



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council
301-952-3600

October 19, 2022

**RE: A-10060 Saddle Ridge
D.R. Horton, Inc./ Saddle Ridge, Applicant**

NOTICE OF FINAL DECISION OF THE DISTRICT COUNCIL

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland requiring notice of decision of the District Council, you will find enclosed a copy of Zoning Ordinance No. 9 - 2022 setting forth the action taken by the District Council in this case on October 17, 2022.

CERTIFICATE OF SERVICE

This is to certify that on October 19, 2022 this notice and attached Council order were mailed, postage prepaid, to all persons of record.

A handwritten signature in cursive script, reading "Donna J. Brown".

Donna J. Brown
Clerk of the Council

Case No.: A-10060
Saddle Ridge

Applicant: D.R. Horton, Inc./Saddle Ridge

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ZONING ORDINANCE NO. 9-2022

AN ORDINANCE to amend the Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland, by an individual Zoning Map Amendment.

WHEREAS, Zoning Map Amendment Application No. 10060 ("A-10060 or Application") is a request to rezone approximately 289.36 acres of R-E (Residential Estates) and R-R (Rural Residential) zoned land to the R-S (Residential Suburban Development) or LCD (Legacy Comprehensive Design) Zone. The subject property is located on the north side of Accokeek Road and the south side of Floral Park Road, approximately one mile west of the Branch Avenue (MD 5)/Brandywine Road/Accokeek Road intersection; and

WHEREAS, the application was advertised and the property was posted prior to public hearings, in accordance with all requirements of law; and

WHEREAS, the application was reviewed by the Planning Department's Technical Staff; and

WHEREAS, on June 3, 2021, Technical Staff recommended that the Application be approved without conditions; and

WHEREAS, on July 8, 2021, the Planning Board made the same recommendation and on July 29, 2021, adopted Resolution PGCPB No. 2021-92; and

WHEREAS, on October 27, 2021, the Zoning Hearing Examiner ("Examiner") held an evidentiary hearing on the application; and

WHEREAS, Mr. Mark Calhoun resides near the subject property and appeared in order to learn more about the Application and he was listed in opposition to this request; and

WHEREAS, shortly after the close of the hearing the Application was tolled pending final District Council action on the Countywide Map Amendment (“CMA”); and

WHEREAS, on November 29, 2021, the District Council adopted CR-136-2021, thereby approving the CMA, with an effective date of April 1, 2022; and

WHEREAS, on December 20, 2021, pursuant to Section 27-1905(c)(2) of the prior Zoning Ordinance (2019 Edition), Applicant submitted a written request that the consideration of its Application proceed as amended to request a rezoning to the Legacy Comprehensive Design (“LCD”) Zone, and revised its Basic Plan accordingly; and

WHEREAS, on January 20, 2022, the Technical Staff submitted a memorandum noting that its recommendation of approval would not change if the property were rezoned to the LCD Zone, and the record was closed at that time; and

WHEREAS, on May 3, 2022, the Examiner recommended that the application request to rezone approximately 289.36 acres of R-E (Residential Estates) and R-R (Rural Residential) zoned land to the R-S (Residential Suburban Development) Zone, be approved; and

WHEREAS, on June 2, 2022, Mr. Mark Calhoun (“Opponent” or “Opposition”) filed an appeal in opposition of the Zoning Hearing Examiner’s Decision; and

WHEREAS, on September 9, 2022, Applicant filed a response to the June 2, 2022 Exceptions and Request for Oral Argument filed by Opponent; and

WHEREAS, a hearing was held before the District Council on September 19, 2022; and

WHEREAS, having carefully considered the issues raised by the opposition at oral argument on September 19, 2022, the District Council adopts, and incorporates by reference, the Examiner’s

findings and conclusions on each issue raised by the opposition, except as otherwise indicated herein; and

WHEREAS, the District Council makes the following additional findings and conclusions:

- I. A-10060 does not include any land owned by Opponent and does not reduce the size of Opponent's land.

Opponent asserts that A-10060 seeks to "take some of [his] property as [its] own." Specifically, Opponent contends that his property is 1.99 acres, and that in some way A-10060 now reduces Opponent's property to 1.60 acres. Opponent asked the District Council to "resolve this issue." Although Opponent raises no issue regarding the required findings that the District Council must make in approving the application, in response to the sole issue raised, the District Council finds that this issue is moot since the size of Opponent's property is not reduced by the application.

The District Council finds that Opponent's property is and remains 1.99 acres, as alleged, and A-10060 has no impact, whatsoever, on the total acreage of Opponent's property. In response to the issue raised, and to resolve the same, the District Council takes note that on June 7, 2022, five (5) days after Opposition filed his exceptions, Applicant's counsel responded to Opponent to affirmatively advise that the limits of Opponent's property are not changing with A-10060. (Applicant's Apx. A).¹ Further, Rodgers Consulting, the civil engineer of record for A-10060, conducted an ALTA survey of the subject property where existing monuments of all four corners of Opposition's property (6401 Floral Park Road; Parcel 141) were field located. (*See* Ex. 15). To memorialize the same, Applicant provided Opponent with a copy of the survey of his property, which memorialized that Opponent's property totaled 1.99 acres, as alleged by Opponent.

