



For DPZ Office use only:
 BA Case No. BA-800D
 Date Submitted: 7/20/23

**ADMINISTRATIVE APPEAL PETITION
 TO THE HOWARD COUNTY HEARING AUTHORITY**

A person who wishes to appeal a departmental decision must use this petition form. It is recommended that a person determine whether he/she can be acknowledged as being an aggrieved person¹. The appellant must submit the completed form to the Department of Planning and Zoning within 30 days of issuance of the departmental ruling or action.

1. APPEAL REQUEST

BRIEF DESCRIPTION OF RULING OR ACTION FROM WHICH THIS APPEAL IS TAKEN: Appeal of Decision & Order dated July 13, 2023 (replacing a previous Decision & Order dated June 26, 2023). A copy of the Decision & Order is attached hereto.

DATE OF RULING OR ACTION: July 13, 2023

BRIEF DESCRIPTION OF ERROR OF FACT, OR LAW, IF ANY, PRESENTED BY THIS APPEAL: See attached continuation sheet.

MANNER IN WHICH THE APPELLANT IS AGGRIEVED BY THE RULING OR ACTION: See attached continuation sheet.

OTHER FACTORS WHICH THE APPELLANT WISHES THE HEARING AUTHORITY TO CONSIDER: To be set forth at the hearing on this matter.

¹ As a brief explanation of this concept: Generally speaking, ... a person "aggrieved" ... is one whose personal or property rights are adversely affected by the decision... The decision must not only affect a matter in which the protestant has a specific interest or property right, but his interest therein must be such that he is personally and specifically affected in a way different from that suffered by the public generally. The Department of Planning and Zoning does not advise persons on whether they may or may not qualify as being aggrieved. Persons intending to file an appeal may want to obtain separate legal advice on this issue because it may have an impact on the validity of the appeal.

2. **APPELLANT'S NAME** Kincade LLC
TRADING AS (IF APPLICABLE) _____
ADDRESS 5100 Dorsey Hall Drive, Ellicott City, MD 21042
PHONE NO. (H) _____ (W) _____
EMAIL rtalkin@talkin-oh.com

3. **COUNSEL FOR APPELLANT** William Sinclair, Esq.
COUNSEL'S ADDRESS 400 E. Pratt Street, Suite 900, Baltimore, MD 21202
COUNSEL'S PHONE NO. 410-385-2225
EMAIL bsinclair@silvermanthompson.com

4. **RESPONDENT** Howard County Department of Planning and Zoning, Planning Board
RESPONDENT'S ADDRESS 3430 Court House Drive, Ellicott City, MD 21043

5. **PROPERTY IDENTIFICATION (IF REAL PROPERTY IS INVOLVED)**
ADDRESS OF SUBJECT PROPERTY Lakefront Neighborhood - Phase 1

TOTAL ACREAGE OF PROPERTY 11.39 ±
PROPERTY LOCATION East side of Little Patuxent Parkway, generally north of Wincopin Circle and south of Sterrett Place
ELECTION DISTRICT 5th ZONING DISTRICT NT
TAX MAP # 30 GRID # 20 PARCEL/LOT # 275 (lot PAR A-1), 290, 373 (lots PAR H, D-1)

6. **APPELLANT'S INTEREST IN SUBJECT PROPERTY**
[] OWNER (Including joint ownership) [X] OTHER (Describe and give name and address of owner) Sterrett Building Holdings, LLC; Town Center East Business Trust;
Town Center East Parking Lots Business Trust

7. **ADDITIONAL MATERIAL, FEES, POSTING, AND ADVERTISING**
A) The Appellant must submit **one (1) signed original and nine (9) copies of the signed original**, for a total of **ten (10) copies**, of this petition. If supplementary documents or other materials are included, **ten (10)** complete sets must be submitted.
B) The appellant is advised to consult the Rules of Procedure of the Board of Appeals. In accordance with Section 2.210(b) of that document, an "on the record" appeal requires that within 30 days of filing an administrative appeal, the appellant file a record transcript of the hearing being appealed. In addition, within 15 days of filing the transcript, the appellant must file a Memorandum addressing the points of law upon which the appeal is based.

- C) The undersigned agrees in matters involving land use, except in administrative appeals from the issuance of a notice of violation of County laws or regulations, to properly post the property at least thirty (30) days immediately prior to the hearing and to maintain the posters as required and submit an affidavit of posting at, or before the time of the hearing. If the Appellant is not the owner or does not have a beneficial interest in the subject property, the posting of the property is not required; however, the Appellant must send copies of the petition and notification of the public hearing to the property owner and the adjoining property owners in accordance with Section 2.203(e) of the Rules of Procedure of the Board of Appeals.

