

**BEFORE THE COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THE MARYLAND-
WASHINGTON REGIONAL DISTRICT IN
MONTGOMERY COUNTY, MARYLAND**

**Office of Zoning and Administrative Hearings
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IN THE MATTER OF: *
GLENMONT LAYHILL ASSOCIATES, LLC *
Applicant *

Nancy Randall *
Pete Jervey *
Miguel Iraola *

For the Application *

Zoning Case No.G-862
and G-863 (Remand)

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* * * * *

Edward Axler *
Transportation Division, M-NCPPC *

Neither in Support Of Nor In Opposition *
to the Application *

* * * * *

Richard Kauffunger *
Max Bronstein *
Vicki Vergagni *

In Opposition to the Application *

* * * * *

Before: Lynn A. Robeson, Hearing Examiner

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I. EXECUTIVE SUMMARY

Applicant:	Glenmont Layhill Associates, LLC
LMA No. & Date of Filing:	G-862, G-863; November 29, 2006.
Remanded:	January 15, 2008, by Council Resolution 16-424 to permit the Applicant to perform a queuing analysis of the intersection of Georgia Avenue and Randolph Road and to propose mitigation necessary to resolve any queuing problems at that intersection.
Current Zone and Use:	The tract covered by G-862 comprises 23.9 acres in multiple lots and is presently zoned R-T 12.5, R-30, and O-M; the tract covered by G-863 covers 7.0514 acres in multiple lots zoned R-30.
Zoning and Use Sought:	The applications propose to rezone the entire tract of both applications to the TS-R Zone, in order to develop a maximum of 1,550 dwelling units and 90,000 square feet of retail. The residential units will be a mix of townhouses and low-rise to mid-rise multi-family units over retail.
Location:	The property is bounded by Georgia Avenue to the west, Layhill Road to the east, Glenallan Avenue to the south, and the WMATA maintenance yard to the north. It is directly confronting the Glenmont Metro Station to the south across Glenallan Avenue.
Traffic Issues:	District Council found that the Critical Lane Volume (CLV) methodology required for Local Area Transportation Review did not adequately portray the level of congestion on surrounding area roadways due to queuing at nearby intersections; remanded solely to permit the applicant to address that issue. District Council found that all other requirements for rezoning have been met.
Neighborhood Response:	On remand opposed by the Bel Pre Community Association, the Glen Way Gardens Condominiums and Mr. Richard Kauffunger; no letters of support.
Government Agencies:	WMATA supports because consistent with its goals to promote Metrorail ridership; states that development should be coordinated with Metro policies for vehicular, bicycle, and pedestrian circulation.
Planning Board Recommends:	Approval.

Technical Staff Recommends: Approval.

Hearing Examiner Recommends: Approval.

II. STATEMENT OF THE CASE

A. Case Prior to Remand

Application Nos. G-862 and G-863 were originally filed on November 29, 2006 by the Applicant, Glenmont Layhill Associates, LLC, requesting reclassification from the R-T 12.5, R-30 and O-M Zones to the TS-R Zone of 23.9 acres of land located at the intersection of Georgia Avenue and Glenallan Avenue in Silver Spring, Maryland, in the 13th Election District. The tract covered by Application No. G-862 consists of Lots 1 through 49 and Parcels A, B and C in the Glenmont Mews Subdivision, zoned R-T 12.5; part of Parcel A in the Glenmont Park Subdivision, zoned R-30; part of Parcel B in the Glenmont Park subdivision, zoned R-30; Parcel C in the Glenmont Park Subdivision, zoned R-30; Parcel E in the Glenmont Park Subdivision, zoned O-M; parcel F in the Glenmont Park subdivision, zoned R-30; and part of parcel G in the Glenmont Park Subdivision, zoned R-30. Application No. G-863, filed on the same date by the same applicant, requests reclassification from the R-30 Zone to the TS-R Zone of 7.0514 acres of land adjacent to the land covered by Application No. G-862. The land covered by Application No. G-863 consists of parts of Parcels A, B and G in the Glenmont Park Subdivision, zoned R-30.

The Applicant seeks to develop the combined properties, a total of 30.9 acres referred to in this report as the “subject site” or “subject property,” as a single development. Designated for the TS-R Zone in the Sector Plan for the Glenmont Transit Impact Area and Vicinity, Approved and Adopted September 1997 (Sector Plan), the combined applications propose a mixed-use development of up to 1,550 dwelling units and 90,000 square feet of retail. The dwelling units

will include townhouses and low-rise and mid-rise multi-family buildings over retail. Exhibit 214(c).¹

Two separate applications were filed to respond to phasing recommendations for the site that were specified in the applicable sector plan. Due to uncertainty surrounding the funding of a grade-separated interchange at the intersection of Georgia Avenue and Randolph Road, the Sector Plan imposed site-specific staging requirements for this property. The Sector Plan recommended that Stage I allow up to 500 new units and 200 new jobs to proceed immediately, with all other new development delayed “until either a grade separated interchange or other transit or transportation improvement is provided that makes the intersection of Randolph Road and Georgia Avenue function at an acceptable level.” Sector Plan, p. 82. Because of this recommendation, the Applicant filed two separate applications, one for Stage 1 (LMA No. G-862) and a second for Stage 2 (LMA No. G-863), to give the District Council the option to approve only Stage 1 if it so chose. At the Applicant’s request, the two cases were consolidated for purposes of the public hearing and this report and recommendation. *Original ZHE Report*, p.

At the time of the 2007 public hearing on the original application, a grade-separated interchange at the intersection of Randolph Road and Georgia Avenue had been planned, but had not been fully funded and therefore, could not be considered toward meeting the Local Area Transportation Review requirements. As an alternative, the Applicant proposed at-grade improvements which would have permitted Stage I development to be approved.

During a public hearing lasting several days, the Hearing Examiner received extensive testimony regarding traffic conditions in the surrounding area. Technical Staff and the Applicant’s expert traffic engineer agreed that the intersection of Georgia Avenue and Randolph

¹ Because the scope of the remand is specific to the impact of site-generated traffic on surrounding roadways, the findings of fact made by the District Council on other matters are still controlling.

Road met the Critical Lane Volume (CLV) standards for the Policy Area for the purposes of Local Area Transportation Review (LATR). The Hearing Examiner found, however, that:

Undisputed evidence established that in fact, the intersection experiences severe congestion and long back-ups during the peak periods, and cannot reasonably be considered to be performing at an acceptable level. This leads the Hearing Examiner to conclude that in this case, CLV analysis failed to accurately assess current traffic conditions. Its conclusions about mitigation, therefore, are based on a faulty premise and are not persuasive.

Original ZHE Report, pp. 4-5. While she found that the Applicant had met its burden of proving that the proposed development otherwise complied with the standards required for rezoning, she recommended remanding the case “to provide the Applicant with the opportunity to present additional evidence (i) concerning traffic conditions at the intersection of Randolph Road and Georgia Avenue, such as a queuing and delay analysis; (ii) to show what steps the Applicant is willing to take to mitigate its traffic impacts, which may include but need not be limited to the at-grade improvements already proposed; and (iii) to demonstrate that the proposed mitigation would prevent adverse traffic impacts on the surrounding area from Stage 1 or the combined Stage 1 and Stage 2 of the proposed Glenmont Metrocenter.” *Original ZHE Report*, p. 189.

The District Council agreed with the Hearing Examiner’s recommendation. It found that the application met all standards for rezoning except for the compatibility of site-generated traffic with the surrounding area. Specifically, the Council found that the intersection of Georgia Avenue/Randolph Road, under then-existing conditions, was heavily congested and did not operate in a manner that “any reasonable person would consider acceptable.” Council Resolution No. 16-424 (Resolution), p. 17. Because the traffic study submitted began with the premise that the intersection operated at acceptable congestion levels, the Council found unpersuasive the Applicant’s evidence that the intersection would operate acceptably with the additional traffic generated by the proposed development. Ultimately, the Council remanded the case to the Hearing Examiner in order to:

...provide the Applicant with the opportunity to present additional evidence demonstrating that neither Stage 1 nor the combined Stage 1 and Stage 2 of the proposed Glenmont Metrocenter would have a lack of adverse impact on traffic in the surrounding area, including (i) a queuing analysis for the intersection of Randolph Road and Georgia Avenue, under the methodology and standards outlined in Part V.A. of the Local Transportation Review Guidelines approved and adopted by the Planning Board on July 1, 2004, and (ii) an analysis of the mitigation proposed by the Applicant for any adverse traffic impacts identified in the queuing analysis.

Resolution, p. 29.

B. Case Post-Remand

Pursuant to the Council's directive, the Applicant submitted a supplemental traffic study on May 7, 2008. Exhibit 147. The Hearing Examiner issued a Notice of Public Hearing for June 9, 2008. Exhibit 148. Technical Staff reviewed the supplemental study and found "the transportation network adequate to support the rezoning." Exhibit 152. The June 9, 2008 public hearing proceeded as scheduled, but was continued to June 23, 2008, at the request of those opposing the application. Exhibit 156. Shortly before the June 23, 2008, public hearing, the Applicant requested a longer postponement to address contractual issues with the property owner. Exhibit 160. The Hearing Examiner granted the Applicant's request and postponed the hearing until September 15, 2008. Exhibit 163. On August 22, 2008, the Applicant submitted a request to postpone the public hearing indefinitely, which was granted. Exhibits 168, 169.

No further action was taken on the application until November 14, 2011, when the Applicant submitted a request to schedule the matter for public hearing. Exhibit 171. The Applicant prepared an additional traffic study designed to test whether the conclusions of the 2008 Supplemental Traffic Study remained valid. Exhibit 171(a). A public hearing was scheduled for February 10, 2012. Exhibit 173. Individuals opposing the application requested a postponement to provide additional time to study the traffic data submitted by the Applicant. Exhibit 179. A public hearing was convened on February 10, 2012, at which time it was continued to March 5, 2012. Exhibit 180.

In a memorandum dated January 17, 2012, (revised on February 23, 2012), Technical Staff reviewed the 2011 traffic information supplied by the Applicant and found that, with the fully funded, planned construction of a grade-separated interchange at the intersection of Randolph Road and Georgia Avenue, the proposed rezoning would not have an adverse impact on the surrounding area. Exhibit 184(a). The Planning Board agreed with Technical Staff and recommended approval of the application. Exhibit 184.

The March 5, 2012, public hearing was convened as scheduled, but the record was left open until March 26, 2012, for additional information from Technical Staff on whether there were any new pipeline projects since the 2008 Supplemental Traffic Analysis and for written closing statements. 3/5/12 T. 355-356. While the record was still open, a representative of the Washington Metropolitan Area Transit Authority (WMATA) requested that the closing of the record be delayed to April 3, 2012, to permit WMATA time to submit comments on the application. Exhibit 203. The Hearing Examiner granted this request and WMATA did submit comments within the time prescribed. Exhibit 207.

