

**BEFORE THE DISTRICT COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

IN THE MATTER OF AN APPLICATION FOR *
REZONING TO THE CRF * **Zoning Application No. H-___**
(COMMERCIAL RESIDENTIAL – FLOATING) *
ZONING CLASSIFICATION FOR PROPERTY *
LOCATED AT 2220 BROADBIRCH DRIVE *

STATEMENT OF JUSTIFICATION

A. Project Overview

The Petitioner, White Oak Apartments LLC, is requesting a rezoning of 7.83 acres (340,838 square feet) of land from the CR-0.75, C-0.75, R-0.25, H-75 zone to the **CRF-1.25, C-0.25, R-1.25, H-85 Zone** to allow a maximum development density on the property of 447,510 square feet or 1.25 FAR, all of which is proposed to be allocated to residential use that would consist of approximately 390 multi-family dwelling units of which at least 12.5% would be affordable as moderately priced dwelling units (MPDUs). The development density being sought by this application for the subject property is far less than the maximum density of 8.0 FAR allowable under Section 59-5.3.5.A.2 of the Zoning Ordinance based on tract size, to support the necessary findings of approval under Section 59-7.2.1.

The proposed development furthers the intent and goals of the *2014 White Oak Science Gateway Master Plan* and satisfies the intent statement and necessary findings for a rezoning to the CRF zone. Existing improvements on the property include a single-story 66,150 square foot office building with associated surface parking areas that will be razed to facilitate the proposed development shown on the submitted Floating Zone Plan.

B. Subject Property

The Subject Property, located at 2220 Broadbirch Drive, also known as Parcel EEEE on Plat No. 21173, consists of approximately 340,921 square feet or 7.83 acres of net lot area in the CR-0.75, C-0.75, R-0.25, H-75 Zone (see below excerpt of Zoning Map).



Broadbirch Drive is a Business District Street that was originally dedicated to a right-of-way width of 80 feet per Plat No. 14090. Based on these previous plats, there is additional land area of 17,170 square feet that is attributable to the Subject Property, resulting in a gross tract area (GTA) of 358,008 square feet. Located within the Life Sciences/FDA Village Center area, the Property is subject to the recommendations of the *2014 White Oak Science Gateway Master Plan* (the “Master Plan”). The site is improved with a single-story 66,150 square foot office building that will be razed to facilitate the development proposed under this application.

The property lies within the Little Paint Branch Watershed. It is not within a special protection area or primary management area, and there is no floodplain on site per FEMA Map #24031C0390D. A field investigation conducted on November 16, 2020 did not identify any wetlands, rare or threatened/endangered species or intermittent stream on site. Upon further

evaluation by M-NCPPC environmental staff in conjunction with the property's NRI/FSD approval, it was determined that the observed water flow relative to an existing drainage ditch/channel located in the southwestern corner of the site was sufficiently characteristic of an intermittent stream pursuant to parameters outlined in the County's Environmental Guidelines. Accordingly, the NRI/FSD was approved on April 14, 2021 (#420211170) with associated buffers shown in response to staff comments. No historical features or elements were found to be associated with the property.

C. Zoning History

Prior to October 30, 2014, the property was zoned I-1 (Light Industrial) and was located in the Cherry Hill Employment Overlay Zone which allowed for more local and regional retail and services uses than otherwise would have been allowed in the industrial zone and allowed for multi-family residential development under certain circumstances, among other things. The property was then rezoned to the IM-2.5 (Moderate Industrial) Zone when the County comprehensively adopted a new Zoning Ordinance and converted commercial and industrial properties to newly created zoning classifications. The IM-2.5 Zone went into effect on the property on October 30, 2014, but essentially lasted for only one day due to the County's adoption of Section Map Amendment G-966 on October 31, 2014, implementing the zoning recommendations of the *White Oak Science Gateway Master Plan* ("Master Plan"). The Master Plan recommended converting all of the industrial zone properties in the former Cherry Hill Employment Overlay Zone area, inclusive of an area identified as "number 11" within which the Subject Property is located, to the CR Zone.

- Rezone the remaining non-residentially zoned parcels from I-1, I-3, and C-6 to CR-0.75, C-0.75, R-0.25, H-75 (see number 11 on Map 7) to allow eventual transition of the area from service industrial to a mix of commercial and publicly-owned uses.

Master Plan, p. 50

The comprehensive rezoning action to implement the recommendations of the Master Plan (SMA G-966) went into effect on October 31, 2014 at which point the property was officially classified to the CR Zone.

