

2. The existing tulip poplar tree on Georgia Avenue and the horse chestnut on the southwest corner of Georgia Avenue and Noyes Drive will be preserved through application of all commercially reasonable tree protection measures.
The two specimen trees located on the subject site are being preserved using applicable arborist recommendations for tree protection. The arborist's recommendations and preservation methods during construction have been addressed with the tree conservation plan.
3. Subject to the Planning Board review at the time of site plan, the Applicant's site plan will reflect the following:

- a. *On the portion of the property to the south side of Noyes Drive, in addition to the preserved and relocated homes, the project will have a row of 6 townhomes on the southern most portion of the property and a duplex on the east side of Georgia Avenue.*

The development includes a row of six townhouses on the southernmost boundary and a duplex (or group of two townhouses) on the east side of Georgia Avenue.

- b. *On the portion of the property to the north side of Noyes Drive, in addition to the preserved existing home, the project will have a row of 6 townhomes on the northern most portion of the property, 2 duplexes on the west side of the property, and a triplex and a duplex on the east side of the property adjacent to Georgia Avenue.*

The development includes a row of six townhouses on the northernmost boundary 2 duplexes (group of two townhouses) on the west side of the property, and a triplex (group of 3 townhouses) and a duplex on the east side of the property adjacent to Georgia Avenue.

3. *The Applicant will provide landscape and screening improvements to provide an appropriate buffer between the project and the adjacent single-family residential neighbors. The Applicant will coordinate with the adjacent neighbors and community before and during the site plan process to review the project and to collaborate regarding the planting and fence materials and similar screening treatments.*

The Applicant is providing evergreen and deciduous planting, as well as a wood fence, along the property line for the proposed townhouses that abut the existing one-family detached dwellings. The Applicant has met with community representatives on numerous occasions to discuss landscaping, preservation of existing trees and the transportation improvements.

4. *The Applicant will pursue with the Department of Public Works and Transportation ('DPWT') the installation of the public sidewalk on Noyes Drive from Georgia Avenue to 1st Avenue and further extending along 1st Avenue from Noyes Drive to Highland Drive. The Applicant will provide for the cost of the sidewalk and make all commercially reasonable efforts with DPWT to provide for the installation of such sidewalks to the extent possible given any right-of-way, street improvement and/or storm drainage issues.*

The Applicant formally requested, by letter dated November 28, 2005, to install a sidewalk on 1st Avenue, from Noyes Drive to Highland Drive and on Noyes Drive from Georgia Avenue to 1st Avenue. The improvements are shown on sheets 2 and 3

of 6 in the site plan submittal. The Applicant, staff and the community reviewed the locations of the appropriate off-site improvements during the review process.

5. *The Applicant will further pursue with DPWT the feasibility of public funding for an expanded sidewalk network to include extension of sidewalk on Noyes Drive between 1st and 2nd Avenue.*

The Applicant formally requested, by letter dated November 28, 2005, to install a sidewalk on 1st Avenue, from Noyes Drive to Highland Drive and on Noyes Drive from Georgia Avenue to 1st Avenue. The improvements are shown on sheets 2 and 3 of 6 in the site plan submittal. The Applicant, staff and the community reviewed the locations of the appropriate off-site improvements during the review process.

6. The Applicant, with the support of the Woodside Civic Association, will pursue DPWT approval for a 4-way stop sign at Noyes and 1st Avenue.
7. *Support request of Woodside Civic Association for DPWT approval of a speed hump mid-block on Noyes Drive between Georgia Avenue and 1st Avenue, and if approved, the Applicant will fund construction of speed hump if approved within the period extending until the end of construction for the proposed development.*

The Applicant formally requested, by letter dated November 28, 2005, to install a speed hump on Noyes Drive approximately 50 feet west of the proposed access points into the subject property. The speed hump is shown on sheet 2 of 6 on the site plan.

8. Coordinate construction activity of the project to avoid conflicts with regular (Friday evening and Saturday morning) and holiday services of the confronting synagogue.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

The Site Plan meets all of the requirements of the RT-12.5 Zone, as demonstrated in the project Data Table on page 13.

