

BEFORE THE HEARING EXAMINER FOR MONTGOMERY COUNTY, MARYLAND

Office of Zoning and Administrative Hearings
100 Maryland Avenue, Suite 200
Rockville, Maryland 20850

**IN THE MATTER OF:
GLENMONT FOREST**

Applicant.

Brian Alford
Randall Rentfro
Gary Unterberg

For the Application.

Elizabeth C. Rogers, Esquire
Steven A. Robins, Esquire

Attorneys for the Applicant.

Zoning Application No. H-149 (Remand)

APPLICANT'S PRE-HEARING STATEMENT FOR THE REMAND HEARING

In accordance with Rule 3.4 of the Rules of Procedure for Zoning Cases, the Applicant, Glenmont Forest Investors, LP, submits this Pre-Hearing Statement (the "Statement"). The Applicant hereby incorporates by reference its Supplemental Analysis, submitted with this Prehearing Statement, along with the evidence already contained in the Record for the Local Map Amendment H-149, which includes additional information supporting the application and justification for the rezoning request.

I. OVERVIEW

Glenmont Forest Investors, LP c/o Grady Management, Inc. (the "Applicant") submitted a Local Map Amendment (Floating Zone) ("LMA") application to rezone the property located at 2300 Glenmont Circle in Silver Spring, Maryland (the "Property") on January 23, 2024. The property is comprised of two parcels including: (1) Part of Parcel A in the "Americana Glenmont" Subdivision as recorded among the Land Records of Montgomery County, Maryland (the "Land Records") at Plat No. 6337 ("Parcel A"); and (2) Part of Parcel B in the "Americana Glenmont

Apartments” Subdivision as recorded among the Land Records at Plat No. 8065 (“Parcel B”). Specifically, the Applicant requested approval of an LMA to rezone the Property from the R-30 multi-family, low-density residential zone to the Commercial Residential Floating Zone (“CRF”) – more specifically, the CRF-1.75, C-0.25, R-1.5, H-75’ zone – to accommodate redevelopment of the Property with a mixed-use, primarily residential development containing up to 2,275 residential units and up to 5,000 square feet of neighborhood-serving retail space (the “Project”). While the residential component of the Project will be predominately multi-family residential, the LMA provides for the flexibility to develop up to 250 townhouse units, within the overall 2,275 unit cap (*i.e.*, the total number of multifamily units and townhouse units proposed will not, under any scenario, exceed 2,275 units). As confirmed by Binding Element No. 3, the Project will provide 15% Moderately Priced Dwelling Units (“MPDUs”), which exceeds the 12.5% MPDUs required by the Code. The requested rezoning and proposed Project fulfills all of the purposes and requirements of the CRF Zone (Zoning Ordinance, Section 5.3) and is in substantial conformance with the *2013 Approved and Adopted Glenmont Sector Plan* (the “Sector Plan”). The requested rezoning also satisfies all necessary findings contained in Zoning Ordinance Section 59-7.2.1.E, for approval of an LMA.

The Montgomery County Planning Board reviewed the LMA application on May 30, 2024, and voted to unanimously approve it. After a public hearing before the Zoning Hearing Examiner (“ZHE”) on June 14, 2024, the ZHE recommended approval to the Montgomery County Council, sitting as the District Council (Report and Recommendation dated August 19, 2024). Oral argument was requested before the District Council, and that hearing was held on September 24, 2024. The LMA was approved by the District Council through Resolution No. 20-616 (Map Amendment H-149) on September 24, 2024. Some, but not all, of the opposition appealed the District Council’s approval of the LMA to the Montgomery County Circuit Court (the “Court”). Subsequently, on May 30, 2025, the Court vacated the District Council’s Resolution and remanded the case to the District Council, “...with instructions that the matter be returned to the Hearing Examiner for further proceedings... to further consider the issues of school adequacy and compatibility with the surrounding neighborhood, specifically the community to the north of the proposed development...” (*See* Order, Case No.: C-15-CV-24-005724). Pursuant to the Court remand, this Report addresses these two very specific issues noted for further consideration.

