



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
5/19/11

May 9, 2011

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Damon B. Orobona, Senior Analyst *DAMON*

VIA: Rose G. Krasnow, Division Chief *RK*
Robert A. Kronenberg, Area Supervisor *RAK*

SUBJECT: Local Map Amendment G-892



RECOMMENDATION: *Approval*

The applicant, Chelsea Residential Associates, LLC, a subsidiary of EYA, is requesting a rezoning of 5.25 acres from the R-60 Zone to the R-T 15 Zone for a property just outside the Silver Spring Central Business District located at 711 Pershing Drive. Although the property is currently zoned R-60, a private school operating under a special exception has been located on the site for a number of years. The school has expressed an intention to relocate, and the applicant is proposing to replace the existing school facilities with residential infill redevelopment consisting of up to 76 townhomes. The historic Riggs-Thompson house and grounds will remain and three publicly accessible parks will be created.

To obtain approval for an R-T 15 rezoning, the applicant must show that the site is either (1) designated for the zone in the relevant master plan, (2) there is a need for a transition at the proposed location, or (3) that the proposal is appropriate given the location and density sought. Additionally, the rezoning proposal must be shown to be compatible with the surrounding area and in the public interest.

Here, while the R-T 15 Zone is not specifically designated for the subject property in the 2000 *North and West Silver Spring Master Plan*, the proposed development is an appropriate density at the subject property and contributes to an existing transitional area from the Silver Spring Central Business District to a lower density one-family detached neighborhood. The proposal is compatible with surrounding uses, provides public amenities for nearby residents, and adds to the visual character and housing choice of the area.

SUMMARY OF REPORT

| | |
|------------------------|--|
| Public Hearings: | May 19, 2011 (Planning Board) May 26, 2011 (Hearing Examiner) |
| Overview of Site: | The subject property is a 5.25-acre parcel located at 711 Pershing Drive just outside the Silver Spring Central Business District. The site is currently zoned R-60 and is developed with a private school operating under a special exception. |
| Proposed Zone and Use: | The applicant is proposing to replace the existing school with a one-family residential townhouse community that includes two peripheral, publicly accessible parks, multiple courtyards, and a linear park. The historic Riggs-Thompson house and grounds will be retained and integrated into the project. The applicant is proposing 14.67 dwellings per acre for the site under the R-T 15 Zone. |
| Master Plan Analysis: | The project is in substantial conformance with the overall 2000 <i>North and West Silver Spring Master Plan</i> , although the SOECA Citizens' Association suggests an alternative master plan interpretation. For an extensive discussion on the master plan, see the <i>Master Plan Compliance</i> and <i>Community Correspondence</i> sections of the report. |
| Environmental Impact: | No environmental issues are present; a forest conservation plan must be approved at later stages of review. A forest conservation plan appears to be approvable with the proposed development, although no action is required at this time by the Planning Board. |
| Traffic Impact: | The application satisfies both the LATR and PAMR tests and will not have an adverse effect on area roadway conditions. A reduction to overall traffic should occur with the change from institutional school use to residential use. |
| Zoning Provisions: | The project satisfies the purpose clause and development standards of the R-T 15 Zone. |
| Recommendation: | Approval of the R-T 15 Zone. If the rezoning is approved, the applicant will undertake subdivision and site plan reviews. |

I. PROCEDURE

Application G-892, filed in January 2011, seeks a local map amendment, pursuant to §59-H-1.1 of the Montgomery County Zoning Ordinance, to reclassify 5.25 acres from the R-60 Zone to the R-T 15 Zone. The subject property, known as Lot 58 of the Evanswood subdivision, is located at 711 Pershing Drive, Silver Spring, Maryland.

The application was filed under the optional method of application under §59-H-2.5, which allows the applicant to restrict the development standards or the use of the property to less than the maximum permitted in the requested zone and specify whether development will be staged. Such textual binding limitations are recorded on a schematic development plan that is submitted with the application, and these limitations must also be reiterated in covenants filed in the land records of Montgomery County. Other than the textual binding elements, the site layout shown on the schematic development plan is illustrative in nature.

The Office of Zoning and Administrative Hearings (OZAH) has scheduled a public hearing on the application for May 26, 2011. This hearing will be held in the Stella B. Werner Council Office Building at 100 Maryland Avenue, Rockville, Maryland. Before OZAH's proceedings, the Montgomery County Planning Board will conduct an initial public review of the local map amendment on May 19, 2011, at 8787 Georgia Avenue, Silver Spring, Maryland. The Planning Board will then issue a written recommendation on the rezoning request to OZAH. After getting recommendations from both the Board and OZAH, the District Council has final action on the rezoning request.

II. THE PROPOSAL

A. The Subject Property and Surrounding Area

The subject property is located just outside the Central Business District of Silver Spring, within the Evanswood subdivision. The site is approximately 5.25 acres in size and is generally rectangular in shape. The property has an approximate six percent decrease in slope from east to west, with a grade differential of around 40 feet between property lines. The site fronts on three public roads and has approximately 400 feet of frontage along Ellsworth Drive, 600 feet along Springvale Road, and 350 feet along Pershing Drive. A row of one-family detached houses, all with a Master Plan designation for special exception office uses, is located directly south of the subject property along Cedar Street.

The subject property is currently zoned R-60 and is developed with the Chelsea School, a private school for students with learning disabilities. Because the majority of students that attend the school come from locations outside Montgomery County, the school has expressed an intention to relocate closer to the student body. The school complex consists of multiple buildings

totaling approximately 40,000 square feet and a 70-space asphalt parking lot. The School's facilities have been at this location for a number of years. The Chelsea School has operated under a special exception since 2000; prior to that, religiously affiliated schools were located at the site. The subject property has been in the R-60 Zone since 1958.

The Riggs-Thompson house, a home with substantial history, is located on the southeast corner of the property along Pershing Drive. The historic home, which dates back to the 1850s, is significant because of its notable former residents and its representation of a period when wealthy Washingtonians established large country estates in lower Montgomery County. Because the Riggs-Thompson house is a designated historic master plan site, the applicant will have to obtain a historic area work permit before construction can commence near the structure.¹ Protection of the environmental setting associated with the historic home will be resolved during site plan review, if applicable.

The surrounding area must be identified in a floating zone application so the compatibility of a proposal can be properly evaluated in light of nearby uses. In this particular case, the surrounding area is generally formed by Dale Drive to the north, Wayne Avenue to the east, Georgia Avenue to the south, and Colesville Road to the west. The surrounding area, initially proffered by the applicant, is suitable because it is comprehensive of nearby land uses and appropriate for determining whether the proposal will be compatible with surrounding properties. The area uses logical thoroughfares as boundary demarcations and captures the urban-to-suburban transitional identity of the area and virtually all nearby properties that may be affected by the rezoning.

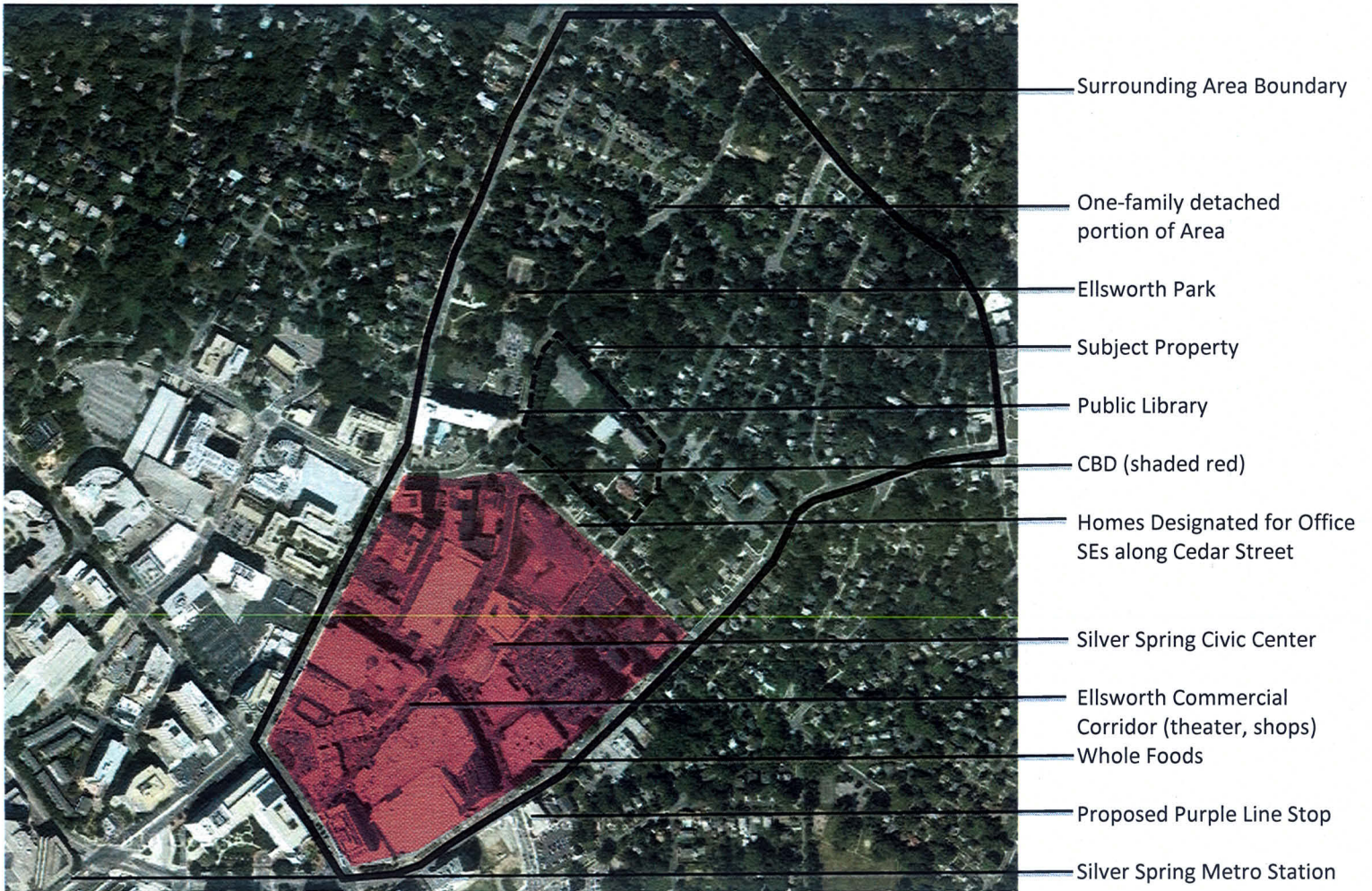
The land use and zoning pattern of the surrounding area is diverse and transitional, as the Silver Spring Central Business District bisects the area identified. The heart of the Central Business District is located near the southernmost point of the surrounding area. Here, land uses are mixed, with high-rise residential and office buildings integrating with entertainment venues developed in an urban setting under CBD zoning. The subject property is squarely situated in the middle of the defined surrounding area, at the periphery of the CBD boundary, where uses are mixed but the built form skews to a transitional pattern that cascades from taller buildings to a lower density, one-family detached residential neighborhood that comprises the northernmost portion of surrounding area. The transition from taller buildings to the lower density neighborhood is not a perfect progression, as many dense developments are present near the middle of the surrounding area. Civic uses, such as a public library, a neighborhood park, and a civic center, as well as numerous special exceptions of varying degrees, contribute to the transition. Many zoning categories shape the middle of the surrounding area, including CBD zoning, C-O zoning, R-T zoning², and R-60 zoning with many special exceptions. The northern surrounding area, which is virtually all one-family detached homes, is entirely zoned R-60. A

¹ North and West Silver Spring Master Plan historic resources index page 14, #M:36/8.

² The MNCPPC-owned Ellsworth Park is zoned R-T 12.5 though no townhomes are present.

generalized outline of the surrounding area is shown below, with notable nearby uses delineated.

Surrounding Area



B. Proposed Use

As previously stated, the existing school has expressed a desire to relocate operations. The applicant is proposing to raze the existing school and replace it with a townhouse community with up to 76 townhouses. The historic Riggs-Thompson house will be retained and integrated into the project, giving the project a total of up to 77 dwellings on the site. Ten moderately-priced dwelling units (MPDUs) will be provided as required.³

Although the layout of the project is illustrative at the rezoning stage, the applicant went through a number of plan iterations as comments from the community and suggestions from the Planning Department and other county agencies were incorporated into the applicant's plan. Today, the layout reflects a traditional townhouse site design where all townhomes front

³ The size and location of MPDUs are not being set at this stage as requested by DHCA. See attachment 1.

to either a public street or to publicly accessible parks or courtyards – a design element that is encouraged by the Planning Department to activate the public areas and provide a sense of security for those using the spaces. The plan reflects an extensive pedestrian realm, including elements such as sidewalks, street trees, and benches that will be provided around all three perimeter streets. These elements are currently lacking around the subject property. Additionally, a private through-street will be added to the existing street network in an attempt to increase the connectivity of the immediate area and provide an additional avenue for both pedestrian and vehicular traffic. All vehicular access to the townhomes will be accommodated via the proposed through-street. Sidewalks and courtyards connect the private street to the existing street network. Two large publicly accessible parks, as well as a small pocket park and the historic grounds of the Riggs-Thompson house, line the street frontage along Ellsworth Drive and Pershing Drive, respectively. A linear park, with increased setbacks and a double row of street trees, is provided along Springvale Road to strengthen the transition from the proposed townhouse community to the one-family detached homes to the immediate north. Additionally, each end-townhouse along Springvale Road is designed to appear as a one-family detached home when viewed from the opposite side of the street.

The townhomes are proposed to be 3-stories with a maximum height of 35 feet. The homes will have two-car, rear-loaded garages. An additional 12 on-street parking spaces for guests will be provided within the development along the private through-street. The Riggs-Thompson house will accommodate its own parking. The total parking count for the development is 168 spaces, or 2.18 spaces per dwelling, which is 12 spaces more than required by the zoning ordinance.

Illustrative Portion of Schematic Development Plan



Rendering of Project from Corner of Springvale Road and Pershing Drive



Example End-Townhouses Designed to Appear as One-Family Detached Homes



The applicant's proposal has qualified for preliminary joint recognition from the Washington Smart Growth Alliance for smart and sustainable development. The Washington Smart Growth Alliance is a partnership among seven diverse organizations devoted to enhancing the built and natural environment: The Chesapeake Bay Foundation, the Coalition for Smarter Growth, Enterprise Community Partners, the Greater Washington Board of Trade, the Metropolitan Washington Builders Council, the ULI Terwilliger Center for Workforce Housing, and ULI Washington. A preliminary recognition from the Alliance means that the proposal, though still in its initial phases, exhibits attributes that will likely qualify the ultimate development for final recognition.⁴

Pursuant to §59-H-2.5, the applicant has chosen to use the optional method of application process, requiring the submission of a schematic development plan that differentiates between elements of the proposal that are legally binding and elements that are merely illustrative and subject to variation during subsequent stages of review. Textual binding elements of the plan are to be specified on the face of the schematic development plan and in a declaration of covenants filed in the County's land records so future owners of the property will be on notice of the property's restrictions. The textual binding elements for the subject application are shown below.

BINDING ELEMENTS

- 1. THE APPLICANT, ITS SUCCESSORS OR ASSIGNS, WILL PRESERVE AND PERPETUALLY MAINTAIN THE EXISTING HISTORIC BUILDING ON THE PROPERTY.**
- 2. THE SITE SHALL HAVE VEHICULAR ACCESS FROM BOTH ELLSWORTH DRIVE AND PERSHING DRIVE. THERE SHALL BE NO VEHICULAR ACCESS TO OR FROM SPRINGVALE ROAD.**
- 3. THE APPLICANT, ITS SUCCESSORS OR ASSIGNS, SHALL ABIDE BY THE EXISTING TRAFFIC RESTRICTIONS ON SPRINGVALE ROAD FOR SO LONG AS THOSE RESTRICTIONS REMAIN IN EFFECT.**

C. Public Facilities

Water and Sewer. The Washington Suburban Sanitary Commission (WSSC) reviewed the rezoning application and schematic development plan. WSSC found that the reclassification from the R-60 Zone to the R-T 15 Zone and the subsequent proposed development would not overburden the water system of the area. WSSC noted that the impact from the rezoning may require the replacement of existing downstream local sewers for sewer capacity augmentation purposes.⁵ If so, the replacement will be required at subdivision stage of review and will be the responsibility of the developer.

