

APPENDIX B

Resolution No.: 15-226
Introduced: June 17, 2003
Adopted: June 17, 2003

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

By: County Council

SUBJECT: APPLICATION NO. G-798 FOR AMENDMENT TO THE ZONING ORDINANCE MAP,
Stephen Z. Kaufman and Yum Yu Cheng, Attorneys for Batchellors Forest LLC, Contract
Purchaser, OPINION AND RESOLUTION ON APPLICATION
Tax Account Nos. 1094060; 3266308; 0974658; 1396335

OPINION

Application No. G-798, filed on March 25, 2002 by Applicant Batchellors Forest, LLC (a joint venture of Centex Homes and Laing Homes), requests reclassification from the R-90 Zone to the R-T 15 Zone of 14.74 acres of land comprising four parcels known as Parcel A, Arcola, Plat 4374; Lot 22, Arcola Manor, Liber 15995, Folio 393; Parcel 817, Pt. Hermitage, Tax Map JQ12, Liber 2720 Folio 407; and Outlot B, Blueridge Manor, Plat 6380. The subject property is located at 11601 Georgia Avenue in Wheaton in the 7th Election District. The application was considered under the Optional Method authorized by Code §59-H-2.5, which permits binding limitations with respect to land use, density and development standards or staging.

The Hearing Examiner recommended approval of the application on the basis that the R-T 15 Zone at the proposed location would satisfy the requirements of the purpose clause; that the proposed reclassification would be compatible with existing and planned land uses in the surrounding area; and that the proposed reclassification bears sufficient relationship to the public interest to justify its approval. The Planning Board and Technical Staff provided similar recommendations. The District Council agrees with these conclusions.

The subject property is roughly rectangular in shape and is comprised of four lots currently developed with Our Lady of Good Counsel High School, a private school with 1,035 students, and associated parking lots and athletic fields. The property is located in the southeast quadrant of the intersection of Georgia and Arcola Avenues. It is bounded on the west by Georgia Avenue; on the

south by vacant lots owned by the Washington Metropolitan Area Transit Authority (WMATA), the Blueridge Manor Apartments and Elkin Street; on the east by Amherst Avenue; and on the north by five single-family homes facing Arcola Avenue, two vacant lots and, for a short distance, Arcola Avenue. The topography consists of two plateaus with an embankment between them running north/south in the middle of the site. An additional embankment marks a 20-foot difference in grade between the athletic fields at the east end of the site and Amherst Avenue. Small wooded areas exist along the eastern and southern boundaries. Site access is from Georgia Avenue.

The surrounding area for this application is bounded by Henderson Avenue to the north; Wheaton Regional Park, Nairn Road and an imaginary line extending down to University Boulevard to the east; University Boulevard to the south; and Galt Avenue to the west. It contains a mix of residential, commercial and institutional uses, with residential as the predominant use. Single-family homes in the R-60 and R-90 Zones dominate the northern portion of the surrounding area, which also includes the Wheaton Regional Library at the northwest corner of Georgia and Arcola Avenues, and the Wheaton Community Center immediately north of the library. The southern portion of the surrounding area includes multi-family garden apartments adjacent to and southeast of the subject property in the R-20 Zone, the vacant WMATA site in the R-90/TDR Zone, additional multi-family uses in the R-30 Zone, and a portion of the Wheaton Central Business District ("CBD"). The CBD contains a mix of commercial and office uses in the CBD Zones. Single-family homes along Georgia Avenue are intermixed with a substantial number of commercial uses operating out of residential structures.

The subject property is within close proximity to numerous public amenities and within walking distance of the diverse commercial and retail uses in downtown Wheaton. The Wheaton Community Center is located two blocks north on Georgia Avenue, and the Wheaton Volunteer Rescue Squad (the "Rescue Squad") facility is located in the Wheaton CBD about five blocks south of the subject property. Community involvement in the present zoning application has focused on enhancing community recreational facilities, and identifying a site for the Rescue Squad to build a larger facility while minimizing adverse effects on residential neighborhoods. Following extensive negotiations among the Applicant, the Rescue Squad, the Wheaton Regional Park Neighborhood Association and

individual community members, a settlement agreement was reached, whose terms are reflected in the binding elements described below.

The subject property was classified under the R-90 Zone in the 1954 Regional District Zoning, and the same zoning was confirmed in 1978 (Sectional Map Amendment G-137), 1990 (SMA G-674) and 1998 (SMA G-761).

