Board on June 26, 2025, and effective as of July 1, 2025, evaluates the adequacy of public school capacity for development applications reviewed throughout the fiscal year based on projections for the 2029-2030 school year.

Additional payments would also be triggered if the estimated enrollment impact at any school level exceeds the applicable adequacy ceilings. In the estimation of Planning Staff, the proposed development, which proposes a maximum of nine (9) single-family attached units and nine (9) multi-family low-rise units, results in a potential addition of two (2) elementary school students, one (1) middle school student, and two (2) high school students. This does not exceed the adequacy ceilings identified in Table 2 of the Planning Staff report. Therefore, no additional payment would be triggered outside of the default Tier 1 UPP at the middle school level.

Water and Sewer:

The Hearing Examiner accepted the testimony of Applicant's expert that the property is currently located in water and sewer service category W1 and S1, which means it is served by existing public water and sewer infrastructure. The proposed project will connect to that existing public water and sewer service system. T. 95.

The Hearing Examiner further found compelling the expert testimony that other dry utilities, including electric, gas, and telecommunications, are also available along both street frontages and are available to the subject property. Final availability of all of those will be coordinated during later plan review. *Id*. Mr. Kevin Foster, who testified on Applicant's behalf as an expert in land planning who served on the planning and civil engineering team, confirmed compliance with fire access lanes and approval of the Fire and Rescue Plan by DPS (Exhibit 36; T. 94). He also testified that regarding the Stormwater Management Strategy, even though the final plan is not required to

be approved at this stage, they went a step further and got the Stormwater Management Concept Plan approved. Exhibit 51; T. 96.

According to Planning Staff, regarding transit and infrastructure:

1. The site has frontage on, and vehicular, bicycle, and pedestrian access to, at least two (2) roads, at least one of which is nonresidential.

2. The site is served by existing water and sewer infrastructure that will not require either an upgrade to the service line or installation of a pump station due to the proposed development.

The Property has frontage along Old Georgetown Road and West Cedar Lane, both of which provide pedestrian and bicyclist access to the Property. Vehicular access is accommodated by Old Georgetown Road and West Cedar Lane. Old Georgetown Road is classified as a non-residential street. The Property is currently served by existing water and sewer. The water and sewer needs for the Project will be met through connections to these existing lines. The Project will not require an upgrade to the service line or installation of a pump station for the proposed development. Exhibit 57.

The testimony of Applicant's expert witness that the property meets the prerequisites for the requested CRTF Zone because the property fronts on Old Georgetown Road, which is a nonresidential street is supported by the record. The application satisfies required floating zone prerequisites related to transit, infrastructure, vicinity, facilities, environmental and resources. T.81. The property has frontage on both Old Georgetown Road and West Cedar Lane and will provide vehicular, bicycle and pedestrian access associated with those frontages. The property is also served by existing public water and sewer infrastructure and is not expected to require any pump station or major water service and sewer upgrades.

The District Council agrees with the findings of the Hearing Examiner that on the basis of the foregoing and a review of the totality of the evidence and testimony presented by Applicant, that all the "Necessary Findings" required by Zoning Ordinance Section 59.7.2.1.E.2. have been established by this Record, including the analysis of Planning Staff supported by the evidence presented by Applicant and the testimony of its expert witnesses. The record supports the findings that adequate public facilities exist to support this development.

The Intent of 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.[5] The balance of those (from Section 59-5.1.2) are:

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

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

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

The Hearing Examiner found that the FZP meets this standard and the District Council agrees because the Project, among other things, will enable the repurposing of the current institutional (club house) use and redesign it to incorporate a variety of housing options in a manner that is compatible with the predominantly residential neighborhood in close proximity to transit and other institutional uses, the exact type of flexibility envisioned by the Zoning Ordinance:

> *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;…*

Purpose of the Commercial Residential Floating Zones (Section 59.5.3.2)

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

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

The District Council finds based on the record that the development proposed meets the general intent of floating zones and the specific intent of the Commercial Residential Floating Zones. The record demonstrates that this rezoning will allow a mixed use development of townhouses and community event space and provide flexible use of this site and will add to the much needed housing stock of the County in an area where this will support not only the scientific and research endeavors of the NIH and surrounding academic institutions but the region more broadly.

