

Case No.: A-10035
Smithfield Properties

Applicant: Liberty 5801 Columbia
Park Road, LLC

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

ZONING ORDINANCE NO. 3-2017

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. 10035 (A-10035) is a request to rezone approximately 17.9 acres of land, located in the southwest quadrant of the intersection of Columbia Park Road and Cabin Branch Road, also identified as 5801 Columbia Park Road, Landover, Maryland, Councilmanic District 5, from the I-3 (Planned Industrial/Employment Park) to the I-2 (Heavy Industrial) Zone; and

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

WHEREAS, the application was reviewed by the Planning Board, which elected not to hold a hearing and adopted Technical Staff's recommendation of denial; and

WHEREAS, on July 26, 2016, an evidentiary hearing was held on the proposed rezoning before the Zoning Hearing Examiner, wherein no one appeared in opposition; and

WHEREAS, on October 14, 2016, the Zoning Hearing Examiner issued a notice of decision, which recommended approval of the Applicant's request to rezone the subject property in the I-3 (Planned Industrial/Employment Park) Zone, to the I-2 (Heavy Industrial) Zone; and

WHEREAS, on January 9, 2017, the District Council elected to make the final decision in this matter; and

WHEREAS, on February 11, 2017, the Town of Cheverly, who did not participate in the evidentiary hearing before the Zoning Hearing Examiner, filed a letter directed to the District Council opposing the Applicant's request to rezone the subject property; and

WHEREAS, pursuant to the Land Use Article, Section 25-212, a person may make a request to the District Council for the review of a decision of the zoning hearing examiner or the planning board only if: (1) the person is an aggrieved person that appeared at the hearing before the zoning hearing examiner or planning board in person, by an attorney, or in writing; and (2) the review is expressly authorized; and

WHEREAS, pursuant to Section 27-131 of the County Code, an appeal or exceptions to a decision of the Zoning Hearing Examiner shall be filed within thirty (30) days after the written decision of the Examiner; and

WHEREAS, pursuant to law, the District Council finds that it has no jurisdiction over the Town's February 11, 2017, opposition to the Applicant's rezoning request because the Town did not appear at the hearing before the Zoning Hearing Examiner and the Town also failed to timely file an appeal or exception to the Examiner's decision; and

WHEREAS, the District Council finds, in the alternative, that had the Town of Cheverly appeared at the hearing before the Zoning Hearing Examiner and had the Town filed a timely appeal or exceptions, there is no basis to in the record to reverse the Examiner because the decision was supported by substantial evidence in the record and it was not premised upon an erroneous conclusion of law; and

WHEREAS, having reviewed the record, the District Council finds that the disposition recommendation of the Zoning Hearing Examiner, to approve the Applicant's request to rezone the subject property from the I-3 (Planned Industrial/Employment Park) Zone to the I-2 (Heavy Industrial) Zone, should be granted; and

WHEREAS, as the basis for its final decision, the District Council adopts and incorporates by reference, as if fully stated herein, the findings of fact and conclusions of law of the Zoning Hearing Examiner's decision issued on October 14, 2016.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. The request to rezone approximately 17.9 acres of land, located in the southwest quadrant of the intersection of Columbia Park Road and Cabin Branch Road, also identified as 5801 Columbia Park Road, Landover, Maryland, Councilmanic District 5, from the I-3 (Planned Industrial/Employment Park) Zone to the I-2 (Heavy Industrial) Zone is hereby APPROVED.

SECTION 2. BE IT FURTHER ENACTED that this Ordinance shall become effective on the date of its enactment.

ENACTED this 10th day of April, 2017, by the following vote:

In Favor: Council Members Davis, Harrison, Lehman, Patterson, Taveras, and Turner.

Opposed:

Abstained:

Absent: Council Members Franklin, Glaros, and Toles.

Vote: 6-0

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: _____
Derrick Leon Davis, Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council