The Applicant proposes to build a residential development with a maximum of 201 dwelling units. Six of these units would front on Amherst Avenue and would be single-family detached dwellings intended to be compatible with existing single-family detached dwellings on the other side of Amherst Avenue. The remaining units would be a combination of townhouses and single-family attached units in a "two over one" format (two 20-foot wide, two-story townhouses over a 40-foot-wide, garden-style ground floor unit). "Two over one" units would be limited to 25 percent of the total number of units. Most units would have attached garages. Additional parking would be available on-site for residents and visitors. The development would include moderately priced dwelling units ("MPDUs") as required under the Zoning Ordinance. Presently that requirement would be 12.5% of the total of 201 units, or a maximum of 26 MPDUs.

The Applicant proposes to limit development under the R-T 15 Zone by means of a schematic development plan ("SDP"). Binding elements of the SDP provide specific requirements for many aspects of the development, including number and type of dwelling units, open space, setbacks, streetscape along Georgia Avenue, internal roadways, external roadway access, architectural elements and the relocation of the Rescue Squad. The binding elements are summarized below:

1. Maximum of 201 dwelling units, including maximum of 26 moderately priced dwelling units (MPDUs).
2. Minimum two-acre community open space on site, visible and accessible from public street; Rafferty Center (multi-purpose recreational facility) must be retained for public use, provided that a public entity assumes responsibility, with adequate parking, visibility and pedestrian access.

3. Improvements along Georgia Avenue including right-of-way dedication, single access point, streetscaping.
4. East-west through street, Dawson Avenue extended, to connect Georgia and Amherst Avenues.
5. At least one north-south street connecting site to WMATA property to south, possible connection north to Arcola Avenue.
6. Minimum lot line setback of 50 feet along adjacent single-family detached lots at northern property line.
7. Minimum building setback of 55 feet along Georgia Avenue.
8. Maximum of 25% of units to be one-family attached.
9. All dwelling units to be for sale.
10. Exterior walls facing public or private streets to be made of brick, stone, wood, masonry siding or a combination of same.
11. No single-family attached dwelling units to front on Amherst Avenue; no 2-over-1 units in northern portion of property, as defined.
12. Maximum of six single-family detached homes facing Amherst Avenue, 2 stories plus English basement, first floor elevation no more than six feet above street level.
13. Two-acre community open space to be located along northern boundary of site and may include 55-foot setback used for forest conservation, on-site recreation, and Rafferty Center, if retained.
14. Subject to specified conditions related to issues such as site layout, street access and required governmental approvals, the Rescue Squad will be located at the southeast corner of Georgia and Arcola Avenues.

The proposed development would be consistent with applicable development standards for the R-T 15 Zone. There are no significant environmental features on site, and the Applicant would be required to comply with county requirements for forest conservation and stormwater management.

The District Council concludes that the proposed rezoning would comply with the purpose clause of the R-T 15 Zone. The purpose of the R-T Zone is, inter alia, to provide suitable sites for townhouses in "locations in the County where there is a need for buffer or transitional uses between commercial, industrial, or high-density apartment uses and low-density one-family uses." Code §59-C-1.721. In the present case, the proposed rezoning would provide an appropriate transition between the single-family homes to the east, west and north of the subject property and the greater density south of the property, in particular the commercial uses of the Wheaton CBD and the medium-to-high-density multi-family apartments adjacent to the subject property to the south and southeast.

The character of existing development divides the surrounding area into two parts, separated by an imaginary east-west line even with the southern boundary of the subject property (and comprising, in part, the line between the area covered by the *Kensington-Wheaton Master Plan* and the Wheaton CBD planning area). The area north of the dividing line, which surrounds the subject property to the east, north and west, is dominated by low density, detached single-family homes and includes the Wheaton Regional Library and the Wheaton Community Center. The area south of the dividing line, which fans out from the subject property, contains detached single-family homes at the edges but is dominated by medium-to-high density multi-family apartment complexes and high density commercial uses in the CBD. Georgia Avenue cuts through both parts of the surrounding area and contains commercial uses, institutional uses, and detached single-family dwellings, a number of which are used for commercial purposes.

Currently, Good Counsel High School provides a transition between the two parts of the surrounding area: higher-density uses to its south and lower-density uses surrounding it on three sides. The removal of Good Counsel as a stabilizing land use calls for redevelopment of its property in a way that will fulfill its role as a transitional use equally well or better. The preponderance of the evidence indicates that the residential development proposed for the subject property would indeed function equally well or better as a transition between the surrounding single-family neighborhoods and higher density to the south. The proposed development would be at a density in between the average density of 30 dwelling units per acre in the apartment complexes to the south, and the five to seven dwelling

units per acre in the surrounding R-60 and R-90 neighborhoods. It would have a mix of unit types ranging from single-family detached to townhouses to single-family attached units, a significant amount of open space available not only to its own residents but to the community at large, substantial setbacks, and significant perimeter and internal landscaping. Moreover, as a residential use it would be closer in character to its immediate surroundings than an educational institution, and therefore would provide a better transition.

