

Case No.: A-9982-C

Applicant: KB Brandywine Land, LC

(Project Name – Townes of Brandywine)

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,  
SITTING AS THE DISTRICT COUNCIL

ZONING ORDINANCE NO. 27- 2008

AN ORDINANCE to amend the Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland, by rezoning property to the R-T Zone, with conditions.

WHEREAS, Application No. A-9982-C was filed for approximately 30.3 acres of land in the R-R Zone, located on the north side of Accokeek Road and the south side of Brandywine road, approximately 700 feet west of Branch Avenue, in Brandywine, Maryland, to rezone the property to the R-T Zone; and

WHEREAS, the application was reviewed by the Technical Staff, which filed recommendations with the District Council; and

WHEREAS, the application was advertised and the property posted prior to public hearing, in accordance with all requirements of law; and

WHEREAS, the Zoning Hearing Examiner held a public hearing on the application and filed recommendations with the District Council; and

WHEREAS, having reviewed the record and the testimony and exhibits presented at the public hearing, the District Council has determined that the request to amend the Zoning Map should be granted, in accordance with Section 27-433 (d) of the Zoning

Ordinance, and the subject property should be rezoned to the R-T Zone, to allow the applicant to construct metropolitan dwelling units, as proposed; and

WHEREAS, to protect adjacent properties and the general neighborhood, this application is approved subject to conditions; and

WHEREAS, as the basis for this action, the District Council adopts the following as its findings of fact and conclusions of law in this case.

A. The District Council adopts as its own the findings of the Technical Staff, and staff's conclusions, as stated in the Technical Staff Report dated 9 May 2007. The later report by staff, dated September 2007, does not reflect the Council's views of the neighborhood and property under discussion, nor does it give a fair statement of the change – mistake rule, as it applies to the property.

B. The District Council agrees with applicant and staff that the proposed R-T rezoning is justified and supported by the observation, as earlier presented, that the R-R zoning of the subject property in the 1993 Subregion V Master Plan and Sectional Map Amendment was the result of mistake. The R-R zoning of 1993 was always intended as a holding zone, in any event, subject to submission of an appropriate comprehensive design zone application for the property. The instant metropolitan dwelling unit application is not technically for a comprehensive design zone, but it serves the same purposes, as it involves detailed site plan and architectural elevations review of a significant residential project in the neighborhood.

The Master Plan for Subregion V and its predecessor plans had proposed

low- to medium-density residential development in the subject property's vicinity. The

present R-T application, with metropolitan dwelling units, is consistent with the vision in the 1993 Master Plan. The R-R zoning in the 1993 SMA was not consistent with that vision.

C. Moreover, there have been, in and adjacent to the neighborhood of the subject property, the neighborhood defined by staff, changes in neighborhood character which the Council would agree are substantial. As suggested by the applicant, the neighborhood has seen change in its residential character – and in the character of areas just to the south, just above the County line – through road realignments and on-going residential projects. The Master Plan states that it should be interpreted with some flexibility, to respond to changing conditions. The R-R Zone was to serve as a base density zone until applications for comprehensive design zones were made to develop individual properties in and around the Brandywine Special Study Area. The density and intensity of development envisioned in 1993 for the northern portion of the Brandywine Special Study Area may never come to fruition.

The realignment of C-527 constitutes a substantial change. The roadway would be relocated from running along the western boundary of the property to alignments which bisect the property, thus changing the character of the neighborhood and the subject property itself.

Without the employment and high density residential uses south of Accokeek Road, the focus of the subject property is to provide a buffer and transition

between the Euclidian commercial zones north of Brandywine Road and the low density Euclidian residential zones south and west of the property. The R-T Zone will provide the required transition because it will allow for a development with metropolitan townhouses.

The rezoning from Rural Residential (R-R) to Residential Townhouse (R-T) will fulfill a number of visions and residential planning guidelines of the Master Plan and special study area. The metropolitan townhouses will provide a moderate density buffer and transition between commercial uses north of Brandywine Road and the lower-density, single-family detached development to the west and south.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. The Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland, is hereby amended by rezoning the property that is the subject of Application No. A-9982-C from the R-R to the R-T Zone.