Subsequent to the March 5, 2012, public hearing, the Hearing Examiner found that one of the individuals opposing the application had submitted a request to cross-examine Mr. Edward Axler, a transportation planner with the Montgomery County Planning Department who had reviewed the 2011 traffic information provided by the Applicant. Exhibit 202. As a result, a second public hearing was held on April 16, 2012, solely to permit the cross-examination requested. This hearing convened as scheduled, and the record was left open until May 1, 2012, for written closing arguments from all parties. 4/16/12 T. 161. These were timely submitted and the record closed on May 1, 2012. Exhibits 209-212.

II. FACTUAL BACKGROUND

Due to the length of time since the original hearing, the Hearing Examiner will include a summary background of the project and the surrounding area as characterized by the Council in the original case as well as any new information relevant to the remand. The findings of fact made by the District Council in the first proceeding remain controlling in this case.

A. The Subject Property

The subject property lies on the north side of Glenallan Avenue across from the Glenmont Metro Station and is generally bounded by Layhill Road to the east, Glenallan Avenue to the south, Georgia Avenue to the west, and the WMATA Maintenance Yard to the north. 3/5/12 T. 11. The subject property was developed as a single site during the 1960s with an apartment complex called “Privacy World.” The complex contains 352 dwelling units, although the evidence indicates that approximately 40% of the units are currently vacant. 3/5/12 T. 333. The Applicant describes the property as an “island” surrounded by Metro-related facilities, and is depicted in an aerial photograph submitted by the Applicant (Exhibit 187), shown on the following page. 3/5/12 T. 10-11.

During the public hearing on remand, there was extensive testimony regarding existing and potential vehicular and pedestrian conflicts along Glenallan Avenue and Layhill Road due to site distance problems, on-street parking by Metro riders, and access points to Metro and the proposed development. 3/5/12 T. 104-109, 198-201, 204, 284-287, 333. Therefore, surrounding properties relevant to the evidence on remand include the Winexburg apartment complex directly east of the subject property across Layhill Road, which has over 600 dwellings on 33 acres. South of the Winexburg complex, across Glenallan Avenue and diagonally confronting the subject site to the southeast, is Glen Way Gardens, a condominium complex in the R-30 Zone

with 214 units in three-story, multi-family buildings on 15 acres of land. *Original ZHE Report*, p. 14.



B. Surrounding Area

Prior to remand, Technical Staff recommended that the “surrounding area” be defined as the area identified as the Glenmont Village Center in the *Sector Plan for the Glenmont Transit*

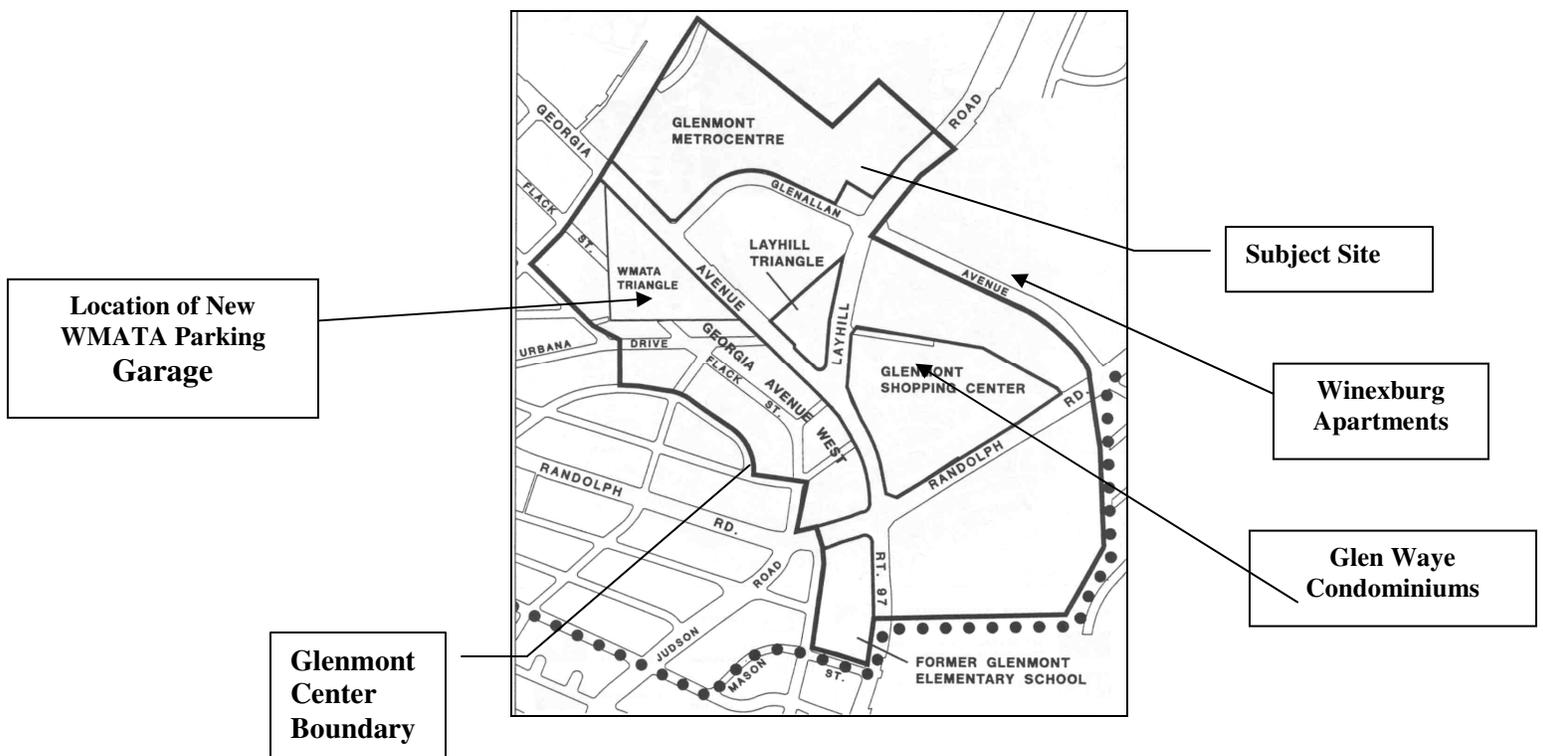
Impact Area and Vicinity, Approved and Adopted September 1997 (the “Sector Plan”), p. 21.

The Hearing Examiner found this area to be substantially the same as the “Glenmont Center” area shown on Sector Plan Figure 8, which is reproduced on the following page.

The Council previously characterized the existing area as containing a mix of uses and zones. The Hearing Examiner found that the subject site is bordered to the north and northwest by property owned by the WMATA, and on all other sides by busy roadways. *Original ZHE Report*, p. 14.

The southern edge of the subject site abuts a stretch of Glenallan Avenue between Georgia Avenue and Layhill Road. On the south side of Glenallan Avenue, confronting the subject site, two-thirds of the road frontage is WMATA property occupied by two Metro driveways, a 1,200-space Metro parking garage and a Kiss and Ride area. A new Metro parking garage has just been completed and is located in the area labeled “WMATA Triangle” reproduced below. *Original ZHE Report*, p. 14; 3/5/12 T. 11, 15, 125.

Glenmont Center Map, Sector Plan Fig. 8, p. 20



C. The Proposed Development

The Applicant's Development Plan proposes a total maximum development (i.e., combined Stage I and II) of 1,550 dwelling units and 90,000 square feet of retail. Exhibit 214(c). Stage I will include 12.5% Moderately Priced Dwelling Units (MPDUs), and the combined development will contain 14.5% MPDUs. The Hearing Examiner in the case before remand found that:

The dwelling units would be made up of townhouses, low-rise and mid-rise multi-family buildings, multi-family dwellings over retail, and possible live/work units. The Applicant anticipates that if the full 1,550 units are built, the breakdown of dwelling unit types will be 190 to 250 townhouses and 1,300 to 1,360 multi-family units. The overall residential density proposed for the site is 50.4 dwelling units per acre, including a 19.3 percent MPDU bonus. This is just under the maximum residential density recommended in the Sector Plan.

Original ZHE Report, p. 19. There have been no amendments to the number or mix of units or the amount of retail space since the remand. The revised Development Plan (Exhibit 214(c)) is shown on the following page. Evidence submitted pre-remand reveals that Stage I will consist of 500 dwelling units, which will replace 275 of the existing dwelling units, and 4,000 square feet of retail. Seventy-seven existing units will remain in place on the Stage II portion of the site during construction of Phase I. Stage II will replace the remaining existing 77 units and construct an additional 698 units, along with the balance of the retail (and possibly commercial) uses. *Original ZHE Report*, pp. 19-20.

Post-remand, the Applicant has amended some of the binding elements proposed prior to remand. Originally, the binding elements prohibited development of Stage II until full funding of the grade-separated interchange occurred or the Applicant fully funded other road improvements necessary to mitigate the traffic impacts of the proposed development. Exhibit 144(a). Post-remand, the Applicant revised the timing for Stage II to permit that stage to proceed

Textual Binding Elements

1. The Development Plan contains "Development Blocks" which identify those areas of the property that will be developed. Within these Development Blocks, the plan reflects product type, density of the development, general building locations, open space, landscaping and recreation areas and parking spaces. The Development Block Analysis identifies:

- a. The Development Block.
- b. Use types.
- c. Approximate range of units.
- d. Approximate range of Retail/Commercial.
- e. Height Ranges.
- f. Approximate setbacks from curb to face of buildings.

The precise location, building footprints and square footages of the buildings, and open space, landscaping and recreation space within each Development Block as well as the actual number of parking spaces will be decided at site plan. Minor modifications to the size and shape of the Development Blocks may be made at the time of site plan.

