



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item # 4
06/26/03

MEMORANDUM: LOCAL MAP AMENDMENT

DATE: June 17, 2003

TO: Montgomery County Planning Board

VIA: John Carter, Chief, Community-Based Planning *JC*
Glenn Kreger, Team Leader, Silver Spring Takoma
Park Team

FROM: Joel A. Gallihue, Community-Based Planning *JAG*

SUBJECT: **Local Map Amendment - G-805 - Hemmingway
Homes, LLC, Rezoning from R-60 to RT-15
438 East University Boulevard, 34,302 sq. ft.
Silver Spring /Takoma Park Policy Area**

FILING DATE: August 30, 2002

PUBLIC HEARING: July 10, 2003

STAFF RECOMMENDATION: APPROVAL, of the RT-15 Zone for a maximum of 18 dwelling units, and approval of the Schematic Development Plan for the following reasons:

1. The application will be consistent with the recommendations of the East Silver Spring Master Plan, December 2000.
2. The Schematic Development Plan 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.

PROPOSAL DESCRIPTION

The subject property is approximately 34,302 square feet in area and located at 438 East University Boulevard. The site is approximately 350 feet north of the intersection of East University Boulevard and Buckingham Drive and

approximately 820' south of the intersection of East University Boulevard and Melbourne Avenue.

The petitioner requests reclassification of 34,302 square feet from the R-60 zone to the RT-15 zone. The remaining Outlot A, approximately 54,315 square feet in area, would not be rezoned, but would be utilized as open space for the subject local map amendment. This would be accomplished by recording a conservation easement on the property. The petitioner references this conservation easement because it is their intent for Outlot A to be counted towards the overall density of the development. Section 59-C-1.723 of the Zoning Ordinance permits such a combined proposal, provided the underlying density for each parcel is not exceeded. The mechanism for linking the conservation easement to the zoning is a note on the schematic development plan.

A. Description of Property – The 2.03 acre combined parcel is located on University Boulevard, approximately one half mile south of the Capitol Beltway. The current use of the properties is an unoccupied single-family house on Lots 1 & 2; Outlot A is vacant. The House on Lots 1 and 2 was condemned last year. The house once had a special exception for an accessory apartment.¹ The properties are also currently improved with a small garage and a circular driveway that has two access points to University Boulevard. Outlot A is forested and features a swale that is parallel to the common lot line with Lots 1 and 2. The property is more particularly described as Lots 1 & 2 of the Herbert R. Hardisty Subdivision, Plat No. 4751. The proposal also references Outlot A, (Parcel 1870 of Taxmap 160) which is 54,315 square feet in area. This out parcel has frontage on the cul-de-sac end of Cornwall Street in the Buckingham Terrace subdivision. The parcel also has frontage on a half section of Malibu Street that was never built.

B. Surrounding Area –

Definition: In a floating zone application, the surrounding area is defined as those areas most directly affected by the proposed development in accordance with any special study areas that may have been defined by a master or sector plan. The subject application, while requesting a floating zone has been filed in accordance with standard method of application for local map amendment. In the case of the subject petition, staff defines the surrounding area as bounded by East Franklin Avenue to the north, Northwest Branch Park to the east, Heron Drive to the south; and Long Branch Park to the west. (See attached map)

Uses: The site is in an area identified in the East Silver Spring Master Plan as a suburban community. North of the property is the Mount Jezreel Baptist Church property.² South of the site is the Korean Community Senior Housing property

¹ S-1643, revoked on March 20, 1991

² Formerly owned by Langley Hebrew Congregation.

operating by grant of special exception.³ South of the senior housing and at the corner of University Boulevard and Buckingham Drive, there is a house with a Medical office operating by special exception.⁴ All of the adjacent properties are zoned R-60. West and across University are single-family detached homes in the Long Branch Village Subdivision. East of the property are single-family detached homes in the Buckingham Terrace Subdivision.

The area has virtually no developable land. Approximately three quarters of this area is developed with one-family residences in the R-60 zone. Approximately five percent of the area is developed with townhomes located south of Long Branch – Wayne Local Park on both sides of University Boulevard. The balance of the defined area consists of two religious institutions⁵, two public schools⁶, Long Branch – Wayne Local Park and the Korean Community Senior Housing.

C. Intended Use and Approval Procedures

The applicant requests the RT-15 zone to allow the redevelopment of the site, which will consist of no more than eighteen units as shown on the latest schematic development plan dated July 2002.