⁴ See Washington Smart Growth Press Release at attachment 2.

⁵ See WSSC Memorandum at attachment 3.

Transportation and Roadways. A traffic study was submitted for the subject application since the proposed development was estimated to generate 30 or more peak-hour trips during the typical weekday morning and evening peak periods. The study determined the traffic-related impacts of the proposed development on nearby roadways during peak periods.

The peak-hour trip generation estimate for the proposed development was based on trip generation rates included in the *LATR/PAMR Guidelines*. A trip generation summary is provided in table below, which shows that the development proposal will generate 37 peak-hour trips during weekday morning peak period and 64 peak-hour trips during the weekday evening peak period. Comparatively, the existing Chelsea School, with its current enrollment of 86 students, generates approximately 58 trips during the morning peak-hour and 28 trips during the evening peak-hour. At the school's maximum allowable enrollment of 200 students, the school is estimated to generate 134 and 66 trips during the morning and evening peak-hours, respectively. The subject proposal, compared to the maximum enrollment of the school, is thus estimated to generate significantly less trips during the morning peak-hour and comparable trips during the evening peak-hour.

Site Trip Generation Summary or Proposal

| Trip Generation | Morning Peak-Hour | | | Evening Peak-Hour | | |
|--|-------------------|-----------|-----------|-------------------|-----------|-----------|
| | In | Out | Total | In | Out | Total |
| 1 one-family detached unit | 0 | 1 | 1 | 1 | 0 | 1 |
| 76 one-family attached (townhouse) units | 6 | 30 | 36 | 42 | 21 | 63 |
| Total | 6 | 31 | 37 | 43 | 21 | 64 |

Source: Wells and Associates, Inc. Chelsea Court Policy Area Mobility Review and Local Area Transportation Review; March 18, 2011.

Note: The school-related peak one hour of traffic activity in the morning typically coincides with the morning street peak-hour. However, school-related peak one hour of traffic activity in the afternoon/evening typically occurs well ahead of the afternoon/evening street peak-hour.

A summary of the capacity analysis and critical lane volume (CLV) analysis for the studied intersections for the weekday morning and evening peak-hours within the respective peak periods is shown in the table below. Under Total (Build) traffic conditions, CLV values for studied intersections are estimated to be below the Silver Spring/Takoma Park Policy Area and the Silver Spring Central Business District congestion standards. Therefore, the subject application will satisfy the LATR requirements of the Adequate Public Facilities (APF) test.

Summary of Capacity Calculations

| Intersection | Traffic Conditions | | | | | |
|---|--------------------|-------|------------|-------|-------|-------|
| | Existing | | Background | | Total | |
| | AM | PM | AM | PM | AM | PM |
| Dale Dr/Colesville Rd ¹ | 1,482 | 1,642 | 1,617 | 1,819 | -- | -- |
| Dale Dr/Colesville Rd – w/CIP Imps. ¹ | -- | -- | -- | -- | 1,422 | 1,596 |
| Dale Dr/Wayne Ave ¹ | 933 | 961 | 1,012 | 1,046 | 1,012 | 1,046 |
| Springvale Rd/Ellsworth Dr ¹ | 68 | 48 | 68 | 48 | 68 | 51 |
| Springvale Rd/Pershing Dr ¹ | 48 | 45 | 48 | 45 | 48 | 47 |
| Spring St/Colesville Rd ² | 1,108 | 1,390 | 1,375 | 1,442 | 1,380 | 1,454 |
| Cedar St/Ellsworth Dr ² | 244 | 541 | 286 | 595 | 313 | 625 |
| Cedar St/Pershing Dr ² | 176 | 445 | 209 | 484 | 212 | 486 |
| Cedar St/Wayne Ave ² | 732 | 899 | 807 | 1,009 | 810 | 1,009 |
| Ellsworth Dr/Site Dr ¹ | -- | -- | -- | -- | 80 | 78 |
| Pershing Dr/Site Dr ¹ | -- | -- | -- | -- | 24 | 12 |

Source: Wells and Associates, Inc. Chelsea Court Policy Area Mobility Review and Local Area Transportation Review; March 18, 2011.

¹ Silver Spring/Takoma Park Policy Area Congestion Standard: 1,600 CLV

² Silver Spring CBD Policy Area Congestion Standard: 1,800 CLV

To satisfy the PAMR requirements of the APF test, a development proposal in the Silver Spring/Takoma Park policy area is required to mitigate ten percent of any new peak-hour trips generated by the proposed development. The subject proposal will generate a high of 64 peak-hour trips during the weekday evening peak period. A credit of 28 peak-hour trips is given to the applicant because of the existing school use on the property. Therefore, PAMR requires mitigation of 10 percent of 36 peak-hour trips, or mitigation of four peak-hour trips. The applicant is proposing to satisfy the PAMR mitigation at the time of the subdivision approval through a number of options, including a one-time payment of \$11,300 per peak-hour trip, off-site sidewalk construction, or other measures.⁶

Schools. Montgomery County Public Schools estimates the impact of the proposed development to be approximately 12 elementary school students, 6 middle school students, and 11 high school students. Enrollment at Sligo Creek Elementary School is currently within capacity and is projected to stay within capacity. Enrollment at Silver Spring International Middle School is currently within capacity and is projected to stay within capacity. Enrollment at Northwood High School is currently within capacity but is projected to be overcapacity beginning in 2012-2013. Given these estimates, capacity is adequate in the Northwood Cluster;

⁶ See Area 1's full transportation analysis at attachment 4.

however, a school facilities payment will be required to obtain subdivision approval during the next phase of review.⁷

D. Environmental Considerations

The subject property has an existing Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) plan that was approved in 1998 around the time of the Chelsea School's special exception. The NRI/FSD identifies a number of significant and specimen trees on the property. No forest areas, wetlands, streams, or associated buffers occur on or near the property. There are no areas of highly erodible soils in the vicinity.

At the time of the special exception, the Chelsea School planned a substantial expansion of the existing school facilities on the subject property by adding buildings and additional parking facilities and access driveways. While a Final Forest Conservation Plan (FFCP) was submitted and approved for the campus expansion plans, most of the school's additions were never implemented. The FFCP for the expansion was met through a combination of credited tree preservations, supplemental plantings, and a Category II Forest Conservation Easement established over the entire property. Because the School's expansion plans were never carried out, the site's current conditions are similar to those shown on the original NRI/FSD except for relatively minor modifications.

The existing Category II Forest Conservation Easement established over the entire property is suitable for an institutional, owner-occupied use such as a school. However, the same easement is not appropriate for a residential, multi-owner townhouse community. Current policy is to avoid overlap of conflicting easements, and the existing forest conservation easement and stormwater management easements overlap. Staff therefore supports revision to the existing Category II easement.

A forest conservation plan is not usually submitted at the rezoning stage of review. However, because the site is subject to an existing FFCP from the Chelsea School's special exception, and because forest conservation law will require the proposal to meet afforestation standards onsite⁸, the applicant was instructed to demonstrate that a forest conservation plan can be *approvable* for the proposal, even though the Board is not being asked to approve a forest conservation plan at this time. The applicant's submission shows that forest conservation requirements may be met onsite with credit for canopy trees that will be planted, credit obtained in the area south of the historic Riggs-Thompson house, and various other supplemental plantings. Potentially a new Category II Forest Conservation Easement will be used to protect the credited trees. The final location of any Forest Conservation Easement areas will be determined at a later stage.⁹

⁷ See MCPS Memorandum at attachment 5.

⁸ See County Code §22A-12(f)(2)(d).

⁹ See Area 1's full environmental review at attachment 6.

E. Development Standards

The proposal shown on the schematic development plan complies with all applicable development standards under the R-T 15 Zone except for the requirement of §59-C-1.732(a) for a 30-foot setback from land classified in a one-family detached zone. However, this requirement can be reduced by the Planning Board to a distance equal to the sideyard setback if the applicant can demonstrate that a more desirable form of development will result. Staff recommends a reduction of this standard to 20 feet for optimum design as the reduced setback places the proposed townhomes closer to the Central Business District and the row of one-family homes along Cedar Street that are designated for special exception office uses. The reduction also allows for a larger setback from Springvale Road, permitting the placement of a linear park with a double row of street trees along Springvale. As the layout is still illustrative, the application will need to satisfy development standards again at the time of subdivision and site plan review. The relevant development standards are shown in the following table.

| Development Standard | Required | Proposed | Applicable Zoning Provision |
|--|---|----------------------------------|---------------------------------|
| Minimum Tract Area | 40,000 sq ft (0.92 acres) | 5.25 acres | §59-C-1.731(a) |
| Maximum Density | 15 dwelling units per acre | 14.67 dwelling units per acre | §59-C-1.731(b) |
| Building Setback from Land Classified in One-family Detached Zone | 30 ft | 20 ft | §59-C-1.732(a) |
| Building Setback from Public Street | 20 ft | 22 ft | §59-C-1.732(b) |
| Building Setback from an Adjoining Side Lot | 8 ft | 8 ft | §59-C-1.732(c)(1) |
| Building Setback from an Adjoining Rear Lot | 20 ft | 20 ft | §59-C-1.732(c)(2) |
| Max Building Height | 35 ft | 35 ft | §59-C-1.733(a) |
| Minimum Percentage of Green Area | 30 percent (1.58 acres) | 46 percent (2.4 acres) | §59-C-1.34(b) |
| Parking | 2 spaces per townhouse = 156 spaces | 168 spaces | §59-C-1.735 and §59-E-3.7 |

F. Master Plan Compliance

Although a master plan designation is not specifically required for the approval of a townhouse floating zone¹⁰, a plan's guidance is nonetheless looked upon. If a plan gives specific recommendations for the potential of a townhouse rezoning at a particular location, this guidance will be heavily weighted. If no specific guidance is given for a property's potential for the townhouse zones, then the plan's general guidance will be looked to, as it is in the public interest that a plan's general guidance is followed.

Here, the subject property is located within the geographic area covered by the 2000 *North and West Silver Spring Master Plan*. The subject property is in North Silver Spring, discussed on pages 20 through 23 of the Plan. The neighborhoods of North Silver Spring are predominantly comprised of one-family detached homes, with a limited number of townhomes and apartments. On page 20, the Plan states that the preservation of residential character and the stabilization of the neighborhood edge along major highways and the Central Business District perimeter are of major concern to North Silver Spring. In this light, the Plan reconfirms the existing R-60 Zone for virtually all of North Silver Spring with a few exceptions for specific locations that were in discussion at the time of the Plan's publication.

The Plan gives extensive guidance for an area along Georgia Avenue where there was particular interest in potential townhomes during the time of the master planning process. On page 21, among the many guidance points for this stretch of Georgia Avenue, the Plan states, "limit the development of townhomes to the blocks along Georgia Avenue and do not encroach into the interior blocks." This language, when read on its surface, may appear to recommend an absolute prohibition on townhouse development anywhere in the planning area except along Georgia Avenue. However, when the language is read in its entirety, it becomes apparent that the Plan was providing specific guidance solely for the area along Georgia Avenue where there was a current interest in applying the townhouse zones. The language is recommending against the development of townhomes in the interior blocks *along Georgia Avenue*. To read the language in the alternative would lead to the conclusion that the drafters of the Plan analyzed each of the hundreds of properties in North Silver Spring for its suitability for townhomes and only this one area along Georgia Avenue was deemed appropriate. This is an unrealistic interpretation. Therefore, the Plan does not provide specific recommendations for the subject property's suitability for townhomes.

While the Plan doesn't provide specific guidance for the subject property's suitability for townhomes, the Plan does reconfirm the existing R-60 zoning for the entire North Silver Spring area and does specifically acknowledge the institutional school use on the site. Additionally, the Plan provides guidance for the one-family houses along Cedar Street directly south of the

¹⁰ As detailed in section III of the report, the townhouse zone must be either (1) be designated for a specific property in a master plan, (2) be an appropriate density at the proposed location, or (3) satisfy a need for a suitable transition to be approved.

subject property on page 44. The Plan designates the entire row of homes as suitable for professional office special exceptions because the homes will provide a transition between the Silver Spring Central Business District and the one-family neighborhoods of North Silver Spring. In its reasoning, the Plan states that the homes are “somewhat isolated from other [one]-family homes in the neighborhood by the Chelsea School.” Because the Chelsea School is not a residential use, this language indicates that the drafters of the Plan envisioned the entire block – both the special exception-designated homes along Cedar and the Chelsea School – as a transitional block that buffers the North Silver Spring residential neighborhoods from the Silver Spring Central Business District. Given that townhomes are inherently one-family residential homes, just like detached houses, and that the zoning ordinance intends the townhouse zones for transitional areas between commercial districts and one-family detached neighborhoods, it is likely that a townhouse development at this location will serve as a more appropriate transition, with better compatibility, than the existing school on the property.

While the Master Plan does not provide specific guidance on the development of townhomes at this particular location, the proposal substantially conforms to the Plan’s general guidance of preserving the residential character of North Silver Spring and stabilizing the edge along the Central Business District perimeter. By replacing an institutional use with a residential, one-family development, the residential character of North Silver Spring is enhanced and the transitional block between the Silver Spring Central Business District and the North Silver Spring residential neighborhoods is improved.

G. Community Correspondence

There has been both extensive public support and concern with the proposed rezoning application. The Seven Oaks Evanswood Citizens’ Association (SOECA) has submitted a few thoughtful letters through legal counsel, presumably on behalf of many individuals in the surrounding neighborhoods, opposing the application. On the other hand, numerous letters of support have been received from individual citizens that live in the surrounding neighborhoods that disagree with SOECA’s official position. One letter of opposition has been received from an individual citizen outside SOECA opposing the project.

The letters of support generally state that the addition of townhomes will compliment the Silver Spring Central Business District and support the many nearby businesses. Additionally, opinions are expressed that the project will provide a much-needed addition to the area’s housing choice, that the project will be welcomed given the developer’s previous projects in the area, and that the development will provide a better buffer from the nearby commercial activity than the aging school facilities. Letters also expressed gratitude for the incorporation of the Riggs-Thompson historic home into the project and the provision of multiple publicly assessable open spaces, as well as the activation of the property during evening hours.

Opposition largely revolves around the interpretation of the Master Plan. SOECA has submitted three letters of opposition in regard to the project before and during the course of the review. Staff appreciates the thorough and well-articulated analysis given by SOECA. However, staff does not agree with SOECA's interpretation of the Master Plan. While all letters are attached to the report, staff will summarize the last letter submitted on behalf of SOECA under the assumption that this letter formulates SOECA's final opinion. The main points of contention, as understood by staff, are listed below with a brief explanation as to why staff is not persuaded.

First Argument: The Master Plan does not designate the site for residential development at the densities allowed in the R-T 15 Zone at the subject property. The Plan's language regarding townhomes along Georgia Avenue and the reconfirmation of the R-60 Zone (p.21) for the remaining North Silver Spring planning area shows that the Plan analyzed the subject property for townhome suitability and expressly rejected it.

Staff agrees with the statement that the Master Plan does not specifically designate the site for townhouse development. However, as stated in the previous section, staff interprets the Master Plan as providing specific guidance for a potential townhouse rezoning solely along Georgia Avenue where there was an interest in applying the townhouse zones at the time the Master Plan was adopted. The Plan's language only recommends against the development of townhomes in the interior blocks along Georgia Avenue, not against the potential for townhomes anywhere else in the North Silver Spring area. It is unrealistic to say the drafters of the Plan analyzed each property in North Silver Spring for its suitability for townhouses.

Second Argument: Townhomes are not compatible with the North Silver Spring residential area because the Master Plan expressly considered the compatibility of townhomes throughout the entire North Silver Spring area and rejected it as incompatible except along Georgia Avenue.

As just discussed, it is unrealistic to say that townhomes were considered at every property in North Silver Spring. Additionally, as townhomes are inherently one-family residential uses, there is a presumption that townhomes are compatible with one-family detached homes. Given the subject proposal's site layout, with increased setbacks, park buffers, comparable building heights, and end-townhomes designed to appear as one-family detached homes, the proposal is compatible with the surrounding area.

Third Argument: The application doesn't explain why the R-T 15 Zone is more appropriate than a R-60 cluster option that allows townhouse development.

Staff does not assert that the R-60 cluster option is not appropriate at the subject property. However, an R-60 cluster application is not now before us. Staff is analyzing the subject application, which asks whether the R-T 15 Zone is appropriate at the subject property.

Fourth Argument: The row of one-family homes along Cedar Street that are designated for special exception offices already provides an adequate transition to the North Silver Spring neighborhood.

