

Resolution No.: 15-1550
Introduced: July 18, 2006
Adopted: July 18, 2006

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY**

By: County Council

SUBJECT: APPLICATION NOS. G-846 and G-847 FOR AMENDMENT TO THE ZONING
ORDINANCE MAP, Todd Brown and Yum Yu Cheng, Attorneys for Owner FF Realty,
L.L.C., OPINION AND RESOLUTION ON APPLICATIONS.
Tax Account Nos. 13-00961838 (G-846); 13-00979183 (G-847)

OPINION

Application No. G-846, filed on January 3, 2006 by Applicant FF Realty, LLC, requests reclassification from the R-30 Zone to the R-T 15 Zone of 6.7 acres of land known as Parcel A, Block A, Glenmont Woods Subdivision and located at 12207 Georgia Avenue in Silver Spring, Maryland, in the 13th Election District. Application No. G-847, also filed on January 3, 2006 by Applicant FF Realty, LLC, requests reclassification from the R-20 Zone to the R-T 15 Zone of 4.6 acres of land known as Parcel A, Shorefield Manor Subdivision, located at 2301 Shorefield Road in Silver Spring, Maryland, in the 13th Election District. The applications were filed under the standard method of application. The Hearing Examiner consolidated the two applications for hearing purposes, at the Applicant's request, because the applications are part of a single redevelopment plan, request the same zone, involve related entities, and were anticipated to present the same witnesses and very similar evidence, apart from a few exceptions related to each specific property.

The Hearing Examiner submitted a single report recommending approval of both applications on the basis that the R-T 15 Zone at the proposed locations would satisfy the requirements of the purpose clause; that the proposed reclassifications and development would be compatible with existing and planned land uses in the surrounding area; and that the proposed reclassifications bear sufficient relationship to the public interest to justify approval. The Montgomery County Planning Board ("Planning Board") and its Technical Staff provided similar recommendations. The District Council

agrees with these conclusions, and incorporates the Hearing Examiner's report and recommendation dated July 7, 2006 herein.

The sites of the two rezoning requests at issue here are part of an existing apartment community with 570 units, Oakfield Apartments, which was built in the 1960s and purchased by the Applicant in late 2005. The complex has operated as a single development, although it occupies three separate parcels of land: the northern parcel (phase one), which is the subject of LMA No. G-846 and contains 97 apartments; the southern parcel (phase three), which is the subject of LMA No. G-847 and contains 102 apartments; and the middle parcel (phase two), which contains 371 apartments and is not proposed for rezoning.

The subject property in G-846 consists of 6.69 acres of land located at 12207 Georgia Avenue, classified under the R-30 Zone. The property is occupied by ten multi-family rental buildings containing a total of 76 town homes and 21 garden apartments, with approximately 160 parking spaces. The topography is generally flat along Georgia Avenue and the northern boundary of the property. There is a grade difference along the eastern boundary, where a stream crosses the property and the site is adjacent to Wheaton Regional Park. To the north, the property abuts an apartment complex in the R-30 Zone, the Americana Glenmont Apartments, and the Lutheran Church of St. Andrew, which fronts on Georgia Avenue and is classified in the R-90 Zone. The southern boundary of the property abuts phase two of the Oakfield Apartments, in the R-30 Zone. To the west, the property fronts on Georgia Avenue.

The subject property in G-847 consists of 4.64 acres of land located at 2301 Shorefield Road, classified under the R-20 Zone. The property is occupied by five multi-family rental buildings containing a total of 102 dwelling units, with approximately 136 parking spaces. The topography is generally flat along Shorefield Road. There is a slight grade difference between Georgia Avenue and the eastern boundary of the property, which abuts Georgian Woods Place, an internal road serving the Oakfield Apartments. To the north, the property abuts a rental apartment complex (separate from Oakfield Apartments) in the R-60/TDR Zone. The property abuts Georgia Avenue to the west and Shorefield Road to the south.

The term "subject site" will be used to refer to the two properties jointly. When there is a need to refer to one of the two properties separately, the case number will be used as a reference.