The schematic development plan illustrates twelve one-family attached dwelling units (piggyback) and six townhouses. The units are arranged across the site in three groups. Each group has four piggy-back units and two townhouses. Internal circulation on the site will consist of a single parking area accessed from University Boulevard. The schematic development plan indicates that a resubdivision of lots 1 and 2 and Outlot A is proposed. In addition, to this rezoning application, other approval processes will include a preliminary plan of subdivision, a site plan and a final plat of subdivision.

D. Zoning History –

Comprehensive:

SMA G-790 Granted 6/12/01 -(East Silver Spring Master Plan)

SMA G-743 Granted 6/24/97

SMA G-80 Granted 2/14/78 – (Silver Spring East Master Plan)

SMA E-955 Granted 4/18/67 – (Kemp Mill-Four Corners Master Plan)

1954 Regional District Zoning: R-60 enacted and mapped.

Local Map Amendment:

N/A

³ S-1424

⁴ S-1591

⁵ Mount Jezreel Baptist Church and Silver Spring Presbyterian Church.

⁶ Eastern Middle and Montgomery Knolls Elementary.

E. Master Plan Recommendation –

1. Land Use: Residential, one-family
2. Zoning: R-60.

F. Public Facilities

1. *Water and Sewer Service:*

- a. Service Categories: The property is Water Category W-1 and Sewer Category S-1 (Source: *Montgomery County Department of Environmental Protection*).
- b. Water and Sewer Service: Water and sewer lines abut the property. Local service is deemed adequate and the impact from rezoning is considered negligible (Source: *WSSC Development Services Group*).

2. *Roadways:*

University Boulevard (MD 193): The East Silver Spring Master Plan classifies University Boulevard, M-19 as a major highway with a recommended minimum right-of-way of 120 feet. No dedication is required because all of the recommended right-of-way has been dedicated across the frontage of lots 1 and 2. This road is a major commuter route, which has several bus lines. The proposed schematic development plan will have only one right turn in and one right turn out access to the site. The East Silver Spring Master Plan provides for a bikeway along University Avenue. The applicant should provide accommodations for a five-foot on road bike lane on the preliminary plan.

3. *Schools:*

The subject property is located within the Montgomery Knolls Elementary (Grades K-2), Pine Crest Elementary School (3-5), Eastern Middle School, and Blair High School service areas. Based upon average yield factors for comparable housing units, the impact of this project is estimated to be approximately 5 elementary, 3 middle, and 4 high school students. Montgomery Knolls Elementary School is currently operating over capacity and is projected to remain over capacity for the six year forecast period. Blair High School is also operating over capacity, but is expected to be relieved through the reopening of Northwood High School in 2004. Pine Crest Elementary School and Eastern Middle School are operating within capacity and are projected to remain within capacity. The Annual Growth Policy (AGP) is the mechanism that regulates subdivision development

approval with regard to facility adequacy. The current AGP indicates that school capacity exists in the Blair cluster.

ANALYSIS

A. Purpose of the RT-Zone

The intent and purpose of the RT-Zone is found in section 59-C.1.721 of the Zoning Ordinance, which states that the purpose of the RT-zone is to provide suitable site for townhouses in areas that are, "Designated or appropriate for residential development at densities allowed in the RT Zones" and "there is a need for buffer or transitional uses between commercial, industrial, or high-density apartment uses and low-density one-family uses."

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

Densities allowed in the R-T Zones have been designated within 1,000 feet of the site. The site is in a section of the County that is appropriate for R-T zone densities where infill development is compatible with the existing residential character.

- (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.

The site conforms to the existing residential character by fitting into the established transition from higher density and institutional uses on University Boulevard to detached single-family homes. The conservation easement reinforces this transition.

The proposed maximum density for the submitted development is 11 dwelling units per acre, and is compatible with the surrounding one-family dwellings, assisted living facility and institutional uses, as proposed. The residential development would be consistent with a transition from the higher intensity uses on University Boulevard to the R-60 subdivision in the rear, particularly considering the conservation easement.

While the proposed density would favor the use of the RT-12.5 zone, this application is for RT-15 because of its flexible standards, particularly setbacks and green area. This flexibility is desirable for an infill development, such as the subject proposal. Staff examined the various development standards for the RT zone and supports the applicant's request for the zone because the use of the

flexible standards will allow the development to occur in a manner that is more compatible with the surrounding residential densities. Further, the County Council affirmed the use of townhouses as a transitional use between high density and low density one-family uses in recommending approval of SMA E-955.