Staff agrees that the one-family homes along Cedar Street were intended by the Master Plan to provide a buffer between the Silver Spring Central Business District and the North Silver Spring residential neighborhoods. In fact, the Plan pointedly makes this statement on page 43 by saying the professional office designations along Cedar Street are intended “to provide a transition (by use, not by structure type) from properties at the edge of the neighborhoods to those in the interior.” However, it can be inferred from the Plan that the entire block at this location was intended as a transitional buffer. The School on the subject property was in existence and had been there for many years at the time of the Plan. The school is closer to the residential neighborhood than the homes along Cedar Street. Therefore, it is logical to conclude that the school facilities, as well as the special exception office designations along Cedar, were intended by the Plan to buffer the Silver Spring Central Business District from the North Silver Spring residential neighborhood. Adding residential townhomes at this location may serve as a more appropriate transition than an institutional school use.

Fifth Argument: The proposed density is not appropriate at this location.

As provided in the *Zoning Ordinance Compliance* analysis in section III below, staff finds the proposed density appropriate given the prevailing density and transitional nature of the surrounding area.

Community letters can be found in full at attachment 7.

III. ZONING ORDINANCE COMPLIANCE

A. The Purpose Clause

§59-C-1.721. Intent and purpose. The purpose of the R-T Zone is to provide suitable sites for townhouses:

(a) In sections of the County that are designated or appropriate for residential development at densities allowed in the R-T Zones; or

(b) 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.

It is the intent of the R-T Zones to provide the maximum amount of freedom possible in the design of townhouses and their grouping and layout within the

areas classified in that zone, to provide in such developments the amenities normally associated with less dense zoning categories, to permit the greatest possible amount of freedom in types of ownership of townhouses and townhouse developments, to prevent detrimental effects to the use or development of adjacent properties or the neighborhood and to promote the health, safety, morals and welfare of the present and future inhabitants of the district and the County as a whole. The fact that an application for R-T zoning complies with all specific requirements and purposes set forth herein shall not be deemed to create a presumption that the resulting development would be compatible with surrounding land uses and, in itself shall not be sufficient to require the granting of the application.

As is well-established for the townhouse floating zones, the R-T 15 Zone requires one of three possible locational requirements be met for approval: The proposed rezoning must either (1) be designated in a master plan or other planning document for such development, (2) be determined to be appropriate for development at the particular location for the density sought, or (3) satisfy a need for a buffer or transitional use between commercial, industrial, or high density apartment uses and low density one-family uses. The townhouse floating zones are designed so that the zones can be potentially placed anywhere in the County, as long as the zone meets one of the three above locational requirements, is compatible with nearby uses, and furthers the public interest. While the subject property in this application is not designated for townhouse development in a master plan, the proposal meets both the appropriateness and transitional prongs of the townhouse purpose clause.

Appropriate Density. Although “appropriate” is undefined in the zoning ordinance, prior rezoning cases have interpreted the appropriateness standard to be linked to location and density and not as a rigid standard to be mechanically applied. Rather, the standard is applied in a flexible manner so that each application can be evaluated on a case-by-case basis to determine if the requested zone is a proper fit given the location and density proposed.

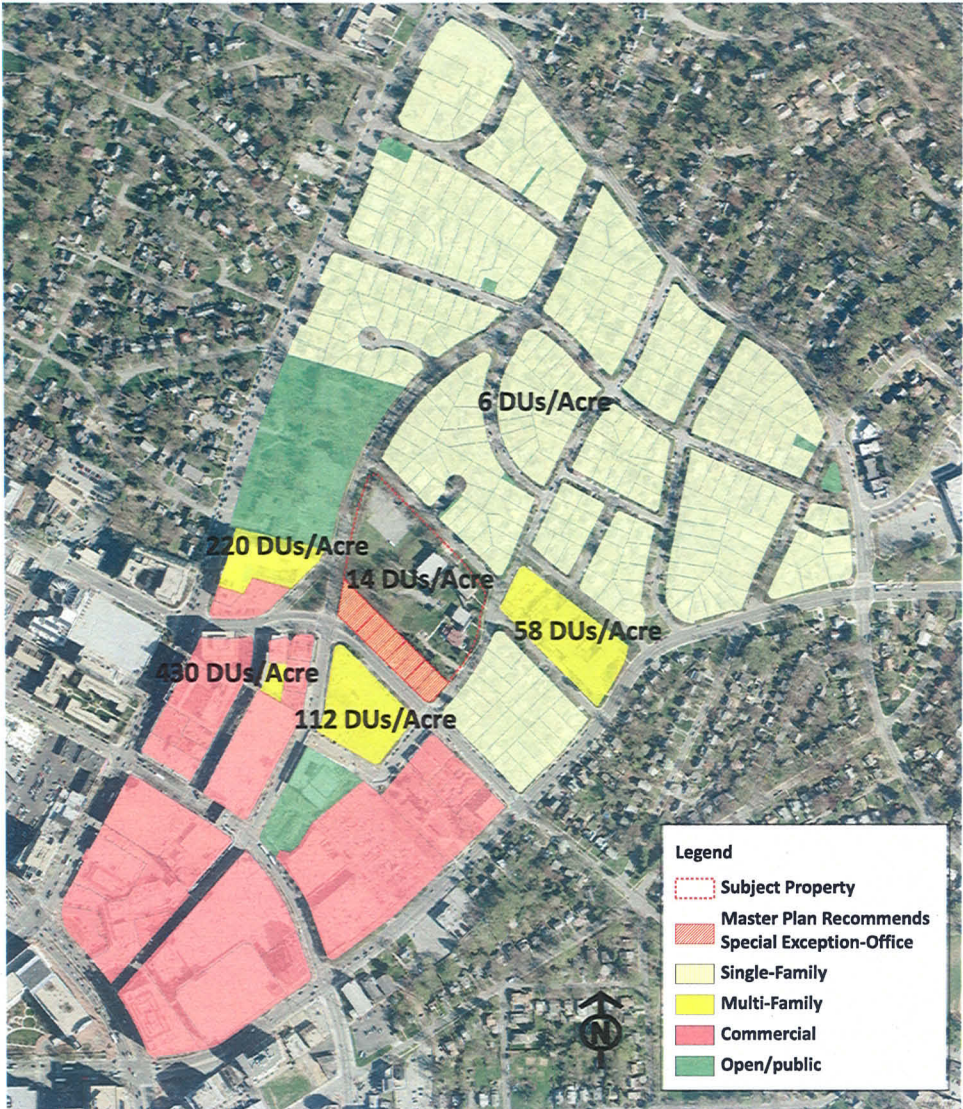
The subject property is an appropriate site for townhouse development given its location and proposed density. The applicant is applying for R-T 15 zoning, which, if approved, could allow a maximum of 95 units on the subject property using a density bonus, which equals a density of 18 dwelling units per acre. However, the applicant is proposing 76 townhomes on the site, including 10 MPDUs, plus the existing Riggs-Thompson detached home on the site for a density of 14.67 dwelling units per acre.

In looking at the existing and approved developments in the surrounding area, it is readily apparent that residential densities transition from high-density to lower density one-family neighborhoods. South of the subject property, within the Central Business District, an existing multifamily building has a density of 430 dwellings per acre. Directly west of the site, outside the Central Business District, another existing multifamily building has a density of 220 dwellings per acre. Directly across Cedar Street from the subject property, just inside the Central Business

District, an approved plan calls for a multifamily building with 112 dwellings per acre. Directly east of the subject property outside the Central Business District, an existing retirement community has a density of 58 dwellings per acre. To the northwest of the site, the MNCPPC-owned Ellsworth Park is currently zoned R-T 12.5, although no townhomes are developed on the site. The one-family detached residential neighborhoods to the north have a density of approximately six dwellings per acre.

These density numbers display proper planning practices whereby high densities are located near transit hubs and commercial venues, slowly transitioning to lower densities as one moves away from the Central Business District. Additional factors, such as the site being in close proximity to multiple amenities, help lead to the conclusion that the proposed density is appropriate for the area. Given the nature of the surrounding area, the proposed townhouse development is appropriate for the subject property at a density of 14.67 dwellings per acre.

Dwelling Units per Acre in Surrounding Area



Transition. The above analysis also lends to the conclusion that the proposal contributes to an existing transitional block between the Silver Spring Central Business District and low-density one-family detached homes of the Evanswood subdivision. The North and West Silver Spring Master Plan designated the row of one-family detached homes directly south of the subject site along Cedar Street as appropriate for professional office special exceptions as a transitional use. Although not specifically stated in the Master Plan, it can be inferred that the entire block was intended to be a transition because the school is not a residential use. At the time of the Master Plan, it was assumed that the Chelsea School would be staying at the subject property. Now that the Chelsea School is vacating the site, the proposed townhouse development will contribute to the transitional block in a more appropriate way since townhomes are residential one-family uses that will be more complimentary to the character of the neighboring one-family detached homes to the north than a large institutional use.

B. Compatibility

The proposed townhouse community is compatible with adjacent development in the surrounding area. Both townhomes and detached homes are by nature one-family residential dwellings, which in itself lends to a presumption of *de facto* compatibility. Furthermore, given the transitional nature of the surrounding area and the characteristics of the specific proposal, which provides parkland buffers on three sides, increased setbacks to the north, comparable building heights, and an architectural design that is complementary to the detached homes along Springvale, any intrusiveness that could threaten the integrity of adjacent uses is minimized.

C. The Public Interest

The R-T 15 Zone requires that the proposed rezoning bear sufficient relationship to the public interest to justify its approval. When evaluating the public interest it is customary to consider master plan conformance and other public interest factors such as adverse impacts on public facilities and the environment, proximity to transit and other amenities, and the provision of open space, affordable housing, or other public benefits.

The applicant proposes a townhouse development, including an affordable housing component, next to the Riggs-Thompson house, a historic home of noted significance. The Riggs-Thompson home and grounds are integrated into the townhouse community. Publicly accessible parks and multiple courtyards are connected via a network of improved pedestrian sidewalks. Environmental improvements to the site will be provided in the form of updated stormwater management facilities and the removal of a large asphalt parking area. The redevelopment of the site will eliminate an aging school facility and replace it with a residential development of appropriate density that fits within the character of the surrounding area and adds to the housing diversity of Silver Spring. Additional housing at this location will also provide support

for the many businesses within walking distance of the site in the Central Business District. For these reasons, the application bears a sufficient relationship to the public interest to justify its approval.

IV. CONCLUSION

Planning Staff recommends that Local Map Amendment G-892, for reclassification of 5.25 acres from the R-60 Zone to the R-T 15 Zone, be approved as restricted by the schematic development plan.

V. ATTACHMENTS

1. DHCA Memorandum
2. Press Release from Washington Smart Growth Alliance
3. WSSC Memorandum
4. Area 1 Transportation Analysis
5. MCPS Memorandum
6. Area 1 Environmental Analysis
7. Community Letters



ATTACHMENT 1

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

April 27, 2011



Mr. Damon Orobona
Area 1 Team
M-NCPPC
8787 Georgia Ave.
Silver Spring, MD 20910

RE: Chelsea Court (Local Map Amendment No. G-892)

Dear Mr. Orobona:

The Department of Housing and Community Affairs (DHCA) has received additional information from the applicant for the above rezoning application. This information indicates that in order to accommodate three (3) bedrooms as is required for single-family developments under Chapter 25A, the MPDUs in the development will need to have four (4) levels regardless of whether they are 14 feet wide (as currently proposed) or 16 feet wide (as has been recommended by DHCA).

It is our understanding that the site development plan for Chelsea Court is illustrative in nature, that the current LMA will only set a maximum number of units, and that the road network and the locations and sizes of MPDUs are not being set at this point. However, we wish to note that in future plans for Chelsea Court, the applicant will need to ensure either that four (4) level MPDUs may be provided while also meeting height, setback, fire access, and MPDU staging requirements, or that the MPDUs are sufficiently wide to accommodate three (3) bedrooms on three (3) levels.

Please let me know if you have any questions.

Sincerely,

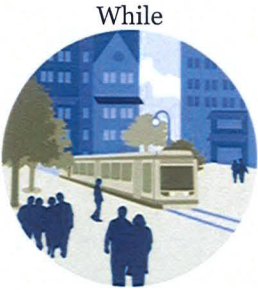
Lisa S. Schwartz
Senior Planning Specialist

cc: Office of Zoning and Administrative Hearings (OZAH)
Aakash R. Thakkar, EYA
Christopher J. Anderson, Manager, Single Family Housing Programs, DHCA
S:\Files\FY2011\Housing\MPDU\Lisa Schwartz\Chelsea Court Letter 4-27-11.doc

Division of Housing and Code Enforcement

| | | | | |
|--------------------------------------|---|---|---|---|
| Code Enforcement FAX 240-777-3709 | Moderately Priced Dwelling Unit FAX 240-777-3691 | Housing Development & Loan Programs FAX 240-777-3691 | Landlord-Tenant Affairs FAX 240-777-3699 | Licensing & Registration Unit 240-777-3666 FAX 240-777-3701 |
|--------------------------------------|---|---|---|---|

100 Maryland Avenue, 4th Floor • Rockville, Maryland 20850 • 240-777-3600 • www.montgomerycountymd.gov/dhca



Washington Smart Growth Alliance

For Immediate Release

Washington Smart Growth Alliance Grants Preliminary Joint Recognition with ULI Terwilliger Center for Workforce Housing to Two Redevelopment Proposals in the National Capital Region

Contact Deborah Westbrooke, 301-986-5959 or dwestbrooke@sgalliance.org, for additional information.

ALLIANCE PARTNERS

Chesapeake Bay Foundation

Coalition for Smarter Growth

Enterprise Community Partners

Greater Washington Board of Trade

Metropolitan Washington Builders Council

ULI Terwilliger Center for Workforce Housing

ULI Washington

(Bethesda – December 8, 2010) An independent jury formed by the Washington Smart Growth Alliance has granted Preliminary Joint Recognition with ULI Terwilliger Center for Workforce Housing to two redevelopment proposals in the National Capital Region: the Chelsea School Redevelopment in downtown Silver Spring by EYA, and the Mid-Pike Plaza Redevelopment at White Flint by Federal Realty Investment Trust. *Preliminary Recognition* is awarded to project proposals in the early stages of the local review and approval process, when all the details necessary for Final Recognition are not yet known. The recognition signifies that if the project proceeds in accordance with the preliminary plan, sketch plan or concept plan, it would likely qualify for Final Recognition. The Alliance encourages all recipients of Preliminary Recognition to submit a further application for Final Recognition when they reach the more detailed phases of the review process, such as site plan review. Both projects receiving recognition this quarter will incorporate a substantial number of moderately priced dwelling units and therefore qualify for the additional distinction of special Joint Recognition by the Alliance and the ULI Terwilliger Center for Workforce Housing.

The Alliance is a partnership among seven diverse regional organizations including the Chesapeake Bay Foundation, the Coalition for Smarter Growth, Enterprise Community Partners, the Greater Washington Board of Trade, the Metropolitan Washington Builders’ Council, ULI Washington and the ULI Terwilliger Center for Workforce Housing. These groups traditionally held opposing views on growth issues, but now work together to promote smart and sustainable development and conservation in the National Capital Region. The region is projected to add 2 million more people and 1.6 million new jobs by 2030. The challenge is to find ways to accommodate this growth while enhancing our neighborhoods and protecting the environment.

Smart and Sustainable Growth Recognition provides a way for environmental and civic organizations to support development that is good for community and good for the environment. As jury member Lee Epstein noted, “The more smart growth projects get built, accommodating the demand for housing and commercial space in the region while energizing already urbanized areas, the less that demand will be felt in the rural areas and on the working lands that are most important to conserve.”

4909 Cordell Ave., 2d Floor, Bethesda, MD 20814-2515 • 301.986.5959 • www.SGAlliance.org

Each quarter the Smart and Sustainable Growth Recognition jury accepts for consideration proposals for development projects in the region that are subject to review by local authorities. Since 2002, the jury has recognized 60 proposals. To learn more, visit www.SGAlliance.org.

**Chelsea School Redevelopment, Downtown Silver Spring
Montgomery County, Maryland
Applicant: EYA**

This project site is the current home of the Chelsea School, located at 711 Pershing Drive, at the edge of the Silver Spring CBD. The school is under-utilized and seeks to relocate closer to the student populations it serves.

