

Joint Hearing - MCC & PC
Z-8814-2021
17

CERTIFICATE OF PUBLICATION

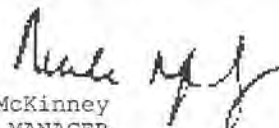
The Washington Post Company hereby certifies that it is the publisher of The Washington Post; that The Washington Post is a newspaper of general circulation, published daily in the City of Washington, District of Columbia; that The Washington Post has been so published continuously for more than one year prior to the date of first publication of the notice mentioned below; that the undersigned person is the duly authorized agent of The Washington Post Company to execute this certificate on its behalf; and that a notice of which the annexed is a true copy was printed and published in said newspaper on the following date(s) at a cost of \$461.76 and was circulated in the Washington metropolitan area.

Published 2 time(s). Date(s):01 and 08 of April 2021

Account 1010122919

THE WASHINGTON POST

By


Nicole McKinney
BILLING MANAGER

NOTICE OF JOINT PUBLIC HEARING The Mayor and City Council and Planning Commission of the City of Gaithersburg, Maryland, will conduct a joint public hearing on Zoning Map Amendment Application Z-8814-2021 on MONDAY APRIL 19, 2021 AT 7:30 P.M. or as soon thereafter as this matter can be heard virtually by teleconference online and phone. The applicant, Douglass Wagner, has submitted Zoning Map Amendment application Z-8814-2021, to rezone 35 and 37 S Summit Ave from R-90 (Medium Density Residential) to CBD (Central Business District), in accordance with § 24-196 #Map amendments" of the City Code. The subject properties are owned by Douglass and Catherine Wagner and Kenneth and Donna Wagner and total approximately .65 acres.

MEMORANDUM TO: Mayor and City Council
Planning Commission

FROM: Laura Mehfoud, Long Range Planner

DATE: April 2, 2021

SUBJECT: Preliminary Background Report:
Z-8814-2021
35 & 37 S Summit Ave

APPLICANT

Douglass Wagner
37 S Summit Avenue
Gaithersburg, MD 20877

TAX MAP REFERENCE

Tax Map: FT51

OWNER

Douglass and Catherine Wagner
37 S Summit Ave &
Kenneth and Donna Wagner
35 S Summit Ave
Gaithersburg, MD 20877

TAX ACCOUNT NUMBERS

0900821447 & 0900820922

REQUEST

Douglass Wagner, on behalf of all owners of 35 and 37 South Summit Avenue, has submitted a Zoning Map Amendment (rezoning) Application, Z-8814-2021. The Application proposes rezoning two lots containing approximately .65 acres of land from the R-90 (Medium Density Residential) Zone to the CBD (Central Business District) Zone.



35 & 37 S Summit Ave

LOCATION

The subject properties are located at 35 and 37 South Summit Avenue, in the northeast quadrant of the intersection of South Summit Avenue and Hutton Street.

REQUIRED ACTIONS

The Applicant is requesting a standard method zoning map amendment from the R-90 (Medium Density Residential) Zone to the CBD (Central Business District) Zone, in accordance with §24-196 (Map Amendments) of the City Code. The requirements for standard method map amendments outlined in §24-196 do not include any type of site development plan.

Per §24-10A. *Floating Zones*, the CBD Zone is a floating zone, which may be affixed to property by a map amendment or by comprehensive rezoning. However, unlike requirements included within the City's other floating zones, MXD and CD, an application to rezone to CBD does not require a site development plan. As this application is for a

standard method zoning map amendment to rezone to CBD, this application is for a zoning change only, and there is no site development plan for review.

Per §24-10A (2), the approval and placement of floating zones, including CBD, may be approved if the application:

- (a) *Complies with the purposes and intent of the zone as stated in the zoning ordinance, and*
- (b) *As applied will be compatible and harmonious with existing and planned land uses in the surrounding area.*

Per §24-197, standard method map amendments are subject to a public hearing before the Mayor and City Council and Planning Commission, followed by recommendation of Planning Commission and subsequent final action by City Council. This application does not include any development plan; however, should any new development be desired in the future, City Planning Commission review and approval would be required. In accordance with §24-170 and §24-171, the Planning Commission has the authority to review and make determinations regarding site plans for the purpose of protecting the public health, safety and welfare and ensuring compatibility with existing and proposed adjacent development.

EXISTING LAND USE/PROPERTY CHARACTERISTICS:

The subject properties are recorded lots identified as Lots 1 and 2, Block 1, Flower Field subdivision, part of Deer Park. Both properties are currently developed with single-family detached residences, each with a detached garage. The main residence at 37 S Summit Ave is currently legally non-conforming as it does not meet the setback requirements for corner lots in the R-90 Zone. Typically, the R-90 Zone requires a 10 foot side yard setback; however, because the side yard fronts a public street (Hutton St), a 30 foot setback is required. The current residence has an approximately 13 foot side yard setback along Hutton Street. The detached garage at 37 S Summit Ave is also legally non-conforming as it exceeds the size limitations for detached garages per §24-163 (b) *Garages, as accessory structures in residential zones.*

ZONING AND SITE PLAN HISTORY:

The subject properties were incorporated into the Town of Gaithersburg with the boundary expansion passed by the Maryland State Legislature in 1888.