3. *The location of the building and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe and efficient.*

- a. Buildings

The location of the buildings are adequate, safe and efficient in relation to the existing and surrounding development.

The three existing one-family detached dwellings located at the central western portion of the site serve as a transition to the existing Woodside community at the entrance from Noyes Drive. The proposed townhouses are grouped into two clusters, bifurcated by existing Noyes Drive. The cluster to the north of Noyes Drive contains 15 townhouses and one one-family detached dwelling that attempt to minimize the horseshoe pattern of the adjacent townhouse community to the north. The cluster to the south resembles a T-shaped pattern by the existing and proposed dwelling units with detached garages that frame the western edge of the

tract. All of the proposed townhouses are rear-loaded units with garage parking for one and two vehicles. Detached garages will be provided for the existing one-family house to be relocated and the one-family house south of Noyes Drive.

All of the proposed dwelling units are set back the appropriate distance from the property line allow for screening, pedestrian circulation and compatibility to the adjacent structures. Consistent with the approved binding elements of the Development Plan, the project proposes a maximum of approximately 23 percent (maximum 25 percent permitted) of the site toward building coverage.

The Applicant is requesting a waiver to the required Moderately Priced Dwelling Units (MPDUs) that are required on the property. Staff supports the waiver, in conjunction with the letter of support from the Department of Housing and Community Affairs, as described in detail on page 7 of the staff report.

b. Open Spaces

The development is providing over 60 percent (70,580 sf.) of the tract area as green area, consistent with the binding elements of the Development Plan, which required a minimum of 60 percent (70,139 sf.) of the site to be set aside toward green area. The green area is comprised of the larger open space areas that have been set aside for the preservation of the specimen trees, areas in and around the existing and proposed dwellings and proposed stormwater management parcels. The green space also serves as a buffer to the adjacent communities and provides lawn areas internally within the site.

Stormwater management for the site consists of on-site water quality control via two StormFilters, a surface sand filter and dry wells. Onsite recharge is not required since the site is considered infill. Channel protection volume is not required for certain drainage areas because the one-year post development peak discharge is less than or equal to 2.0 cfs.

c. Landscaping and Lighting

The proposed landscaping on the site consists of an evergreen screen along the northwestern boundary of the site to buffer the proposed sidewalk connection and the façade of the townhouse units from the adjacent one-family detached units. The northern boundary contains a mix of evergreen shrubs and small deciduous trees to complement the perimeter adjacent to the existing townhouses. The southern boundary, adjacent to the Woodside United Methodist Church, contains a mix of shade trees, ornamental trees and shrubs as well as evergreen trees to buffer the adjoining properties. The planting on this boundary is partially on the church grounds and partially on the subject site. In addition to the planting proposed along the perimeter of the site, the Applicant is providing a 6-6" wood fence along the southern, western and northern boundaries.

Foundation planting around the base of the units will include primarily shrubs and flowering trees in the courtyard areas where feasible. Planting in the alleys will consist of small shrubs, groundcover and ornamental flowering trees where feasible. The proposed surface parking areas will be screened from adjacent units to diffuse the vehicle headlights.

The improvements along Georgia Avenue allow for a 10-foot-wide green panel that will separate the curb and proposed sidewalk to include street trees 50-feet on center, in conformance with the standards set forth by the MD State Highway Administration.

The lighting plan consists of three separate light standards, including bollards around the seating and pedestrian areas, colonial type fixtures in front of the proposed units and taller security lighting standards on the perimeter of the site. The fixtures along the perimeter of the property will include shields/reflectors to negate glare to the adjacent properties.