The 4.88-acre parcel is currently occupied by academic buildings, a gymnasium, a large surface parking lot and the historic Riggs-Thompson House. The site is surrounded by a high-rise multi-family building, commercial structures, a library, a park, and single-family homes. The site is 2-4 blocks from Whole Foods, the AFI Theater, the Discovery office building, the Silver Spring Metro station, and all that downtown Silver Spring has to offer. Because of the mix of uses that surround the site and the proximity to



employment, transportation, shopping, culture, and recreation, townhomes represent an ideal transition and density from the CBD to the adjacent mixed-use residential neighborhoods. The project is more in keeping with the neighborhood than would be a new, larger school and the housing type and density is more in keeping with its walkable, urban location than detached, single-family homes.

The proposal is to preserve the historic house and replace the other uses with 76 townhomes, along with three substantial public parks comprising approximately 15-20 percent of the site's total land area. The townhomes will be designed for compatibility with the single-family homes in the area (for example, the end units will be designed to resemble single-family units).

The project represents an appropriate density and housing type within walking distance of community and retail services, such as existing and proposed public transit stations, grocery stores, libraries, community and civic centers, and parks. In addition, new sidewalk and street connections will be provided through the development. Together,

these improvements will help reduce auto dependency and encourage the use of alternative transportation modes such as public transit, walking and biking. The development will also utilize environmentally sensitive site design practices such as bioretention facilities and rain gardens to manage stormwater. The project will seek LEED for Neighborhood Development and LEED for Homes designation. The development will exceed Montgomery County's minimum requirement for incorporating moderately priced homes into the project and therefore qualifies for the special joint recognition by the Alliance and the ULI Terwilliger Center for Workforce Housing. This recognition will be confirmed when the project is submitted for Final Recognition.

###

WASHINGTON SUBURBAN SANITARY COMMISSION

DEVELOPMENT PROPOSAL REVIEW
FOR A
REZONING APPLICATION

APPLICATION NO.: G-892

DATE: February 28, 2011

APPLICANT: Cheslea Residential Associates, LLC

LOCATION: 630 Ellsworth Drive, Montgomery County

200' SHEET NO.: 210NW01

PRESENT ZONING: R-60

PROPOSED ZONING: RT-15

SIZE OF PARCEL: 5.24 acres (228,483 s.f.)

DWELLING UNITS: 1 (existing historic house) and 76 proposed townhomes

WATER INFORMATION

1. Water pressure zone: 495A
2. There are 8-inch and 6-inch water lines in Ellsworth Drive, Springvale Road, and Pershing Drive (contracts 65-3255, 34164, and 36262, respectively) that abut the property.
3. Local service is adequate.
4. Program-sized water main extensions (16 inches in diameter or greater) are not required to serve the property.
5. The impact from rezoning this property would be negligible.

SEWER INFORMATION

1. Basin: Sligo Creek
2. Existing 6-inch and 8-inch sewer lines about the property (contracts 3226 and 34100) in Ellsworth Drive and Springvale Road.
3. Average wastewater flow from the present zoning: 7,900 GPD
Average wastewater flow from the requested zoning: 14,600 GPD
Average wastewater flow from the proposed development: 14,400 GPD
4. Program-sized sewer mains are not required to serve the property.
5. Interceptor capacity is deficient.
6. The impact from rezoning this property may possibly require the replacement of existing downstream local sewers for sewer capacity augmentation purposes.

Statements of adequacy/inadequacy are made exclusively for this application at this time. Further analysis of adequacy will be part of the review at the time of application for water/sewer service.

Reviewed by Bruce MacLaren (301)206-8817



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

May 2, 2011

TO: Damon Orobona, Zoning Analyst
Area 1 Team

FROM: Cherian Eapen, Planner/Coordinator
Transportation Planning
Area 1

SUBJECT: Application No. G-892
Chelsea Court
Chelsea Residential Associates, LLC
South of Springvale Rd; between Ellsworth Dr and Pershing Dr
Silver Spring/Takoma Park Policy Area

This memorandum presents the Adequate Public Facilities (APF) review for the subject application to rezone the 4.85 acre property located along the south side of Springvale Road between Ellsworth Drive to the west and Pershing Drive to the east. The property is currently developed with the Chelsea School, which is a school for children with learning disabilities. The school currently has approximately 86 students in middle and high school level classes and is approved for up to 200 students. Driveway access to the school is currently from Ellsworth Drive, Springvale Road, and Pershing Drive.

The purpose of the rezoning request by Chelsea Residential Associates, LLC ("Applicant") from the R-60 zone to the RT-15 zone is to obtain approval to construct up to 76 single-family attached residential dwelling units on the site while retaining an existing single family residence. Access to the Chelsea Court development is proposed via an east-west internal roadway that will extend between Ellsworth Drive and Pershing Drive.

RECOMMENDATIONS

The following transportation-related comments are recommended to be part of the Planning Board's recommendations on the subject application, while noting that these recommendations may or may not satisfy APF requirements at the time of subdivision.

1. The Applicant must limit future development on the site to 76 single-family attached (townhouse) residential units and one single-family residence.
2. At the time of subdivision application, the Applicant must satisfy Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR) requirements of the APF test necessary under the regulatory requirements in effect at the time of filing of the application.
3. Prior to the submission of the subdivision application, the Applicant must obtain conceptual approval from Montgomery County Department of Transportation (DOT) on site access and frontage road improvements.

DISCUSSION

Master Plan Roadways and Pedestrian/Bikeway Facilities

The August 2000 Approved and Adopted *North and West Silver Spring Master Plan* has no master-planned roadway facilities that front the property. The Master Plan recommended nearby roadway facilities include:

1. Spring Street/Cedar Street, as a four-lane arterial (A-263) with a minimum right-of-way width of 80 feet.
2. Wayne Avenue, as a four-lane arterial (A-76) with a minimum right-of-way width of 80 feet. The Purple Line light-rail line is proposed along Wayne Avenue.
3. Dale Drive, as a two-lane arterial (A-30) with a minimum right-of-way width of 80 feet.
4. Colesville Road, as a six-lane major highway (M-10) with a minimum right-of-way width of 120 feet.

The Master Plan and the 2005 Approved and Adopted *Countywide Bikeways Functional Master Plan* also recommends bikeway facilities along Ellsworth Drive/Cedar Street (Countywide signed shared roadway; SR-31), Pershing Drive (local signed shared roadway; PB-17), Spring Street (local bike lanes; PB-4), and Wayne Avenue (Countywide shared-use path; SP-10).

Adequate Public Facilities Review

A traffic study (dated March 18, 2011) was submitted by the consultant for the Applicant for the subject application per the *LATR/PAMR Guidelines* since the proposed development was estimated to generate 30 or more peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. The traffic study determined traffic-related impacts of the proposed development on nearby roadway intersections during weekday morning and evening peak periods.

- **Trip Generation**

The peak-hour trip generation estimate for the proposed Chelsea Court development was based on trip generation rates included in the *LATR/PAMR Guidelines*. A site trip generation summary is provided in Table 1, which shows that the Chelsea Court development would generate 37 peak-hour trips during weekday morning peak period and 64 peak-hour trips during the weekday evening peak period. Compared to the above, the existing school on the site with 86 students was observed to generate 58 trips during the morning peak-hour and 28 trips during the evening peak-hour. Using trip generation rates developed using the above data, the school, with its special exception maximum enrollment of 200 students is estimated to generate 134 and 66 trips during the morning and evening peak-hours, respectively. The proposed residential development compared to the existing school is thus estimated to generate significantly less trips during the morning peak-hour and comparable trips during the evening peak-hour.

**TABLE 1
SUMMARY OF SITE TRIP GENERATION
PROPOSED CHELSEA COURT DEVELOPMENT**

| Trip Generation | Morning Peak-Hour | | | Evening Peak-Hour | | |
|---|-------------------|-----------|-----------|-------------------|-----------|-----------|
| | In | Out | Total | In | Out | Total |
| 1 single-family detached unit | 0 | 1 | 1 | 1 | 0 | 1 |
| 76 single-family attached (townhouse) units | 6 | 30 | 36 | 42 | 21 | 63 |
| Total | 6 | 31 | 37 | 43 | 21 | 64 |

Source: Wells and Associates, Inc. Chelsea Court Policy Area Mobility Review and Local Area Transportation Review; March 18, 2011.

Note: The school-related peak one hour of traffic activity in the morning typically coincides with the morning street peak-hour. However, school-related peak one hour of traffic activity in the afternoon/evening typically occurs well ahead of the afternoon/evening street peak-hour.

- **Local Area Transportation Review**

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis results for the study intersections for the weekday morning and evening peak-hours within the respective peak periods from the traffic study is presented in Table 2.

As shown in Table 2, under Total (Build) traffic conditions, CLV values for intersections included in the study were estimated to be below the Silver Spring/Takoma Park Policy Area or Silver Spring CBD congestion standards (1,600 and 1,800 CLV, respectively). Based on the analysis presented in the traffic study, it is concluded that the subject application will satisfy the LATR requirements of the APF test.

**TABLE 2
SUMMARY OF CAPACITY CALCULATIONS
PROPOSED CHELSEA COURT DEVELOPMENT**

| Intersection | Traffic Conditions | | | | | |
|--|--------------------|-------|------------|-------|-------|-------|
| | Existing | | Background | | Total | |
| | AM | PM | AM | PM | AM | PM |
| Dale Dr/Colesville Rd ¹ | 1,482 | 1,642 | 1,617 | 1,819 | -- | -- |
| Dale Dr/Colesville Rd – w/CIP Imps. ¹ | -- | -- | -- | -- | 1,422 | 1,596 |
| Dale Dr/Wayne Ave ¹ | 933 | 961 | 1,012 | 1,046 | 1,012 | 1,046 |
| Springvale Rd/Ellsworth Dr ¹ | 68 | 48 | 68 | 48 | 68 | 51 |
| Springvale Rd/Pershing Dr ¹ | 48 | 45 | 48 | 45 | 48 | 47 |
| Spring St/Colesville Rd ² | 1,108 | 1,390 | 1,375 | 1,442 | 1,380 | 1,454 |
| Cedar St/Ellsworth Dr ² | 244 | 541 | 286 | 595 | 313 | 625 |
| Cedar St/Pershing Dr ² | 176 | 445 | 209 | 484 | 212 | 486 |
| Cedar St/Wayne Ave ² | 732 | 899 | 807 | 1,009 | 810 | 1,009 |
| Ellsworth Dr/Site Dr ¹ | -- | -- | -- | -- | 80 | 78 |
| Pershing Dr/Site Dr ¹ | -- | -- | -- | -- | 24 | 12 |

Source: Wells and Associates, Inc. Chelsea Court Policy Area Mobility Review and Local Area Transportation Review; March 18, 2011.

¹ Silver Spring/Takoma Park Policy Area Congestion Standard: 1,600 CLV

² Silver Spring CBD Policy Area Congestion Standard: 1,800 CLV

- **Policy Area Mobility Review**

To satisfy the PAMR requirements of the APF test, a development located within the Silver Spring/Takoma Park Policy Area is required to mitigate ten percent (10%) of “new” peak-hour trips generated by the development.

The site trip generation summary presented in Table 1 shows that the development will generate 64 peak-hour trips during the weekday evening peak period (highest of the peak-hours). With a credit of 28 peak-hour trips for the existing use on the property and the PAMR requirement to mitigate 10% of the “new” trips, the mitigation requirement for the development therefore is 4 peak-hour trips (i.e., 10% of [64 – 28 = 36]).

The Applicant is proposing to satisfy the PAMR requirements of the APF test at the time of the subdivision approval through options, including one-time payment of \$11,300 per peak-hour trip, off-site sidewalk construction, and/or other measures.

CE/-



MONTGOMERY COUNTY PUBLIC SCHOOLS
MARYLAND

www.montgomeryschoolsmd.org

April 13, 2011

Mr. Damon Orobona
Team Area 1
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760



Dear Mr. Orobona:

This letter is sent in response to Zoning Application No. G-892, known as "Lot 58, Evanswood, Section One (Plat Nos. 22270, 439)," located at 630 Ellsworth Drive, Silver Spring, Maryland. This rezoning would result in 1 single family unit and 76 townhouse units. Based on average yield factors derived from the Montgomery County Planning Department 2008 Census Update Survey, the impact of this project is estimated to be approximately twelve (12) elementary, six (6) middle, and eleven (11) high school students.

This property is located within the Sligo Creek Elementary School, Silver Spring International Middle School, and Northwood High School attendance areas. Enrollment at Sligo Creek Elementary School is currently within capacity and is projected to stay within capacity. Enrollment at Silver Spring International Middle School is currently within capacity and is projected to stay within capacity. Enrollment at Northwood High School is currently within capacity but is projected to be over capacity, beginning in 2012-2013. See enclosed pages from the Montgomery County Public Schools *FY 2011 Capital Budget and Amendments to the FY 2011-2016 Capital Improvements Program (CIP)*.

The current Subdivision Staging Policy schools test (FY 2011) finds capacity adequate in the Northwood Cluster at the middle school and high school levels. However, at the elementary school level, capacity is inadequate and a school facility payment is required for subdivision approval.

Sincerely,

Bruce H. Crispell, Director
Division of Long-range Planning

BHC:lmf

Enclosure

Copy to: Mr. Bowers, Mr. Song, Ms. Turpin

Division of Long-range Planning

2096 Gaither Road, Suite 201 ♦ Rockville, Maryland 20850 ♦ 240-314-4700 ♦ Fax 240-314-4707



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

TO: Damon Orobona, Area 1

FROM: Marco Fuster, Senior Planner, Area 1

SUBJECT: Forest Conservation Background and Environmental Review History
Plan # G-892 (S-2405 / 120000130)
Name: Chelsea Court:

DATE: May 6, 2011

Forest Conservation

The Chelsea School site has a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) plan # 419981560, which was approved on January 28, 1998. The plan identifies a number of significant and specimen trees which occur on portions of the site. No forest areas, wetlands, streams or associated buffers occur on or near the property. Areas of onsite steep slopes are identified by the plan; most of the slopes areas are manmade and there are no areas of highly erodible soils mapped in the vicinity.

A Final Forest Conservation Plan (FFPC) # 120000130 was approved for a *school expansion*. The plans include a substantial development envelope for the construction of additions, new school buildings, parking and access drives. The forest conservation requirements for the school were met through a combination of credited tree preservations and supplemental plantings. A Category II Forest Conservation Easement was established over the entirety of the property as recorded in plat #22270 (M-NCPPC plat # 618-46) protecting the onsite trees. The plan for the school expansion was not implemented except for the installation of a driveway/parking area off of Pershing Drive. Aside from the relatively minor modifications the site conditions are similar to those shown on the original NRI/FSD.

The A preliminary forest conservation plan (PFCP) associated with the currently proposed rezoning was submitted on 5/4/2011. A forest conservation plan is not usually submitted until the project reaches the preliminary plan of subdivision stage. However, the site is subject to an existing FFCP, and furthermore, the townhouse development proposal will require the project to meet the afforestation requirements onsite [under 22A-12(f)(2)(D) of the forest conservation law]. Therefore staff determined that the applicant must demonstrate that a FCP reflecting the proposed development was *approvable*. (The Planning Board is not asked to approve the PFCP at this time).

The existing Category II Forest Conservation Easement already established over the entire property is suitable for an institutional, owner-occupied use such as a school. However, the same easement would not be appropriate over an entire townhome community. Additionally, current policy is to avoid overlap of conflicting easements (the existing conservation easement storm water management easements overlap). Therefore Staff would support revision to the existing easement.

The submitted plan shows that the forest conservation requirements can be met onsite with credit for canopy trees which will be planted. The credited trees are located internally onsite and away from areas where maintenance conflicts are anticipated, such as right of ways, public utility easements and storm water management features. Furthermore, additional credit could be obtained in the area south of the historic structure. With supplemental plantings Small Landscaped Area(s) or Large Landscaped Area(s) can be created and credited accordingly. Potentially a Category II Forest Conservation Easement will be used to protect credited trees. The final location of any Forest Conservation Easement areas will be determined at a later stage.

Forest Conservation Variance

The townhouse proposal includes the removal and/or impacts to a number of trees which are subject to a Forest Conservation Variance. Since the FCP is not in for direct Planning Board action, the variance request has not been prepared or submitted. However, the LOD for the project is generally an appropriate distance from trees to be preserved. In two instances the LOD is at or beyond the critical root zone (CRZ) impact threshold that requires input by an International Society of Arboriculture (ISA) certified arborist. The submitted plan has been endorsed by an ISA certified arborist and includes recommended measures to appropriately protect the trees.