2. The total number of units on the property for Stage 1 and Stage 2 combined shall not exceed 1550 dwelling units including MPDUs (up to 14.5% of the total number of units based on 1550 dwelling units) with no more than 500 net units to be approved as part of Stage 1 of the development (existing units that are replaced with new units do not count toward the 500 unit cap requirement for Stage 1). Stage 1 shall include 12.5% MPDUs. The total number of residential units (including the total number of MPDUs in the development and the percentage requirement of MPDUs as contained in Chapter 25A of the Montgomery County Code) and the amount of retail/commercial uses will be determined at site plan. Units may be shifted between Development Block areas so long as: (i) The range of units within each Development Block does not vary by more than 10% and (ii) The total number of units in the entire development does not exceed 1550. The total amount of retail/commercial shall not exceed 90,000 square feet and will be within the range shown on the Development Block Analysis.
3. At the time of preliminary plan of subdivision approval, the Applicant shall submit for Planning Board review and approval, a revised Local Area Transportation Review analysis that re-evaluates Stage 2 of the development so that the Planning Board can make a determination whether the Georgia Avenue/Randolph Road intersection will function at an acceptable level to permit all or a portion of Stage 2 to move forward pursuant to the County's established rule and procedures for determining the adequacy of public facilities or the Applicant has committed to the use of the Alternative Review Procedure for Metro Station Policy Areas.
4. No building permit applications for Stage 2 of the development will be applied for until either a grade separated interchange is fully funded for construction or other transit or transportation improvements are under construction that would make the intersection of Randolph Road and Georgia Avenue function at an acceptable level as determined by the Montgomery County Planning Board or the Applicant has committed to the use of the Alternative Review Procedure for Metro Station Policy Areas. The Applicant may incorporate the following mitigation measure as part of the subdivision application: physical roadway improvements, pro rata payments toward the programmed Georgia Avenue/Randolph Road interchange, Local Area Transportation Review mitigation measures (e.g., real-time transit signs, pedestrian count-down signals, bike racks, etc.), transit enhancements/incentives, establishing a neighborhood circulator shuttle, pedestrian safety measures and/or other improvements.
5. No building shall exceed 7 stories or 85 feet as measured pursuant to the Montgomery County Zoning Ordinance.
6. All private roads shall meet the Montgomery County standards required for emergency vehicle access.
7. No structures or impervious surfaces shall be located within the Environmental Buffer.
8. The Glenmont Sector Plan, adopted September 1997 (the "Sector Plan") recommends a maximum base density for the entire property of 42 units per acre, which results in a maximum density of 51 units per acre with MPDUs. As shown, Stage 1 reflects a maximum density of 32.45 units per acre with MPDUs and Stage 2 reflects a maximum density of 119.40 units per acre with MPDUs. Collectively, the maximum density for Stage 1 and Stage 2 is 50.1 units per acre with MPDUs, in conformance with the Sector Plan density of up to 51 units per acre.
9. Subject to Textual Binding Element Note 4, the completion of any portion of the project is not necessary to commence any subsequent portion of the project.
10. The Applicant will conduct an operational study at the time of preliminary plan of subdivision to identify and evaluate appropriate operational improvements including: (i) pedestrian crossings between the Glenmont Metrocenter Project and the Glenmont Metro Station, (ii) pedestrian safety along Glenallan Avenue and sight distances for turning movements from the project onto Glenallan Avenue, (iii) gaps in through traffic to allow cars to enter and exit safely to and from the driveways south of Glenallan Avenue onto Layhill Road and (iv) cut-through traffic along Glenallan Avenue to Randolph Road. Any operational improvements to be provided are subject to the approval of the applicable governmental agencies.

Note: Underlined language in Binding Elements 3 and 4 added per June 3, 2008 revision and underlined language in Binding Element 10 added per March 23, 2012 revision.

As part of its original application, the Applicant proposed two alternative road improvements in order to satisfy LATR requirements at the time of preliminary plan. These alternatives included (1) construction of a grade-separated interchange at Georgia Avenue and Randolph Road (part of the State's transportation program), or (2) at-grade road improvements along Georgia Avenue and Layhill Road. The at-grade improvements originally proposed, and addressed in the Applicant's 2008 Supplement Traffic Report are no longer relevant because of the funding of the grade-separated interchange.

III. ISSUES ON REMAND

As previously described, the Council concluded that the proposed rezoning met all of the standards necessary for rezoning with one exception: the Applicant failed to prove that traffic from the proposed development would be compatible with the surrounding area. The Council found that sole reliance on the LATR CLV methodology to assess future traffic impacts did not accurately capture the extent of traffic congestion at key intersections, particularly the intersection of Randolph Road and Georgia Avenue. Specifically, the Council concluded that "uncontroverted" evidence demonstrated that delays from that intersection caused back-ups extending to upstream intersections, resulting in a high level of congestion in the area. Because traffic was not moving through intersections due to this congestion, CLV counts for the intersection were artificially low. At the time of the District Council's decision on the original case, the planned grade-separated interchange for the Georgia Avenue/Randolph Road intersection had not been fully funded, and therefore could not be counted towards addressing traffic conditions in the surrounding area. As a result, the Council's remand directed the Applicant to provide additional evidence to demonstrate that traffic generated from the development would not have an adverse impact on the surrounding area, and specifically requested:

(i) a queuing analysis for the intersection of Randolph Road and Georgia Avenue, under the methodology and standards outlined in Part V.A. of the Local Transportation Review Guidelines approved and adopted by the Planning Board on July 1, 2004, and (ii) an analysis of the mitigation proposed by the Applicant for any adverse traffic impacts identified in the queuing analysis

A. The Applicant's Case

1. 2008 LATR Queuing Analysis

Pursuant to the Council's directive, the Applicant provided a Supplemental Traffic Analysis (Exhibit 147(e)) dated May 6, 2008. The Applicant's expert transportation planner, Ms. Nancy Randall, testified that she worked with Technical Staff to find a methodology to estimate the project's impact on queues at Georgia Avenue and Randolph Road. According to Ms. Randall, the LATR queue analysis measures only an observed queue, which requires the Applicant to count the number of queued cars at a particular intersection. The LATR standards mandate that queues not exceed 80% of the distance between the intersection studied and the next upstream intersection. 3/5/12 T. 37.

Using the LATR method, she performed a queuing analysis for the nine intersections of the 17 intersections studied for Stages I/II in the original traffic report (Exhibit 147(e)). Starting with the observed queues at each intersection, the analysis took into account background traffic (i.e., traffic from developments approved but not constructed), and site-generated trips. She did this in order to identify any problematic intersections that exceeded the LATR standard under either existing conditions or with projected site-generated traffic. Her LATR queuing analysis identified two intersections where the queue exceeded the maximum 80% distance between intersections. The intersections of Georgia Avenue/Randolph Road exceeded the queue standard both for existing, background and future conditions and the intersection of Georgia Avenue/Layhill Road was projected to exceed the LATR queue standards upon the completion of Stages I and II. Exhibit 147(e), p. 10; 3/5/12 T. 56. The problematic queuing delays

identified are highlighted in yellow in Table 3 from the 2008 Supplement Traffic Report, shown below:

**LATR Queuing Analysis
Exhibit 147(e)**

Table 3
Glenmont Metro Center
LATR Methodology Average Queue Summary¹

Intersection	Approach ²	Link Storage Distance	80% Storage Distance	Observed Existing		Background Stage I		Total Future Stage I		Background Stage I/II		Total Future Stage I/II	
				AM Peak Hour ft	PM Peak Hour ft	AM Peak Hour ft	PM Peak Hour ft	AM Peak Hour ft	PM Peak Hour ft	AM Peak Hour ft	PM Peak Hour ft	AM Peak Hour ft	PM Peak Hour ft
1: Georgia Avenue/Hathaway Drive	NB	2505	2004	103	300	104	354	112	359	104	354	132	385
	SB	4250	3400	82	272	164	277	166	286	164	277	179	317
2: Georgia Avenue/Glenallen Avenue	NB	710	568	86	233	86	236	93	262	86	236	123	337
	SB	2505	2004	329	257	405	258	405	270	405	258	405	334
3: Georgia Avenue/Urbana Drive	NB	547	438	54	52	66	50	73	75	66	50	103	151
	SB	710	568	113	*	105	*	124	27	105	*	168	84
4: Georgia Avenue/Layhill Road (MD 182)	NB	775	620	83	157	94	152	101	178	94	152	131	253
	SB	547	438	420	219	420	219	420	230	420	219	446	287
	WB	1033	826	479	497	485	515	521	532	502	525	581	558
5: Georgia Avenue/Randolph Road	NB	1765	1412	295	1035	320	1082	326	1107	322	1089	351	1173
	SB	775	620	623	180	619	193	663	215	631	200	748	291
	EB	5300	4240	243	902	255	944	255	944	255	944	255	944
	WB	667	534	545	163	585	203	585	203	585	203	585	203
6: Georgia Avenue/Shorefield Road	NB	2070	1656	161	264	186	311	192	336	188	318	217	402
	SB	1765	1412	205	298	246	335	271	348	253	338	323	397
7: Layhill Road/Glenallen Avenue	NB	1033	826	69	222	71	230	71	230	76	246	76	236
	SB	2499	1999	456	199	510	206	515	209	520	218	531	218
	EB	1375	1100	205	283	206	354	220	357	206	354	253	402
	WB	1725	1380	247	192	276	194	278	203	276	193	290	233
8: Glenallen Avenue/Randolph Road	WB	1960	1568	875	189	982	232	984	239	982	232	992	260
	EB	893	714	144	288	164	363	164	363	164	363	164	363
9: Randolph Road/Glenmont Circle	WB	893	714	29	66	101	107	101	107	101	107	101	107
	EB	667	534	402	234	423	309	423	309	423	309	423	309

Notes: 1) Queue is listed by feet and is calculated based on the methodology outlined in the 2008 LATR and PAMR Review Guidelines.

2) The highest average queue per approach is listed. For each movement see Appendix Table D1

* indicates average queue is less than one car length. (i.e. during some cycles no cars are queued.)

Example Formula: Background Queue = Existing Average Queue + (Background Traffic(Appendix B)*Lane Use Factor*Signal Cycle Length*25 feet/car)/3600

Example Calculation (Int. 5, NB Thru-Right): Stage I AM BG Queue = 295 ft + ((37 cars/hr+27 cars/hr)*0.37*150 sec/cycle*25 feet/car)/3600 sec/hr = 320 ft

Because the LATR queue analysis is based on observed queues, it is not possible to factor future road improvements into the projected queues. As a result, Ms. Randall used a different methodology to measure the impact of the grade-separated interchange (or alternative at-grade improvements) on the problematic queues. For this purpose, Ms. Randall used the Highway Capacity Manual (HCM) methodology of calculating intersection capacity utilizing Synchro© software. She testified that the HCM method provides queue information, but only for one intersection. The combined HCM/Synchro© analysis affords review of an entire system and

enables input of different variables, including road improvements and signal timing. 3/5/12 T. 33-34.

In addition to the two intersections where queuing problems had been identified, Ms. Randall analyzed the intersection of Layhill Road/Glenallan Avenue under the LATR standards and applied the HCM/Synchro© analysis to that intersection as well. She did so to address concerns about the intersection expressed by the community. Exhibit 147(e), p. 5.

Ms. Randall testified that the HCM/Synchro© analysis uses a different standard for evaluating queues than the LATR Method. Because of this, she used this analysis only to ascertain the percentage difference between existing queues, future queues without road improvements and future queues with road improvements. 3/5/12 T. 57. She made no adjustments to signal timing other than for the grade-separated interchange because the purpose of the study was solely to compare changes in the queue. She also used assumptions from the prior traffic study submitted into the case regarding trip generation, background and pipeline traffic. As did the first study, she reduced the traffic generation by 15% due to the project's proximity to the Metro Station, which in her opinion is conservative based on a 2005 WMATA study. According to Ms. Randall, this reduction is not only permitted but expected, because to do otherwise could result in overbuilding the road system. She also based her Supplemental Traffic Study on the assumption that there is a 40% vacancy rate at Privacy World. 3/5/12 T. 42-45. Finally, she input recommended operational improvements to the intersection of Layhill Road/Glenallan Avenue. After reviewing queuing at that intersection, she recommended converting an underutilized right-turn only lane into a through/right lane. This would free up two left turn lanes for traffic exiting the Metro station turning north onto Layhill Road.