Lighting along the face will be illuminated with a combination of building sconces and pavement up-lights and specialty light posts to illuminate and activate the pedestrian space during evening hours.

d. Recreation

Recreation demand is satisfied as shown in the recreation calculations table above. A pedestrian connection along the northern and western perimeter for access to the rear of the units and sidewalk improvements along the Georgia Avenue frontage and the Noyes Drive frontage are included. The Applicant is also providing four seating areas consisting of eight benches located with the open areas at the southeastern entrance to the site and surrounding the tulip poplar near Georgia Avenue.

e. Vehicular and Pedestrian Circulation

Vehicular and pedestrian circulation is safe, adequate and efficient.

Vehicular circulation is provided into the site by a 20-foot-wide private drive with direct access from Noyes Drive. The private drive terminates into a T-intersection for the proposed units at both ends of the property.

Noyes Drive is an existing 60-foot-wide right-of-way. No additional dedication is needed for Noyes Drive; however, improvements within the right-of-way are proposed with this application to allow for improved pedestrian circulation, runoff and vehicular movement. A five-foot-wide sidewalk is proposed along the property frontage, and extended as a four-foot-wide sidewalk on the south side of Noyes Drive to the intersection with First Avenue. A speed hump is also proposed within the right-of-way of Noyes Drive west of the intersection with the proposed private drives.

The proposed development also dedicates an additional 20 feet of right-of-way on Georgia Avenue along the property frontage to provide an ultimate 120 of right-way. Improvements within the right-of-way include removal of a majority of the existing sidewalk to provide a 10-12-foot-wide green panel and new five-foot-wide sidewalk, with the exception of the area in front of the 38" DBH Tulip Poplar. The existing sidewalk will remain in front of the tree and connect with the proposed sidewalk to minimize the impact to the tree.

4. *Each structure and use is compatible with other uses and other Site Plans and with existing and proposed adjacent development.*

The proposed development is compatible with existing and proposed development within the surrounding area with regard to height, design of the building and public spaces, intensity of the development and operational characteristics.

The layout of the proposed units resembles the unit configuration, setback and house placement of the adjacent townhouse community along Georgia Avenue. The existing structures to are to remain and one house to be relocated.

The proposed development will not adversely affect the surrounding properties, the streetscape or the adequacy of providing light and air.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation.*

The project satisfies the applicable requirements of forest conservation in terms of planting and forest replacement. All of the existing forest on the property will be removed and 0.75 acres of forestation will be required off-site. The Applicant proposes a fee-in-lieu, which has recently increased to 0.90/square foot, or \$32,670 specifically for this site. Alternatively, staff will accept off-site planting or use of a forest bank to satisfy the Applicant's obligations.

Trees on the site have been evaluated by an ISA certified arborist for size, health, impact, and potential for preservation. The site plan has been designed to allow greater preservation of the selected trees that are being impacted by the proposed development. These include a 43" dbh (diameter breast height) tulip poplar along Georgia Avenue, a 33" dbh Horsechestnut at the intersection of Noyes Drive and Georgia Avenue and a 34" dbh silver maple in front of the houses to be preserved on Noyes Drive. In addition to the trees being protected on the subject property, trees on the adjoining properties have been examined for impact, and preservation measures established for implementation consistent with the Tree Preservation Plan.

APPENDICES

- A. Zoning Case Resolution (G-817) and associated Development Plan
- B. Memoranda from agencies
- C. Letter from the Department of Housing and Community Affairs
- D. Letters from the Community
- E. Letters from the Applicant

APPENDIX A

Resolution No. 15-788

Introduced: September 28, 2004

Adopted: October 12, 2004

**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-817 FOR AMENDMENT TO THE ZONING ORDINANCE
MAP, C. Robert Dalrymple and Anne C. Martin, Attorneys for Applicant, Noyes Lane,
LLC, OPINION AND RESOLUTION ON APPLICATION**

Tax Account Nos. 13-01091410, 13-01090871, 13-01089688, 13-01088558, 13-01091831 and 13-01089781

OPINION

Application No. G-817, filed on November 12, 2003 by Applicant Noyes Lane, LLC, requests reclassification from the R-60 Zone to the R-T 12.5 Zone of 2.7 acres of land known as Parts of Lots 1- 4, Block 4 (north of Noyes Drive), and Parts of Lots 7-11, Block 3 (south of Noyes Drive), in the Woodside Subdivision (13th Election District). The site is located at 9012, 9008 & 9006 Georgia Ave and 1403 Noyes Drive in Silver Spring. The application was filed 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. Applicant proposes to build a development called "Woodside Courts" that includes twenty-three new townhomes and preserves three of the existing single-family detached homes.