For all of these reasons, the District Council concludes that the proposed rezoning and development would be consistent with the purpose of the R-T Zone. Moreover, the architectural and open space elements of the application satisfy the intent of the R-T Zone to provide amenities normally associated with less dense zoning categories. The evidence also demonstrates that the proposed rezoning and development would be consistent with the intent of the R-T Zone to prevent detrimental effects to adjacent properties and to promote the health, safety, morals and welfare of the present and future inhabitants of the district and the County.

The District Council finds that the proposed development would be compatible with existing and planned land uses in the surrounding area. The surrounding area contains a mix of low-density, detached single-family dwellings, community-serving institutional uses, single-family homes used for commercial purposes, medium-to-high density multi-family apartment complexes, and high density commercial uses in the CBD. The mixture of detached single-family homes, townhouses, attached single-family dwellings and open space proposed for the subject property would create an area of low-to-medium density in keeping with the mixed character of surrounding land uses. The proposed development, with 13.7 dwelling units per acre, would have greater density than the 5-7 du/acre seen in the surrounding R-60 and R-90 properties. However, it would have a density lower than the adjacent multi-family uses in the R-30 and R-20 Zones, which have an average density of 30 du/acre, and substantially lower than the high-density CBD. Thus, in terms of unit type and density, the proposed development would serve as a transition between the single-family detached homes and the multi-family apartments and commercial uses.

The binding elements on the SDP include several points that contribute to compatibility. A minimum 50-foot lot line setback along adjacent single-family detached lots ensures appropriate spacing. Required architectural materials on exterior walls adjacent to and visible from public and private streets ensure a degree of architectural compatibility. A prohibition of any unit type other than detached single-family dwellings facing Amherst Avenue, a prohibition on two-over-one dwelling units north of Dawson Street (the planned internal extension of Dawson Avenue), and an overall limitation of 25 percent attached single-family units ensure that the appearance of the proposed development from the outside would be that of a subdivision of detached single-family homes and townhouses. This would be particularly true from the abutting and confronting single-family neighborhoods to the north and east. The two-acre-minimum community open space would provide a new community amenity and partially mitigate the density. The appearance of density would also be mitigated by afforestation requirements that obligate the Applicant to plant a significant amount of forest and other trees. Moreover, required streetscape and open space along Georgia Avenue would make the proposed development more compatible with single-family homes on the other side of Georgia Avenue than Good Counsel's use of the site.

With a maximum height of 35 feet, the proposed development would also provide a degree of height transition between the three-to-four-story multi-family uses and one-to-two-story single-family homes. Compatibility with regard to height along Amherst Avenue, which sits 20 feet below the grade of the subject property, is assured by a binding element specifying maximum height and elevation for the six single-family detached homes permitted along Amherst Avenue.

The proposed development would be compatible with the mix of uses in the southern part of the surrounding area for the reasons outlined above, and because of its consistency with smart growth principles that have been adopted by this County and the State of Maryland. The proposed development would achieve a key component of smart growth development by placing residential uses less than 2,300 feet from the Wheaton Metro Station and within easy reach of the mix of uses in the Wheaton CBD.

The District Council further determines that the proposed reclassification bears sufficient relationship to the public interest to justify its approval. The proposed development would generally comply with the recommendations of the *Kensington-Wheaton Master Plan* (the "Master Plan") to protect and stabilize existing uses, maintain the well-established low-to-medium density residential character of much of the area, and soften the impact of major highways on adjacent homes by adhering to a "green corridors" policy. The mixture of unit types proposed, together with significant green area and community open space, would maintain the low-to-medium density character of surrounding multi-family and single-family uses. Replacing a large private school with a mixed-unit-type residential community would contribute to the stability of existing residential uses and to the viability of commercial uses in the nearby CBD. Moreover, the binding elements regarding setback and streetscape along Georgia Avenue ensure that the proposed development would contribute to the beautification of the Georgia Avenue corridor and help reduce the impact of the highway on confronting single-family homes.

The proposed development would also be consistent with the Master Plan's stated preference for infill development and its recommendation that infill residential development be similar in character and compatible in density with the immediate neighborhood. The mix of unit types proposed would also directly support the Master Plan recommendation to maintain a range of housing types and prices in the planning area.