Ms. Randall then applied the percentage difference between existing and projected queues under the HCM/Synchro© method to the LATR observed queue. These percentage

differences in queues with and without the road improvements are included in Table 4 of the 2008 Supplemental Traffic Analysis (Exhibit 147(e)), shown below:

Table 4
Glenmont Metro Center
Queue Percent Change - Synchro Calculated ¹

Intersection	Approach	Movement	TF Stage I with LATR Improvements ^{2,4}		TF Stage I with G.S. Improvements ^{3,4}		TF Stage I/II with LATR Improvements ^{2,4}		TF Stage I/II with G.S. Improvements ^{3,4}	
			AM	PM	AM	PM	AM	PM	AM	PM
			4: Georgia Avenue/Layhill Road (MD 182)	NB	T	3.0%	46.5%	6.1%	56.2%	18.8%
	SB	T	-77.5%	3.8%	-86.9%	0.0%	-58.0%	8.5%	-58.0%	-3.7%
		L	-66.7%	1.1%	-81.5%	0.0%	-84.0%	-1.7%	-84.0%	-1.7%
	WB	L	-3.4%	-3.4%	0.0%	0.0%	-13.0%	0.0%	-13.0%	0.0%
5: Georgia Avenue/Randolph Road	NB	T	-12.1%	-51.1%	-22.0%	-24.5%	-27.9%	-53.1%	-81.2%	-36.8%
		L	2.4%	0.0%	-37.6%	-60.0%	1.2%	2.4%	-36.7%	-57.3%
	SB	T	-30.2%	-33.6%	-24.8%	-22.1%	-41.6%	-22.0%	-31.2%	-20.8%
		L	1.0%	0.0%	-45.8%	-61.5%	2.2%	-1.9%	-44.9%	-61.5%
	EB	T	5.0%	0.0%	-49.0%	-66.2%	-2.3%	0.0%	-49.0%	-56.9%
		L	0.0%	-8.2%	15.8%	-14.0%	-19.7%	-8.9%	-7.0%	-20.5%
	WB	T	-16.7%	-35.2%	-56.6%	-39.0%	-13.4%	-35.2%	-57.7%	-59.8%
		L	-27.4%	-1.2%	-50.6%	-44.2%	-8.0%	-5.0%	-49.7%	-62.6%
7: Layhill Road/Glenallan Avenue	NB	T	0.0%	0.0%	-1.6%	15.2%	-6.0%	-0.8%	-6.0%	0.0%
	SB	T	0.0%	0.0%	0.0%	15.3%	-6.5%	0.0%	-6.5%	0.0%
	EB	T	15.9%	30.9%	27.3%	-2.8%	5.5%	30.0%	15.1%	30.0%
	WB	T	19.7%	0.0%	15.6%	-45.7%	14.3%	0.0%	16.7%	0.0%

The results of her analysis show that with either the at-grade LATR road improvements previously proposed or the grade-separated interchange, queues at the three intersections studied met the LATR standards, although they did not do so without the future road improvements. These results are shown on Table 5 from the Applicant’s 2008 Supplemental Traffic Analysis (Exhibit 147(e), p. 13) shown on the following below:

Table 5B
Glenmont Metro Center
LATR Methodology Average Queue Summary - Stage I/II Improvements¹

Intersection	Approach ²	Link Storage Distance	80% Storage Distance	Observed Existing		Background Stage I/II		Total Future Stage I/II		Total Future Stage I/II LATR Imp ^{3,4}		Total Future Stage I/II G.S. Imp ^{3,5}	
				AM Peak Hour	PM Peak Hour	AM Peak Hour	PM Peak Hour	AM Peak Hour	PM Peak Hour	AM Peak Hour	PM Peak Hour	AM Peak Hour	PM Peak Hour
4: Georgia Avenue/Layhill Road (MD 182)	NB	775	620	83	157	94	152	131	253	156	230	198	501
	SB	547	438	420	219	420	219	446	287	187	312	187	277
	WB	1033	826	479	497	502	525	581	557	506	557	506	557
5: Georgia Avenue/Randolph Road	NB	1765	1412	295	1035	346	1176	376	1260	271	591	75	796
	SB	775	620	623	180	621	193	740	307	432	240	509	243
	EB	5300	4240	243	902	254	944	254	944	249	944	130	407
	WB	667	534	545	163	585	203	585	203	507	193	248	76
7: Layhill Road/Glenallan Avenue	NB	1033	826	69	222	76	246	76	236	71	234	71	236
	SB	2499	1999	456	199	520	218	531	218	496	218	496	218
	EB	1375	1100	205	283	206	354	253	402	267	523	291	523
	WB	1725	1380	247	192	276	193	290	203	332	203	339	203

Notes: 1) Queue is listed by feet and is calculated based on the methodology outlined in the 2008 LATR and PAMR Review Guidelines.
 2) The highest average queue per approach is listed.
 3) Improved queue is based on incremental change in queue as calculated by Synchro © and shown on Table 4. Incremental change is applied to total future values. See Appendix Table D1 for a detailed example
 4) LATR Improvements, as outlined in the April 2007 LATR report conducted by ITS consist of an additional southbound through lane and a northbound exclusive right at Georgia Avenue/Randolph Road
 5) G.S. Improvements include of grade separated through lanes for Randolph Road.

Example Formula: Future Improved Queue = Total Future Queue*Queue Improvement Factor (Table 4) See Appendix Table D1
 Example Calculation (Intersection 5, AM NB Thru-Right): Total Future w/ LATR Improvement= (376 ft*-27.9%)+376= 376-105=271 f

Randall explained the difference between the two methodologies. According to her, the CLV test was first published by the Institute of Traffic Engineers in 1978. It was developed by Steve Peterson and adopted first by Anne Arundel County, followed by the SHA. It is now used in most Maryland jurisdictions that have adequate public facilities tests. According to Ms. Randall, it is used primarily for planning purposes and is not intended to be used for operational changes to existing intersections. In her experience, it is more conservative than the HCM methodology because operational improvements such as signal timing are not factored in the results. 3/5/12 T. 93-94, 156-157.

Ms. Randall stated that factors considered in performing a CLV analysis include the number of lanes, kinds of turn lanes, and traffic volumes. The CLV method then requires a calculation of the competing movements through an intersection that are going to require green time. T. 95. For instance, if volume is heavier flowing southbound on Georgia during the peak hour, no conflicting through movements are counted because these lanes may be accommodated with the same “green time” of the signal cycle. T. 95. CLV looks at the sum of conflicting movements and factors in number of lanes, volume, and competition for green time. It does not consider timing of signals. T. 96. The CLV does not count all vehicles coming through an intersections; it begins with all volumes from each approach and then runs a calculation based on critical lane (or competing) movements within the intersection.

She testified that the HCM was developed around 1965 and is used in Washington, D.C., Virginia, and for unsignalized intersections, in Prince George’s County. The biggest difference between the HCM and the CLV is that HCM is an operational analysis and CLV is a planning tool. The HCM is used to modify or establish signal timing. 3/5/12 T. 98. The HCM method counts volume and other variables to measure intersection delay for each approach to the intersection. It evaluates traffic volumes on a sliding scale in relation to the intersection’s capacity. In order to

measure delay, it counts only volumes approaching, but not leaving the intersection. 3/5/12 T. 100. The HCM and CLV deem different Levels of Service (LOS) standards as “failing”, although, in Ms. Randall’s opinion, an LOS E (failing in the HCM) is “very similar” in delay to the CLV F depending on the approach. 3/5/12 T. 156.

Ms. Randall’s 2008 CLV intersection analysis found that all nine intersections studied would operate below the minimum required congestion standards. Exhibit 147(e), p. 7. Her HCM analysis came to the same result, i.e., that none of the nine intersections would be considered failing. Exhibit 147(e), p. 8.

3. 2011 Traffic Study

When the application was rescheduled for public hearing in 2011, Ms. Randall worked with Staff to update the 2008 Supplemental Traffic Analysis. Technical Staff requested that she recalculate CLV volumes for three intersections: the intersections of Georgia Avenue/Randolph Road, and the adjacent intersections to the north and south, i.e., Georgia Avenue/Layhill Road, and Georgia Avenue/Urbana Drive. Staff requested updated CLV volumes at these intersections to validate the conclusions of the 2008 Supplemental Traffic Analysis by determining whether existing conditions remained the same similar. Ms. Randall performed a CLV analysis for each intersection and observed the southbound queue on Georgia Avenue at Layhill Road. 3/5/12 T. 66. She stated that Technical Staff was of the opinion that the grade-separated interchange would resolve the prior queuing problems, but they wanted to make sure there was no change to the Georgia Avenue southbound queue at Layhill Road, which was the significant queuing issue in the original rezoning case. 3/5/12 T. 66. Ms. Randall submitted a photograph she had taken of the southbound queue on Georgia Avenue at Layhill Road (Exhibit 197(k)) during the a.m. peak hour, shown on the following page.

According to Ms. Randall, the 2011 study demonstrates that southbound queue on Georgia Avenue at Layhill Road had actually been reduced by 232 feet in the a.m. peak hour and 113 feet in the p.m. peak hour. Because this was such a significant change, she repeated the

**Southbound Queue on Georgia
Avenue at Layhill Road During
Morning Peak Hour**



study the following day. The second time, the queue increased by a single car length, and she included the latter result in her traffic report. 3/5/12 T. 67-70. The reduction also prompted her to consult with the Montgomery County Department of Transportation (MCDOT) and the SHA to see what might have caused the queue length to decrease. Ms. Randall stated that the signal timing at that intersection had been changed to provide more green time to westbound lefts (i.e., left turns from Layhill Road proceeding southbound on Georgia Avenue). Once those turns were given more green time, the vehicles turning left no longer blocked the intersection, addressing the condition causing the extended queues at the time of the original application. 3/5/12 T. 69-

72. Technical Staff and the Planning Board agreed with her analysis and found that the 2011 study validated the conclusions of the 2008 Supplemental Traffic Analysis. Exhibits 184, 184(a).

She also stated that the project could pass LATR using an Alternative Review Procedure set out in the LATR guidelines. She testified that several approved Local Map Amendment applications have used this methodology, but it is unnecessary here because of the improvement in existing conditions with the grade-separated interchange. In her opinion, the grade-separated interchange is reasonably probable of fruition in the foreseeable future. 3/5/12 T. 74-75.

B. Contested Issues

Mr. Richard Kauffunger, Mr. Max Bronstein and Ms. Vicki Vergagni appeared in opposition to the application. Mr. Bronstein appeared on behalf of the Strathmore Bel Pre Community Association and Ms. Vergagni appeared on behalf of Glen Way Gardens Condominium Association, which confronts the subject property diagonally across the intersection of Glenallan Avenue and Layhill Road. All raised concerns that the CLV methodology for assessing the impact on traffic in the area is inadequate, that the proposed development will exacerbate existing operational problems along Glenallan Avenue and Layhill Road, that the Applicant's assumptions for trip generation associated with the new Metro parking garage are understated, and that the grade-separated interchange will not do enough to relieve congestion in the area. Mr. Kauffunger and Mr. Bronstein proposed binding elements which, they believe, would alleviate the unsafe conditions in the area.