The Hearing Examiner recommended approval of the application on the basis that the R-T 12.5 Zone at the proposed location would satisfy the requirements of the purpose clause; that the proposed reclassification and development 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 Montgomery County Planning Board ("Planning Board") and its Technical Staff

Attachment "A"

provided similar recommendations.¹ The surrounding community was divided as to the merits of the proposal. One adjacent homeowner testified in support of the proposed development on behalf of a number of neighbors, and his testimony was adopted by the Woodside Town Community Association, which represents 24 townhomes immediately to the north of the proposed development (*i.e.*, the Ottawa Place Townhomes). The President of the Woodside Civic Association testified in qualified opposition, and three other neighbors were more firmly opposed. The District Council has given serious consideration to the testimony of the community, as summarized in the Hearing Examiner's report, as well as the remainder of the record in this case, and finds that the application does meet the standards required for approval of the requested rezoning for the reasons set forth by the Hearing Examiner. The concerns of the neighbors should properly be addressed at site plan and subdivision review.

The subject property consists of 2.7 acres (116,899 sq.ft.) of land located on the west side of Georgia Avenue, north and south of Noyes Drive, on the eastern edge of the Woodside neighborhood in Silver Spring. Georgia Avenue conveys major commuter traffic volumes past the site and separates the residential neighborhoods of Woodside and Woodside Park, which are both stable and mature neighborhoods. The subject property is located approximately three quarters of a mile south of the Capital Beltway (I-495) and a half-mile north of the Silver Spring Central Business District.

The Property, which is comprised of nine individual lots, has approximately 568 feet of road frontage along Georgia Avenue, 218 feet of frontage on the south side of Noyes Drive and 350 feet of frontage on the north side of Noyes Drive. The site is adjacent to townhouses on Ottawa Place in the R-T 12.5 zone to the north, single-family residential dwellings in the Woodside neighborhood (R-60 zone) to the west and the Methodist Church of Woodside in the R-60 zone to the south. The Woodside Synagogue

¹ The Planning Board approval assumed four additional binding elements not present in the final Schematic Development Plan. They were dropped by Applicant after objection from the People's Counsel that their specificity defeated the purpose of the "Optional Method," which should leave such details to Site Plan and Subdivision review. Nevertheless, Applicant has agreed to include these elements and additional concessions at Site Plan (Exhibit 62(a)).

Ahavas Torah and single-family homes in Woodside Park (R-60 zone) are located across Georgia Avenue to the east.

Currently, the property is occupied by five single-family homes, three fronting on Georgia Avenue and two fronting on Noyes Drive. The two northernmost homes (bungalows) will be demolished, and of the three remaining homes, the southernmost home will be relocated from Georgia Avenue to Noyes Drive, and the other two will remain in place. Construction improvements will be made to these three remaining homes in accordance with an Historic Area Work Permit to be approved by the Historic Preservation Commission. The Woodside neighborhood is identified on Maryland-National Capital Park and Planning Commission's (M-NCPPC) Locational Atlas & Index of Historic Sites in Montgomery County (Site 36/4), but it has not yet been designated as an historic site.

The Historic Preservation Commission (HPC) "generally approved of the architectural design of the new townhouses," as stated in the May 19, 2004 report by the Staff of the HPC. According to that Staff report, "[t]he majority of Commissioners felt that they could support demolition of the two bungalows (9008 Georgia Avenue and 9012 Georgia Avenue) and the relocation of one turn-of-the-century house (8918 Georgia Avenue)."