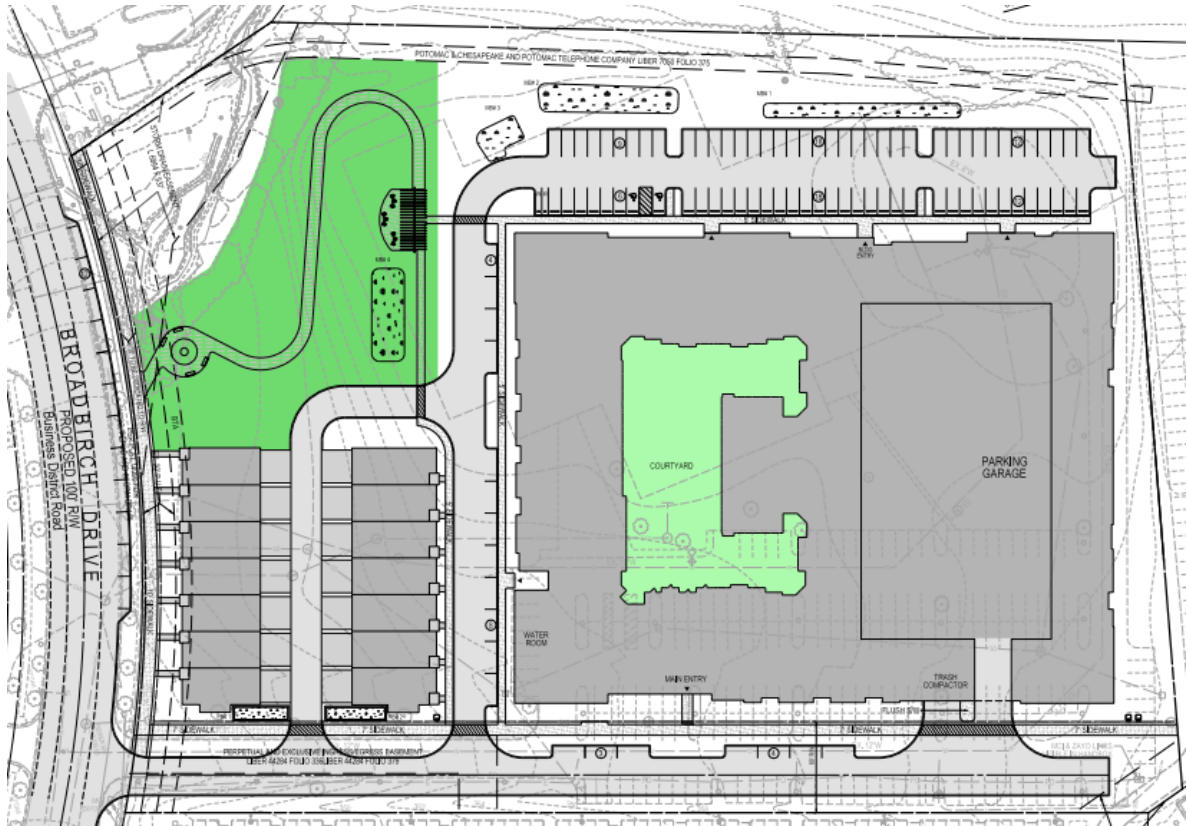
D. Surrounding Area and Adjacent Development



The definition of the surrounding area in a floating zone application takes into account those areas that would be most directly affected by the proposed development. The Applicant would define the surrounding area as bounded by Columbia Pike / US Route 29 on the northwest, by Cherry Hill Road on the northeast, and by Industrial Parkway and FDA Boulevard on the south.

This area is currently home to light industrial and services uses, back offices, public sector facilities and heavy industrial. Developed between the late 1960s to the early 1980s, Montgomery Industrial Park is located along Tech Road and Industrial Parkway. Office buildings along Broadbirch Drive and Bournefield Way constitute the West Farm area developed in the late 1980s. This area also includes a Home Depot and DarCars auto sales and repair center, with more recent development including the restaurant-oriented Westech Village Corner (at Tech Road and Broadbirch Drive), as well as a Hilton Garden Inn Hotel immediately adjacent to the Subject Property to the west on Broadbirch Drive and a Marriott Residence Inn Hotel at Cherry Hill Road and Plum Orchard Drive.

