



McLean Citizens Association Resolution
Barth Rezoning
RZ 2012-DR-012
Tax Map 40-3 ((1)) 0082
November 7, 2012

Whereas, Christopher and Karen Barth are seeking to rezone their property at 7250 Idylwood Road from the R-2 to R-3 residential district; and,

Whereas, the property, consisting of 0.93 acres with an existing single-family dwelling and detached garage, cannot be subdivided because the Fairfax County Zoning Ordinance limits density in the R-2 district to 2 homes per acre; and,

Whereas, rezoning to R-3 would permit the applicants to subdivide the property and build a second single-family detached dwelling, and,

Whereas, the applicants purchased the property in May 2011 with the understanding that the property could be subdivided; and,

Whereas, a Fairfax County employee verbally advised the applicants the property could be subdivided with its existing R-2 zoning, however it would take 4 weeks to issue a written determination; and,

Whereas, the applicants declined to wait for written determination and entered into a real estate transaction without retaining a lawyer or seeking expert legal advice; and,

Whereas, the Virginia Supreme Court holds that if the purpose of rezoning property is solely to serve the private interests of one or more landowners, such rezoning represents an arbitrary and capricious exercise of legislative power, constituting illegal spot zoning, but if the purpose of rezoning is to further the welfare of the entire county or city as a part of an overall land use plan, then such rezoning would not constitute illegal spot zoning, even though private interests are simultaneously benefited; and,

Whereas, the applicants are proffering to replace the sidewalk along Idylwood Road adjacent to their property and grade it to ADA (Americans with Disabilities Act) compliance, a contribution of \$2,679 to the Fairfax County Park Authority and a contribution to the Housing Trust Fund of a sum equal to 0.5% of the value of the proposed new house; and,

Whereas, notwithstanding the support voiced by the Lemon Road Civic Association, the public benefit of these proposed proffered conditions is marginal and does not meet the standard defined by the law; and,

Whereas, approving the proposed increase in property density and proffers would not be out of public necessity, convenience, general welfare, benefit and value to Fairfax County, or good zoning practice and precedent;

Now, therefore, be it resolved that the McLean Citizens Association opposes the rezoning RZ 2012-DR-012 as an illegal spot rezoning.

Approved by the MCA Board of Directors
Date 11/7/2012

McLean Citizens Association, P.O. Box 273, McLean, Virginia 22102

cc: John Foust, Dranesville District Supervisor
Jay Donahue, Dranesville District Planning Commissioner
Ben Wiles, Staff
Christopher and Karen Barth
Fairfax County Planning Commission
Fairfax County Board of Supervisors