Applicability of a Floating Zone (Section 59.5.1.3)

Section 59.5.1.3 of the Zoning Ordinance has some specific applicability requirements. A Floating zone must not be approved for property that is in an Agricultural or Rural Residential zone.[6] This provision does not apply because the subject property is not in an agricultural or rural residential

[6] Subsection A

zone. Planning Staff analyzed that the Property is currently zoned R-60 within a TDR-8.0 Overlay Zone, rather than an Agricultural or Rural Residential zone,[7] so a floating zone can be approved on this property.

Uses and Building Types Permitted (Section 59.5.3.3)

The District Council agrees with the Hearing Examiner's adoption of Planning Staff's analysis of these requirements as follows at pages 24-25 of the Staff Report (Exhibit 57):

> **Commercial/Residential Floating Zones - Land Uses (59-5.3.3)** In the CRTF zone, only the uses allowed in the CRT zone are allowed. Pursuant to Section 59.3.1.6 (Use Table), townhouse living, multi-unit living, and clubhouse, as proposed, are permitted uses within the CRT zone.
>
> **Commercial/Residential Floating Zones - Building Types Allowed (59-5.3.4)** The CRTF zone allows any building type.
>
> **Commercial/Residential Floating Zones - Development Standards (59-5.3.5)** The design of the development will be finalized and reviewed by the Montgomery County Planning Board at the time of subsequent Sketch Plan, Preliminary Plan (if necessary), and Site Plan review. The Proposed Floating Zone will meet the Development Standards, as listed in Sections 59-5.3.5.A - Density, 59-5.3.5.B - Height, and 59-5.3.5.C - Setback, for the CRTF Zone.

The Hearing Examiner agreed with Planning Staff that the design of the development will be finalized and reviewed by the Montgomery County Planning Board at the time of subsequent Preliminary Plan and Site Plan review. The District Council is satisfied as was the Hearing Examiner that the Project as presented will meet the Development Standards for the CRTF Zone. The District Council further finds that the following binding elements included in the FZP ensure compliance with the applicable development standards for this zone and safeguard the surrounding neighborhood:

1. Use of the property will be limited to a mixed-use residential development, with no more than 5,000 square feet of community clubhouse/institutional use.
2. The Applicant must maintain minimum building setbacks as shown on the Floating Zone Plan, and a maximum building height of fifty-five (55) feet.
3. Total residential units on-site will not exceed eighteen (18) units.
4. Limited access on West Cedar Lane and Old Georgetown Road remains with a right-in, right-out configuration.
5. The existing conditional uses and special exceptions on the Subject Property must be vacated before approval of either the Preliminary Plan or Site Plan.

Based on a review of the application materials, the analysis of Planning Staff, and the testimony of Applicant's witnesses, including the expert witnesses, the Hearing Examiner finds that the

[7] Section 59.5.1.3.A of the Zoning Ordinance prohibits the approval of a Floating Zone in an Agricultural or Rural Residential Zone.

proposed development will meet these development standards to the extent warranted at this stage and satisfies the necessary findings for approval of a local map amendment, subject to additional details where noted to be determined at the site plan and later development stages as provided by law. The District Council concurs with the Hearing Examiner's finding.

Requirements of Article 59.6

Article 59.6 of the Zoning Ordinance contains general development standards for most developments. These standards regulate the number and design of parking spaces, drive aisles, landscaping, lighting and public and private open space. Based on the undisputed evidence at this stage, the District Council is satisfied that Applicant's proposal will be able to meet these standards, subject to review and modification of the particulars during site plan review.

Conclusion

Based on the foregoing analysis and after a thorough review of the entire record, including the Hearing Examiner's Report issued September 11, 2026, 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:

> LMA Application Number H- 160 requesting reclassification from the existing R-60 Zone/TDR-8.0 Overlay Zone to the CRTF-1.25, C-1.00, R-1.00, H-55' (Commercial Residential Town Floating) Zone of the Property located at 9101 Old Georgetown Road, Bethesda, Maryland 20814, Plat Number 25853, 0 feet Northeast of West Cedar Lane, Tax Number 07-437247 is approved as requested and subject to the specifications and requirements of the Floating Zone Plan (Exhibit 33.a), provided that the Applicant files an executed Declaration of Covenants (Exhibit 45.h) 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 Sections 59.7.2.1.H.1.a. and b. of the Zoning Ordinance.

This is a correct copy of Council action.



Sara R. Tenenbaum,
Clerk of the Council