The surrounding area for these applications consists of the area bounded generally by Wheaton Regional Park to the east, Henderson Avenue to the south, the rear of lots fronting on the west side of Georgia Avenue to the west, and Randolph Road to the north. The surrounding area has a mixed-use character with a significant residential component. The Applicant's land planner, Stephen Gang, estimates that 80 to 85 percent of the land uses in the surrounding area are residential. Existing uses include a fire station and a police station at the southeast corner of Randolph Road and Georgia Avenue, and a former public school site at the southwest corner of the same intersection (currently open space). Between the fire station/police station and the subject site are a large apartment complex and a church. Interspersed among the buildings of the Oakfield Apartments are five single-family detached homes on separate parcels, plus a half-acre parcel that was rezoned to the R-T 12.5 Zone in 2004, and received preliminary plan approval in 2005. Confronting the southwest corner of the subject site across Shorefield Road is a shopping center with entrances on both Georgia Avenue and Shorefield Road. It includes a grocery store, a bank and a number of small retail establishments. East of the shopping center, the subject site confronts a townhouse community and the northwestern edge of a neighborhood of single-family detached residences that stretches east to the park and south to Henderson Avenue. Finally, there is a nursing home at the northeast corner of Henderson and Georgia Avenues.

On the west side of Georgia Avenue, south of the former school site, are about ten single-family detached homes, two retail buildings and an office townhouse under construction.

The subject site was classified under the R-90 Zone in the 1954 Regional District Zoning, and was recommended for continued R-90 zoning in a 1959 master plan. Shortly thereafter, local map amendment requests for the C-2, R-10, R-20 and R-30 zones were denied. In 1964, both components of the subject site were rezoned: the G-846 property was reclassified to the R-30 Zone via local map amendment No. C-1338, and the G-847 property was reclassified to the R-20 Zone via local map amendment No. C-1457.

The Applicant proposes to replace the existing buildings on the subject site with new housing. Consistent with the standard method of application, these applications are presented without a site plan or binding elements. Based on the acreage of the parcels, the maximum number of dwellings that would be permitted under the requested zoning is 85 units on G-846, and 122 units on G-847. Technical Staff proposes to require a stream valley buffer area on each of the two parcels, which could make it impossible to attain the maximum number of units. The Applicant's conceptual plans call for three-story townhouses, to be sold in fee simple, including 12.5 percent Moderately Price Dwelling Units as required under Chapter 25 of the Montgomery County Code.

The Applicant's conceptual plans include landscaping along Georgia Avenue, green space areas, and garage parking in the rear of each dwelling, which would avoid the current visual appearance of large parking areas along the street frontages. Along Shorefield Road, the proposed rezoning and development holds the potential to develop a more attractive gateway into Wheaton Regional Park. The conceptual plans envision retaining the two existing entrances onto the G-846 property, one from Georgia Avenue and one via a private easement that connects to Shorefield Road. The G-847 property currently has three entrances along Shorefield Road and none from Georgia Avenue. The conceptual plans contemplate maintaining this pattern, with three to four entrances along Shorefield Road and none from Georgia Avenue.

Technical Staff notes that the acreage for each of the subject properties exceeds the minimum tract area for the R-T 15 Zone, and that the development would be required to satisfy all of the other development standards for the zone at the time of subdivision and site plan review. These standards include a maximum 35 foot building height, a minimum of 30 percent green area, and at least two parking spaces per dwelling unit. Technical Staff and Mr. Gang both opined that the illustrative site plan would satisfy the development standards for the zone.

The subject property does not have any forested areas. Environmental Planning Staff at the MNCPPC indicates that afforestation or replanting, probably off site, would be used to satisfy the

Applicant's obligations under the County's Forest Conservation Law. Staff also suggests a Tree Save Plan to protect existing significant and specimen trees both on site and immediately adjacent to the site.

The Applicant intends to meet stormwater management requirements through a combination of above-ground and below-ground facilities, addressing both channel protection and water quality control. Additional requirements may be imposed during site plan review to provide stream valley buffer areas for a stream that runs through both parts of the subject site. The stream runs underground, through a culvert, under both the G-846 property and the G-847 property, but site plan requirements may include buffer areas at the points where the stream emerges above ground.

The District Council concludes that the proposed rezoning would comply with the purpose of the R-T 15 Zone, which is to provide suitable sites for townhouses in "sections of the County that are designated or appropriate for residential development at densities allowed in the R-T Zones" or in "locations in the County where there is a need for buffer or transitional uses between commercial, industrial, or high-density apartment uses and low-density one-family uses." Code §59-C-1.721. In the present case, the evidence demonstrates that the subject site is appropriate for residential development at densities allowed in the R-T Zones.