B. Master Plan-

The Approved and Adopted East Silver Spring Master Plan, December 2000 covers the subject property. The recommended zoning is R-60, one-family residential. The plan provides general support for townhouses where appropriate. The master plan recognizes that there are a limited number of townhouses located within the area and recommends that infill development be compatible with the existing residential character. Community-Based Planning Division also advised the applicant on a number of design suggestions which may be addressed at site plan.

C. Development Standards-

Development standards for the rezoning petition are consistent with the zone. The following chart shows the development standards for the rezoning application:

Development Standards for RT-15 Zone		
Standard	Permitted/Required	Proposed
Minimum tract area	40,000 sq. ft.	88,617 sq. ft. ⁷
Maximum density/ total yield	15 units/ acre (+9 units from R-60) = 20 d. u.	11 units/acre, 18 total d.u.
Building setbacks:		
-From any detached dwelling lot or land classified in a one-family, detached, residential zone.	30 feet	20 feet in rear ⁸
- Public street	20 feet	28 feet
- One side (end unit)	8 feet	30 feet
- Rear	20 feet	20 feet
Maximum Building Height	35 feet	35 feet
Minimum Green Area	30 percent	55 %
Minimum Parking	2 spaces/ unit = 36	36

⁷ Per Section 59-C-1.723 – Combined Tracts

⁸ 59-C-1.732 (a) permits the use of the RT-15 standard (20 ft. for rear yard) if the applicant to the satisfaction of the Planning Board can demonstrate a more desirable form of development.

D. Schematic Development Plan

Section 59-H-2.53 of the Zoning Ordinance requires that a schematic development plan be submitted for a local map amendment. A schematic development plan illustrates how and to what extent the applicant will utilize the property including access and building locations. Several key binding elements are identified on the schematic development plan provided by the applicant. These include the following:

1. The maximum number of units is limited to eighteen dwelling units including single family attached (i.e. piggyback units) and town homes.
2. Lots one and two will be resubdivided to include a portion of Outlot A. The front parcel (Lots 1 & 2, as modified) will utilize the proposed RT-15 zone. The remaining rear parcel (Outlot A) shall remain R-60.
3. The conservation easement shall be modified to swathe existing easement area between Lots and Outlot, but the overall easement area shall remain the same.
4. A 10foot Public Improvement Easement (PIE) is noted on the schematic development plan to facilitate streetscape, sidewalk and bikeway improvements.

E. Preliminary and Site Plan Issues

If the County Council approves the subject rezoning, this project will require approval of a preliminary plan and site plan by the Planning Board. The number of dwelling units may be reduced during the review of the preliminary and site plan to meet environmental and other requirements.

Prior to the approval of a preliminary plan, the applicant must resolve all of the following items:

1. Provide adequate common open space to implement on-site recreation requirements at site plan.
2. Approval of Forest Conservation Plan and Stormwater Management Concept.
3. Submit a noise analysis with preliminary plan and develop a noise mitigation plan for any areas subject to noise greater than or equal to 65 dBA Ldn.
4. Coordinate with the Maryland State Highway Administration on the location of the driveway and any needed frontage improvements.

Prior to the approval of a site plan, the applicant must resolve all of the following items:

5. Design end units facing University Boulevard to have the appearance of an entrance and to ensure maintenance of the existing residential character.
6. Provide sufficient setbacks from the curb to meet Zoning Ordinance setback requirements and to allow an 8 to 10 foot setback for future sidewalk and tree planting strip.
7. Provide on-site landscaping and street trees to be consistent with the Urban Forestry Concept, by providing a diversity of species and use of native plant species where possible.
8. Determine an appropriate way to meet on-site recreation space requirements, possibly providing an outdoor seating area.

F. Environmental

Environmental Planning staff recommends approval of this rezoning application. An approved Storm Water Management Concept must be submitted with the preliminary plan of subdivision. A noise study must be submitted with the preliminary plan of subdivision. Additional tree protection measures are desirable and will be further examined during subsequent review processes when a Final Forest Conservation Plan is reviewed as a part of the site plan submission. (See attached.)

Forest Conservation

This application has an approved Natural Resource Inventory/Forest Stand Delineation (NRI/FSD). A preliminary Forest Conservation Plan has been submitted.

