



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**Staff Report:**      **Preliminary Plan 120070720: Edgemoor, Phase IV**  
                             **Site Plan 820070230: Edgemoor, Phase IV**

**ITEM #:** \_\_\_\_\_

**MCPB HEARING**

**DATE:** May 22, 2008

**REPORT DATE:** May 12, 2008

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief  
Cathy Conlon, Supervisor  
Robert Kronenberg, Supervisor  
Development Review Division

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**APPLICATION  
DESCRIPTION:**

Creation of one lot for the construction of a 12-unit multi-family residential building consisting entirely of MPDUs in the TS-R Zone; located on Hampden Lane approximately 300 feet east of Arlington Road within the Bethesda CBD Sector Plan.

**APPLICANT:** Montgomery County Housing Opportunities Commission

**FILING DATE:** May 1, 2007

**RECOMMENDATION:** Approval with conditions

**EXECUTIVE  
SUMMARY:**

The proposed development would create one lot out of existing Lot 5, Block 24D and an adjacent five-foot section of Lot 4, Block 24D for a transitional housing project with 12 MPDU units. This project is part of a land-swap agreement with Hampden Lane Associates, LLC that is subject to the approval of Preliminary Plan 120070500 and Site Plan 820070100. The subject project provides no parking on site, contains active and passive recreation facilities, and offers a traditional one-family front porch and lawn. The adjacent streets will be upgraded to meet the Sector Plan streetscape standards. The project is subject to the Binding Elements of the Development Plan Amendment 00-2 as amended by DPA 06-2.

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## SECTION 1: CONTEXT AND PROPOSAL

### SITE DESCRIPTION

#### Vicinity

The subject property is located midblock on Hampden Lane between Arlington Road and Woodmont Road. This area is at the southern end of the Transit Station Residential District as delineated by the Sector Plan, and the proposed development is approximately 1,200 feet from the Bethesda Metro Station.



*Vicinity Map*

The subject property is adjacent to the City Homes townhouse development and the proposed Hampden Lane 60-unit multi-family residential building to the west. The property to the east is improved with a multi-family apartment building. The townhouses behind the property are 55 feet to the roof peak and oriented perpendicular to the proposed development. The proposed Hampden Lane project is a 71-foot tall building. There are no windows on the townhouse façades that face the subject property.



A 5-foot sliver of Lot 4 will be incorporated into Lot 5 following recordation of the Hampden Lane project record plat. The County currently owns Lot 3 and will swap that lot to consolidate these two areas for a total of 0.17 acres. Lot 5 is currently occupied by a one-family detached residential building, currently being used as a non-residential professional office.

Across from the subject site is a small shopping center, the Shoppes of Bethesda. It is a simple "L"-shaped building with a small parking lot between the building and Hampden Lane. Another commercial building with a first-floor parking structure is located on the southeast corner of Arlington Road and Hampden Lane. This C-2-zoned area is within the Arlington Road District of the Sector Plan. The southern side of Hampden Lane has parallel parking. Across Arlington Road is the Bethesda Public Library, a low-rise brick building.

### **Site Analysis**

The existing site (after consolidation and right-of-way dedication) is a rectangular-shaped area of 5,344 net square feet with approximately 70 feet of frontage along Hampden Lane. The site is essentially flat and contains no historic structures or sites located on any of the properties. A Tree Save Plan was required for this proposal, but was determined to be unnecessary as there are no significant specimen trees or forest stands on site. The newly created parcel will be completely cleared and graded.