E. Proposed Development

The Petitioner seeks to redevelop the Subject Property with a multi-family project with an allowable maximum development density of 447,510 square feet or 1.25 FAR, consisting of a total of 390 dwelling units within a 5-story residential apartment building and two-over-two multi-living unit structures with both surface and structure parking (total of 530 spaces), on-site public open space and residential amenities, inclusive of an interior courtyard open space for residents (“Project”).



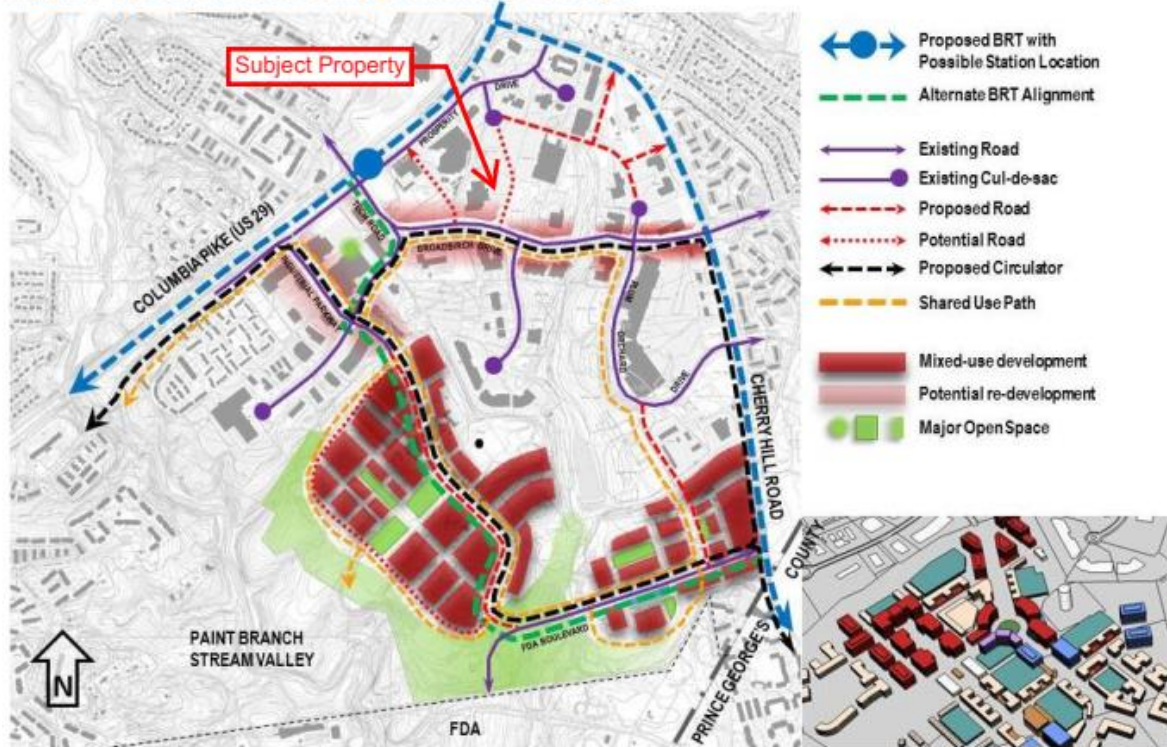
| OPEN SPACE TABLE | |
|--------------------------------------------------------------------------------------------------------|------------|
| NET TRACT AREA: | 336,495 SF |
|  PUBLIC OPEN SPACE | 34,902 SF |
|  PRIVATE OPEN SPACE | 14,674 SF |
| PUBLIC OPEN SPACE REQUIRED: 33,650 SF (10.00%) | |
| PUBLIC OPEN SPACE PROVIDED: 34,902 SF (10.37%) | |

F. Required Findings Under Section 5.1.2. of the Zoning Ordinance (the Floating Zone Intent Statement). The intent statement for a floating zone states that:

1. *The application must be shown to implement comprehensive planning objectives by:*
 - a. *Furthering the goals of the general plan, applicable master plan, and functional master plan*
 - b. *Ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure in the general plan, applicable master plan, functional master plan staging, and applicable public facilities requirements*
 - c. *Allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the property*

As stated above, the Property is located within the 2014 White Oak Science Gateway Master Plan (the “Master Plan”) area and is identified as a ‘potential re-development’ site on the Illustrative Concept for the Life Sciences/FDA Village Center. (See Figure 4, p. 47) The site is ideally located within ¼ mile of the now built and operational Flash BRT Station at Tech Road which serves both the Blue and Orange Routes of the Flash.