- D) The undersigned also agrees in matters involving land use, except in administrative appeals from the issuance of a notice of violation of County laws or regulations, to insert legal notices, to be published one (1) time in at least two (2) newspapers of general circulation in Howard County, as prepared and approved by the Department of Planning and Zoning, within at least thirty (30) days prior to the hearing, and to pay for such advertising costs; and further agrees to submit (2) approved certificates of the text and publication date(s) of the advertisement at or before the time of the hearing.


- E) The undersigned also agrees to furnish such additional plats, reports, plans, or other materials as may be required by the Department of Planning and Zoning and/or the Hearing Authority in connection with the filing of this petition.
The undersigned agrees to pay all costs in accordance with the current schedule of fees.

8. SIGNATURES

The undersigned hereby affirms that all of the statements and information contained in, or filed with, this petition are true and correct.

The undersigned has read the instructions on this form, filing herewith all of the required accompanying information.

Signature of Attorney



Signature of Appellant

For DPZ office use only: (Filing fee is \$250.00 plus \$25.00 per poster)

Hearing Fee: \$ _____

County Website: howardcountymd.gov

Poster Fee: \$ _____

TOTAL: \$ _____

Receipt No. _____

(Make check payable to "Director of Finance")

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Signature of Attorney

Signature of Appellant

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TOTAL: \$ _____

Receipt No. _____

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**PLEASE READ CAREFULLY
DATA TO ACCOMPANY PETITION**

Drawings: Where a parcel of land and/or building(s) as defined in the Zoning Regulations is involved in that which is being appealed, petition forms must be accompanied by **(10) copies of required drawings** showing the following information:

- (a) Courses and distances of outline boundary lines and the size of the property
- (b) North arrow
- (c) Existing zoning of subject property and adjoining property
- (d) Location, extent, boundary lines and area of any current use and proposed change in use
- (e) Any existing or proposed building(s), structures, signs, points of access, natural features, landscaping, parking, and other objects and/or uses on subject property which may be relevant to the petition
- (f) Same as (e) above, if any, of adjoining property which may be required in the proper examination of the petition
- (g) Location of subject property in relation, by approximate dimension, to nearest intersection of two public roads
- (h) Ownership of effected roads
- (i) Election District in which the subject property is located
- (j) Tax Map number on which the subject property is located
- (k) Name and local community in which the subject property is located or name of nearby community
- (l) Name, mailing address, telephone number (and e-mail address, if any) of the appellant
- (m) Name, mailing address, telephone number (and e-mail address, if any) of attorney, if any
- (n) Name and mailing address of property owner
- (o) Any other information as may be necessary for full and proper consideration of the appeal.

BA Case # _____

PETITIONER: Kincade LLC

ADDRESS: 5100 Dorsey Hall Drive, Ellicott City, MD 21042

Affidavit made pursuant to the pertinent provisions of Title 22 of the Howard County Code as amended.

THE UNDERSIGNED DOES HEREBY DECLARE THAT NO OFFICER OR EMPLOYEE OF HOWARD COUNTY, WHETHER ELECTED OR APPOINTED, HAS RECEIVED PRIOR HERETO OR WILL RECEIVE SUBSEQUENT HERETO, ANY MONETARY OR MATERIAL CONSIDERATION, ANY SERVICE OR THING OF VALUE, DIRECTLY OR INDIRECTLY, UPON MORE FAVORABLE TERMS THAN THOSE GRANTED TO THE PUBLIC GENERALLY IN CONNECTION WITH THE SUBMISSION, PROCESSING, ISSUANCE, GRANT OR AWARD OF THE WITHIN APPLICATION OR PETITION IN BA CASE # _____ FOR A ZONING CHANGE AS REQUESTED.

I, WE, DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE AFOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY, OUR, KNOWLEDGE, INFORMATION AND BELIEF.

AM Pagani
Witness

[Signature] 7/20/23
Signature Date

Witness

Signature Date

Witness

Signature Date

PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

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CONTINUATION SHEET

Kincade LLC ("Appellant")

RE: PB 455 - FDP-DC-L-2A, Lakefront Neighborhood, Phase 1

2. Reason for Appeal:

This appeal arises from the Planning Board's approval of an amendment to FDP-DC-L-2A as provided for in the Decision and Order dated July 13, 2023, which replaced an earlier decision and order issued by the Planning Board on June 28, 2023. The Planning Board failed to evaluate all applicable criteria including, *inter alia*, the proposed parking and the underlying agreements that are required for the proposed parking under PB 455, which the Board declined to review.

The approval under PB 455 violates the Howard County Zoning Regulations, Howard County subdivision and land development regulations and is inconsistent with the Downtown Columbia Plan.

Appellant reserves the right to raise additional issues at the hearing on this matter.