*Aerial Photo Looking North*

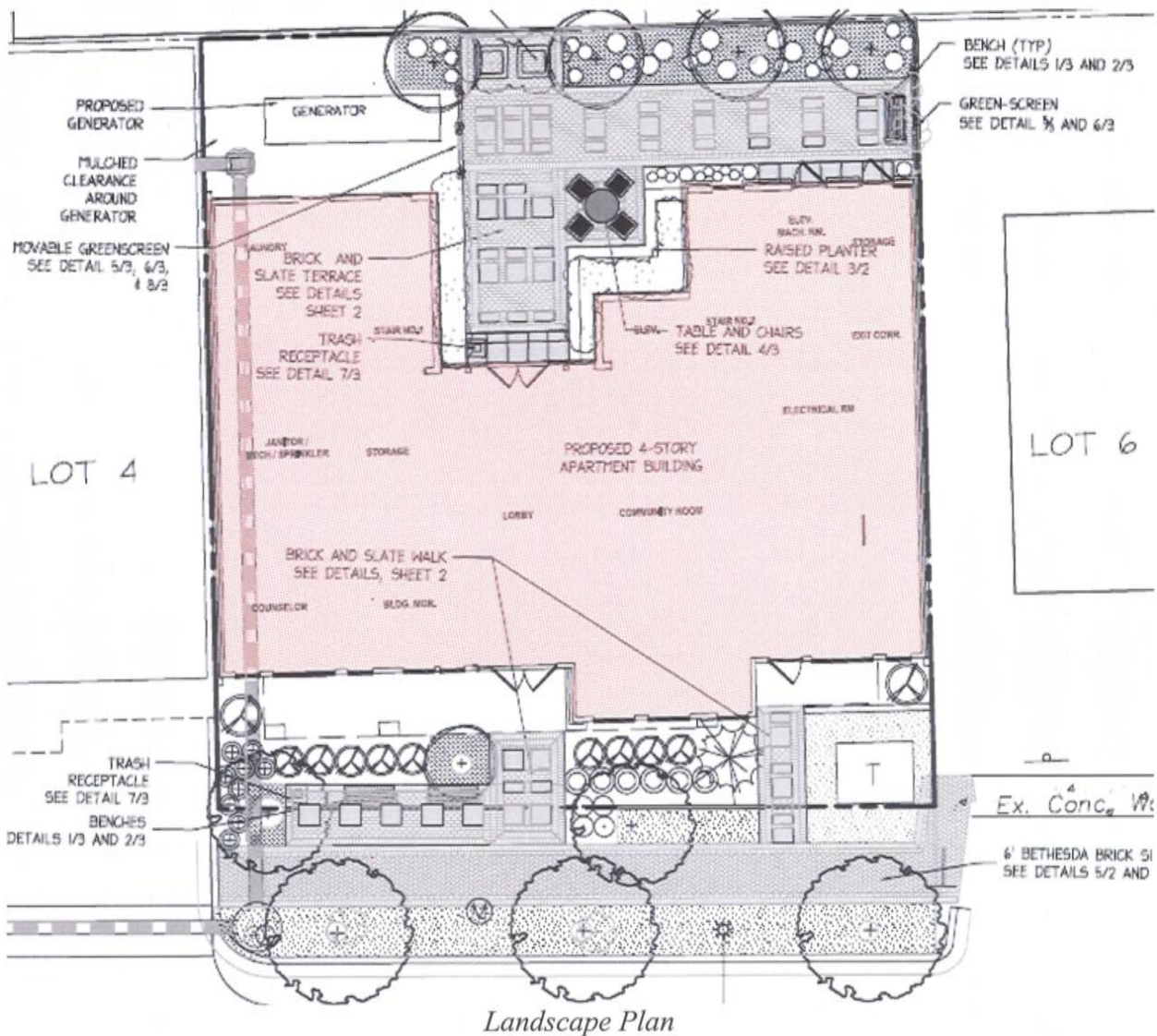


## PROJECT DESCRIPTION

### Previous Approvals

#### *Zoning/Development Plan*

The subject property was rezoned from the R-60 Zone to the TS-R zone by Local Map Amendment G-842 and the associated Development Plan Amendment (DPA) 06-2. This DPA amended an earlier approval (DPA 00-2) that proposed the HOC project on Lot 3 (prior to the land-swap agreement). The binding elements for this plan are listed in the conditions of approval under the Site Plan Recommendation section. The Opinion issued by the County Council is appended to this Staff Report.