¹ In addition to the June 7, 2022, correspondence, Applicant followed up with Opponent on June 22, 2022, July 24, 2022 (Applicant's Apx. D), July 18, 2022, and July 21, 2022 regarding the acreage issue. (*See* Applicant's Apx. A).

(Applicant's Apx. B). Based on the located corners for the subject property, the acreage of Opponent's property is and will remain 1.99 acres notwithstanding the proposed rezoning of the subject property. Thus, the sole issue raised by Opponent is moot.

A. A-10060 seeks to rezone approximately 289.36 acres, which excludes lands owned by Opponent.

During the Examiner's hearing on October 27, 2021, Opponent cross-examined Applicant's expert land planner, Mr. Joe Del Balzo, and questioned whether A-10060 will "change" Opponent's property "or would this [(i.e., A-10060)] just be for the 289 acres that you guys [i.e., Applicant] have?" Below is an excerpt of that exchange:

MR. CALHOUN: Because whether my property will be specifically changed or my zoning practice, or would this just be for the 289 acres that you guys have?

MR. DEL BALZO: So no, your property would not be rezoned through this. It would just be for the 289 acres. And all of the development activity would be on that property, not on yours.

(Tr. at p. 93, Lines 12 – 18). Further, Mr. Del Balzo testified that, "[n]o [Opponent's] property is not part of the rezoning application and would not be rezoned." (*Id.* at p. 94, Lines 2 – 4). Opposition concluded by indicating that "if anything else comes up, I will try to contact with these people or make my request. But right now, there's nothing else." (*Id.* at Lines 23-25).

Again, the District Council finds that the issue raised by Opponent is moot – the size of Opponent's property is, and will remain, 1.99 acres notwithstanding the approval of A-10060. Moreover, and more importantly, Opponent raised no issues regarding the Examiner's findings or legal conclusions that the application failed to satisfy the legal requirement for approval.

Further, the Examiner's decision indicated approval of the R-S Zone and not the LCD Zone. On this issue, the District Council adopts, and incorporates by reference, the People's Zoning Counsel's analysis regarding the application and approval of the LCD Zone. In opining that the

LCD Zone may not be imposed, the Examiner relies on Sections 27-3601(b)(2) and 27-4205(a); however, those sections of the new Zoning Ordinance are not applicable to A-10060. That is, Section 27-3601 deals with a zoning map amendment (“ZMA”) filed pursuant to the new Zoning Ordinance, and not the prior Zoning Ordinance. A-10060 is not a ZMA filed pursuant to Section 27-3601; instead, it is a ZMA filed pursuant to Section 27-195 of the prior Zoning Ordinance.

A-10060 was accepted for review on April 7, 2021, a year prior to the effectuation of the new Zoning Ordinance. The publication of the Technical Staff Report (June 3, 2021); the Planning Board hearing (July 8, 2021); the adoption of the Planning Board’s resolution (July 29, 2021); and the Examiner’s hearing (October 27, 2021) not only all occurred prior to the adoption of the CMA (November 29, 2021), but also occurred prior to the effectuation of the new Zoning Ordinance (April 1, 2022). Moreover, Section 27-1703(a) specifically provides:

Any development application, including a permit application or an application for zoning classification, that is filed and accepted prior to the effective date of this Ordinance may be reviewed and decided in accordance with the Zoning Ordinance and Subdivision Regulations in existence at the time of the acceptance of said application. An application for zoning classification decided after the effective date of this Ordinance must result in a zone set forth within this Ordinance.

Thus, the District Council agrees with the People’s Zoning Counsel, Technical Staff, and Applicant that A-10060 must be reviewed and decided in accordance with Section 27-195 of the prior Zoning Ordinance (which it is). Further, since the decision of A-10060 is now occurring after April 1, 2022 (the effective date of the new Zoning Ordinance), it must result in a zone set forth within the new Zoning Ordinance pursuant to Section 27-1703(a). Based on this and given the inapplicability of Section 27-3601 (of the new Zoning Ordinance), the Examiner’s conclusion that that section prohibits the ability to impose the LCD Zone for this ZMA application is incorrect.

The Transitional Provisions of Section 27-1703(a) contained in the new Zoning Ordinance contemplated this very scenario and made accommodations for the same when it unambiguously provided that a pending ZMA may continue to be reviewed and approved under the prior Zoning Ordinance (in this case Section 27-195), but that the decision to approve the pending ZMA after the effectuation date of the new Zoning Ordinance (April 1, 2022) must result in a zone set forth in the new Zoning Ordinance.