Typically, impacts and/or removal of resources subject to a variance trigger additional planting requirements above and beyond standard forest conservation requirements. Since most of the onsite areas available for planting are credited towards the afforestation requirements, the mitigation plantings for variance purposes would likely occur offsite.

LAW OFFICES OF

KNOPF & BROWN

401 EAST JEFFERSON STREET
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ROCKVILLE, MARYLAND 20850
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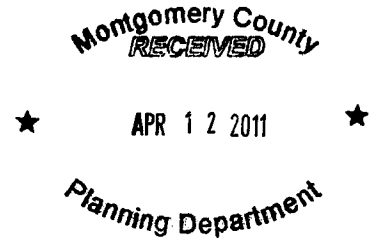
WRITER'S DIRECT DIAL

(301) 545-6105

DAVID W. BROWN

April 8, 2011

Damon Orobona
Vision Division
The Maryland National Capital Park and Planning Commission
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910



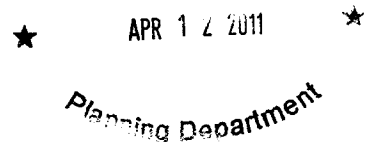
Dear Mr. Orobona:

Re: **Staff Recommendation on LMA G-892, Chelsea Court**

This letter supplements my letter to you of March 28, 2011, which enclosed a letter of that date to you from my client, the Seven Oaks Evanswood Citizens' Association ("SOECA"), regarding compliance by the Chelsea Court Project with the North and West Silver Spring Master Plan ("Master Plan").

As I subsequently advised you, the SOECA analysis was predicated on the need for the Project to comply with the approval standards in § 59-D-1.61(a) of the County Zoning Ordinance, when the proper reference should have been § 59-C-1.721. I want to reiterate here, as I did in an email to you, that this error in no way alters the validity of SOECA's analysis concluding that the Project does not comply with the use and density restrictions in the Master Plan. Indeed, despite the shift from one statutory approval standard to another, the first and foremost test for the Project under the Master Plan is whether it is located in a place "designated . . . for residential development at densities allowed in the R-T zones." § 59-C-1.721(a). Even without referencing this provision, the SOECA analysis makes clear that the Project site fails this test.

One supplemental comment regarding the DRC memo on Master Plan compliance bears repeating here. The Master Plan expressly acknowledges the prospect for RT-zone applications in the future in North Silver Spring, and recommends no such rezoning anywhere in North Silver Spring "at this time." Master Plan 21. The Plan does recognize possible future lot assemblage for RT rezoning, if done in accordance with seven supplementary guidelines. The first of these guidelines is "Limit the development of townhomes to the blocks along Georgia Avenue and **do not encroach into the interior blocks.**" Master Plan 21 (emphasis added). Any rezonings along Georgia Avenue "should be through the optional method application of the local map amendment process."



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which requires a schematic development plan." *Id.* Put another way, the Master Plan recommendation for the subject property, which is not "along Georgia Avenue," is the continuation of existing zoning and the express **rejection** of future RT development via an SDP. So understood, the DRC Master Plan comment that the Plan "is **silent** regarding rezoning to a residential townhouse zone in other areas" [which I take to mean other areas of North Silver Spring than "along Georgia Avenue"], is wrong. The only way the Plan could be any clearer in rejecting this option for the subject property would be to expressly identify it as a particular property not suitable for such rezoning. But given that was done in unambiguous general terms, the absence of a site-specific recommendation cannot possibly matter.

Since our meeting on March 28th, I have had an opportunity to examine the Land Use and Zoning Report submitted in connection with the rezoning application by the attorneys for the applicant. Much of the Report is devoted to an attempt to justify the rezoning in terms of the intent and purpose of the R-T zone, as reflected in § 59-C-1.721. SOECA finds this justification seriously flawed and deficient, for many reasons. First and foremost, it does not, because it cannot, overcome the inescapable conclusion that the proposed rezoning is inconsistent with the use and density recommendations applicable to this site in the Master Plan, as SOECA has detailed for you.

As a result of this failing, the applicant has found it necessary to delve into a tortured, argumentative justification for the Project in terms of the alternative grounds for R-T rezoning: that the location is either (i) "appropriate" for such rezoning, § 59-C-1.721(a), or (ii) one where there is a need for "buffer or transitional uses" between high-density apartments and low-density one-family uses. § 59-C-1.721(b). As the primary guardian of Master Plans, the Board's instinctive response to such a course of argument should be that it is all beside the point if the Master Plan is clear (as it is in this case) in **not** designating this location for R-T zoning. In terms of the statute, how can such rezoning ever be "appropriate" when the Master Plan says otherwise? The term "appropriate," as used in § 59-C-1.721(a), is best understood as permitting the kind of evaluation that the applicant has engaged in only when the Master Plan is truly ambiguous or silent about redevelopment at the particular location. That is not the situation here.

Similarly, the applicant's assessment of the need for buffer or transitional uses at this location amounts to revisiting what has already been thoroughly discussed and settled with the enactment of the Master Plan in 2000. The standard the Board should apply in deciding whether to give credence to an applicant's post-Master Plan discussion of transitional use need, so as to justify a departure from what is recommended in the Master Plan, should not differ from the standard it applies when considering excusing a lack of Master Plan substantial compliance in a preliminary plan of subdivision. There, the

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question the Board asks is whether “events have occurred to render the relevant . . . sector plan . . . recommendation no longer appropriate.” § 50-35(1), Subdivision Code. Applying this test, it is exceedingly obvious that development that has take place in Silver Spring since enactment of both the Master Plan and the CBD Sector Plan in 2000 has been just as envisioned in those Plans, not markedly at odds with them. There is, therefore, no substantial change in circumstances not already envisioned in the Plans, and thus no reason to engage in a second-guessing of the need for R-T zoning to fulfill a transitional use need at this particular location.

Please understand, however, that SOECA’s claim that the applicant’s analysis of transitional use need is superfluous should not be viewed as a concession that it is in any way persuasive in its own right. Should you elect to advise the Board on its substantive merit on its own terms, SOECA would like you to have the benefit of its view, which is that in every way the analysis is superficial, inadequate and unpersuasive. Details in support of that assessment are included in the attached Comments I have prepared. These Comments also supplement SOECA’s views on the issue of Master Plan consistency.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David Brown", with a long horizontal flourish extending to the right.

David W. Brown

/enclosure

Comments on EYA Land Use and Zoning Report for Chelsea Court

1. **Consistency with the Master Plan.** The Report does not claim that the Project is consistent with the Master Plan. Instead, the Report says “the Master Plan can provide **general guidance** for the type of development contemplated for an area.” Report 8 (emphasis added). It also notes that “specific compliance” with the Master Plan “is not a requirement for reclassification to the RT zone.” *Id.* After thus diminishing the significance of the Master Plan to little more than a suggestion, the Report claims the Project will “be in **general conformance** with the Master Plan.” *Id.* (Emphasis added).

The Report’s argument to support this much weaker “general conformance” test goes like this: There are no “specific recommendations” in the Master Plan regarding redevelopment of the property. *Id.* This is because, it is claimed, the Master Plan assumed that existing special exceptions would continue to operate as such, and the private school on the site would continue as a private school “as it had been for decades pursuant to a special exception.” *Id.* at 17. In fact, there was no special exception on the site at the time the land use recommendations in the Master Plan were formulated, and even at the time of formal adoption of the Plan (August 1, 2000), there had been no special exception approved. That approval came in October 2000; prior to that time the school had operated without a special exception as a religious school.

That error aside, attributing the absence of a site-specific redevelopment recommendation to the presence of a school on the property is speculation that leads to an erroneous conclusion. Further, the characterization of the Master Plan as amounting to “silence on the future redevelopment of the Property,” *id.*, is indefensible. The correct, proper reading of the Master Plan is that it is as “site specific” and non-silent as it needs to be here, in that “existing residential zoning in North Silver Spring” is “reconfirm[ed]” except as explicitly recommended otherwise in the Plan. Master Plan 21. And those explicit contrary recommendations do mention exactly where RT zoning for townhomes is recommended, and the areas explicitly mentioned do **not** include this property. The absence of a townhome redevelopment of the property is best explained not by the presence of the school but rather by the intent expressed in the Plan for this area: “to preserve the existing residential character and to reinforce the many desirable features of the North and West Silver Spring neighborhoods.” *Id.* at 15. Hence, when the Report claims that this reconfirmation “should not be read as a prohibition on townhouse zoning on the Property,” Report at 17, a useless straw man has been knocked over. The Master Plan is not grounded in zoning “prohibitions,” but rather “recommendations.” And here, the recommendation for this property, unequivocally, is continuation of the existing R-60 zoning.

Nor are the Report’s flaws in any way cured by the “changed circumstances” argument, which is made as follows: “[M]any of the improvements in the CBD in proximity to the Property had not been completed when the Plan was approved.” *Id.* at 17. Whether this is accurate or not is beside the point. What is clear is that the CBD

Sector Plan plainly recognized that the referenced area, called the “Core” Revitalization Area, was slated to be “reborn as the commercial, civic and entertainment center of Silver Spring and its surrounding neighborhoods,” envisioning a “mix of public and private uses, special events and daily shopping,” so as to achieve “a well-integrated, pedestrian-friendly environment “ and a “catalyst for redevelopment throughout the CBD as existing businesses upgrade and new businesses are drawn to the CBD.” CBD Plan 36. In other words, the changed circumstances are exactly those foreseen when both the CBD Plan and the Master Plan were adopted in 2000. More fundamentally, even if there were truly unanticipated changed circumstances (which there are not), that would be a reason to **modify** the Master Plan, not a reason to **flout** it.

2. Alternative Justifications for RT Zoning. The Report does not rely exclusively on the claim of “general conformance” with the Master Plan. Instead, the Report makes alternative arguments that the Project land is an “appropriate” location for RT zoning § 59-C-1.721(a) or a suitable “transition” from more to less intense zoning. § 59-C-1.721(b). These arguments are fundamentally flawed, for several reasons.

a. First of all, the Project does not meet the floating zone compatibility test that overlays the Zoning Code’s description of the intent and purpose of the zone, as set forth in § 59-C-1.721. The applicant recognizes that it is seeking approval of a floating zone, but never sets forth the key requirement for approval of a floating zone, as established in Maryland caselaw arising under the Montgomery County Zoning Ordinance. Specifically, in Bigeno v. Montgomery County Council, 248 Md. 386, 237 A. 2d 53, 56-57 (1968), and other cases, the courts have stated that

the floating zone is subject to the same conditions that apply to safeguard the granting of special exceptions, i.e., the use must be compatible with the surrounding neighborhood, it must further the purposes of the proposed reclassification, and special precautions are to be applied to insure that there will be no discordance with existing uses.

Bigeno thus makes clear that, due to the need to demonstrate compatibility, floating zones are not to be approved for locations where the Master Plan has already decided the compatibility question for the particular zone being considered. As has already been explained, the compatibility of RT zoning with existing single-family residential zones has been expressly considered throughout the North Silver Spring area in the Master Plan, and, except along Georgia Avenue, **rejected**.¹

b. Second, the applicant’s arguments fail to compare the attributes of an RT development with those associated with development at R-60 cluster, which is

¹ The applicant defines a broad “surrounding area” for evaluation of compatibility. Report. 6-7. This is intended to minimize the issue as it relates to the most immediately and directly affected R-60 single family detached residences confronting the Property. But a dispute about the proper contours of the surrounding area is largely beside the point in light of the clarity of the Master Plan on where RT zoning is, and is not, appropriate.

what one may reasonably interpret the Master Plan to endorse for this site on redevelopment. Why would RT development be more “appropriate” or a better “transition” than R-60 cluster development? It is not at all obvious that RT is the better option, and the Report fails to convincingly explain why it would be. For example, the Report claims that one of the Project’s “benefits” over “traditional R-60 infill developments is that they layout for the townhouse development includes more open space areas available to the entire public rather than private yards.” Report 22. But this same “benefit” is available in R-60 cluster; indeed, the principal purpose of cluster zoning is to achieve such benefits.

c. Third, the R-60 cluster zone, just like the RT zones, provides for a variety of housing types that do not exist in the neighborhood. These include single-family attached and single-family semidetached (duplexes), not just single-family detached, as implied by the Report. Id. at 15.² Why were these other housing types ignored in assessing what is appropriate for this site or what would constitute a good transition between zones? The only clues provided are the assertions that, due to CBD proximity, development along these lines can be dismissed as an “underutilization” of the site, id., and that RT-15 zoning will “more accurately reflect” that proximity. Id. at 10. Such assertions cannot be the basis for overriding the zoning recommendation for the site in the Master Plan or ignoring a comparative assessment of R-60 options with RT options. Even if these vague, undefined concepts were relevant, other nearby properties have recently been developed successfully at R-60, reinforcing how unconvincing the Report is in attempting to justify the Project’s departure from the Master Plan’s recommendations. In the same vein, R-60 cluster can, like RT-15, “provide much needed moderately priced dwelling units.” Id.

d. Fourth, other observations in the Report are just as valid for R-60 cluster development of the Property as RT-15 development. These include the point that the Property “is the last connection to the new downtown,” that the Project will add sidewalks and thus “dramatically enhance pedestrian access” for those walking to/from the CBD, id., and that the development will serve the many buyers “looking for “low-maintenance, fee-simple housing alternatives within walking distance to major public amenities like METRO and retail.” Id. at 11. These claims are repeated in a variety of ways elsewhere in the Report, but they all suffer from the same flaw: virtually none of them meaningfully distinguish between RT zoning and what can already be accomplished without rezoning the Property.

e. Fifth, as the Master Plan expressly recognizes, the row of single-family homes on Cedar abutting the Property **already provides** the sort of “significant and stable buffer for the single-family residential communities to the north and east,” id.

² Another straw man in the Report is the claim that single-family detached housing is inappropriate due to the “immediately adjacent” high-rise residential. Report 15. The only real “immediate adjacency” is to single-family detached homes, not high rises. But the more important point is that no one is claiming that the Property must be developed with single-family detached homes in any event.

at 19, that is claimed for a townhouse project on the Property. Thus, the proposed townhomes merely duplicate (or needlessly complicate) the buffer that is already there. Nor do the townhomes “re-establish a compatible residential use on the site,” *id.*, that can plausibly be deemed as good or better than the several kinds of new housing types that could go on the site with its existing R-60 zoning.

f. Sixth, the example of townhouses in the Master Plan area near the Park and Planning offices, assertedly serving as appropriate similar transition, *id.* at 11, is not apt. First, that project, near the intersection of Fairview and Spring, is bordered by CO-zoned property between it and the CBD boundary. That is not a transitional use the way the special exception properties along Cedar Street are. Second, the property consists only 13 townhomes on little more than an acre, at RT-12.5, not RT-15. Third, this property had existing zoning of RT-12.5 at the time the Master Plan was adopted in 2000. Thus, the Master Plan’s recommendation of confirmation of existing zoning was confirmation of RT-12.5 zoning at this location. This is not even an implicit endorsement of compatibility were the zoning of the Chelsea School site to change to RT-15.

g. Lastly, the applicant fails to justify the actual density proposed for this location, i.e., the number of townhomes envisioned for the site. In fact, the proposed density may readily be seen as more appropriate for the Silver Spring CBD than outside it, as here. Because nearly an acre of land must be set aside for the environmental setting of the Riggs-Thompson historic property, the most accurate way to evaluate the compatibility of the Project’s density with the existing level of density in surrounding single-family detached R-60 properties is to view the Project independently of the necessity to preserve the Riggs-Thompson house. So adjusted, the Project consists of 76 townhomes on 174,210 sq. ft. of land (a figure which is inclusive of other open spaces).³ There is therefore one townhome for each 2292 sq. ft. of land area. This level of density can readily be compared with that achieved by the applicant some years back a few blocks away, **inside the Silver Spring CBD**. There, according to record plat No. 20908 (Dec. 9, 1998), the applicant obtained final approval to build the Cameron Hill project, which consists of 57 townhomes on 127,777 sq. ft. of land, inclusive of open spaces. That works out to 2241 sq. ft. per townhome. Thus the effective density of Chelsea Court is only about 51 sq. ft. “roomier” than the applicant’s CBD townhomes, a difference of a mere 2 per cent. Either number reflects a density in the vicinity of **three times** the density of adjacent R-60 zoned single-family detached properties. From this perspective, there is no meaningful difference between the Cameron Hill townhomes and the proposed Chelsea Court townhomes, except that the Cameron Hill townhomes are nestled in the CBD Core where they are **not** a dominating influence on any of their neighbors. By contrast, the density achievable at this location under R-60 cluster with bonus density for MPDU’s would be far less. No hypothetical layout has been proffered by the applicant, so the actual density achievable on this site involves some guesswork. It might be as high as the maximum density allowable (6.1 dwelling units per acre of useable area), or 32 units. Apportioning these units among the net tract area of 174,210 sq. ft. (excluding

³ Excluding the 37,056 sq. ft. environmental setting, the net tract area is (4.85 x 43,560) – 37,056, or 174,210 sq. ft.

the Riggs-Thompson property), there would be an effective density of about 5444 sq. ft. per dwelling unit, a much more compatible result with the neighboring residences than a 76-unit townhome development.