1. Existing Conditions

Mr. Bronstein testified that traffic in the area remains horribly congested because of the confluence of major roads, the Metro Station, Metro garages, and a firehouse. Mr. Bronstein also testified that photographs submitted by the Applicant showing acceptable conditions at

several intersections don't reflect reality. He stated that he travels through the area frequently and has not observed those conditions. He believes that the photographs were selectively taken or selectively chosen for submission. T. 329.

Mr. Bronstein believes that the Applicant's testimony regarding reduced traffic volumes in the area may be explained by the economy. He spoke with County Council staff, who informed him that 2011 unemployment was 5.2%, a 68% increase from baseline 2000-2006 levels. In February 2012, Technical Staff held a workshop on the future Glenmont Sector Plan. During the workshop, Staff stated that when economic conditions improved the traffic volumes would increase. He is very disappointed that Staff failed to include this information in their reports on this project. In his opinion, the public interest should trump all other interests. 3/5/12 T. 197-198.

Mr. Kauffunger also disputed the Applicant's characterization of existing conditions. He pointed out several examples from the Applicant's 2008 Supplemental Traffic Study indicating that, while the overall intersection level of service operated at acceptable levels, certain approaches to the intersection were failing. One example cited by Mr. Kauffunger is the intersection of Georgia Avenue and Layhill Road. The Technical Appendix of the Applicant's 2008 Supplement Traffic Analysis (Exhibit 147(f)) depicts the intersection under existing conditions as shown on the following page.

According to Mr. Kauffunger, the preceding page from the Applicant's Supplemental Traffic Study demonstrates that traffic volumes for westbound lefts onto Georgia Avenue from Layhill Road are quite heavy, i.e., 947 trips. The drivers making this movement get approximately 39 seconds of green time and experience a delay of approximately 113 seconds. Because the green time is so short in comparison with the delay, it's clear (in his opinion) that

Technical Appendix, 2008 Supplemental Traffic Analysis, Exhibit 147(f)

HCM Signalized Intersection Capacity Analysis
4: MD 182 (Layhill Rd.) & MD 97

Glenmont Metro
Existing AM Peak Hour

Volume of Vehicles for Westbound Left Approach (WBL) i.e., turning from Layhill Rd. onto Georgia Ave. Southbound

Delays (in Seconds) for Same Approach

WBL Approach LOS

Overall Intersection LOS

	←	←	←	←	←	←	←	←	←	←	←	←
Lane Configurations	←	←	←	←	←	←	←	←	←	←	←	←
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Util. Factor	1.00	1.00	0.97	1.00	0.85	1.00	0.91	1.00	1.00	0.91	1.00	0.91
Protected	0.98	1.00	0.95	1.00	0.95	1.00	1.00	1.00	0.95	1.00	1.00	0.95
Perm. Flow (prot)	1825	1583	3433	1583	5085	1583	5085	1583	1770	5085	1583	5085
Permitted	0.98	1.00	0.95	1.00	0.95	1.00	1.00	1.00	0.33	1.00	1.00	0.95
Perm. Flow (perm)	1825	1583	3433	1583	5085	1583	5085	1583	609	5085	1583	5085
Volume (vph)	22	31	5	947	0	56	0	652	213	54	1595	0
Peak-hour factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95	0.95	0.95	0.95	0.95	0.95	0.95
Adj. Flow (vph)	23	33	5	997	0	59	0	686	224	57	1679	0
RTOR Reduction (vph)	0	0	5	0	0	29	0	0	0	0	0	0
Lane Group Flow (vph)	0	56	0	907	0	30	0	686	224	57	1679	0
Turn Type	Split	Permcust	custom	Free	pm+pt							
Protected Phases	3	3	4	4	2	1	6					
Permitted Phases		3	4	4	Free	6						
Actuated Green, G (s)	8.1	8.1	38.9	38.9	77.2	150.0	87.0	87.0				
Effective Green, g (s)	9.1	9.1	39.9	39.9	79.2	150.0	89.0	89.0				
Actuated g/C Ratio	0.06	0.06	0.27	0.27	0.53	1.00	0.59	0.59				
Clearance Time (s)	5.0	5.0	5.0	5.0	6.0	4.0	6.0					
Vehicle Extension (s)	3.0	3.0	3.0	3.0	3.0	3.0	3.0					
Lane Grp Cap (vph)	111	96	913	421	2685	1583	406	3017				
v/s Ratio Prot	c0.03		c0.29	0.02	0.13	0.14	0.01	c0.33				
v/s Ratio Perm		0.00				0.14	0.08					
v/c Ratio	0.50	0.00	1.09	0.07	0.26	0.14	0.14	0.56				
Uniform Delay, d1	68.3	66.2	55.0	41.2	19.3	0.0	13.3	18.5				
Progression Factor	1.00	1.00	1.00	1.00	0.60	1.00	0.65	0.95				
Incremental Delay, d2	3.6	0.0	58.1	0.1	0.2	0.2	0.1	0.7				
Delay (s)	71.8	66.2	113.1	41.2	11.9	0.2	8.8	18.3				
Level of Service	E	E	F	D	B	A	A	B				
Approach Delay (s)	71.4		109.1		9.0		18.0					
Approach LOS	E		F		A		B					
HCM Average Control Delay		42.3										
HCM Level of Service							D					
HCM Volume to Capacity ratio		0.71										
Actuated Cycle Length (s)		150.0										
Sum of lost time (s)							12.0					
Intersection Capacity Utilization		71.2%										
ICU Level of Service							C					
Analysis Period (min)		15										
Critical Lane Group												

On rebuttal, Ms. Randall submitted photographs of existing conditions in the area during the peak hours. As already described, the southbound queue on Georgia Avenue at Layhill Road has significantly decreased. She also submitted photographs of the Layhill/Glenallan

**View of Same Intersection at Next
Signal Cycle (Queue Dissipated)
Exhibit 198(f)**



2. Applicant's Supplement Traffic Studies

a. Queuing at Intersection Approaches

Mr. Kauffunger testified that the Applicant's 2008 Supplemental Traffic Analysis demonstrates that under future conditions the congestion levels will get worse. As an example, he pointed to the volume and delays listed for the same intersection of Georgia Avenue and Layhill Road with the grade separated interchange (Exhibit 147(f), p. 5) shown on the following page). According to Mr. Kauffunger, the Applicant's traffic study demonstrates that delays for the westbound left approach (turning left from Layhill Road onto southbound Georgia Avenue) will increase over time, even with the grade-separated interchange in place. He cited to several other examples where the delays for particular approaches worsened even with the grade-separated interchange. These included approaches at the intersections of Georgia

HCM Signalized Intersection Capacity Analysis
 4: MD 182 (Layhill Rd.) & MD 97
 Glenmont Metro
 Total Future Stage I/II AM Peak Hour GS No OPT



Traffic Volumes for Westbound Lefts (from Layhill Road onto Georgia Avenue Southbound)

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations		↖	↗	↖↗		↖		↑↑↑	↖	↗	↑↑↑	
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Time (s)		4.0	4.0	4.0		4.0		4.0	4.0	4.0	4.0	
Factor		1.00	1.00	0.97		1.00		0.91	1.00	1.00	0.91	
		1.00	0.85	1.00		0.85		1.00	0.85	1.00	1.00	
		0.98	1.00	0.95		1.00		1.00	1.00	0.95	1.00	
prot)		1825	1583	3433		1583		5085	1583	1770	5085	
		0.98	1.00	0.95		1.00		1.00	1.00	0.31	1.00	
Satd. Flow (perm)		1825	1583	3433		1583		5085	1583	572	5085	
Volume (vph)	22	31	5	1008	0	57	0	698	231	54	1623	0
Peak-hour factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95	0.95	0.95	0.95	0.95	0.95	0.95
Adj. Flow (vph)	23	33	5	1061	0	60	0	735	243	57	1708	0
RTOR Reduction (vph)	0	0	5	0	0	28	0	0	0	0	0	0
Lane Group Flow (vph)	0	56	0	1061	0	32	0	735	243	57	1708	0
Turn Type	Split		Perm	Prot		custom			Free	pm+pt		
Protected Phases	3	3		4		4		2		1	6	
Permitted Phases			3			4			Free	6		
Actuated Green, G (s)		8.1	8.1	38.9		38.9		77.3	150.0	87.0	87.0	
Effective Green, g (s)		9.1	9.1	39.9		39.9		79.3	150.0	89.0	89.0	
Actuated g/C Ratio		0.06	0.06	0.27		0.27		0.53	1.00	0.59	0.59	
Clearance Time (s)		5.0	5.0	5.0		5.0		6.0		4.0	6.0	
Vehicle Extension (s)		3.0	3.0	3.0		3.0		3.0		3.0	3.0	
Cap (vph)		111	96	913		421		2688	1583	385	3017	
Prot		c0.03		c0.31		0.02		0.14		0.01	c0.34	
Perm			0.00						0.15	0.08		
		0.50	0.00	1.16		0.08		0.27	0.15	0.15	0.57	
Uniform Delay, d1		68.3	66.2	55.0		41.2		19.5	0.0	13.4	18.7	
Progression Factor		1.00	1.00	1.00		1.00		0.84	1.00	0.38	0.60	
Incremental Delay, d2		3.6	0.0	85.1		0.1		0.2	0.2	0.2	0.7	
Delay (s)		71.8	66.2	140.1		41.3		16.7	0.2	5.2	11.9	
Level of Service		E	E	F		D		B	A	A	B	
Approach Delay (s)		71.4		134.8				12.6			11.7	
Approach LOS		E		F				B			B	
Intersection Summary												
HCM Average Control Delay		48.0										
HCM Volume to Capacity ratio		0.73										
Actuated Cycle Length (s)		150.0							12.0			
Intersection Capacity Utilization		73.4%										
ICU Level of Service									D			
Analysis Period (min)		15										
Critical Lane Group												

Delay (in Seconds) for Same Approach

Level of Service for WBL Approach

Overall Intersection Level of Service

Avenue/Glenallan Avenue, Glenallan Avenue/Randolph Road, and Glenallan Avenue/Layhill Road. 3/5/12 T. 226-242.

On rebuttal, Ms. Randall testified that she did not focus on specific approaches to the intersections in the HCM analysis because she used that analysis only to project the percentage change in the queue for the three problematic intersections identified in the LATR queuing analysis. She did not attempt to optimize the signal timing for the intersections studied.

According to Ms. Randall, SHA will optimize the signal timing, not just for the interchange, but for the roadways that feed into the intersection, including Georgia Avenue and Layhill Road. 3/5/12 T. 290. She stated that the grade-separated interchange would free up a significant amount of green time that will be distributed throughout the system. SHA typically makes sure that the main line operates and C or D levels of service, but currently there are a number of functional inefficiencies causing levels of service A or B for certain approaches. She testified that this is wasted green time that will be redistributed so that more approaches operate at acceptable levels. While this doesn't guarantee that all LOS E or F approaches will be eliminated, the SHA is starting to do this type of analysis to reduce idling time. 3/5/12 T. 289-292. She did not include these in her HCM analysis because she does not know what the signal timing of the grade-separated interchange will be. 3/5/12 T. 292.