### Proposal

The proposed development is a four-story apartment building consisting of 12 MPDU units for transitional housing. The façades on each side are brick and there are two porches on the street

front. A courtyard for passive recreation for the residents is tucked into the back of the property; the interior contains a party room for gatherings.

Simple, traditional landscaping is provided along the front foundation where the sidewalk is expanded to provide a small sitting area, and two walkways connect the street sidewalk to the porches. The back courtyard is primarily paved but also provides plantings along the adjacent townhouse foundations; a green-screen separates the courtyard from Lot 6 to the east. The plantings are a mixture of flowering ground covers and shrubs as well as evergreens and ornamental trees in the more open areas. The contrasting textures, forms, interesting colored bark, and variable flowering times will provide interest throughout the year.

The site is within the Bethesda Parking Lot District and no parking is provided on site; calculations provided are for information only. There is no driveway or vehicular access.

## **COMMUNITY OUTREACH**

The Applicant has complied with all submission and noticing requirements and staff has not received correspondence from any citizens or community groups as of the date of this report.

## **SECTION 2: PRELIMINARY PLAN REVIEW**

### **Master Plan**

This plan complies with the recommendations of the Bethesda CBD Sector Plan. The purpose of the Transit Station Zone and the standard for public facilities and amenities clearly states that development within this Zone is provided a large degree of flexibility regarding development standards but it “must comply substantially to the facilities and amenities recommended by the approved and adopted master or sector plan...provide safe and efficient circulation, adequate public open space and recreation, and insure [sic] compatibility of the development with the surrounding area”.

The Bethesda CBD Sector Plan delineates this site as part of the larger Transit Station Residential (TSR) District and the Metro Core, thus it advocates that development within this area be bike rider-friendly and designates the roads as local pedestrian routes. The proposed development continues the sidewalk along Hampden Lane and adequate vehicular lane widths to safely accommodate bicycles as well as pedestrians. The required right-of-way dedication along Hampden Lane is delineated on the Preliminary and Site Plans.

The Sector Plan recommendations for development along Hampden Lane designates the TSR District as a place for mixed-use and office uses, in addition to high-density housing. The proposed preliminary plan complies with these recommendations by increasing the diversity of housing and building types.



## Development Plan Conformance

The proposed preliminary plan must comply with the binding elements listed in the Local Map Amendment G-842 and DPA 00-2 as amended by DPA 06-2.

- a. The building will have a maximum height of 48 feet.
- b. The development will have a maximum density of 12 dwelling units.
- c. The development will comply with the requirements of Chapter 25A.
- d. Recreation and parking for the HOC transitional housing to be relocated on Lot 5, Block 24D and will be considered by the Planning Board at site plan review.

Staff's review of the preliminary plan and the site plan, where appropriate, reveals that the development will comply with these binding conditions.

## Compliance with the Zoning Ordinance and Subdivision Regulations

The lot was reviewed for compliance with the dimensional requirements for the TS-R zone as specified in Chapter 59, the Montgomery County Zoning Ordinance, and found to comply with all applicable provisions. The lot as proposed will meet all the dimensional requirements including, but not limited to, area, frontage, width, height, and setbacks in the TS-R Zone and complies with Chapter 50, the Montgomery County Subdivision Regulations. Details of this review are found in the Subdivision Data Table. Although the proposed lot is less than 18,000 square feet (the minimum area), it may be approved because the parcel is located adjacent to or confronting another parcel either classified in or under application for the TS-R zone and the combined parcels are subject to a single development plan.