April 8, 2011
Date

David W. Brown
David W. Brown

Orobona, Damon

From: David W. Brown [brown@knopf-brown.com]
Sent: Tuesday, March 29, 2011 1:39 PM
To: Orobona, Damon
Cc: Anne Spielberg
Subject: Rezoning Standards

Damon,

On further review in light of comments at yesterday's meeting, the letter from SOECA is incorrect in citing the standards from 59-C-1.61(a). The rezoning standards are as set forth in 59-C-1.721. This does not mean, however, that the SOECA analysis of what is (and is not) in the Master Plan is wrong. I think it is correct in all respects other than referencing and applying the correct statute. I see no point in their revising their letter, other than for me to make one additional, important point.

The Master Plan expressly acknowledges the prospect for RT-zone applications in the future in North Silver Spring, and recommends no such rezoning anywhere in North Silver Spring "at this time." Master Plan 21. The Plan does recognize possible future lot assemblage for RT rezoning, if done in accordance with seven supplementary guidelines. The first of these guidelines is "Limit the development of townhomes to the blocks along Georgia Avenue and **do not encroach into the interior blocks.**" Master Plan 21 (emphasis added). Any rezonings along Georgia Avenue "should be through the optional method application of the local map amendment process, which requires a schematic development plan." Id. Put another way, the Master Plan recommendation for the subject property, which is not "along Georgia Avenue," is the continuation of existing zoning and the express **rejection** of future RT development via an SDP. So understood, the DRC Master Plan comment that the Plan "is **silent** regarding rezoning to a residential townhouse zone in other areas" [which I take to mean other areas of North Silver Spring than "along Georgia Avenue"], is wrong. The only way the Plan could be any clearer in rejecting this option for the subject property would be to expressly identify it as a particular property not suitable for such rezoning. But given that was done in unambiguous general terms, the absence of a site-specific recommendation cannot possibly matter.

Dave Brown

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DAVID W. BROWN

March 28, 2011

Damon Orobona
Vision Division
The Maryland National Capital Park and Planning Commission
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Dear Mr. Orobona:

Re: **Staff Recommendation on LMA G-892, Chelsea Court**

This letter forwards for your consideration the analysis of the Seven Oaks-Evanswood Citizens' Association ("SOECA") on the issue of substantial compliance by the above-referenced Local Map Amendment application with the use and density recommendations in the 2000 North and West Silver Spring Master Plan.

The SOECA conclusion is that the LMA does not come remotely close to achieving the required substantial compliance, meriting an unequivocal negative recommendation from the technical staff. Both the details of the analysis and its conclusions were prepared by SOECA. While SOECA received some assistance from me, their analysis is primarily a product of citizens who have long resided in the area of North Silver Spring that would be most directly affected by the proposed redevelopment, and who are thereby in the best position to describe the impact on the community if the LMA were erroneously approved by overlooking its clear non-conformity to the zoning recommendations in the Master Plan.

SOECA representatives and I look forward to meeting with you to exchange views on this matter of great importance to the citizens of Seven Oaks-Evanswood.

Sincerely yours,


David W. Brown

/enclosure



Hand Delivered

March 28, 2011

Damon B. Orobona
Senior Planner/Zoning Analyst
Development Review Division
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, MD 20910

RE: Application for Local Map Amendment G-892, Chelsea Residential Associates, LLC (an affiliate of EYA), 630 Ellsworth Drive

Dear Damon,

On behalf of the Seven Oaks Evanswood Citizens' Association ("SOECA"), I am writing to express SOECA's views on the Planning Department's Development Review Committee ("DRC") Comments of March 21, 2011, to Chelsea Residential Assoc., LLC on G-892's compliance with the 2000 North and West Silver Spring Master Plan ("Master Plan"). SOECA vehemently disagrees with the Planning Department's comments, as they ignore both the specific language and the intent of the Master Plan, which could not be clearer in providing that the property in question, along with many neighboring properties in North Silver Spring, should retain their existing R-60 single family residential zoning. The comments go beyond merely overlooking or ignoring the explicit zoning recommendation in the Plan; they also evade that explicit recommendation by improperly attempting to extend and apply recommendations from the Silver Spring Central Business District Sector Plan ("CBD Plan") beyond its boundaries to justify the rezoning to RT-15.

As discussed below, the District Council *cannot* find, as it must in order to approve the requested Local Map Amendment, that Application G-892 "substantially complies with the use and density indicated by the master plan." Montgomery County Code § 59.D-1.61(a). We ask that you reconsider your preliminary finding on this issue and make a finding in conformity with the requirements of the Master Plan: that the project fails to comply with the Master Plan.

I. Background

A. Interest and Position of SOECA

The Seven Oaks-Evanswood Citizens' Association ("SOECA") is a county civic association that represents over 700 households directly to the north of the Silver Spring Central Business District (CBD). SOECA's borders are Colesville Road (RT 29), Franklin Avenue, Sligo Creek Parkway, Wayne Avenue, Bonifant Street, Fenton and Cedar Streets. The Chelsea Court project is proposed to be built squarely within the boundaries of the SOECA community.

After extensive evaluation and study of the proposed Chelsea Court project, including presentations from and meetings with the developer, discussions with county staff and zoning experts, a survey of nearby residents, and consideration by a specially constituted SOECA task force, by SOECA's Executive Committee and by the SOECA membership, SOECA voted overwhelmingly at a widely attended membership meeting on September 30, 2010, in favor of preserving the existing R-60 single family zoning for the proposed site of the Chelsea Court project, and to oppose its rezoning to RT-15, the highest density townhouse zoning. SOECA's official position was communicated to the Planning Department in a letter from Kathleen Samiy, SOECA's President, on October 22, 2011. One of the principal bases for SOECA's position is that the project violates the master plan that governs the SOECA community.

B. The Property

The proposed Chelsea Court project would be built on property located at 630 Ellsworth Drive (also sometimes identified as 711 Pershing Drive). The property is currently zoned R-60, single family residential. The site is bounded by interior, local, neighborhood residential streets on three sides (Ellsworth Drive to the West, Springvale Road to the North, and Pershing Drive to the East). On the South, the property is bounded not by any street, but instead by a row of single family structures that front on Cedar Street. The property where the proposed development would be built does not in any way front on the CBD.

II. The Proposed Rezoning Violates the Master Plan.

As the DRC comments recognize, the property proposed for rezoning is located completely within the North Silver Spring portion of Master Plan. Therefore, any rezoning must "substantially comply" with what that Plan indicates as the use and density for this land.

Critically, the North Silver Spring portion of the Master Plan "[r]econfirm[s] the *existing residential zoning* in North Silver Spring, *except as recommended below.*" Master Plan at 21 (emphasis added). Thus, absent a specific recommendation to the contrary, the Master Plan provides that the existing residential zoning of properties within

North Silver Spring should not be changed. And, in recommending reconfirmation of the existing residential zoning, the Master Plan explicitly reconfirms the existing density established by the zoning: “This Plan reconfirms the current zoning, which establishes the *density*.” *Id.* (emphasis added). Because there is no specific recommendation in the Master Plan to change the zoning of the proposed Chelsea Court property (none of the three recommendations for changes is applicable to this property), the Master Plan requires that its existing R-60 single family residential zoning be retained. R-60 zoning, even with the cluster option and maximum MPDU credits, would not produce even half the level of density allowable under RT-15 zoning. It certainly would not produce even half the level of density of the G-892 redevelopment proposal, with a proposed density of 77 units on 5.25 acres¹

The only recommendation for possible townhouse redevelopment that could possibly be deemed inclusive of an RT-15 development density in the North Silver Spring portion of the Master Plan is “along Georgia Avenue.” *Id.* Far from being silent about rezoning for residential townhouses in other areas, as asserted in the Planning Department’s DRC comments, the Master Plan is unequivocal in stating that Georgia Avenue is the only location where rezoning for townhouses should be considered. Georgia Avenue is the sole recommendation for a change to townhouses from the existing residential zoning, which otherwise is to be preserved.² Even along Georgia Avenue, categorized as a major highway within the county, the Master Plan directs that townhouse development should be limited “to the blocks along Georgia Avenue and not encroach into the interior blocks.” *Id.* The proposed Chelsea Court townhouse development would not be built along Georgia Avenue. It would not even be built along any major highway, arterial road, or primary residential street. Instead, it would be built on interior blocks, contrary to both the specific language and overall intent of the Master Plan.

In addition, the proposed rezoning of this property violates the Master Plan’s conclusions in North Silver Spring about “how best to preserve residential character and stabilize the edges [along major highways and adjacent to the CBD] while protecting the interior of the neighborhoods.” *Id.* at 20. For the area of North Silver Spring where this property is located, the Master Plan continued the strategy of the 1978 North Silver Spring Master Plan to use as a buffer between the neighborhood and the CBD the row of single family houses along Cedar Street between Ellsworth and Pershing Drives that are

¹We mention R-60 the cluster option purely for the sake of demonstrating the deficiencies in the staff analysis. SOECA does not concede that the Master Plan’s recommendation that North Silver Spring areas be reconfirmed at existing residential zoning categorically embraces R-60 cluster for all areas zoned R-60.

²While R-60 cluster zoning contains the option for duplexes and townhomes in specified percentages, as explained above, such development could never achieve anything close to the density proposed for G-892. Moreover, there is only one 3-acre parcel in North Silver Spring recommended for R-60 cluster in the Master Plan (at 21-23), and it is not this property.

available for non-resident professional office use as a special exception. *Id.* at 20 and 43-44. The Master Plan even **strongly recommends** that with the special exception availability, “the existing residential structures be retained.” *Id.* at 44 (emphasis added). The reason for this recommendation is clear and explicit: “to provide a transition (by use, not by structure type), from properties at the edge of the neighborhoods to those in the interior.” *Id.* at 43. Based on first-hand review of the records at the Planning Department, the special exceptions that have been approved for non-resident professional use along Cedar Street all have been approved based on the Master Plan’s principle of transition use. For the four out of the nine available properties that currently have special exceptions, the existing residential structures were maintained with only small, if any, changes to the exterior and with parking provided in the CBD so as to retain landscaping and residential driveways. The remaining five properties are all still residences.³ If G-892 were built as planned, the homes would no longer serve their intended transitional use.

Unlike for Georgia Avenue, the Master Plan makes no recommendation for this area that townhouses be used as a buffer or transition between the neighborhood and the CBD. Instead, as has been true for more than 30 years, the single-family detached homes that front Cedar and directly back on the proposed Chelsea Court property protect the neighborhood behind them. The proposed townhouse development here would leapfrog over these single-family structures, increase the zoning density more than three-fold over conventional R-60 zoning, and place this high density development between sets of single-family homes – those on Cedar and those fronting on Springvale Road. Instead of fulfilling the Master Plan goals of stabilizing the edge and protecting the interior of the neighborhood, the proposed townhouses would neutralize a more appropriate existing buffer and inject more intrusive development behind it.

For all these reasons, the proper conclusion is exceedingly straightforward: the proposed rezoning of this property to RT-15 for townhouse redevelopment does not substantially comply with the use and density restrictions in the Master Plan, and thus cannot be justified under § 59.D-1.61(a).

III. The CBD Plan Cannot be Applied to Areas Beyond its Boundaries.

In evaluating the proposed rezoning’s compliance with the Master Plan, the Planning Department invokes the CBD Plan, even though the proposed Chelsea Court

³Special exceptions for nonresidential office use have been approved for the properties located at 717 Pershing (doctor’s office, 1982), 8603 Cedar (law office, 2007), 8607 Cedar (psychological services, 2004), and 8613 Cedar (law office, 1984). The special exceptions for 717 Pershing and 8613 Cedar predate the 2000 Master Plan, while those at 8603 and 8607 Cedar postdate it. While the property at 8603 Cedar has a special exception, it has been sold since the special exception was approved, does not currently appear to be in use as a law office, and is listed in the tax records as being a principal residence. The properties at 8605, 8609, 8611, 8615, and 8617 Cedar are all residences.

development would be outside the CBD Plan boundaries. The claim is that a property near the edge of a surrounding residential community is under “the influence” of the CBD Plan. But there is a vast array of properties outside the CBD that are arguably under its “influence” in the fashion suggested. Neither the Master Plan nor the CBD Plan says anything about the prospects for such “influenced” properties. It is a staff rationale for a favorable review of G-892 under § 59.D-1.61(a) not tethered to the text of either Plan. Whether a future Master Plan update might correlate with this “influence” analysis would be a plausible ground for speculation, but right now that is all it is—speculation. Such speculation should be given no credence now; all it does is provide an excuse for circumventing the Master Plan, which already considers and addresses development along the edges of the CBD.

The Master Plan was prepared “[c]oncurrent with” the CBD Plan, like master plans for other communities surrounding the CBD, because of the “direct and indirect effects on surrounding communities.” CBD Plan at 4. The concurrent development “allows planners to share information and make recommendations that are consistent among plans.” Master Plan at 9. Thus, the planning principles and recommendations in the Master Plan already reflect the balance the District Council struck between encouraging development within the CBD and protecting the surrounding existing residential communities outside of the CBD, including areas closest to the CBD, from inappropriate and destabilizing development and density. *See Id.* at 20 (addressing development around edges of CBD). The Master Plan already reflects that North Silver Spring is adjacent to the CBD’s developing urban core and its extensive access to public transportation. *Id.* at 9, 12. This Master Plan alone governs the proposed Chelsea Court rezoning, which is completely within its boundaries; the CBD Plan and its themes apply only to properties actually within the CBD.

In addition, *within* the CBD, there already is another approved residential development that is consistent with CBD Plan zoning and that applies the planning principles concurrently developed for the CBD and North Silver Spring to protect the edges of the North Silver Spring neighborhood. In the CBD and across Cedar Street from the row of single family houses that borders the proposed site for Chelsea Court, more than 200 residential units are being built behind the Silver Spring Civic Center. These dwelling units are going up on a parcel that is zoned CBD 0.5. According to the CBD Plan (p. 29), this zone was used at the edges of the CBD to make a transition into residential neighborhoods beyond the CBD. Thus, this new residential development provides another transition from the edge of the CBD to the North Silver Spring community that buttresses the buffer provided by the Cedar Street houses as provided the Master Plan.

Accordingly, there is no valid basis for applying the CBD Plan to a North Silver Spring property that is outside the CBD and that is addressed and protected by the terms of the Master Plan. The increased residential density specifically allowed in the CBD cannot be extended to the surrounding residential community.

IV. The Protections of the Master Plan Cannot be Changed Because of a Proposed Purple Line Station at Fenton Street and Wayne Avenue.

The proposed Purple Line station at Wayne and Fenton Avenue, within the CBD, does not and cannot change the zoning protections for nearby neighborhoods currently in the North and West Silver Spring Master Plan. Zoning changes arising from possible construction of the Purple Line require amendment of the affected master and sector plans, with the accompanying comprehensive review and public input about the implications of such changes for both the CBD and the surrounding existing residential communities. Further, even the closest corner of the proposed project, on Pershing Drive behind the corner house on Cedar Street where the historic property will remain, is more than a quarter mile from the proposed station entrance. The proposed townhouses would be farther still and thus do not even come within the new development zone the DRC comments propose to create.

The Purple Line Functional Master Plan specifically states that the document “does not address potential changes in land use or zoning.” Purple Line Functional Master Plan at 6. Indeed, in response to concerns within the same North Silver Spring neighborhood about the implications of a different Purple Line station at Wayne Avenue and Dale Drive, the Purple Line Functional Master Plan states that “there is no intent or desire to change the zoning in the single-family residential neighborhoods in and around the Wayne Avenue/Dale Drive intersection.” *Id.* at 31. The property where Chelsea Court is proposed to be built is one of these single-family residential neighborhoods.