II. STATEMENT OF GROUNDS UPON WHICH THE REMAND IS BASED AND JUSTIFICATION FOR THE REZONING APPLICATION.

As noted above, there are only two narrow issues for consideration on remand: 1) the adequacy of school capacity and 2) the compatibility of the proposed LMA with the surrounding neighborhoods, particularly the community to the north of Glenmont Forest Property (*i.e.* the Glenway Gardens Condominium). The Court was clear that the remand is limited to only these

two issues. As such, the Applicant is submitting a Supplemental Analysis, with supporting plans, that address each in turn.

The CRF Zone and proposed development of the Property have already been found to be compatible with the surrounding development by the Technical Staff, Planning Board, Hearing Examiner, and District Council. The issue related to this Remand concerns the LMA's compatibility with the property to the north of the Project; more specifically, the Glenwaye Gardens Condominium, which, although located across a six-lane divided major transportation corridor (with grade-separated interchange), was found to be adjacent. The Applicant's Supplemental Analysis and corresponding exhibits demonstrate the Project's compatibility with the Glenwaye Garden Condominium.

Similarly, the M-NCPPC Technical Staff, the Planning Board, Hearing Examiner and District Council all previously determined that the LMA furthers the public interest. The District Council noted in its Resolution No. 20-616 (and the Court agreed) that the adequacy of facilities (other than transportation facilities) is part of the broader determination that the LMA will further the public interest (*see* Section 59-7.2.1.E.b.2) and will be consistent with a coordinated and systematic development of the Regional District. (*See* District Council Resolution at page 5, footnote No. 3). While there was information in the record regarding the adequacy of public school facilities, the Court requested further analysis on school adequacy through this Remand. As such, as directed by the Court, the Applicant has provided a more detailed analysis of school capacity to confirm, unequivocally, that school capacity is adequate to serve the proposed development.

The Supplemental Analysis and exhibits, along with testimony to be offered at the hearing, will allow the Hearing Examiner and thereafter, the District Council to find that the proposed LMA is in the public interest and compatible with existing and approved adjacent development (as required by Sections 59-7.2.1.E.2.d and 59-7.2.1.E.2.d).¹

A. School Adequacy

There will be adequate public facilities and services to support the Project. As the District Council found, since a Preliminary Plan will be filed after the LMA approval, the Planning Board will be responsible for making a final Adequate Public Facilities ("APF") determination. Nonetheless, as directed by the Court, the Applicant's Supplemental Analysis confirms that the school capacity is more than adequate to support the proposed development and that the LMA furthers the public interest.

The Property is served by Glenallan Elementary School, Odessa Shannon Middle School, and John F. Kennedy High School. In accordance with Chapter 50 of the County Code and the 2024–2028 Growth and Infrastructure Policy ("GIP"), the Planning Board adopted the FY2026

¹ All other findings in Section 59-7.2.1.E of the Zoning Ordinance have been met and as the Court found, do not require any further review.

Annual School Test on June 26, 2025, effective July 1, 2025, which determines the adequacy status of all Montgomery County public schools based on enrollment projections for the 2029–2030 school year. The results of the Schools Test, as reflected in the Supplemental Analysis, indicate that all three school levels are operating with sufficient capacity. As such, there is adequate school capacity to accommodate the Project, and no Utilization Premium Payments are currently required.

It is worth noting that the County no longer has school moratoriums. The County eliminated school moratoriums in connection with the 2020-2024 Growth and Infrastructure Policy, because it was recognized that new developments do not generate the majority of new students (rather, most of the student population comes from residential turnover in existing single-family homes). It was also acknowledged that new development provides necessary funding for school capacity projects. As such, the Council created a system whereby new developments would need to contribute additional funding for school capacity projects if located in areas served by overutilized schools (*i.e.*, schools identified by the Annual Schools Test as exceeding certain utilization thresholds and seat deficits). This payment is referred to as a Utilization Premium Payment (“UPP”) and is in addition to any development impact taxes. This approach was reaffirmed by the County Council with the adoption of the 2024-2028 Growth and Infrastructure Policy.