The Applicant seeks the highest-density R-T Zone, R-T 15, which permits up to 18.3 units per acre with MPDUs. This density level is consistent with existing and recommended densities in the surrounding area. The Master Plan recommended continued R-30 zoning for the G-846 property, which permits a maximum density of 17.7 units per acre, and continued R-20 zoning for the G-847 property, which permits up to 26.47 units per acre. In addition, the Master Plan recommended densities of 12 to 15 units per acre for several parcels in the immediate vicinity, and R-T 8 zoning directly across Shorefield Road from the subject site. A small parcel just south of the G-846 property, fronting on Georgia Avenue, was rezoned to R-T 12.5 in 2004 (LMA No. G-818) and received preliminary plan approval in 2005 (Preliminary Plan No. 1-05052). Immediately north of the subject site is a large apartment complex in the R-30 Zone, which, as noted, permits densities consistent with those allowed in the R-T Zones. Moreover, as Technical Staff noted, the 1964 rezoning and development of the Oakfield Apartments site

played a large role in establishing the prevailing medium-density character of the surrounding area, and the rezoning and redevelopment now proposed would be consistent with that medium-density character. For all of these reasons, the District Council concludes, based on the preponderance of the evidence, that the subject site is appropriate for densities permitted in the R-T Zones.

Evidence that the proposed development would be a positive addition to the neighborhood demonstrates consistency with the intent of the R-T Zones to prevent detrimental effects to adjacent properties and to promote the health, safety, morals and welfare of the present and future inhabitants of the district and the County. This conclusion is also supported by the findings of Technical Staff, who concluded that although the proposed redevelopment would replace some of the existing, affordable, rental housing with more expensive owner-occupied housing, the resulting economic integration would be beneficial.

For all of the above reasons, the District Council agrees with the conclusions of the Hearing Examiner, the Planning Board and Technical Staff that the proposed rezonings satisfy the purpose clause of the zone requested.

Applications for floating zone reclassification must be evaluated for compatibility with existing and planned uses in the surrounding area. The proposed development would involve a change from multi-family dwellings to single-family attached dwellings, with little change in the overall density and no change in the nature of the use, which would remain residential. This development would take place within a surrounding area that has significant mixed use components but, as Mr. Gang pointed out, is predominantly residential in character. Development of the G-846 property with townhouses would likely be a benefit to the property that was rezoned to R-T 12.5 in 2004, as it would place the small number of townhouses planned on that parcel next to a larger townhouse community on one side, rather than surrounded by apartment buildings on three sides. On the G-847 property, replacing apartment buildings with townhouses would mirror the existing townhouse complex on the south side of Shorefield Road, and would provide a use that is more similar to the neighboring single-family detached community than the existing apartments.

Technical Staff found that the proposed development would be compatible with the surrounding mix of multi-family dwellings, single-family detached dwellings and non-residential uses, and would serve as a transition from one-family detached dwellings to higher-intensity uses on Georgia Avenue. The Planning Board made a similar finding, based on the reasons set forth in the Staff Report. For all of the above reasons, the District Council concludes, based on the preponderance of the evidence, that the proposed reclassifications to the R-T 15 Zone would be compatible with existing and planned land uses in the surrounding area.

The District Council further determines that the proposed reclassification bears sufficient relationship to the public interest to justify its approval. 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 or the environment.

The Planning Board and Technical Staff opined that the proposed development would substantially comply with the *1989 Approved and Adopted Master Plan for the Communities of Kensington – Wheaton* (the "Master Plan"), and the Hearing Examiner agreed. The proposed reclassification and redevelopment would be consistent with the Master Plan's goals to protect and stabilize existing uses, maintain the well-established medium-density residential character of the surrounding area, and provide for infill development that is similar in character and compatible in density with its immediate neighborhood. The proposed redevelopment under the R-T 15 Zone would be consistent with the Master Plan's recommendations for medium-density residential uses on the subject site and nearby parcels, and for R-T zoning on Shorefield Road to provide a transition between single-family detached neighborhoods and higher-intensity uses closer to Georgia Avenue. Moreover, the present applications are consistent with the Master Plan's general recommendation for medium-density residential use in this area. For all of these reasons, the District Council agrees with the conclusions of the Hearing Examiner, the Planning Board and Technical Staff that the proposed development would be consistent with the Master Plan.