In addition, the CBD Plan contains specific language about a possible Purple Line. It states that if a Purple Line was considered desirable and feasible, then “the Sector Plan should be revisited to consider any changes to . . . zoning recommendations.” CBD Plan at 100. If there is a theme in the concurrently developed CBD Plan that warrants extension to the Master Plan, it is this one. In fact, the language of the Purple Line Functional Master Plan, together with the CBD Plan, clearly show that the District Council considered the impact of extending the Purple Line through areas of the CBD and directed that the CBD Plan must be revised before zoning changes would be made. If the CBD Plan with its permitted high level of development requires reconsideration before zoning recommendations are changed based on the construction of the Purple Line, that same reconsideration is even more necessary for possibly affected surrounding single-family residential communities.

Moreover, the reality is that the Master Plan’s existing zoning recommendations for our area are consistent with any possible Purple Line route and stations. The Master Plan contemplated that “various light and heavy rail options including above and below-ground routes to extend transit service” might occur within the communities it covered, a clear reference to a possible Purple Line. The Master Plan found that the Plan’s “proposed land uses and transportation network *do not preclude* any of the transit modes or alignments” Master Plan at 72 (emphasis added). The Master Plan thus found that its existing zoning recommendations were consistent with additional public transit

options, such as the Purple Line, which was at a preliminary planning stage in 2000. If new zoning changes are to be allowed in the Master Plan's residential communities, then the Master Plan must be revised. Piecemeal assertions that a Purple Line station allows one to ignore the Master Plan's protections and zoning recommendations improperly circumvents the requirement that the Chelsea Court rezoning comply with the density and use provided in the current Master Plan, none of which are in any way contingent on the presence or absence of plans, formative or imminent, for construction of the Purple Line.

IV. Conclusion

For the foregoing reasons, the District Council will have no lawful basis to find that the proposed rezoning of the property for the Chelsea Court project substantially complies with the use and density indicated by the Master Plan. The District Council, the Office of Zoning and Administrative Hearings and the Planning Board all rely on technical staff in the Planning Department to provide objective, fully documented advice on this critical issue in any rezoning application that comes before them. The Planning Department should revise its preliminary determination and find that the proposed rezoning unequivocally fails to substantially comply with the use and density indicated by the Master Plan.

Sincerely,



Anne Spielberg
Chair, Chelsea School Redevelopment Task Force
Seven Oaks Evanswood Citizen's Association

Seven Oaks Evanswood Citizens' Association
Silver Spring, Maryland

October 22, 2010
MCP-Chair@mncppc-mc-org

Dear Planning Board Chair Francoise Carrier,

I am writing on behalf of, and as the President of the Seven Oaks-Evanswood Citizens' Association ("SOECA"), a County-chartered Civic Association that represents over 700 households directly to the north of the Silver Spring Central Business District (CBD), with the borders of Colesville Road (RT 29), Franklin Avenue, Sligo Creek Parkway, Wayne Avenue, Bonifant Street, Fenton and Cedar Streets.

A 4.8 acre property within our borders located at 711 Pershing Drive and currently owned by the Chelsea School is up for sale. The property is zoned R-60 single family residential, and the school operates on the land under a special exception. A school has been on this property under a special exception for over 60 years. Over one acre of the property is designated historic and occupied by the Riggs Thompson house.

The Chelsea School has chosen to enter into a sales contract with the developer EYA, contingent upon being able to rezone the property to RT-15, the highest density townhome zoning, so it can build 76 townhomes on the site. **Such a rezoning runs counter to the current North & West Master Plan** (that was developed and adopted in the context of the Central Business District master plan and the developing urban center) **and runs counter to the current density within our R-60 residential neighborhood.** The rezoning would violate the Master Plan's decision to preserve the *existing* R-60 zoning in North Silver Spring and to recommend townhome redevelopment *only* along the major thoroughfare of Georgia Avenue. The rezoning would create a *three-fold* increase in density to a large parcel of land located **INSIDE** our residential single family home community, between groups of existing single family homes, accessible only via interior neighborhood streets, and outside the Central Business District—which does allow more dense zoning.

Rezoning the Chelsea School property is also inconsistent with promises the Montgomery County Council made in connection with approving a possible future Purple Line station at Wayne Avenue and Dale Drive as part of the Purple Line Functional Master Plan. There, the Council stated that it had no intention of changing our existing neighborhood zoning as a result of adding stations in our neighborhood. Changing the zoning on the Chelsea School site, only blocks away, would eviscerate this commitment

Since April 2010 and through the summer and fall, our community has spent a significant amount of time and energy considering and investigating the proposal to rezone this property and assessing the impact of the zoning change and increased density on our neighborhood. The process included: 6 hours of EYA presentations to our residents, a formal task force of 10 persons, discussions with zoning experts and Planning Department staff, review of other like-kind zoning densities, preparation of task force reports, polling of the affected neighbors, presentations, and a publicized vote on Sept 30 of the SOECA membership. We even met a July 28 deadline that EYA requested during its 'feasibility period' to provide SOECA residents input pro or con on their 'potential' purchase. EYA was notified, on July 22, 2010 that residents were NOT in favor of rezoning.

SOECA's conclusion after hours of due diligence is that rezoning at this location violates our Master Plan, is completely incompatible with our neighborhood, and brings an unacceptably high level of density to our community with the resulting adverse impacts that adherence to the Master Plan is designed to avoid. The proposed rezoning of this property has vociferous and strong opposition. Indeed, the overwhelming majority of the immediately impacted residents living adjacent to and abutting the property, the SOECA Executive Board, and a large majority of SOECA's residents want the current master plan and R-60 zoning to be upheld. This proposed density is too-tight and inconsistent with the surrounding neighborhood density.

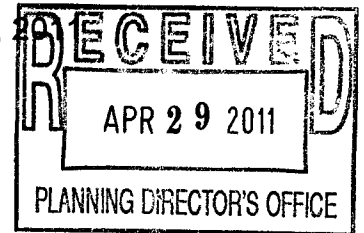
We are asking you to uphold R-60 density in our neighborhood AND to uphold the North and West Silver Spring Master Plan for our area. Upholding this zoning is critical to the vitality of our established residential neighborhoods, and there is no change that warrants overriding the current zoning protections in the SOECA community for the Chelsea School property. We ask you to represent the residents of our neighborhood and agree that there are many other development options that this property seller could choose under the existing R-60 zoning—even other housing options. We ask that the Chelsea School property not be rezoned, nor receive a zoning modification.

Sincerely,

Kathleen Samiy
SOECA President
And the Chelsea School Task Force
Silver Spring, Maryland
Soeca.board@gmail.com

Rollin Stanley
Montgomery County Planning Director
M-NCPPC
8787 Georgia Ave.
Silver Spring, MD 20910

April 27, 2011



Dear Mr. Stanley,

I am writing regarding Application for Local Map Amendment G-892, Chelsea Residential Associates, LLC (an affiliate of EYA), 630 Ellsworth Drive.

I am a resident of Springvale Lane, a small cul de sac directly opposite Springvale Road, which borders the Chelsea school property. The applicant is proposing to build a 76-unit townhouse development on land currently occupied by the Chelsea school building, a grassy area and a parking lot. I strongly oppose the proposed rezoning from single-family R-60 use to high density R-15 land use, which is necessary before the project is built.

This property is surrounded by single family homes on its two long sides (Springvale Road and Cedar Street), by single family homes on Pershing Avenue and by the Silver Spring Library on the fourth side. The Master Plan for this area recommends townhouse development only along Georgia Avenue, specifically rejects townhouses on interior neighborhood sites, and explicitly reconfirms the existing zoning for this neighborhood. With about 150 people crammed into a few acres of land right across the street from my house, this development would in effect bring the crowded central business district right up to our doorstep. In addition to destroying the current single-family character of our neighborhood, the 76 new units would create new traffic congestion on Ellsworth Drive, Pershing Drive and adjacent streets; it would create increased storm water runoff into nearby Sligo Creek, increased sewage and solid waste to be treated and disposed of by the County and it would create 76 new residential heating and cooling units that need to be consuming energy for at least the next 40 years. It would also require the removal of some very large trees now flanking Springvale Road.

Although I am not a real estate professional, common sense tells me that the commercial value of the Chelsea property is high enough to warrant the construction of 19 or 20 single-family homes equal to the caliber of those on Ellsworth Court and Woodside Parkway, which were created in our immediate neighborhood in the last 10 years or so. This use of the property would be consistent with the current R-60 zoning and it would minimize the other adverse impacts of a 76-unit complex.

Sincerely,

Robert E. McGaughy
Robert E. McGaughy
4 Springvale Lane
Silver Spring, MD 20910

Planning D

M...

Montgomery

April 8, 2011

Dear Mr. Youngentob:

I'm writing to express my support for the proposed Chelsea Court townhome community. As the current the manager of Pacers Running Stores of Silver Spring, I believe the proposed townhomes will compliment the downtown area well and serve as a great support for local businesses.

Our store is a family-owned and operated running and walking specialty retailer located on Fenton Street in downtown Silver Spring. Businesses such as ours can benefit from this townhome community because it will increase the number of patrons who live within walking distance to our store. Chelsea Court reflects the qualities needed to keep this area vibrant through creating a pedestrian friendly environment that may help to generate a stronger customer base.

Thank you for your time.

Sincerely,

Jenna Sokolowski
Store Manager
Pacers Running Store
8535 Fenton Street
Silver Spring, MD 20910
301.495.7811

March 2, 2011

Dear Mr. Youngentob,

I'm very pleased to have this opportunity to express my support for EYA's proposal.

My partner and I live on Ellsworth Court very close to the Chelsea School property. I think EYA's proposal provides the appropriate density between downtown Silver Spring and the single family homes where we live. In fact, when we downsize in the next few years, we hope that one of these townhomes would fulfill our needs. We love the proximity to all that is happening in downtown Silver Spring, especially the restaurants and movies. We would have to give that up if we were to downsize to somewhere else.

I understand that the neighborhood association (SOECA) is opposed, but I don't know how many people voted. I do know that the neighborhood friends I had talked to support this proposal.

My contact information is below.

Alice P. Meyer

8907 Ellsworth Court

Silver Spring, MD 20910

301-650-2292

cell: 240-383-7397

Fax: 301-589-9129

April 7, 2011

Dear Mr. Youngentob,

I recently learned about EYA's proposal to build a townhouse development on the Chelsea School site in downtown Silver Spring. I am happy to express my strong support for this project.

I have been in business in Silver Spring for over 20 years. As a former Silver Spring Chamber of Commerce president and Silver Spring Urban District Advisory Committee member & Chair, I am much invested in the future of our community.

Chelsea Court will serve as effective buffer between the bustle of downtown Silver Spring and the single family homes in the neighboring community. Moreover, having seen first-hand the success of Cameron Hill, I am confident about EYA's ability to create a quality community.

Sincerely,

Charles H. Atwell

914 Silver Spring Ave

Silver Spring MD 20910

To: Bob Youngentob, EYA President
From: Diane Martin
8908 Ellsworth Court
Silver Spring, Md. 20910
301-585-1587
Date: March 11, 2011

Dear Mr. Youngentob,

I am writing to express my support for EYA's application for rezoning the Chelsea School site from the current single-family zoning to the denser, town-house zoning. My husband and I live about 1/2 block from the Chelsea School site. We've lived here since 1990 and have seen the downtown Silver Spring area go from being relatively abandoned to being a lively destination with something for everyone. We have attended some of the community meetings where EYA presented the draft plans for the townhouse site, and we've also toured some of EYA's other developments (the townhouses on Cameron Street and the development at the Forest Glen Seminary site).

We've been very impressed with the quality of your developments as well as your willingness to work with community members and incorporate their suggestions when feasible. I believe that this townhouse community would be a great addition to our neighborhood and I look forward to seeing it become a reality.

Sincerely,

Diane Martin

April 4, 2011

Dear Mr. Youngentob,

I support the Chelsea Court proposal from EYA because it offers attractive, practical housing in a wonderful location. The proposed townhomes are an appropriate choice as an architectural buffer between the commercial and apartment buildings of downtown Silver Spring and the adjacent residential neighborhood.

Townhomes are also a good choice because they appeal to a wide range of household types: first-time homeowners, young families, single homeowners, and empty-nesters, all of whom contribute to the diverse mix that characterizes Silver Spring.

The townhomes and attractive landscaping will provide a welcome alternative to the institutional-style school building, the cracked parking lot, and the surrounding chain link fence.

In addition, the proposed restoration of the historic Riggs-Thompson house will save a noteworthy and architecturally significant house in Silver Spring, an area with all too few historic homes when compared to other county communities such as Chevy Chase and Rockville.

EYA's townhome neighborhood along Cameron Street and Second Avenue shows what the company has done to transform another eyesore of a parking lot into a well-designed block of tasteful, new homes across from the metro and an easy walk to the dining, shopping, and cultural offerings of Silver Spring's revitalized downtown.

Sincerely,

Elizabeth Natsios
1221 Dale Drive
Silver Spring MD 20910
301-587-1410

P. S. I have made my home in neighboring Woodside Park for over twenty years, so I have a strong interest in good development in the downtown Silver Spring area. Several years ago I earned a Master's in Historic Preservation and am strongly in favor of projects which combine new development with the preservation of older buildings, whenever feasible.

March 17, 2011

Dear Mr. Youngentob,

I understand that you are seeking to build Chelsea Court, a new townhome development in Silver Spring on the site of the Chelsea School. I wanted to express my support for this proposal.

As both a Silver Spring resident and the owner/manager of multifamily properties in the Long Branch area, I have seen first-hand the quality of EYA's work. Your Cameron Hill development near the Silver Spring Metro is a decided improvement over what had been on that site. And the National Park Seminary community is an example of how to creatively create a community that is a natural extension of the historic setting. Both are real contributions to the greater Silver Spring community.

EYA has a history of creating coherent, pleasing and thoughtful communities. I support your proposal and I look forward to seeing Chelsea Court become reality.

Lew Winarsky
1212 Woodside Parkway
Silver Spring, Md 20910
301 587 2265

Mr. Robert Youngentob

April 8, 2011

President

EYA, LLC

4800 Hampden Lane, Suite 300

Bethesda, MD 20814

Dear Mr. Youngentob,

I would like to express my support for EYA's proposed townhome community in downtown Silver Spring. I think it will be a good option for the Chelsea School site.

I currently live one mile from downtown Silver Spring with my family. However, I would like to live closer to the downtown area and live in a transit-oriented community. EYA's project would present a viable option for this.

To live in walking distance and to have easy access to grocery stores, businesses, and retail stores is ideal for my family. A high-end and diverse community is precisely the qualities that I'm looking to transition my family to, and EYA's developments reflect these characteristics well.

Kenneth Fuller

8912 Flower Avenue, Silver Spring, MD 20901

(301)608-8118

March 13, 2011

Bob Youngentob
EYA President

Dear Bob,

I am writing to reiterate my support for the plan developed by EYA to build a townhouse development on the site currently occupied by the Chelsea school in Silver Spring. As a nearby resident of this property (I live about two blocks away), I believe that this development will be a positive addition to my neighborhood and is an ideal way in which the County can implement its commitment to "smart growth."

The EYA plan contemplates building townhouses that will be attractive in appearance, and which will be situated so as to not impinge on the existing neighborhood. For example, EYA responded to concerns about the impact on persons living on Springvale by redesigning the townhouse layout to create more of a buffer between the development and Springvale. In addition, the plan calls for significant open green space on the Pershing and Ellsworth sides of the development. The proposed development is a good compromise between building detached single-family residences (which would waste the smart growth opportunity that is presented) and building a multi-story structure which would not be consistent with the adjoining neighborhood.

In considering adding this townhouse development on the residential side of Cedar Street, it is important to emphasize that this project would be located almost adjacent to Cedar and on the very edge of the existing community. This is important in terms of considering the traffic that would be generated by the development, since the traffic mostly will flow to and from Cedar, and not through the neighborhood (indeed, cars exiting the development onto Ellsworth will be prevented by an existing traffic control measure from turning into the neighborhood, and EYA has pledged to support the existing traffic control plan). The alternative of using this property for another school is not desirable since a school other than Chelsea likely would seek to construct a much larger facility, with more students which, in turn, would lead to more traffic to and from the school.