Ms. Randall testified that the State is already making changes to improve conditions at one of the intersections identified by Mr. Kauffunger. In order to deal with northbound lefts exiting the new Metro station parking garage, the State is changing the existing lane use to provide two northbound left-turn lanes, one of which is a dedicated left and one is a combined left, right-turn and through lane. As part of this improvement, the State will adjust signal timing so that the garage exit and Glenallan Avenue are split phased signals. 3/5/12 T. 292-294.

In her opinion, the fact that certain approaches operate at failing levels does not mean that cars are not getting through the intersection, which was the problem identified at an earlier hearing. In her opinion, the traffic counts here are not artificially low because the volumes increase and decrease during the three hours studied. If the counts were flat during that time, that would be an indication that there is a demand that is not being met. In addition, Ms. Randall stated, HCM looks at the intersection as a whole because it analyzes the best use of green time

throughout an entire system. It does not mandate that every approach operate at LOS C because that has ramifications to other intersections and priorities. 3/5/12 T. 327.

Mr. Edward Axler, a transportation planner with the M-NCPPC, agreed with Ms. Randall that the State's adjustments to signal timing would resolve most of the approach delays cited by Mr. Kauffunger. Signal timing is based on the most congested intersection in the system, which is Georgia Avenue and Randolph Road. With the grade-separated interchange, conditions will improve because it's possible to reduce the length of the signal cycle, having better turning and through movements up and down the entire system. According to Mr. Axler, signal timing can reduce an approach lane from LOS F to LOS B. In some cases, it may be reduction of green time given to an approach that is LOS A or B, which would be redistributed to more congested lane approaches. 4/16/12 T. 87-89.

b. Trip Generation Rate for WMATA Western Parking Garage

Both Mr. Kauffunger and Ms. Vergagni testified that the number of trips assigned to the new WMATA parking garage included in the Applicant's 2008 Supplemental Traffic Study were too low. Mr. Kauffunger submitted a 2006 traffic analysis prepared for WMATA analyzing two alternative proposed locations, including the western location ultimately chosen. Exhibit 195. In order to determine trip generation rates, the traffic engineers for the WMATA study took traffic counts from the existing garage, determined the peak hours, and used those to calculate the trip generation rate for the new garage. The 2006 WMATA study determined that .34 cars per parking space would exit during the evening peak hour or 378 trips. The Applicant's study estimated that the parking garage would generate almost half that amount of traffic. 3/5/12 T. 253-254.

Ms. Vergagni and her staff conducted their own traffic study to determine the trip generation rate for the new garage. Ms. Vergagni testified that she and her staff counted 878

vehicles exiting the Metro property between 5:30 p.m. and 6:30 p.m., including the Kiss and Ride. They counted 291 vehicles attributable to the Kiss and Ride, leaving 587 attributable to the existing (eastern) garage, resulting in a trip generation rate of .3 trips per parking space. She applied this generation to the 1,112 spaces that will be in the new garage, which results in 367 trips. This number is almost double the information previously provided in the hearing. 3/5/12 T. 283-284. In both Ms. Vergagni's and Mr. Kauffunger's opinions, the Applicant has failed to meet its burden of proof that the proposed development will not have an adverse impact on roads in the surrounding area.

After reviewing the 2006 traffic study performed for WMATA, Ms. Randall agreed that the Applicant's original traffic study underestimated the number of trips attributable to the new parking garage. According to Ms. Randall, the Applicant had not been provided with all the information relating to the study. In her opinion, however, the increased number of trips does not affect the conclusions of her study because 2006 WMATA study reassigned trips from the existing garage. This is because the WMATA consultants felt that traffic southbound on Georgia Avenue would turn right into the new garage rather than take a left onto Glenallan to enter the existing garage. She applied the planned intersection improvements, the optimized signal timing and the reassigned traffic volumes to the results of her study and concluded that the intersection will improve even if the volume increases as shown in WMATA's 2006 study and Ms. Vergagni's study. 3/5/12 T. 294-302.

c. Vacancy Rate for Privacy World

Mr. Kauffunger also argues that the projected number of trips for the proposed development is artificially low because the development receives a credit for the full number of existing dwelling units at Privacy World. Both Mr. Kauffunger and Ms. Randall agree that the LATR permits the developer to credit the amount of its new trips by the total number of existing

units regardless of whether they are occupied, thus assuming that trips will be removed that may not actually be counted in existing traffic.

Mr. Pete Jervis, a representative of the Applicant, testified that the vacancy rate at Privacy World is 40% over the last six months, information he obtained from the property owner. 3/5/12 T. 332-333. Ms. Randall modified the prior traffic study to account for this vacancy rate and performed a CLV analysis factoring in additional trips to reflect a 40% vacancy rate. Ms. Randall opined that factoring in the vacancy rate would add an additional 50 trips in the a.m. peak hour and 57 trips in the p.m. peak hour. By the time these trips are dispersed through the different intersections, adding the additional trips does not change the levels of service with the grade-separated interchange. 3/5/12 T. 121. She explained the formula by which she tested the impact of the vacancy rate:

1. Total number of dwelling units = 352;
2. Total number generates 144 a.m. peak hour trips and 166 p.m. peak hour trips;
3. Subtract 15% reduction for transit proximity: 122 a.m. peak hour trips and 141 p.m. trips
4. Apply 40% vacancy rate: 59 a.m. peak hour trips and 67 p.m. peak hour trips;
5. Subtract 15% reduction for transit proximity: 50 a.m. and 57 p.m. peak hour trips. 3/5/12 T. 181.

Ms. Randall further stated that even if all 67 trips were added to background traffic (without the 15% reduction for proximity to transit), all intersections would operate within LATR standards. 3/5/12 T. 182.

Mr. Kauffunger believes that the 2006 traffic study prepared for the WMATA parking garage traffic indicates that vacancy rates for Privacy World were higher in 2005 because of the low volumes shown at the access/egress points in the Applicant's original traffic study. During the entire a.m. peak hour, only 32 vehicles exited the property. T. 247. He doesn't have any information later than 2005. He also believes this is true because when he drives through Privacy World at night, he sees very few cars parked outside of the apartments. 3/5/12 T. 249.

He believes that more trips should be added into the projected trip generation because the vacancy rate is much higher than 40%. 3/5/12 T. 250.

3. Existing and Future Operational Problems

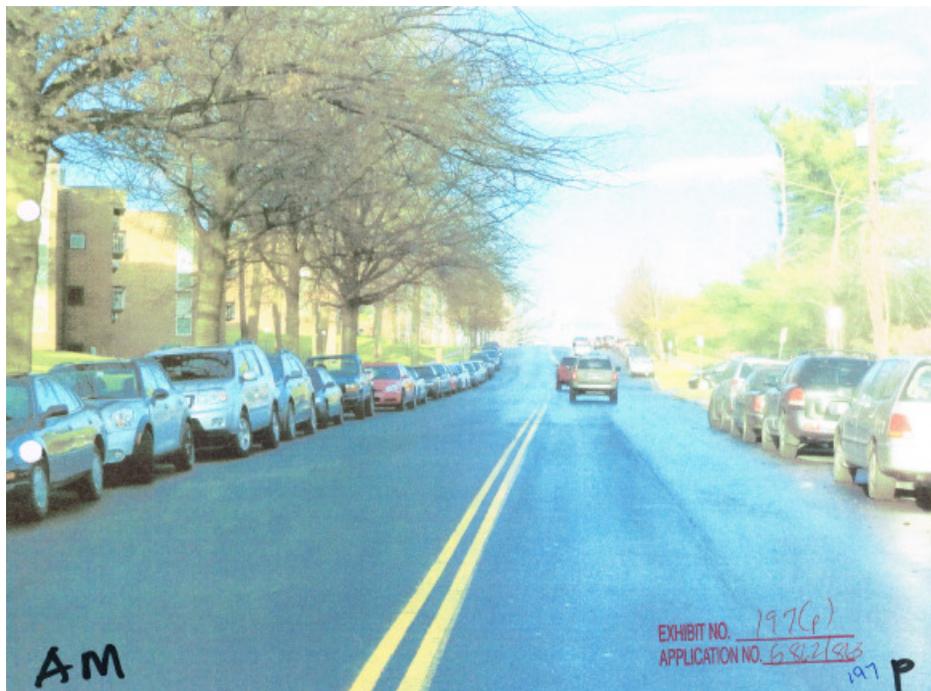
Those in opposition interpret the Council's directive on remand to require the Applicant to address both vehicular and pedestrian operational problems that exist along Glenallan Avenue and Layhill Road. 3/5/12 T. 220, 277. All those in opposition raised concerns regarding the number of access points shown on the development plan along Glenallan Road. They feel that these access points are unsafe because of site distance issues created by the grade and the "dog-leg" on Glenallan Avenue as well as the volume of pedestrian and vehicular traffic leaving the Metro Station during the peak hours.

According to Mr. Bronstein, there will possibly be as many as 1,300 people crossing Glenallan in the morning and the same number in the evening, plus foot traffic to the retail. These computations are based on the 1,550 units times 2.4 people per unit times 35% Metro usage either by subway or bus. Mr. Bronstein testified that 57% of commuters within one-half miles of a Metro station use transit. Using a conservative figure of 50%, that still leaves 1,850 drivers. 3/5/12 T. 197-199. He believes that this significant congregation of pedestrians and vehicles presents a major challenge which mandates affirmative actions by the developer to alleviate the adverse effects from the development. 3.5.12 T. 199-200.

In Mr. Bronstein's opinion, another important consideration is the location of the fire house. It will be located on the west side of Georgia Avenue just north of the second metro garage, directly across from the subject property. He exchanged emails with Scott Gutschick, planning section manager of the Montgomery County Fire and Rescue Service to get information on the re-location. The current fire station is located at Georgia Avenue and Randolph Road and does not have an ambulance service due to lack of space. The existing station handles an

average of 7.5 calls per day. According to Mr. Bronstein, this means that traffic is interrupted 15 times during the day, a number that will increase when ambulance service is provided in the new station. He stated that the calls are estimated to increase to 13 per day, resulting in 26 times that traffic is interrupted which will cause major interruptions in traffic. 3/5/12 T. 200.

Ms. Vergagni, president of the Board of Directors of Glen Way Gardens Condominium Association and the on-site property manager, testified regarding existing conditions on Glenallan Avenue. 3/5/12 T. 266-269. The community is bounded by Layhill Road to the west, Glenallan Avenue to the north, and Randolph Road to the southeast. T. 269. Glenallan Avenue is four lanes, but goes down to two lanes approximately 150-197 feet east of the intersection with Layhill Road. 3/5/12 T. 270. On a normal day, there are 85 cars parked along Glenallan Avenue, most of which belong to Metro riders. By 5:30 to 6:00 a.m., the parking is full. Glen Way Condominiums has two exits onto Layhill Road from an internal private road, Greenery Lane. Layhill Road is divided at that point. A photograph of the parking along Glenallan Avenue, submitted by the Applicant, is shown below (Exhibit 197(p)):



Her community also has one exit onto Glenallan Road. The speed limit on Layhill Road and Glenallan Avenue is 30 miles per hour, but traffic travels much faster. Beginning from Georgia Avenue and proceeding toward her community, Glenallan dips down slightly and then there is a significant rise of about 22 feet toward the intersection with Layhill Road. After the intersection, the slope decreases more gradually proceeding toward Randolph Road. 3/5/12 T. 271-272.