The proposed reclassification and development would also contribute to the sector plan goals for the Wheaton CBD, which covers the southern part of the designated surrounding area. The Wheaton CBD Plan identifies the creation of new housing and a range of housing opportunities as a major goal for the Wheaton CBD, to ensure the viability of business areas. The proposed development would contribute directly to accomplishing those goals.

For all of the above reasons, the District Council concludes that the proposed reclassification and development would be in compliance with both the Master Plan directly applicable to it and the Vicinity Plan for the adjacent CBD.

The evidence demonstrates that the proposed rezoning and development would have no adverse effect on traffic, other public facilities, or the environment, and that potential adverse effects on school overcrowding are not sufficient to warrant denial of the application.

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

ACTION

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

Zoning Application No. G-798, requesting reclassification from the R-90 Zone to the R-T 15 Zone of 14.74 acres of land comprising four parcels known as Parcel A, Arcola, Plat 4374; Lot 22, Arcola Manor, Liber 15995, Folio 393; Parcel 817, Pt. Hermitage, Tax Map JQ12, Liber 2720 Folio 407; and Outlot B, Blueridge Manor, Plat 6380; and located at 11601 Georgia Avenue, Wheaton, in the 7th Election District, is hereby approved in the amount requested subject to the specifications and requirements of the final schematic development plan; provided that, within 10 days of receipt of the District Council's approval resolution, the Applicant must submit to the Hearing Examiner for certification a reproducible original and three copies of the final schematic development plan, Ex. 85(c), in accordance with §59-D-1.64; and provided, further, that upon receipt of the District Council's approval resolution the Applicant must immediately file the Declaration of Covenants in accordance with §59-H-2.54.

This is a correct copy of Council action.



Mary A. Edgar, CMC
Clerk of the Council



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #10
6/27/2002

MEMORANDUM

DATE: June 21, 2002
TO: Montgomery County Planning Board
VIA: John Carter, Chief, Community-Based Planning *JC*
Khalid Afzal, Team Leader, Georgia Avenue Team *KA*

FROM: Jean Kaufman and Nkosi Yearwood, Community-Based Planning *NY*

REVIEW TYPE: Local Map Amendment
APPLYING FOR: Change in zoning from R-90 to RT-15
REVIEW BASIS: Chapter 59, Zoning Ordinance
MASTER PLAN: Kensington-Wheaton (1989) Master Plan

CASE NUMBER: G-798
APPLICANT: Batchellors Forest LLC
LOCATION: SE quadrant of Georgia Avenue and Amherst Avenue, Wheaton

FILING DATE: March 25, 2002
PLANNING BOARD: June 27, 2002
PUBLIC HEARING: July 12, 2002 before the Hearing Examiner

STAFF RECOMMENDATION: APPROVAL of the RT-15 zone with written binding elements including a maximum of 201 dwelling units and the **APPROVAL** of the Schematic Development Plan for the following reasons:

1. The application will be consistent with the recommendations of the Kensington-Wheaton Master Plan.
2. The illustrative Schematic Development Plan with the written binding elements will comply with the RT-15 development standards, and will be compatible with the surrounding development.
3. Public facilities are sufficient to serve the proposed development.

A-3

MICOLA AVENUE

AMHERST AVENUE

PUBLIC PLAZA

RAFFERTY CENTER

DANSON AVENUE

GEORGIA AVENUE

GRANDVIEW AVENUE

Building Footprints

- 1. The schematic development plan is shown in Exhibit A-3. It shows the building footprints, the public plaza, the parking lot, and the surrounding streets. A north arrow is located in the upper right corner of the plan.
- 2. The building footprints are shown in black outlines. The public plaza is shown in a light gray color. The parking lot is shown in a light blue color. The surrounding streets are shown in black outlines.
- 3. The building footprints are arranged in a grid pattern. The public plaza is located in the center of the grid. The parking lot is located to the east of the public plaza. The surrounding streets are shown in black outlines.
- 4. The building footprints are arranged in a grid pattern. The public plaza is located in the center of the grid. The parking lot is located to the east of the public plaza. The surrounding streets are shown in black outlines.
- 5. The building footprints are arranged in a grid pattern. The public plaza is located in the center of the grid. The parking lot is located to the east of the public plaza. The surrounding streets are shown in black outlines.
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- 10. The building footprints are arranged in a grid pattern. The public plaza is located in the center of the grid. The parking lot is located to the east of the public plaza. The surrounding streets are shown in black outlines.

OUR LADY OF GOOD COUNSEL — SCHEMATIC DEVELOPMENT PLAN

THE LASSARD ARCHITECTURAL GROUP, INC.
1000 17th Street, N.W., Suite 1010, Washington, D.C. 20036
BATCHILLERS FOREST, LLC

0 25 50 100 150
1"=50'