The language in the HPC Staff report is instructive:

In the revised design, the applicants have addressed many of the HPC's comments. They have reconfigured the project so that there is a significant amount of open space at the intersection of Noyes and Georgia. This does allow for a wide viewshed toward the three historic houses and does allow for preservation of a number of trees. They have been able to accomplish that goal while still preserving open space around the existing Poplar tree that environmental planning wants them to retain. This has meant a decrease of two townhouse units on the north side of the project.

They have also been able to retain building frontages along Georgia that approximate the pattern of single-family home building widths — that is, there are no long strings of townhouses facing Georgia Avenue. The longest grouping is three town houses. Staff feels that this is an important and positive aspect of this project.

The building heights for the new townhouses have not changed. However, since the new structures are pulled farther away from the old houses, staff is less concerned about the impact of the higher townhouses.

Based on the fact that Applicant had integrated the guidance of the HPC into its revised design, the HPC Staff recommended that the Applicant "move forward to file a Historic Area Work Permit application."

The surrounding area for this application consists of the Woodside neighborhood and the lots directly across Georgia Avenue from the subject site. This area is bounded by Spring Street and the CSX Railroad tracks to the south, 16th Street to the west and Georgia Avenue to the east (except that the boundary also includes the properties directly across Georgia Avenue). The surrounding land uses are a mixture of residential and institutional, with little developable land remaining. In the immediate vicinity of the site, a church (Woodside United Methodist) is located to the south of the property; townhomes exist to the north, and single-family detached dwellings exist to the west. Across Georgia Avenue to the east, a temple (Woodside Synagogue Ahavas Torah) and two residences face the property. There is one other church in Woodside (First Church of Christ, Scientist) and a Satellite Office for Montgomery County Department of Social Services. The surrounding area is mostly comprised of existing homes with little vacant land. Approximately 74% of the residential uses in the surrounding area are single-family detached dwellings, and the remaining 26% are townhomes.

The subject property was classified under the R-60 Zone in the 1954 Regional District Zoning. The R-60 Zone was reaffirmed by Sectional Map Amendment (SMA) G-134 and SMA G-787, pursuant to the *North and West Silver Spring Master Plan*. The approved and adopted Master Plan does anticipate RT local map amendment proposals along Georgia Avenue when assemblage occurs (page 21).

The Applicant proposes to construct twenty-three townhouse units and retain three (existing) single family detached units on the site, one of which (the southernmost house) will be moved from its present location on Georgia Avenue to a location on Noyes Drive. An overview of the project is depicted in the illustrative diagram on the revised Schematic Development Plan (SDP)-Exhibit 62(d). The proposed

development will occur along the west side of Georgia Avenue, on both the north and south sides of Noyes Drive.

The section to the north of Noyes Drive is 1.5 acres in area and comprised of four lots identified above. Three homes currently exist in this section. The two bungalows that front on Georgia Avenue will be demolished. The other home, which fronts on Noyes Drive, will be retained. Fifteen townhomes will be constructed in this section, in groups of six, three and two. Groups of two, or duplexes, are employed specifically to imitate the massing of single family dwellings. One stick of six townhomes faces existing townhomes at Ottawa Place, to the north. In accordance with the requirements of Zoning Code §59-C-1.722(b), the front building line in this stick is varied by 2 feet in the middle. One stick of three townhomes and one duplex front on Georgia Avenue. Two duplexes are oriented around a court on the west side of the section, north of the existing home that fronts on Noyes Drive. The units in this section meet the twenty-five foot street setback, ten-foot side yard setback and thirty-foot setback from one-family detached dwellings.

All units in the northern section will access Noyes Drive via an interior private drive, which extends approximately 250 feet north of Noyes Drive and forms a "T" serving all units internally. This design is intended to pull driveways and off street parking away from adjacent lots and coordinate access on a secondary street. All existing access points on Georgia Avenue will be removed, and all of the new town home units will have two-car garages. The existing house will have a new one-car, detached, frame garage. Five additional off-street parking spaces will be provided in this section for a total of thirty-six off-street parking spaces on this side of the development. A sidewalk is provided on street frontage, and a path is planned to connect the development and provide pedestrian access to the front doors of the interior units.