Her unit is approximately 500 feet from the intersection of Glenallan and Randolph Road. She has lived there since September, 1975 and hears accidents occur on a regular basis. According to Ms. Vergagni, the intersection is so dangerous that recently the County installed a countdown signal at the intersection because they have two individuals in their community who are legally blind. Her and her friend's cars have been totaled because people come "roaring" over the crest of the hill without knowing the lanes collapse from four to two within approximately 200 feet. There are also accidents in the area due to the "dog leg" on Glenallan Avenue; cars have taken out the fence there because the site distance is poor. 3/5/12 T. 273-274.

According to Ms. Vergagni, residents of Glen Way Gardens have difficulty exiting the community in the morning because southbound traffic on Georgia uses Glenallan to cut through to westbound Randolph. There is a significant amount of traffic on Glenallan in addition to traffic travelling to the Metro station. Therefore, rather than getting in the significant queues along Glenallan, people use their community's internal private road that exits onto Randolph. When they try to exit the community onto Glenallan, the parked cars block their view of oncoming traffic. The volume of the oncoming traffic is heavy and it travels fast, so it's very difficult to exit their community onto Glenallan Avenue. 3/5/12 T. 274-275.

During the p.m. hours, Ms. Vergagni stated that people want to retrace their route from the morning. In order to enter their community from Glenallan, they must turn left, stopping the traffic behind them until southbound traffic is clear. She testified that it is not unusual for her to

see a back up of seven to eleven cars if any of their residents are trying to turn left into the community from Glenallan. They have difficulty making rights out of the development in the morning and lefts into the development in the evening. 3/5/12 T. 276.

Most of their residents wish to connect to either northbound or southbound Georgia Avenue. They do not have difficulty exiting their community at Layhill Road during the morning, but in the evening they do. There is a very short left turn lane at the intersection of Layhill Avenue and Glenallan Avenue. People travel very quickly northbound on Layhill toward Glenallan and residents have trouble making a left hand turn out of the community. Most of the residents try to cross the northbound fast-moving lanes on Layhill Road to take a left onto Glenallan Avenue and proceed north on Georgia, or to do a U-turn on Layhill Road to proceed southbound on Georgia. She does not see how even another 1,000 cars can be accommodated at this location. 3/5/12 T. 276-277.

Ms. Vergagni testified that the Winexburg community also has difficulties getting out of their property onto Glenallan. She spoke with the property manager there who informed her that residents are unable to make a left onto Glenallan in the morning to go to Randolph Road and proceed out from there because the traffic volumes are too heavy. The community has one exit onto Randolph Road and most of the traffic uses that during the morning peak hour. There are other exits but because there is a median, many people have to make U-turns to get to Randolph Road. She stated that many people feel unsafe when entering and exiting the community. 3/5/11 T. 278-279.

Ms. Vergagni's major concern, however, is the number of conflicting movements due to numerous access points along Glenallan Avenue that will occur with the new development. These would include the access points to Glen Way, to the Winexburg Apartments, four to the proposed development, and several to the Metro, including the garage and the Kiss and Ride.

She stated that approximately 200 of the trips exiting the garage in her traffic study made lefts and so had to cross multiple lanes of traffic. In her opinion, conditions will become like a “demolition derby”. She believes that the major problem is the volume of traffic on Glenallan Road; vehicles exiting the subject property from the Layhill exit will approach the intersection of Layhill Road and Glenallan Avenue. Vehicles leaving the property from the four exits on Layhill Road will also have to travel on Glenallan Avenue. 3/5/12 T. 284-287.

Mr. Jervis, a representative of the Applicant, acknowledged that there were some existing operational problems along Glenallan Avenue near the intersection with Layhill Road. In response to these, the Applicant proposed an additional binding element committing them to study operational improvements at the time of preliminary plan. The proposed binding element commits the Applicant to studying appropriate operational improvements including the following: a pedestrian crossing between the proposed development and the Metro station, pedestrian safety along Glenallan and site distance for turning movements from the project onto Glenallan Avenue. He acknowledged that when he and Ms. Randall were on Glenallan Road taking the photographs submitted, he observed that vehicles attempting to exit the Condominiums experienced difficulty. 3/5/12 T. 334.

4. The Opposition’s Proposed Binding Elements

Mr. Bronstein and Mr. Kauffunger both proposed binding elements which they believe address the issues cited above. Mr. Bronstein proposes several new binding elements to be included in the development plan. These would include:

1. A commitment to building a pedestrian bridge from the site to the Metro station on the south side of Glenallan to eliminate conflicts between pedestrians and vehicles;
2. The number of dwelling units should be capped at 1,200;
3. Ingress and egress should be aligned directly across from the Metro garage and the Kiss and Ride lot;

4. The Applicant must put methods in place so that pedestrians from the new development will be channeled mainly to the pedestrian bridge as well as to signalized crosswalks at Georgia Avenue/Glenallan Avenue and Layhill Road/Glenallan Avenue;
5. The building restriction line for the new development should be 30 feet from the curb line along Glenallan Avenue to permit greater site distance for drivers;
6. The access from the subject property onto Layhill Road should be aligned with the entrance/exit of the Winexburg Apartments; and
7. The internal through road should exit onto Georgia Avenue directly across from Denali Drive on the west side of Georgia Avenue to reduce the number of conflicting traffic movements on the roadways surrounding the subject property. T. 203.

Mr. Kauffunger also proposed similar binding elements to alleviate anticipated and existing operational problems. He and Ms. Vergagni did not believe that a density cap should be imposed, but did believe that building height for elevations above 435 feet sea level should be no more than 35 feet. 3/5/12 T. 257-261.

5. *Government Agency Response*
(Technical Staff, Planning Board, WMATA)

Technical Staff, the Planning Board and WMATA all reviewed the application. Technical Staff recommended approval of the application, subject to the following conditions to be met at the time of preliminary plan approval:

1. Limit the Preliminary Plan to a maximum of 1,300 multi-family dwelling units, 250 townhouse units, and 90,000 square feet of retail.
2. Dedicate 75 feet of right-of-way from the centerline of Georgia Avenue (MD 97).
3. Dedicate 60 feet of right-of-way from the centerline of Layhill Road (MD 182).
4. Dedicate 45 feet of right-of-way from the centerline of Glenallan Avenue.
5. Satisfy the LATR component of the AFP test at time of Preliminary Plan by contributing to the transportation improvement at the intersection of Georgia Avenue and Randolph Road. The Applicant should pay a pro-rata share of SHA's grade separated project (SHA contract M08545171).
6. Construct a new road on site parallel to Glenallan Avenue between Georgia Avenue and Layhill Road.

7. Construct an 8-foot wide shared-use path on the north side of Georgia Avenue.
8. Participate in the future Wheaton/Glenmont Transportation Management Organization.
9. Complete and make open to traffic the above-referenced transportation improvements based on the staging of the proposed development to be determined at the time of Preliminary Plan review and approval.
10. Satisfy future State Highway Administration and Department of Public Works and Transportation (now Department of Transportation (DOT) requirements at the time of Preliminary Plan.

Exhibit 184(a), pp. 1-2.

Staff explained that when the application was revived in 2011, they required the Applicant only to update the count and queue data at three key intersections (i.e., Georgia/Randolph, Georgia/Urbana, and Georgia Layhill) to determine whether traffic volumes had changed since the Applicant's 2008 Supplemental Traffic Analysis. Exhibit 184(a). Technical Staff concluded that they had not changed, and in fact, five of the six intersections recalculated indicated that 2011 CLV values were less than the 2008 volumes. Exhibit 184(a), p. 5. Technical Staff reviewed the queuing data for the southbound approach of Georgia Avenue at Layhill Road. The southbound queue on Georgia Avenue had decreased from 420 feet in 2008 to 189 feet in 2011 and currently meets the LATR standards. Exhibit 184(a), p. 6.

At the public hearing, Staff clarified that they had analyzed the southbound queue on Georgia Avenue at Layhill Road rather than the westbound approach of Layhill Road at Georgia Avenue that had been discussed by those opposing the application. This was because it had been labeled as the worse queue in the 2008 Supplemental Traffic Study. 4/16/12 T. 98-107. Staff concluded that, with the grade-separated interchange, both Stage I and Stage II of the application would not have an adverse traffic impact on the surrounding area and that no further mitigation is necessary. Exhibit 184(a), p. 6.

The Planning Board adopted Technical Staff's recommendation and recommended approval of Stages I and II. In response to arguments from those in opposition requesting that additional study be done, it stated that "it was persuaded by testimony and written submissions from transportation planning staff from Area 2 and the Applicant's transportation planner that such additional analysis would contribute little to the understanding of the impacts of the proposed development, given the decreases in traffic volumes in the area between 2008 and 2011 and the significant traffic flow improvements expected from the fully-funded, grade-separated interchange at Georgia Avenue and Randolph Road." In response to citizen concerns regarding unsafe operations in the area, it recommended the Applicant add a binding element requiring it to study operational improvements at the time of preliminary plan approval. Exhibit 184, p. 2.

WMATA submitted written comments on the application on April 3, 2012. WMATA stated that the proposed rezoning represents a "significant advance in providing Transit-Oriented Development (TOD) in the Glenmont Station vicinity." Exhibit 207, p. 1. WMATA found that the rezoning presented an opportunity to increase Metro ridership and was consistent with established programs and policies at Metro that actively promote TOD on Metro-owned and transit-adjacent properties.

WMATA also noted, however, that approval of the applications would raise some practical considerations for Metro necessitating corollary improvements for pedestrian and bicycle access on Metro property and as well as for potentially conflicting bus and vehicular movements. Although "confident" that these could be resolved at later stages of the development process, WMATA advised that staff has already begun working on some of the operational access issues, and has recently adopted a bike and pedestrian access plan intended to improve pedestrian and bicycle access to the station which would need to be addressed at later stages of the development process. Exhibit 207.

IV. FINDINGS AND CONCLUSIONS

A. Scope of Remand

The Council's remand is relatively explicit in this case—the purpose of the remand was to permit the Applicant the opportunity to provide additional evidence demonstrating that neither Stage I nor the combined Stage I/II would adversely affect traffic in the surrounding area and specifically requested:

(i) a queuing analysis for the intersection of Randolph Road and Georgia Avenue, under the methodology and standards outlined in Part V.A. of the Local Transportation Review Guidelines approved and adopted by the Planning Board on July 1, 2004, and (ii) an analysis of the mitigation proposed by the Applicant for any adverse traffic impacts identified in the queuing analysis.