I also do not at all see this development as creating some kind of "precedent" for further development in my community. The Chelsea property is the only privately-owned open space in my community, and thus what occurs there should be viewed as being a unique solution for that property. And I don't see the development as "violating" the master county plan, since the plan did not contemplate that a school would seek to abandon its use of the property.

Finally, I applaud EYA for its willingness to work with the community, and to adjust its plans in response to community concerns.

Mark Posner
709 Woodside Parkway
Silver Spring, MD 20910
301.587.8821

March 5, 2011

Bob Youngentob, EYA President:

I have attended your neighborhood meetings and whole heartedly support your project. I have been a Realtor specializing in close in Silver Spring for 28 years. While I have never had the privilege to represent EYA in any of its new home projects, I have listed and sold your town homes when they have been available for resale. Your company produces quality homes that enhance their communities. I am not only a Realtor in this community, but I have resided in close in Silver Spring for over 30 years. I have also been extremely impressed with your willingness to work with the community and to listen to their concerns.

I look forward to having more happy EYA homeowners in our wonderful Silver Spring neighborhood!

Warm Regards,

Nancy Schwiesow
The Schwiesow Team
Long & Foster Realtors
Hall of Fame Founder's Club
Two Generations Providing Success Through Service!
www.nancyandpaulhomes.com
Serving Maryland and the District of Columbia!
Home Office: 301-587-8458
Direct Office 301-215-6845
Main Office: 301-907-7600
Cell: 301-943-0888
Private Fax: 301-587-7240

407 Windsor Drive
Silver Spring, MD 20910

March 8, 2011

Dear: Bob Youngentob, EYA President

I Robert Bacon, of 504 Dale Drive Silver Spring, MD 20910 (301)-585-0018 am in support of the town home project at the Chelsea private school. Being made aware of the proposed plans by mail and initially to a visit to the open house, I am pleased with the plan as well as the reputation of your company. EYA's other projects that I am familiar with include "Park Potomac" & the nearby historic project "Park Seminary" as well as the 90's-early 2000's town homes across from Silver Spring metro. Currently we are a very mixed use neighborhood so I believe this would be a good step in a great direction with condo's coming across the street from this proposed re-zone. Also with more residents in the ownership percentage for the zip code, I believe the shops will continue to improve.

Robert Bacon
504 Dale Drive
Silver Spring, MD 20910
(301)-585-0018

To: Bob Youngentob, EYA President

Date: March 23, 2011

I am writing this email to offer my support for the development of the EYA townhouse complex at the Chelsea School site. As a current resident of Silver Spring, and a Montgomery County Police Officer, I encourage this project on several different levels. The EYA company has the ability to create an enjoyable community that will benefit future as well as current residents of Silver Spring. With the development of new homes brings increased economic activity to the region and also works to increase property value of the surrounding area. If I were a current homeowner in the immediate area surrounding the site, I would welcome the development with open arms. Traffic will result in a minimal impact to the neighborhood, and the green space created by EYA will benefit residents.

I would anticipate no impact on criminal activity in the area. Building luxury style townhouses does not equate to higher crime rates. Any crime that were to occur would be from transient individuals utilizing the public transportation in the area to commit property crimes. This already occurs throughout Montgomery County and would not increase criminal activity to residents in the surrounding areas of the site. If anything, the more watching eyes the better. It's the unattended, secluded properties, that often fall victim to burglaries and thefts. I encourage the construction of the site, with a neighborhood watch program in place after construction that benefits everyone in the area.

This development is an absolute win for Silver Spring. I can not see any negative impact this townhouse complex would create. I look at other EYA properties in the region and can see from experience what a well planned and designed community can bring to an area. I encourage the construction and offer my support. I also look forward to living in the community.

Ryan Biedlingmaier
25 E Wayne Ave #615
Silver Spring, MD, 20901
240-449-9949

Tom and Martha Slagle
2 Springvale Lane
Silver Spring, MD 20910
301.565.2380

April 8, 2011

Dear Mr. Youngentob,

We are long-time residents of Silver Spring, having lived in our home on Springvale Lane for about 30 years. We live directly across from the Chelsea School and our home faces its campus. Anything built on that property would directly impact our quality of life, so we have great interest in how the site will be developed.

We strongly support EYA's proposed Chelsea Court townhouse development because it will bring significant improvement to the neighborhood and to the current appearance of the property. A townhouse community is certainly in keeping with the feel of downtown Silver Spring and will be a welcome enhancement to the area.

We have seen examples of EYA's high quality work in Silver Spring at Cameron Hill and the National Park Seminary. We are confident that Chelsea Court will be another first class EYA community and an asset to our neighborhood.

Thank you for considering the Chelsea School site for an EYA community. Please let us know if we can be of any further help to you in this project.

Regards,

Tom & Martha

LESLIE K. DOWNEY
510 Ashford Road; Silver Spring, Maryland 20910
Home: (301) 585-0819
Office: (301) 589-9791
LeslieKDowney@gmail.com

Bob Youngentob
President
EYA
4800 Hampden Lane
Suite 300
Bethesda, Maryland 20814

March 16, 2011

Dear Mr. Youngentob:

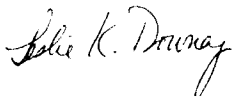
I wanted to express my strong support of EYA's proposed plan for the Chelsea School site.

As a resident who lives in the immediate area, I believe Chelsea Court would be an enhancement to my neighborhood. I support well designed townhouse developments like this. I don't think it makes sense for our county to restrict every parcel of land in R60-zone neighborhoods like mine only to single family homes, confining all denser development to high rises and mid rises in central business districts.

With our steadily growing population, I think urban infill projects make sense in Montgomery County. Chelsea Court models transit oriented, "green" suburban development—something I'd like to see a lot more of. And, based on EYA's National Park Seminary, I am convinced this new development will be attractive—just as attractive as our existing neighborhood and perhaps even more so.

I see Chelsea Court as being the right fit for this community and look forward to the plan progressing.

Sincerely,



Leslie Downey

April 6, 2011

Dear Mr. Youngentob,

As a resident of the neighborhood in which the Chelsea School is located, I want to express my support for your proposal to build the Chelsea Court townhouse community on that site.

Chelsea Court is an excellent example of the meaningful application of smart growth. The Chelsea School property is exactly the type of infill space that is appropriate for higher density, high quality development. And EYA's strong legacy of building quality Silver Spring communities such as Cameron Hill and the National Park Seminary make it the appropriate developer to make intelligent and attractive smart growth a reality.

I have been impressed with EYA's sincere and effective efforts to engage our neighborhood in its planning for Chelsea Court. EYA has shown itself to be genuinely interested in concerns expressed by residents and has made adjustments to its site plan to address those concerns.

Other uses have been discussed for the Chelsea School site, but they are less than ideal. If another school located on the site, it would be much larger than Chelsea and would result in a significant negative impact on traffic. A single family home development is simply not economically practical on that location. The EYA Chelsea Court option remains the best for our community.

Sincerely,

Suzanne Mintz
415 Ellsworth Drive
Silver Spring, MD 20910
240.460.0695

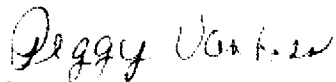
April 5, 2011

Dear Mr. Youngentob:

I have lived, studied and worked in Montgomery County for over 40 years. I grew up in Silver Spring and watched the transformation of a beautiful area deteriorate and then flourish again with the new shops, homes, and activities in the downtown area. I was a student at Montgomery Blair High School and the University of Maryland at College Park. I have lived in several homes in Silver Spring and raised my daughter, now age 27, in this wonderful community. For the last 10 years, I have worked in downtown Silver Spring at 8757 Georgia Avenue. I have served on a number of boards in the region including the Family Services Agency and Leadership Montgomery. All of this is to say that I have been a long-time and active citizen of Montgomery County and Silver Spring and I have a vested interest in the future of this area.

I am pleased to learn of your plans to build a townhome community on the site of the Chelsea School and wish to express my support for this proposal. I am invested in promoting downtown Silver Spring as a walkable and vibrant community and having residential options within walking distance of downtown and the Metro Station is an excellent idea. I look forward to following your progress and wish you well in this endeavor.

Sincerely,


Peggy Van Ness

13925 Shannon Drive

Silver Spring, MD 20904

TO: Nancy Floreen, President, Montgomery Maryland County Council
FROM: Diane Martin and Wardell Townsend
RE: Proposal to rezone Chelsea School Property
DATE: October 25, 2010

Dear Ms. Floreen,

We are writing to express our support for the re-zoning of the Chelsea School property, and the EYA proposal to build a townhouse community on that property. We are 20-year residents of the downtown Silver Spring neighborhood. Specifically, we live at 8908 Ellsworth Court, which is about two hundred yards from the Chelsea School property. We are actually very excited about the prospect of EYA coming into our neighborhood. We've seen several other EYA communities - their first Silver Spring development on Cameron St., their redevelopment of the Seminary Park area, and their development in the arts district of Hyattsville, MD. Without exception, every one of these developments is bringing appropriate revitalization and new life to older, urban neighborhoods. We recently attended a meeting with EYA representatives, and were very impressed by their willingness to listen to and work with us and our neighbors who will be impacted if these new townhomes are built. We also remember that there was community opposition when our own, single-family neighborhood (The Crescents at Woodside) was being built back in 1990-1991, and we believe that the addition of the single family homes on Ellsworth Court has had a very positive impact on the larger neighborhood. We feel certain that the results will be the same if the EYA townhouse community is built. As far as urban planning and land use strategies are concerned, the Chelsea School property has out-lived its "best-use" status and the Silver Spring Urban District accommodates pedestrian-oriented residents with retail, restaurants, transportation, and services. The EYA townhouse community plan appears to fit our community well.

Sincerely,
Diane Martin & Wardell Townsend
8908 Ellsworth Ct.
Silver Spring, Md. 20910

October 27, 2010

Dear Council President Floreen,

I have been a homeowner in South Woodside Park since mid-2001 and I attend meetings of the Seven Oaks-Evanswood Community Association (SOECA).

As you may know, EYA is proposing to build a modestly-sized townhome community in my neighborhood on the Chelsea School property, very close to the downtown Silver Spring redevelopment area. SOECA has chosen to publicly oppose the rezoning of the site so I am writing because I am part of a significant group of SOECA residents that does not agree with the association's position. I wholeheartedly support the EYA project and think it is a terrific fit for our neighborhood.

I have seen EYA's plans, met with their representatives and strongly believe their proposed development was carefully designed to not only aesthetically blend in with the surrounding neighborhood, but to minimize vehicular traffic. The townhomes are very logical transition from the adjacent single family houses to the high-density urban area just two blocks away. Many buyers will likely choose this project specifically because they can leave the car at home and quickly walk to work, public transit, and so many other things needed for everyday living.

I am also familiar with many of EYA's prior projects. Put simply, EYA is a class act and we couldn't ask for a better quality developer. The company has a well-earned reputation for listening to the residents of the communities in which they build and then carefully integrating the architecture, site planning and landscaping into the established setting. Their communities are richly detailed and a delight to be in and around.

My letter probably sounds as if it is from an 'insider', however I have no affiliation with EYA and only met them the first time at a community meeting last week. I understand this project so well because I worked as a Landscape Architect and site planner for 15 years. While I no longer practice, it is in my blood to mentally critique every project I see where dirt will be turned. I have a strong interest in local and regional development and follow the industry closely.

From this perspective, I can tell you that the EYA townhome community would be exceptional. During current economy of austerity and cutbacks, the Chelsea property could easily be redeveloped to the lowest allowable standards. Instead, we are fortunate to have EYA's proposal that goes far above and beyond what is required.

I chose my neighborhood specifically because of the county's substantial commitment to revitalize downtown Silver Spring. Ten years later, there is near-unanimous agreement that the rebirth of our 'town' continues to succeed wildly beyond everyone's expectations. EYA's development is exactly the kind of project we need to continue building on this momentum and I ask that you support EYA's rezoning request.

Thank you.

Jim Teller
9104 Kingsbury Drive
Silver Spring, MD 20910

301-980-1431

Subject: I support the EYA townhomes at Chelsea School

Date: October 25, 2010

Ms. Nancy Floreen
Council President
Montgomery County
Maryland

Dear Ms. Floreen:

I am writing to let you know that I strongly support the proposal for a townhouse community at the Chelsea School Property.

My husband and I have lived in the neighborhood for twenty years and we love what the neighborhood and the nearby down town has to offer. We would like to move from our single family home into a town home in two years when we retire. The EYA proposal is perfect for us as we can move into one of these new homes and "age in place" in a community that we love.

I have seen first-hand some of the other communities built by EYA and they have all been very high quality. This project is right for our community and it's at the right time.

Thank you,

Leslie Hansley
607 Ellsworth Drive
Silver Spring, MD 20910
Phone: 301-509-5113

Subject: Proposed rezoning of Chelsea property near downtown Silver Spring

Date: October 25, 2010

Dear Council President Floreen and Councilmember Ervin,

We are writing to you about an important issue affecting our local community near downtown Silver Spring, where we have lived for 23 years. It concerns a forthcoming re-zoning application by the developer EYA, who is proposing to build a townhome community on the site currently occupied by the Chelsea School.

We fully and heartily support EYA's effort. This is the perfect location for a townhome community, and we know from many conversations with EYA and from their past work that they will develop the property in an attractive manner that is fully sensitive to the needs of the existing community, including traffic concerns. There is no basis, as some in our community fear, for believing that just because this mostly empty piece of property is developed with townhomes rather than single-family residences, that this would set some sort of precedent for tearing down existing homes in the neighborhood, or the Springvale Assisted Living Facility, and replacing them with townhomes or apartments. Unfortunately, there has been a fair amount of misinformation distributed in our neighborhood by folks who oppose the re-zoning.

Since you may well have already been contacted by opponents, we believe it is important that you know that there are many of our neighbors who support EYA. It also is important to emphasize EYA's strong desire to work with our community in developing this property. For example, EYA representatives spent an evening at our home last week, talking with a number of our neighbors about their proposal and soliciting suggestions for any improvements or changes. EYA plans to meet with our group again in the near future to share the changes they make to the proposal, in response to some issues that were raised.

A number of people who attended last week's meeting have written letters to you in support of the EYA project. We are forwarding their letters to you as an attachment to this email.

Thank you,

Mark and Franca Posner
709 Woodside Parkway
Silver Spring
301.587.8821

October 27, 2010

Dear President Floreen,

I'm writing you to express my strong support for EYA building a townhome community on the Chelsea School property.

I'm a 15-year resident of the neighborhood and I live a block away from the Chelsea School property. My first reaction to the news that Chelsea School was selling, well before I heard that EYA was involved, was "EYA should build townhouses there." I look forward to seeing EYA's plans for this property evolve.

I am a Realtor and most of my work is done in the close-in Silver Spring area. I think single-family homes on this property are unrealistic from the financial side but I also do not think that they would be ideal as a buffer between downtown Silver Spring and my neighborhood. I have represented sellers on the resale of a couple of EYA properties and I am familiar with their product and reputation.

I believe EYA's proposal is a good solution that will complement my community.

Sincerely,

Liz Brent
8615 Mayfair Place
Silver Spring MD 20910
301.565.2523

TO: Members, Montgomery Maryland County Council
FROM: Rena Steinzor
RE: Proposal to rezone Chelsea School Property
Date: November 07, 2010

Dear Ms. Floreen,

I am writing to express my support for the re-zoning of the Chelsea School property, and the EYA proposal to build a townhouse community on that property. I have lived in the neighborhood for 20 years at 8904 Ellsworth Court, and I hope to retire and grow old here. My property, which is approximately two hundred yards from the Chelsea School property, is in a mixed urban and suburban area that thrives on diversity, with residents living in both single and multiple family housing. We are actually very excited about the prospect of EYA coming into our neighborhood given the company's excellent track record in their first Silver Spring development on Cameron St., their redevelopment of the Seminary Park area, and their development in the arts district of Hyattsville, MD. These developments are bringing new life to older neighborhoods like ours. At a recent meeting, EYA representatives were more than willing to listen to the residents of this community and listen to their concerns about the future. I also remember that some members of the community opposed my single-family neighborhood (The Crescents at Woodside) was being built back in 1990-1991, and the addition of the single family homes on Ellsworth Court has had a very positive impact on the larger neighborhood. The Chelsea School property has out-lived its "best-use" status and the Silver Spring Urban District accommodates pedestrian-oriented residents with retail, restaurants, transportation, and services. The EYA townhouse community plan appears to fit our community well.

Sincerely,

Rena Steinzor

8904 Ellsworth Court

Silver Spring, Md. 20910