*Subdivision Data Table*

<b>Plan Name: Edgemoor Phase IV</b>				
<b>Plan Number: 120070720</b>				
<b>Zoning: TS-R</b>				
<b># of Lots: 1</b>				
<b>PLAN DATA</b>	<b>Zoning Ordinance Development Standard</b>	<b>Proposed for Approval by the Preliminary Plan</b>	<b>Verified</b>	<b>Date</b>
Minimum Lot Area	18,000 sq. ft. <sup>1</sup>	7,445 gross sq. ft. is minimum proposed	EG	5/8/08
Lot Width	n/a	70 ft. is minimum proposed	EG	5/8/08
Lot Frontage	n/a	70 ft. is minimum proposed	EG	5/8/08

<sup>1</sup> Or less subject to Section 59-C-8.41.

PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	Date
Setbacks				
Front	n/a	0 ft.	EG	5/8/08
Side	n/a	0 ft.	EG	5/8/08
Rear	n/a	0 ft.	EG	5/8/08
Height	48 ft. Max.	May not exceed maximum <sup>1</sup>	EG	5/8/08
Max Resid'l d.u. per acre	150 d.u. per acre	79 d.u. per acre (12 total)	EG	5/8/08
MPDUs	Yes	100%	EG	5/8/08
FAR	2.5	2.5	EG	5/8/08
Site Plan Req'd?	Yes		EG	5/8/08
<b>FINDINGS</b>				
<i>SUBDIVISION</i>				
Lot frontage on Public Street		Yes	EG	5/8/08
Road dedication and frontage improvements		Yes	Agency Letter	12/7/07
Environmental Guidelines		N/a	Staff memo	7/30/07
Forest Conservation		N/a	Staff memo	7/30/07
Master Plan Compliance		Yes	EG	5/8/08
Stormwater Management		Yes	Agency letter	8/30/07
Water and Sewer (WSSC)		Yes	EG	7/30/07
10-yr Water and Sewer Plan Compliance		Yes	Agency comments	7/30/07
Local Area Traffic Review		N/a	Staff memo	7/30/07
Policy Area Mobility Review		N/a	Staff memo	5/8/08
Transportation Management Agreement		No	Staff memo	7/30/07



School Cluster in Moratorium?	No	EG	5/8/08
School Facilities Payment	Yes	EG	5/8/08
Fire and Rescue	Approval required prior to certified site plan	EG	5/8/08

## **Adequate Public Facilities**

### Roads and Transportation Facilities

#### *Vehicular and/Pedestrian Access*

In conjunction with the Hampden Lane proposal, the proposed development will reduce the total paving width of Hampden Lane but maintain the number of lanes to preserve the existing traffic pattern. Improvements to the curb and streetscape are required and the Applicant will dedicate an additional 5-feet of right-of-way along Hampden Lane. With the improvements required by the Montgomery County Department of Public Works and Transportation, vehicular and pedestrian access is found to be safe and adequate.

#### *Local Area Transportation Review*

The proposed lot does not generate 30 or more vehicle trips during the morning or evening peak-hours and is, therefore, not subject to Local Area Transportation Review. The site is located in the Bethesda Transportation Management District but because this project is a multi-family development with fewer than 25 employees, it will not be required to enter into a Traffic Mitigation Agreement to participate in the Bethesda Transportation Management Organization.

#### *Policy Area Mobility Review (PAMR)*

Under the *FY 2007-2009 Growth Policy*, the PAMR test is required because the preliminary plan was filed after January 1, 2007, and the proposed multi-family development generates over 3 peak-hour trips within the weekday morning and evening peak hours. However, the trips generated by 12 mid-rise apartments are mitigated by being conveniently located near a Metrorail Station as shown below:

Weekday Peak Hour Trips	
Morning	Evening
Starting Condition using Countywide Trip-Generation Rates	
6	10
Resultant Traffic Condition using Bethesda CBD Trip-Generation Rates	
5	5

Reduction: Starting Condition minus Resultant Traffic Condition	
1	5
PAMR 30% Required Reduction of New Site-Generated Trips	
1	3
Excess No. of Vehicular Trips Reduced over the PAMR Requirement	
0	2

PAMR requirements are satisfied simply by being located in the Bethesda Metrorail Station Policy Area.