SECTION 2. The rezoning approved herein is subject to the following conditions:

1. The proposed townhouse development shall consist of one-family attached metropolitan dwelling units with a maximum density of six dwelling units per acre.
2. The Master Plan future 80-foot-wide Collector shall be aligned on the Preliminary Plan of Subdivision to avoid impacting regulated environmental features to the extent practicable. Any unavoidable impacts will be detailed in a variation request for impacts to the expanded buffer and/or wetlands, submitted at the time of Preliminary Plan of Subdivision application. The applicant shall work with the State Highway Administration to locate the dedication for the 80-foot-wide collector in a mutually

acceptable location during the Preliminary Plan stage.

3. If portions of Accokeek Road are to be closed as part of the Master Plan improvements, the applicant shall show alternative access points at the Preliminary Plan of Subdivision stage.

4. The Preliminary Plan of Subdivision application and the Detailed Site Plan application shall include recreational facilities (public and private) for the recreational needs of the proposed development.

5. The Preliminary Plan of Subdivision application and the Detailed Site Plan application shall include the location and details for an eight-foot-wide, asphalt master plan trail along the property's frontage along C-527.

6. The Preliminary Plan of Subdivision application and the Detailed Site Plan application shall address views to and from the J. E. Hunt Residence Historic Resource Site to minimize potential visual impact of the development. The Detailed Site Plan application shall address bufferyard requirements for the Historic Resource according to the requirements of the Landscape Manual.

7. The Tree Conservation Plans shall show on-site all woodland conservation required by the Woodland Conservation Ordinance.

8. A 40-foot-wide buffer of preserved or planted vegetation adjacent to Accokeek Road shall be shown on the final plats as a scenic easement, and the following note shall be placed on the plats:

"Scenic easements described on this plat are areas where the

installation of structures and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is permitted.

SECTION 3. This Ordinance shall take effect initially on the date of its enactment, as conditionally approved, and shall become effective when the applicant accepts in writing the conditions in Section 2.

Enacted this 27<sup>th</sup> day of October, 2008, for initial approval, by the following vote:

In Favor: Council Members Dean, Bland, Campos, Exum, Harrison, Knotts, Olson and Turner

Opposed:

Abstained:

Absent: Council Member Dernoga

Vote: 8-0

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND,  
SITTING AS THE DISTRICT COUNCIL  
FOR THAT PART OF THE MARYLAND-  
WASHINGTON REGIONAL DISTRICT IN  
PRINCE GEORGE'S COUNTY,  
MARYLAND

BY: \_\_\_\_\_  
Samuel H. Dean, Chairman

ATTEST:

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Redis C. Floyd  
Clerk of the Council

Case No.: A-9982-C

Applicant: KB Brandywine Land, LC

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,  
SITTING AS THE DISTRICT COUNCIL

FINAL CONDITIONAL ZONING APPROVAL

AN ORDINANCE to incorporate the applicant's acceptance of conditional zoning and to grant final conditional zoning approval.

WHEREAS, the District Council in approving Application No. A-9982-C, to rezone the subject property from the R-R Zone to the R-T Zone, attached conditions; and

WHEREAS, the District Council, having reviewed the application and the administrative record, deems it appropriate to accept the applicant's consent to the conditions and to approve final conditional rezoning.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

SECTION 1. Final conditional zoning approval of Application No. A-9982-C is hereby granted. The applicant's written acceptance of the conditions referred to above, at the time of initial conditional zoning approval, is hereby incorporated into this amendment of the Zoning Map for the Maryland-Washington Regional District in Prince George's County, Maryland.

SECTION 2. Use of the subject property as conditionally reclassified shall be subject to all requirements in the applicable zones and to the requirements in the conditions referred to above. Failure to comply with any stated condition shall constitute a zoning violation and shall be sufficient grounds for the District Council to annul the rezoning approved herein; to



revoke use and occupancy permits; to institute appropriate civil or criminal proceedings; or  
to

take any other action deemed necessary to obtain compliance.

SECTION 3. This Ordinance is effective \_\_\_\_\_, 2008, the date of receipt of  
the applicant's acceptance of the conditions imposed.

COUNTY COUNCIL OF PRINCE GEORGE'S  
COUNTY, MARYLAND, SITTING AS THE  
DISTRICT COUNCIL FOR THAT PART OF  
THE MARYLAND-WASHINGTON REGIONAL  
DISTRICT IN PRINCE GEORGE'S COUNTY,  
MARYLAND

BY: \_\_\_\_\_  
Samuel H. Dean, Chairman

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council