Figure 4 Life Sciences/FDA Village Illustrative Concept



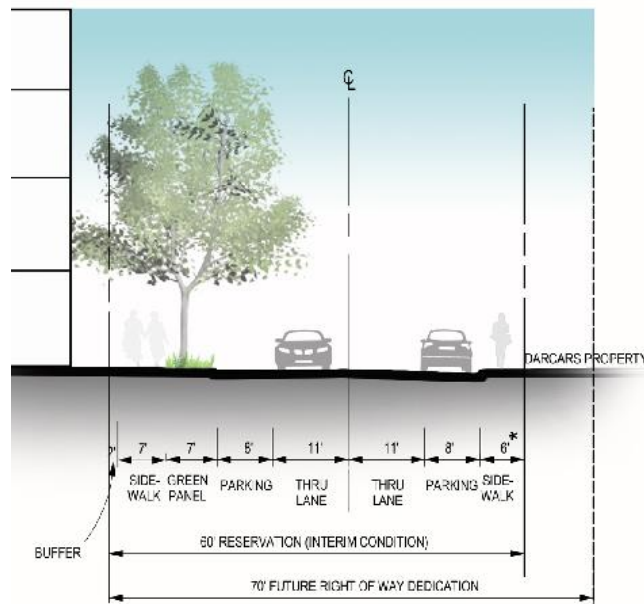
The subject development is consistent with the Master Plan in that it proposes housing in appropriate areas near a now-built Flash BRT line/station. It seeks to introduce development that is compatible and supportive of the area’s existing mix of commercial and employment uses while adding much-needed residential density to further support the County’s significant investment in transit. The general vision set forth in the Master Plan for this area encouraged redevelopment of existing significantly-aged commercial/office sites with a mix of new commercial and residential uses throughout the Village Center area. While new residential development has yet to materialize in other parts of the Village Center as originally envisioned by the Master Plan, the County has moved forward with infrastructure investments in transit in close proximity to the Subject Property, making it an ideal location for new residential development.

Figure 4 Life Sciences/FDA Village Illustrative Concept



The Master Plan further observed that this portion of the planning area “includes several cul-de-sacs” and generally recommended that if/when redevelopment occurs in the Life Sciences/FDA Village Center “these dead-end streets be extended and connected to improve circulation.” (Master Plan, p. 50) In this regard, a dashed red line labeled ‘potential road’ appears to run immediately adjacent to the property’s eastern boundary on Figure 4 of the Master Plan

(see above image) introducing a possible new street connection from Broadbirch Drive to Whitethorn Court. Accordingly, early discussions with Planning Department staff during the Concept Plan phase of this development proposal included the possible accommodation of a future 70-foot right-of-way, with half of the total width (35 feet) to be provided by the Subject Property and the other half by the adjacent DarCars property to the east. The layout of the proposed development has been designed with the Master Plan’s connectivity goal in mind and includes much more than the Subject Property’s half of the future right-of-way width. In fact, the development proposal incorporates a 60-foot wide interim condition all located on the Subject Property such that if/when the other adjacent properties that are needed to fully realize the road connection come forward for redevelopment of their respective sites, a significant segment of the road will have already been built. The interim condition detailed in the below cross-section, also shown on the Floating Zone Plan submitted with this application, would achieve close to 86% of the right-of-way needed to achieve a future 70-foot Business District Street connection.



**SECTION : INTERIM MODIFIED BUSINESS DISTRICT STREET (MC-2005-02)
FUTURE RW DEDICATION**

* INTERIM 6' SIDEWALK BEHIND CURB ON RIGHT SIDE

2. *The application must encourage the appropriate use of land by:*

- a. Providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive District or Sectional Map Amendments*
- b. Allowing various uses, building types, and densities as determined by a property's size and base zone to serve a diverse and evolving population*
- c. Ensuring that development satisfies basic sustainability requirements including locational criteria, connections to circulation networks, density and use limitations, open space standards, and environmental protection and mitigation*

The proposed project encourages the appropriate use of land by creating its own sense of place but also by being wholly consistent with the general recommendations and land use patterns contemplated by the Master Plan for the area.

In addition, the proposed development will provide a mix of unit types with adequate setbacks, safe/efficient internal vehicular and pedestrian circulation, protection of the environment and both public and private amenities that could not have been achieved under the existing CR zoning. The requested CRF classification will effectively implement the Plan's objectives by facilitating flexible design and integration of compatible residential uses to achieve greater efficiency, convenience and amenity for the area.