Community Based Planning Staff at the MNCPPC raised two additional public policy issues, which can be framed thus, in the context of the present zoning applications: does either (1) the reduction in the inventory of affordable housing in this part of the County that would result from the proposed redevelopment, or (2) the County's policy of encouraging higher densities in close proximity to Metro warrant denial of two otherwise meritorious rezoning applications? The District Council concludes that the answer must be no. The proposed rezonings would be part of an overall redevelopment that would replace a dilapidated 570-unit rental apartment complex, which is affordable only by virtue of the type and age of its units, with a mixed-income community providing roughly 370 units of affordable, refurbished rent-controlled housing; 180 new, owner-occupied, market-rate townhouses; and 20 new, owner-occupied townhouses subject to MPDU requirements. As Technical Staff concluded, the benefits of the resulting economic integration and affordability controls can be considered to mitigate the reduction in affordable dwelling units.

Staff suggests that the proximity of the G-846 property to the Glenmont Metro Station, about half a mile away, argues for higher density on this site than what is currently proposed. However, the zoning and density proposed for the subject site is consistent with the existing development of the site and surrounding properties, and is consistent with the recommendations of the applicable Master Plan. Moreover, it is consistent with the general trend of higher densities north of Randolph Road, in the area covered by the Glenmont Sector Plan, and decreasing densities south of Randolph Road, closer to the R-90 single-family neighborhoods to the east and south. Absent some particular justification, the District Council is not persuaded that the County's general policy favoring higher density in proximity to Metro warrants denial of two applications for medium-density development that would be compatible with surrounding land uses.

Although anecdotal evidence suggests that traffic mitigation measures may be appropriate at site plan review, the preponderance of the evidence supports a finding that due to the relatively small number of new trips that would be generated, the proposed development would have no adverse impact on traffic or local roadways that is sufficient to warrant denial of the rezonings. The submitted traffic

study shows a very minor impact on existing congestion levels at Randolph Road and Georgia Avenue during the weekday peak hours, which can be mitigated easily. The District Council agrees with the Hearing Examiner's assessment of the persuasive value of testimony provided by the Applicant's traffic planner, who quickly identified two measures that might improve traffic circulation on Shorefield Road, and with the resulting conclusion that traffic mitigation can be required during site plan review to address the proposed development's contribution to existing congestion on Shorefield Road, if it was not adequately measured by the traffic study submitted at the zoning stage.

The uncontroverted evidence concerning school capacity indicates that under both the Growth Policy's interpretation of school capacity and the MCPS view of school capacity, the schools that would serve the proposed development have adequate capacity to accept the additional students this development would generate without adverse impact.

The evidence also indicates that public utilities are adequate to serve the proposed development. For all of these reasons, the Hearing Examiner concludes, based on the preponderance of the evidence, that the proposed reclassifications and development would have no adverse effect on public facilities that warrants denial of the applications, and that they bear sufficient relationship to the public interest to support approval.

For these reasons and because to grant the instant zoning applications would aid in the accomplishment of a coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District, the applications will be granted in the manner set forth below.

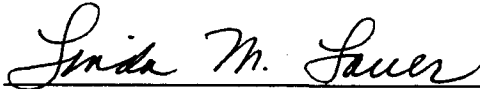
ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland approves the following resolution:

Local Map Amendment Application No. G-846, requesting reclassification from the R-30 Zone to the R-T 15 Zone of 6.7 acres of land known as Parcel A, Block A, Glenmont Woods Subdivision and located at 12207 Georgia Avenue in Silver Spring, Maryland, in the 13th Election

District, and Local Map Amendment Application No. G-847, requesting reclassification from the R-20 Zone to the R-T 15 Zone of 4.6 acres of land known as Parcel A, Shorefield Manor Subdivision, located at 2301 Shorefield Road in Silver Spring, Maryland, in the 13th Election District, are hereby approved in the amount requested.

This is a correct copy of Council action.

A handwritten signature in cursive script that reads "Linda M. Lauer". The signature is written in black ink and is positioned above a horizontal line.

Linda M. Lauer, Clerk of the Council