Resolution 16-424. At the least, the first part of the Council's remand required the Applicant to perform a queuing analysis for the intersection of Randolph Road and Georgia Avenue following the method contained in the LATR Guidelines. The second prong required the Applicant to propose mitigation for problems identified in the queuing analysis.

The Hearing Examiner is not persuaded by the opposition's argument that the remand should be broadened to include operational issues, such as pedestrian and vehicular circulation at access points to the site, for two reasons. First, it is not expressly included in the remand, and second, the Hearing Examiner and the District Council have already addressed the issue in the original case. Both the District Council and the Hearing Examiner found that:

The proposed development would serve the safety, convenience and amenity of site residents by providing pedestrian-friendly, transit-oriented, urban-style housing options in a development with excellent transit access, extensive streetscaping and open spaces, and the convenience of on-site retail. The Applicant cannot commit to specific pedestrian-safety measures along Glenallan Avenue because of the need for county approval, but the evidence establishes a clear intent to work with the appropriate agencies to develop measures such as pedestrian crossing signals to allow site residents to make use of their convenient Metro access safely, and to allow area residents to access the subject site safely.

Hearing Examiner's Report and Recommendation (May 18, 2007), p. 184; Resolution No. 16-424, p. 25. In addition, both found that the "evidence supports a finding that the proposed internal vehicular and pedestrian circulation systems and points of external access would be safe, adequate, and efficient." Resolution 16-424, p. 25. The Hearing Examiner's first report also states that the:

Applicant presented ample evidence that the internal vehicular and pedestrian circulation systems, which are proposed with an extensive network of interconnected streets and sidewalks, would be safe, adequate and efficient. Less definite information is available about points of external access because these would require county and state approvals. However, the Development Plan proposes points of external access that, if approved, would be safe, adequate and efficient, and there is no evidence to suggest that they would not be approved.

ZHE Report (May 18, 2007), p. 184.

Understandably, those opposing the application are anxious to have their operational and safety concerns resolved now, rather than waiting for subsequent approvals. Even were the issue properly before this Hearing Examiner on remand, the evidence suggests that specific solutions to the operational problems are premature. According to WMATA, it is currently studying some of the operational problems at this location, and has recently adopted a pedestrian and bicycle circulation program which the Applicant must incorporate into the more detailed consideration at the preliminary plan review stage. To address the opposition's concerns, the Applicant has agreed (at the suggestion of the Planning Board) to commit to an operational analysis at the time of preliminary plan approval. To the extent these issues are properly before the Hearing Examiner, she finds the binding element the most appropriate means of addressing the issue at this stage of the development process.

B. Compatibility/Public Interest

What is the before the Hearing Examiner on remand is whether the traffic impacts of the proposed development meet two standards necessary for approval of a rezoning to the TS-R

Zone. One standard requires that the application be compatible with the surrounding neighborhood, and a second requires the application to be “in the public interest.” *Maryland-National Capital Park and Planning Commission Article (Art.28) Annot.*, §7-110. When evaluating the public interest, the District Council normally considers Master Plan conformity, the recommendations of the Planning Board and Technical Staff, and any adverse impact on public facilities, including roadways. The Council found that the Applicant in the first hearing failed to meet its burden of proof that site-generated traffic would be compatible with the surrounding area or in the public interest because flaws in the CLV methodology did not reveal significant back-ups extending throughout the system from the intersection of Georgia Avenue and Randolph Road. Specifically, the District Council expressed concern about “the lack of evidence about conditions at the intersection of Randolph Road and Georgia Avenue if the Applicant is able to build between 255 and 335 new units, as well as the 275 replacement units, based on non-roadway conditions.” Council Resolution 16-424, p. 18. As a result of this concern, the Council permitted the Applicant to provide more information about congestion on roadways in the area and adopted the minimum two-pronged approach on remand described above, i.e., that the Applicant should perform a queuing analysis for the intersection of Randolph Road and Georgia Avenue and propose any necessary improvements needed to bring the queues within LATR standards.

In rezoning cases, the District Council may only consider traffic mitigation measures that are reasonably probable of fruition in the foreseeable future. *See, Montgomery County v. Greater Colesville Citizens Association*, 70 Md. App. 374 (1987). A significant difference between the pre- and post-remand cases is that a grade-separated interchange at the intersection of Georgia Avenue/Randolph Road is now fully funded for construction in the State’s capital program for 2016. Exhibit 184(a), p. 6. As a result, the Applicant is legally entitled to include

this interchange in its mitigation for the proposed project under LATR guidelines. While Mr. Bronstein questioned whether the interchange would actually be built given prior delays in funding, there is no evidence before the Hearing Examiner on remand that the interchange will *not* proceed as scheduled. As a result, the Hearing Examiner finds that the interchange is “reasonably probable of fruition in the foreseeable future” and therefore, may be considered by the District Council in this case.

The Applicant’s response to the Council’s directive on remand has been not only to perform the queuing analysis specifically requested in the remand order, but also to provide an analysis of project’s impact on system operations upstream from the Georgia Avenue/Randolph Road intersection. The Applicant’s transportation planner performed an LATR queuing analysis (using observed queues) for nine intersections studied in the Applicant’s original traffic report. This queuing analysis identified two intersections with projected queues (without the planned interchange) which would not meet the LATR standards. These were the intersections of Georgia Avenue/Layhill Road, and Georgia Avenue/Randolph Road. The Applicant then studied these intersections as well as a third intersection, Glenallan Avenue and Layhill Road, using the HCM/Synchro© method, enabling them to analyze the effect of the grade-separated interchange on the projected queues. The Applicant used the HCM/Synchro analysis solely to obtain the percentage difference between the project queues with and without the grade-separated interchange in order to apply that percentage change to the LATR observed queues. The Applicant did not make adjustments to the signal timing other than at the intersection of Georgia Avenue/Randolph road to reflect the new interchange. The evidence is uncontroverted that all intersections would operate at acceptable overall levels of service using this methodology.

While the Hearing Examiner agrees with Mr. Kauffunger that the Applicant's 2008 Supplemental Traffic Analysis includes some intersection approaches operating at LOS F, or at failing levels, under future conditions, she concludes that the project's traffic impact will be compatible with the neighborhood for several reasons. The uncontroverted evidence before the Hearing Examiner reveals that the HCM/Synchro© analysis showing the failing future approaches was done solely for the purpose of identifying the percentage change in the observed queues using the LATR guidelines. Both Technical Staff (i.e., Mr. Axler), and the Applicant's traffic expert testified that changes in signal timing are part of the capital project for the grade-separated interchange. Both also testified that changes in signal timing will significantly reduce congestion at the intersection to acceptable levels beyond what is shown in the Technical Appendix to the 2008 Supplemental Traffic Study. Further, Ms. Randall testified that the standard for acceptable operation is the overall operation of the intersection rather than particular approaches, and that traffic is proceeding through the intersections studied.

While those in opposition correctly pointed out that the Applicant's first traffic report underestimated the trip generation for the new WMATA parking garage west of Georgia Avenue, the evidence remains uncontroverted that this will not have an adverse impact on the area. This is because the 2006 WMATA traffic study also reassigned trips from that intersection to other intersections. The evidence before the Hearing Examiner demonstrates then, that even with the additional trips added for the parking garage, the concurrent deduction in trips from reassignment will have no impact on the conclusions in the Applicant's 2008 or 2011 traffic studies.

The Hearing Examiner also finds that the weight of the evidence supports a finding the project will not have an adverse impact on traffic because of the existing vacancy of the apartments at Privacy World. While Mr. Kauffunger stated that he believed the existing vacancy

rate is higher than 40%, he had no specific evidence to quantify the extent of the current vacancy rate. Although hearsay, the Hearing Examiner finds the evidence provided by the property owner of greater weight than the anecdotal and unquantified evidence provided by Mr. Kauffunger. Based on the 40% vacancy rate, the Applicant's traffic expert, Ms. Randall testified that there would be no adverse traffic impact from the project and the Hearing Examiner so finds.

The problem identified in the original case was that use of the CLV methodology artificially reduced traffic counts because traffic was not proceeding through several intersections. In addition to the queuing analysis mandated by the Council in its remand order, the Applicant provided additional analysis, including an LATR and HCM analysis of nine intersections included in the Applicant's original traffic study. The 2008 Supplemental Traffic Analysis demonstrates that using both methodologies, all intersections will operate at acceptable levels of service. Technical Staff and the Planning Board advise that the 2011 traffic information provided by the Applicant validates these conclusions and in fact, indicate that existing volumes at the approaches have decreased. This is further confirmed by the fact that the key queue on southbound Georgia Avenue at Layhill Road has decreased due to signal timing changes made by the State. While Mr. Bronstein testified that the reduced volume of traffic is a result of problems in the economy, he did not provide quantifiable evidence directly quantifying the impact of the economy on decreased traffic volumes. Based on this evidence, the Hearing Examiner finds the conclusions of the 2008 Supplemental Traffic Analysis persuasive that future traffic from the proposed development will not have an adverse impact on the surrounding area, as did the Planning Board and Technical Staff. Because the queuing analysis, and the LATR and HCM analyses also show that the grade-separated interchange fully mitigates the traffic

impact of the project, there is no need for the Applicant to address the second prong of the Council's remand order regarding proposed mitigation.

For these reasons, the Hearing Examiner finds that the Applicant has met its burden of proof, by a preponderance of the evidence, that queues at the intersection of Georgia Avenue and Randolph Road will be within the LATR standards, without mitigation other than the grade-separated interchange and that the traffic impacts of the project will be compatible with the surrounding neighborhood and in the public interest.

V. RECOMMENDATION

I, therefore, recommend that (1) Zoning Application No. G-862, which requests reclassification from the R-T 12.5, R-30 and O-M Zones to the TS-R Zone of 23.9 acres of land located at the intersection of Georgia Avenue and Glenallan Avenue in Silver Spring, Maryland, in the 13th Election District, consisting of Lots 1 through 49 and Parcels A, B and C in the Glenmont Mews Subdivision; part of Parcel A in the Glenmont Park Subdivision; part of Parcel B in the Glenmont Park subdivision; Parcel C in the Glenmont Park Subdivision; Parcel E in the Glenmont Park Subdivision; Parcel F in the Glenmont Park subdivision; and part of Parcel G in the Glenmont Park Subdivision; and (2) Zoning Application No. G-863, which requests reclassification from the R-30 Zone to the TS-R Zone of 7.0514 acres of land adjacent to the land covered by Application No. G-862, consisting of parts of Parcels A, B and G in the Glenmont Park Subdivision; be ***approved***, in the amount requested and subject to the specifications and requirements of the revised Development Plan, Exhibit 214(c), provided that the Applicant submits to the Hearing Examiner for certification a reproducible original and three copies of the

Development Plan approved by the District Council within 10 days of approval, as required under Code §59-D-1.64.

Dated: June 15, 2012

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized 'L' and 'R' followed by a long horizontal line extending to the right.

Lynn A. Robeson
Hearing Examiner