Despite this revised policy, which permits residential development to proceed regardless of school capacity (and since the APF is not finalized until the subsequent Preliminary Plan stage), based on the Court’s directive, the Applicant’s Supplemental Analysis confirms that there is sufficient school capacity and that no UPP is currently required for the proposed Project (even under the most conservative approach).

B. LMA Compatibility with Property to the North

The Project explicitly implements the goals and recommendations of the Sector Plan and associated 2014 Approved Design Guidelines. As discussed in detail in the Applicant’s Land Use Report (Exhibit 45), the Sector Plan expressly recognizes that, due to its size and proximity, the Property is suitable for future rezoning to the CR or equivalent zone to encourage redevelopment with four- to six-story multi-family buildings. This is important because, as discussed in detail in the Applicant’s Supplemental Analysis, in recommending a rezoning for the Property, in order to facilitate the exact type of development that is now proposed, the District Council previously determined the Project to be compatible with the Glenway Gardens Condominium. Nonetheless, this Report independently analyzes compatibility with the adjacent development, particularly the Glenway Gardens Condominiums (located to the north of the Property), and confirms that the Project is compatible with all existing and approved adjacent development.

III. REPORTS INTENDED TO BE INTRODUCED AT THE HEARING

1. Supplemental Analysis (along with supporting Exhibits).

The Supplemental Analysis and accompanying Exhibits are being submitted concurrently with this Statement.

IV. SUMMARY OF EXPERT TESTIMONY

The evidence to be presented will show: (1) that school capacity is more than sufficient at all levels to support the proposed LMA under the Growth and Infrastructure Policy and thus, the LMA is in the public interest, and (2) that the LMA, which substantially conforms with the recommendations of the Sector Plan, will be compatible with existing and approved adjacent development, particularly the Glenway Gardens Condominium property to the north. At the present time, the Applicant intends to call the following expert witness to testify in support of the issues raised in the Remand:

1. Gary Unterberg, Registered Landscape Architect with Rodgers Consulting, who has over 30 years of experience in landscape architecture and land development, will testify as an expert in Land Planning regarding the adequacy of school capacity at all levels and the Project's compatibility with the existing and approved adjacent development, specifically the Glenway Gardens Condominium development to the north.

Mr. Unterberg's resume is included in this filing. (*See Exhibit 1*). The Applicant reserves the right to call additional expert witnesses if necessary.

V. ESTIMATED TIME REQUIRED FOR PRESENTATION

It is estimated that the Applicant will need approximately 2 hours to present its case in chief related to the Remand. This submission is intended to satisfy the requirement of the Rules of Procedure for Zoning Cases. If it is subsequently determined that new or supplemental information is necessary, the Applicant will make a supplemental submission in a timely fashion.

Respectfully submitted,

By: 

Elizabeth C. Rogers

By: 

Steven A. Robins

Exhibit 1

GARY UNTERBERG, RLA, ASLA, LEED AP BD+C

Senior Vice President | Senior Principal

Gary Unterberg is a Senior Principal & Vice President at Rodgers Consulting, Inc. He has been with Rodgers since 1999. Gary has diverse experience in many facets of town planning, landscape architecture and land development and over 30 years of experience.

His experience includes conceptual design, final design, presentation graphics, forest conservation, budget estimating, specifications, contract drawings, and site supervision. Gary is also capable in many aspects of land planning including new urbanism, transit-oriented development, planned unit development, land use plans, and zoning.

Professional Licenses

- Registered Landscape Architect: Maryland, 1989 #889
- LEED AP BD+C
- CNU-A (Congress for the New Urbanism Accreditation)

Education

- University of Illinois, BLA, 1983
Major: Landscape Architecture / Land Planning

Professional Organizations

- American Society of Landscape Architects (ASLA)
- Urban Land Institute (ULI)
- Suburban Maryland Builders Industry Association (BIA)
- The Congress for New Urbanism (CNU)
- NAIOP, the Commercial Real Estate Development Association (NAIOP)

Professional Experience

- Rodgers Consulting, Inc., Senior Principal / Senior Vice President, 1999 – Present
- Greenhorne & O'Mara, Inc., Senior Project Manager, 1987-1999
- Rolf C. Campbell & Associates, Landscape Architect/Planner, 1983-1987