The section to the south of Noyes Drive is slightly larger than one acre in area and comprised of five lots. Two homes currently exist in this section. The one that fronts on Georgia Avenue will be relocated to Noyes Drive. The other home, which fronts on Noyes Drive, will be retained in its present location. Eight

townhomes will be constructed in this section. Two of these units will be in a duplex, with one of the duplex units fronting on Georgia Avenue and the other on Noyes Drive. The other six units are combined into a stick facing the Woodside United Methodist Church to the south, although the unit at the eastern end of the stick fronts on Georgia Avenue and the unit at the other end of the stick fronts to the west. Setbacks and the two-foot front building line variation are met, as with the northern section.

All units in this section will access Noyes Drive via an interior private drive. The drive extends approximately 120 feet south from Noyes Drive into the section and forms a "T" serving all units internally, as with the northern section. Existing access points on Georgia Avenue will also be removed. The new townhomes will also have two-car garages, and the existing units will have new two-car detached garages. Five additional off-street parking spaces will be provided in this section, for a total of twenty-five off-street parking spaces on the south side of the development.

The Applicant in the present case has proposed seven binding elements on its schematic development plan (SDP), Exhibit 62(d).

| BINDING ELEMENTS | |
|---|---|
| PURSUANT TO SECTION 59-H-2.53 OF THE ZONING ORDINANCE | |
| 1. | 26 RESIDENTIAL DWELLING UNITS MAXIMUM: 23 TOWNHOUSES AND 3 SINGLE FAMILY HOMES |
| 2. | MAXIMUM LOT COVERAGE OF 25% OF TRACT AREA (PRIOR TO DEDICATION) |
| 3. | MINIMUM GREEN AREA OF 60% OF TRACT AREA (PRIOR TO DEDICATION) |
| 4. | PRESERVATION OF EXISTING HOME @ 1403 NOYES DRIVE |
| 5. | PRESERVATION OF EXISTING HOME @ 8918 GEORGIA AVENUE |
| 6. | RELOCATION OF EXISTING HOUSE 8922 GEORGIA AVENUE TO NEWLY CREATED LOT ON NOYES DRIVE |
| 7. | OWNER AND GUEST PARKING WILL BE PROVIDED ENTIRELY ON SITE, AND NOT ACCESSED FROM GEORGIA AVENUE |

These binding elements limit development to 23 townhouses and 3 single-family homes, a maximum of 25% building coverage, and a minimum of 60% green space, with the preservation of two homes, the relocation of a third home, and parking to be provided entirely on site, with no access from Georgia Avenue. In addition to the binding elements on the SDP, Applicant has agreed to the following commitments to be included with its Site Plan when it goes to site plan review pursuant to Zoning Code §59-D-3 (Part B of Exhibit 62(a)):

B. Required Site Plan Provisions to be Incorporated on Site Plan by the Applicant Pursuant to Division 59-D-3 of the Zoning Ordinance:

1. Owner and guest parking will be provided entirely on site with no direct access from Georgia Avenue.
2. The existing tulip poplar tree on Georgia Avenue and the horse chestnut tree on the southwest corner of Georgia Avenue and Noyes Drive will be preserved through application of all commercially reasonable tree protection measures.
3. Subject to the Planning Board review at the time of site plan, the Applicant's site plan will reflect the following:
 - (a) on the portion of the property to the south side of Noyes Drive, in addition to the preserved and relocated homes, the project will have a row of 6 townhomes on the southern most portion of the property and a duplex on the east side adjacent to Georgia Avenue.
 - (b) on the portion of the property to the north side of Noyes Drive, in addition to the preserved existing home, the project will have a row of 6 townhomes on the northern most portion of the property, 2 duplexes on the west side of the property, and a triplex and a duplex on the east side of the property adjacent to Georgia Avenue.
4. The Applicant will provide landscape and screening improvements to provide an appropriate buffer between the project and the adjacent single family residential neighbors. The Applicant will coordinate with the adjacent neighbors and community before and during the site plan process to review the project and to collaborate regarding the planting and fence materials and similar screening treatments.
5. The Applicant will pursue with the Department of Public Works and Transportation ("DPWT") the installation of a public sidewalk on Noyes Drive from Georgia Avenue to 1st Avenue and further extending along 1st Avenue from Noyes Drive to Highland Drive. The Applicant will provide for the cost of the sidewalk and make all commercially reasonable efforts with DPWT to provide for the installation of such sidewalks to the extent possible given any right-of-way, street improvement and/or storm drainage issues.
6. The Applicant will further pursue with DPWT the feasibility of public funding for an expanded sidewalk network to include extension of sidewalk on Noyes Drive between 1st and 2nd Avenue.