With the endorsement of the CMA by the Planning Board on October 28, 2021, and the adoption of the CMA by the District Council on November 29, 2021, Applicant, in conformance with Part 19 of the prior Zoning Ordinance, was required to elect to move forward with A-10060 and elect a new replacement zone based on the new Zoning Ordinance, which it did on December 20, 2021. (Ex. 46, with attachments). This not only ensured compliance with Section 27-1905(c)(2) of the prior Zoning Ordinance (which was still applicable until April 1, 2022), but also ensured future conformance with Section 27-1703(a) (which is now applicable).

On January 20, 2022, James Hunt, Planning Division Chief of the Development Review Division, of M-NCPPC, confirmed, in response to Applicant's December 20, 2021 letter (Ex. 46) and at the request of the Examiner (Ex. 47), that "Technical Staff finds that a new technical staff report is unnecessary as the requested [replacement] from the originally requested R-S Zone to the new LCD Zone has no impact on staff's recommendation in any manner." (Ex. 49).

Consequently, the Examiner's decision to approve the R-S Zone, as the required findings of Section 27-195 have been satisfied and are supported by substantial evidence, results in the affirmative ability for the District Council to approve A-10060 and, pursuant to Section 27-1703(a), impose the LCD Zone as the appropriate replacement zone for the R-S Zone; and

WHEREAS, the Applicant's request to rezone approximately 289.36 acres of R-E (Residential Estates) and R-R (Rural Residential) zoned land to the LCD (Legacy Comprehensive Design) Zone is hereby APPROVED subject to the following Development Data and all other information shown on the Basic Plan submitted.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. The Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland, is hereby amended to rezone approximately 289.36 acres of R-E (Residential Estates) and R-R (Rural Residential) zoned land to the LCD (Legacy Comprehensive Design) Zone, located on the north side of Accokeek Road and the south side of Floral Park Road, approximately one mile west of the Branch Avenue (MD 5)/Brandywine Road/Accokeek Road intersection.

SECTION 2. The request to rezone approximately 289.36 acres of R-E (Residential Estates) and R-R (Rural Residential) zoned land to the LCD (Legacy Comprehensive Design) Zone, is hereby APPROVED, subject to the following Development Data and all other information shown on the Basic Plan submitted (Ex. 48):

Development Data Table

Gross Tract Area	289.36ac.
Mattawoman Floodplain	32.75.ac.
½ Floodplain	16.38ac.
Net Tract Area*	272.98ac.
*Net Tract Area- Gross Tract Area-1/2 Floodplain	
Base Density	272.98ac@2.7 DU/ac. 737 Units
Max. Density	272.98@3.5 DU/ac. 955 units

Parcel Identification Table

Tax Map	Grid	Parcel	Parcel ID	Street Address (Brandywine, MD 20613)	Liber	Folio
144	C2	110	11-1182534	6301 Floral Park Road	35214	42
144	C2	143*	11-1140235	6315 Floral Park Road	35214	42
144	C2	37*	11-1174572	6405 Floral Park Road	35214	42
144	C2	66	11-1189125	6411 Floral Park Road	35214	42
144	C4	157	11-1161199	6600 Accokeek Road	35214	42
144	C4	86	11-1189190	6500 Accokeek Road	35214	42
144	C4	188	11-1189182	6306 Accokeek Road	35214	42
144	B3	236*	11-5528410	South Hill Road	34550	522

*Parcels have been added since previous application.

This application includes the following Lots in the “Littleworth” Subdivision (Plat Book SDH 3 Plat No. 86):

Note: There are no block designations for the Littleworth Subdivision.

Tax Map	Grid	“Littleworth” Lots	Parcel ID	Street Address (Brandywine, MD 20613)	Liber	Folio
144	D3	p/o Lots 45, 46 & 47	11-1189091	6920 Accokeek Road	35214	42
144	D3	p/o Lots 45, 46 & 47	11-1137017	6910 Accokeek Road	35214	42
144	D4	Lot 61 & p/o Lots 62-66	11-1137025	6940 Accokeek Road	35214	42
144	D4	p/o Lots 62-66	11-1189109	6900 Accokeek Road	35214	42
144	D2	p/o Lot 44	11-1189141	6980 Accokeek Road	35214	42
144	D2	p/o Lots 43 & 44	11-1189323	13535 Brandywine Road	35214	42

SECTION 3. BE IT FURTHER ENACTED that this Ordinance shall become effective on the date of its enactment.

ENACTED this 17th day of October, 2022, by the following vote:

In Favor: Council Members Franklin, Harrison, Hawkins, Medlock, Streeter, Turner and Taveras.


Opposed: Council Members Burroughs, Dernoga and Ivey.

Abstained: Council Member Glaros.

Absent:


Vote: 7-3-1.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF THE
MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

By: 

Calvin S. Hawkins, II, Chair

ATTEST:



Donna J. Brown
Clerk of the Council