Master Plan Land Use and Zoning:

The subject properties were zoned R-90 with the adoption of ordinance O-2-65 on April 5, 1965, which repealed and reenacted the City's zoning ordinance and adopted the official zoning map. The zoning for the properties has not changed since 1965. A resolution, R-50-78, was passed in 1978 denying zoning map application Z-204 requesting rezoning the properties from R-90 to R-O (Planned Residential). The resolution cited incompatibility with surrounding residential uses as a reason for denial, claiming that while there had been some changes in intensity of uses in the surrounding

neighborhood, the changes that had occurred up until that point were not sufficient justification for the rezoning.

The properties are included as Map Designation 32 in the 2009 Master Plan Land Use Element. The Land Use Element recommends rezoning from R-90 to CBD and adopting a commercial-office-residential land use designation for the properties. While not a part of the Olde Towne Master Plan, the properties are immediately adjacent to the CBD zoned area included in the Olde Towne Master Plan. Per the 2009 Land Use Element, these properties provide “an opportunity to create a transitional gateway in to Olde Towne while enhancing the visual connection with the [Frederick Avenue] Corridor” (pg. 82). The 2009 Land Use Element also notes that future commercial/office uses would be “consistent with the existing adjacent uses along Summit and Frederick Avenues” and that redevelopment should “be sensitive to and in scale and visual character with the adjoining residential neighborhood” (pg. 82).¹

Site Plan History:

The main residences at 35 and 37 S Summit Ave were built in 1949 and 1942, respectively, and the City has no record of any approved site plans. The detached garage on 37 S Summit Ave was built in 1991.

NEIGHBORHOOD LAND USE AND ZONING:

The surrounding area consists of single-family residential neighborhoods, City municipal buildings, a church, a school and some office uses. The MARC rail station and other office and commercial uses in Olde Towne are within walking distance. The properties to the east and south of the subject properties are zoned R-90 and contain single-family detached residences. City Hall, zoned CBD, abuts the properties to the north. To the west across S Summit Ave is a church and school, zoned R-90, and a medical office, zoned R-B (Residential Buffer).

¹ Exhibit 7. 2009 Land Use Element, Map Designation 32

PUBLIC FACILITIES:

Section 4-204 of the Maryland Land Use Code requires the City to consider adequate public facilities in their evaluation of a zoning map amendment (rezoning) request. Staff has evaluated the adequate public facilities in accordance with Article XV, Adequate Public Facilities, of Chapter 24, Zoning. This includes §24-243 through §24-248 of the Article.

Water and Sewer Services and Public Utilities

The subject properties maintain W-1 and S-1 category designation (areas served by community systems which are either existing or under construction). Service does exist and, therefore, the Application complies with the requirements of the City's Adequate Public Facility Ordinance (APFO) for water and sewer, § 24-247.

Fire and Emergency Services

The subject properties are currently within the ten-minute response areas of three Montgomery County Fire and Rescue stations: Station 8 (Gaithersburg), Station 28 (Gaithersburg/Muncaster) and Station 32 (Travilah). Therefore, adequate fire and emergency services are provided as required per §24-248.

Traffic Impact and Transportation

Since there is no site plan as part of this application, there is no requirement to evaluate the traffic generated from the site as noted in §24-245. The APFO requires a Traffic Impact Study if any new development is predicted to increase peak hour trips by 30 or more. Staff notes that the Applicant's intention, as stated in the Request and Justification Statement, is to maintain the properties as single-family detached residences for the immediate future, and as such no additional peak hour trips would be generated.

Staff notes that the subject properties are serviced by Ride On Bus routes 55 and 101 as well as a MARC station within a 1,000 foot walking distance.

Schools

The subject properties are located in the Gaithersburg Cluster and are served by Rosemont Elementary, Forest Oak Middle, and Gaithersburg High. The school capacity standard of the APFO is applied at preliminary site plan. As these homes are preexisting and the Applicant is not proposing redevelopment, only a rezoning, the school capacity standard of the APFO does not apply. Staff notes however, no schools serving the subject properties are in moratorium according the school capacity standard of the APFO, and further, the existing residential is already accounted for in the current Montgomery County student generation rates.

SUMMARY:

The Applicant has submitted for consideration Zoning Map Amendment Application Z-8814-2021, rezoning from the R-90 (Medium Density Residential) Zone to the CBD (Central Business District) Zone. This is a complete application as defined by §§24-196 and 24-197 for standard method zoning map amendments and no site plan is required. A joint public hearing with the Mayor and City Council and the Planning Commission has been scheduled for April 19, 2021.