7. The Applicant, with the support of the Woodside Civic Association, will pursue DPWT approval for a 4-way stop sign at Noyes and 1st Avenue.
8. Support request of Woodside Civic Association for DPWT approval of a speed hump mid-block on Noyes Drive between Georgia Avenue and 1st Avenue, and if approved, the Applicant will fund construction of speed hump if approved within the period extending until the end of construction for the proposed development.
9. Coordinate construction activity of the project to avoid conflicts with regular (Friday evening and Saturday morning) and holiday services of the confronting synagogue.

These items respond to concerns and requests of the Woodside Civic Association and other community participants, and will be addressed at Subdivision and Site Plan review. There will also be an opportunity at that time to coordinate with the Department of Public Works and Transportation on matters relating to sidewalks and improvements to Noyes Drive.

The proposed development will meet, and in some instances exceed, the applicable development standards for the R-T 12.5 Zone. For example, maximum density is set at 12.5 units per acre, but Applicant's proposal calls for a density of only 9.7 units per acre. Maximum building coverage is specified as 35%, but Applicant has committed to a maximum coverage of 25%. Minimum green space in the zone is specified as 50%, but Applicant will have at least 60% green space. Although only 52 parking spaces are required by statute, Applicant plans on 61 spaces.

The site, which is located in the Lower Sligo Creek subwatershed, is not within a Special Protection Area nor the Patuxant River Primary Management Area. There are no steep slopes, wetlands, streams, floodplains or associated buffers impacting on the site. There are healthy and structurally sound mature specimen trees on the Property, some of which the Applicant intends to retain and integrate into the site design. A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) has been submitted and approved, and Environmental Staff of the M-NCPPC found that the Preliminary Forest Conservation Plan submitted by Applicant "conceptually meets the requirements of the Forest Conservation Law."

In the view of the Environmental Staff, "the most pressing environmental concern on this application is tree save," especially preservation of a 43 inch specimen Tulip Poplar located in the northern section of the

property, along Georgia Avenue. Although the People's Counsel felt that preservation of this tree made it much more difficult to end up with the best possible development, the Applicant has committed to preserving it and a horse chestnut tree on the southwest corner of Georgia Avenue and Noyes Drive "through application of all commercially reasonable tree protection measures." The District Council agrees with the Hearing Examiner's conclusion that Applicant has designed very well around the Tulip Poplar tree, and certainly does not see the preservation of this tree as a basis for considering denial of this application.

A floating zone, such as the R-T 12.5 Zone, is flexible device, and individual property owners may seek to have property reclassified to a floating zone by demonstrating that the proposed location is appropriate for the zone, *i.e.*, it satisfies the purpose clause for the zone, the development would be compatible with the surrounding area, and it would serve the public interest.

Under the "purpose clause" set forth in Zoning Code §59-C-1.721, the R-T Zone may be applied (1) in areas that are designated for R-T Zone densities (implying a master plan designation); (2) in areas that are appropriate for residential development at densities that are allowed in the R-T Zones; or (3) where there is a need for buffer or transitional uses. The District Council finds that the present application satisfies the first and second of these alternatives, in that the Master Plan expressly identifies "the possible development of townhouses along Georgia Avenue" using the R-T Zone and the area is appropriate for residential development at the density of 12.5 dwelling units per acre permitted in the R-T 12.5 Zone.