Water Quality

This site is located in the Lower Mainstem subwatershed of the Northwest Branch watershed. The Countywide Stream Protection Strategy (CSPS) assesses this subwatershed as having fair stream and good overall habitat conditions, labeling it as a Watershed Restoration Area.

G. Transportation

Site Location, Vehicular Access, and Pedestrian Facilities

The subject site is located on the east side of University Boulevard (MD 193) between Schuyler Road and Buckingham Drive. Vehicular access will be via a new driveway off University Boulevard.

Master Plan Roadways and Bikeways

The East Silver Spring Master Plan classifies University Boulevard, M-19, as a major highway with a recommended 120-foot right-of-way. A shared use path on both sides and on-road bikeways are recommended by the master plan. At the time of preliminary plan, the applicant should address streetscape and bikeway provision along the property frontage.

Local Area Transportation Review

The proposed development would increase AM peak hour trips by one and PM peak hour trips by eight. The total AM peak hour trips would be seven and the total PM peak hour trips would be fifteen.

Policy Area Review/Staging Ceiling Condition

The proposed project is located in the Silver Spring/Takoma Park Policy Area. As of March 31, 2003, that policy area had a remaining housing capacity of 2,325 units.

COMMUNITY CONCERNS – Staff has spoken with homeowners and civic associations in the area. Staff spoke to members of the Clifton Park Civic Association. They expressed support for this zoning request but expressed general concerns regarding school crowding in the area. Staff provided copies of the memorandum from the school board, which includes analysis and contact information.

CONCLUSION –

Staff recommends approval of the RT-15 zone with the binding elements. The binding elements are intended to reinforce the beneficial transition by providing modest density infill with a conservation easement to buffer the adjacent R-60 subdivision. The use of the RT-15 zone will allow greater flexibility in development standards. The proposal could also meet the density requirements of the RT-12.5 zone.

Staff concludes that the proposed rezoning application is consistent with the land use and zoning objectives of the East Silver Spring Master Plan. The Plan seeks to encourage a greater range of housing types and enhance the quality of life throughout Silver Spring. The proposed infill development shown on the schematic development plan is compatible with the surrounding uses. Given the appropriate context of the immediate site, residential character of the neighborhood is preserved. Staff finds that the application can meet the purpose clause of the RT-zone as the site is in a location where there is a need for a transitional uses between high-density apartment uses on University Boulevard and the R-60 subdivision in the rear.

59-D-1.61. Findings.

Before approving an application for classification in any of these zones, the district council must consider whether the application, including the development plan, fulfills the purposes and requirements set forth in article 59-C for the zone. In so doing, the district council must make the following specific findings, in

addition to any other findings, which may be necessary and appropriate to the evaluation of the proposed reclassification:

- (a) That the zone applied for is in substantial compliance with the use and density indicated by the master plan or sector plan, and that it does not conflict with the general plan, the county capital improvements program or other applicable county plans and policies.

The zone is in substantial compliance with the use and density indicated by the Adopted East Silver Spring Master Plan, December 2000. The site is in a section of the County that is appropriate for R-T zone densities where infill development is compatible with the existing residential character.

- (b) That the proposed development would comply with the purposes, standards, and regulations of the zone as set forth in article 59-C, would provide for the maximum safety, convenience, and amenity of the residents of the development and would be compatible with adjacent development.

The proposed development would comply with the purposes, standards and regulations of the RT-15 Zone. Best safety, convenience and amenity of the residents have been analyzed in this report with recommendations for subsequent reviews.

- (c) That the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.

The Schematic Development Plan depicts safe internal vehicular and pedestrian circulation systems. Further consideration of design will occur within the context of the site plan review.

- (d) That by its design, by minimizing grading and by other means, the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features of the site. Any applicable requirements for forest conservation under Chapter 22A and for water resource protection under Chapter 19 also must be satisfied. The district council may require more detailed findings on these matters by the planning board at the time of site plan approval as provided in division 59-D-3.

The design will minimize environmental impact and this review includes recommendations relevant to subsequent approvals in the Forest Conservation Plan and the Stormwater Management Concept.

- (e) That any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common or quasi-public purposes are adequate and sufficient.

A conservation easement is proposed and has been reviewed in the context of the Preliminary Forest Conservation Plan and found to be adequate.

Attachments

1. Vicinity Map
2. Surrounding Neighborhood Map
3. Zoning Map
4. Existing Conditions Map
5. Schematic Development Plan
6. Illustrative Photographs submitted by applicant
7. Referral Memorandums