The proposal will have no negative impact upon any nearby residential neighborhood or commercial activity. In fact, the creation of this mixed residential community at this location is in line with others that have been approved/contemplated in the area will only serve to further justify the County's significant investment in the nearby Flash BRT line/station. The project will also provide numerous other benefits, such as providing much-needed housing choices near major employment centers and existing/future commercial settings and increasing density near

existing transit infrastructure, all while bringing the County closer to achieving the Master Plan’s goal of improved street connectivity for the area.

3. *The application must ensure the protection of established neighborhoods by:*

- a. *Establishing compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses*
- b. *Providing development standards and general compatibility standards to protect the character of adjacent neighborhoods*
- c. *Allowing design flexibility to provide mitigation of any negative impacts found to be caused by the new use*

The proposed project is compatible with the surrounding area and will fit well with its surroundings. The project is compatible with surrounding development not only from a general density standpoint, but also in the way it transitions the densities/uses within the planned development on the site. The two-over-two multi-unit living structures provide a level of development that is more pedestrian in scale along Broadbirch Drive that then transitions to higher densities within the apartment building.

G. Satisfaction of Section 5.1.3.D. of the Zoning Ordinance (the Floating Zone Prerequisites)

Not applicable – when requesting a floating zone for a property with a non-Residential base zone, as here, there are no prerequisites for an application.

H. Floating Zone Conformance with Section 5.3.5. of the Zoning Ordinance (the CRF Zone Development Standards)

- 1. The proposed floating zone plan conforms to the CRF Zone development standards, as outlined below:

| DEVELOPMENT STANDARDS | | | |
|------------------------------|----------------------------------------------------------|--------------------------------------|---------------------------------------|
| Density | | | |
| | FAR (Floor Area Ratio) | Existing Zone | Proposed Zone |
| | | CR-0.75, C-0.75, R-0.25, H-75 | CRF-1.25, C-0.25, R-1.25, H-85 |
| | Commercial | 0.75 FAR (268,506 SF) | 0.25 FAR (89,502 SF) |
| | Residential | 0.25 FAR (89,502 SF) | 1.25 FAR (447,510 SF) |
| | Total FAR | 0.75 FAR (268,506 SF) | 1.25 FAR (447,510 SF) |
| Building Height | | | |
| | | 75' | 85' |
| Open Space | | | |
| | | 10% Public Open Space | 10% Public Open Space |
| Setbacks | | | |
| | | TBD at Site Plan | TBD at Site Plan |
| Public Benefit Points | | | |
| | | 100 Points from 4 Categories | 100 Points from 4 Categories |
| Parking Provided | | | |
| | All parking shall conform to Zoning Ordinance standards. | | |
| BINDING ELEMENTS | | | |
| 1. | A maximum building height of 85'. | | |

I. Required Findings Under Section 7.2.1.E. of the Zoning Ordinance (the Floating Zone Plan Necessary Findings)

1. 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.

See discussion under Section F.1. above.

b. Further the public interest.

The project furthers the public interest in many regards. The redevelopment will result in a well-designed multi-family community that fits within the character of the surrounding area. Environmental improvements to the site will be provided in the form of

updated and environmentally sensitive stormwater management facilities. Additional housing at this location will provide support for the many nearby employment centers and commercial businesses in the area as well as further support the County's significant investment in the Flash BRT line/station located within a ¼ mile of the Subject Property. The improvements proposed are within existing public water and sewer capacity and school system capacity. All of the above reasons justify a sufficient relationship to the public interest to warrant the proposed project.

c. Satisfy the intent, purposes, and standards of the proposed zone and requirements of Chapter 59.

The proposed project satisfies the intent, purposes and standards of the CRF zone, as articulated under previous sections of this statement.

d. Be compatible with existing and approved adjacent development.

As articulated under previous sections of this statement, the proposed project is compatible with its surrounding conditions.

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.

See the White Oak LATR Exemption Letter prepared for this application by Wells & Associates dated April 23, 2021.

f. When applying a nonresidential floating zone to a property previously under a residential detached zone, not adversely affect the character of the surrounding neighborhood.


Not applicable.

J. Conclusion

In conclusion, this application will facilitate redevelopment of the Subject Property with much-needed residential uses that will increase housing choice in an area of the County that is in close proximity to major employment and entertainment centers and substantial transit infrastructure. The proposal is not only in harmony with general intent and objectives of the Master Plan, but will facilitate implementation of the specific land use patterns envisioned for the area.

Respectfully submitted:

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