The District Council finds that the surrounding area, which has a mixture of residential and institutional uses, is suitable for townhouses because there are townhouses immediately to the north and a church and its parking lot immediately to the south. Only in those locations does Applicant plan groupings of more than three townhouses. On the west side of the development, where there are adjacent single-family homes in the R-60 Zone, there will be only groupings of two townhouses, the retained single family homes and the ends of the north and south groupings. In addition, Applicant has agreed to provide landscaping and screening "to provide an appropriate buffer between the project and adjacent single-family

residential neighbors." Thus, the appearance to the adjacent homes will not be a massive front of townhouses, and the District Council finds that the proposed townhouse use would be fully compatible with existing uses on the west side of the Georgia Avenue in terms of both use and density.

The same can be said with regard to the impact of the proposed development upon the uses directly across Georgia Avenue, to the east, where there are two single family homes and a synagogue. As is evident from the SDP, there will be a great deal of open space facing Georgia Avenue, including a park-like area around the specimen Tulip Poplar and green space on either side of Noyes Drive. Facing Georgia Avenue, there are no groupings of townhouses exceeding three in number, except for the ends of the north and south groupings. Moreover, the impact on single-family homes on the east side of Georgia Avenue will be reduced by Georgia Avenue itself, which is a seven-lane, divided highway in this area and is recommended for a 120-foot right-of-way.

In addition to visual effects of the proposed development, neighbors expressed concerns about stormwater drainage and possible traffic. Both of these issues will be addressed in detail at site plan and subdivision, but the evidence in this case supports the conclusion that Applicant will improve the stormwater run-off problem, not make it worse, and that the traffic generated will be well within county standards. Moreover, Applicant has agreed to support a number of traffic calming and safety measures. For all of these reasons, the District Council concludes, based on the preponderance of the evidence, that the subject property is appropriate for residential development at densities allowed in the R-T 12.5 Zone. Accordingly, the District Council concludes 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 also finds that the proposed development, which includes 23 townhomes and three pre-existing single family homes, will fit in well with the residential character of this neighborhood,

which is a mix of one-family detached and attached dwellings. The mixed residential use that has been proposed, with its density of less than ten units per acre, will also serve as a transition from one-family detached dwellings to the busy thoroughfare of Georgia Avenue. Moreover, as noted by Technical Staff, there remains little developable land in the surrounding area. Given the present mix of 74% single-family homes and 26% townhouses among the residential uses found in the surrounding area, the District Council finds that the proposed development would be compatible with existing, as well as planned development in the surrounding area.

Finally, the Applicant must show that the proposed reclassification bears sufficient relationship to the public interest to justify its approval. When evaluating the public interest, the District Council normally considers master plan conformity, the recommendations of the Planning Board and Technical Staff, and any adverse impact on public facilities. The Planning Board, Technical Staff and the Hearing Examiner concluded that the proposed development would substantially comply with the *North and West Silver Spring Master Plan*, approved and adopted in August 2000 (the "Master Plan"), and the District Council agrees.

The Master Plan reconfirms the existing zoning for North Silver Spring, except that it expressly recognizes "the possible redevelopment of townhouses along Georgia Avenue" and recommends that any rezoning to the Residential Townhouse (RT) Zone by local map amendment should use the optional method with a schematic development plan, as was done in this case. Master Plan, page 21.

Recognizing that townhouse development is permitted by the Zoning Ordinance, the Master Plan seeks to preserve the residential character of the area with specific guidelines (page 21):

- Limit the development of townhomes to the blocks along Georgia Avenue and do not encroach on interior blocks.
- Buildings should front on Georgia Avenue, where possible, in order to maintain an attractive residential appearance and enhance the urban boulevard character.
- Along Georgia Avenue, ends of a townhouse row should be designed to appear as fronts, rather than blank facades on Georgia Avenue.
- A minimum front yard setback of 25 feet should be provided on Georgia Avenue.