#### Other Public Facilities

Other public facilities and services are available and will be adequate to serve the proposed dwelling units. Schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. Elementary schools in this area are currently operating between 105% and 120% of program capacity and, therefore, the project is subject to a School Facilities Payment. Water and sewer was found to be existing at the site boundaries and adequate to serve the project. MCDPS approved a stormwater management concept on April 30, 2007 that will control runoff from the site. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles, however, the location of existing fire hydrants must be shown on the preliminary plan before they will grant final approval.

#### **Environment**

According to the approved Natural Resources Inventory/Forest Stand Delineation Plan there are no forest stands, floodplains, or specimen trees on the existing site. As noted previously, a Tree Save Plan was created for the subject property but deemed unnecessary by M-NCPPC Environmental Planning Staff. This project is exempt from the Forest Conservation Law.

Depending on the timing of the building permit, this building may be subject to the Montgomery County Green Buildings Law, Bill 17-06. As such, staff recommends that the Applicant take steps to develop a comprehensive plan in order to meet LEED certification by incorporating design features such as waste reduction plans, green building materials, energy saving measures, green roofs, and other measures.



## **PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS**

Approval of preliminary plan 120070720, pursuant to Chapter 50 of the Montgomery County Code and subject to the following conditions:

1. Approval under this preliminary plan is limited to 1 lot for 12 multi-family dwelling units. 100 percent of the dwelling units must be Moderately Priced Dwelling Units (MPDUs).
2. Prior to plat recordation of the lot as shown on the preliminary plan, outlot A, created by Preliminary Plan #120070500, must be conveyed to the Applicant and incorporated into the new lot.
3. The Applicant must dedicate 5 additional feet of right-of-way along the property frontage for a total of 30 feet from the centerline of Hampden Lane.
4. The Applicant must construct all road improvements within the rights-of-way as shown on the approved preliminary plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By \_\_\_\_\_" are excluded from this condition.
5. The record plat must reflect a public use and access easement over all areas indicated as "Public Use Space" on the preliminary, site and landscape plans as approved by the Planning Board.
6. The record plat must reflect all areas under Homeowners Association ownership, if applicable, and specifically identify stormwater management parcels.
7. No clearing, grading or recordation of plat prior to Certified Site Plan approval.
8. Final location of buildings, sidewalks, and amenities to be determined at Site Plan.
9. The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated April 30, 2007.
10. The Applicant must comply with the conditions of the Montgomery County Department of Public Works and Transportation (MCDPWT) letter dated December 7, 2007, unless otherwise amended.
11. The Applicant must satisfy provisions for access and improvements as required by MCDPWT prior to recordation of plat.
12. Before any building permit is issued, the applicable School Facilities Payment required by the 2007-2009 Growth Policy must be paid to MCDPS.

5. Treat rooftops as sculptural elements that contribute to the visual interest of the skyline. Where appropriate, consider rooftops as usable outdoor space for recreational or commercial purposes.

The proposed building has a traditional rooftop as well as porch roofs that break up the scale of the building and provide interesting variation along the street wall.

6. Allow a diversity of architectural styles that achieve good building proportions, reduce the sense of bulk, and maintain human scale. Clearly identify the building entrance in the façade design and locate it at street level.

The proposed building is a traditional building in contrast to the more modern multi-family building proposed to the west. The proportions, style, and detailing will maintain the appropriate scale for residents and pedestrians along Hampden Lane.

7. Achieve compatibility with nearby residential areas through techniques such as stepped down heights, articulated building walls and façade treatments, and the architectural means designed to minimize building bulk and shadow impacts and create a gradual transition.

The setbacks and low building height ensure compatibility with nearby townhomes, apartments and proposed site plans.

8. Achieve energy efficiency in the form and design of the building by such means as recessed windows or awnings to shade interiors from direct sunlight.

The porches, trees, fenestration, and orientation will help create an energy-efficient building.

### **Development Standards**

The proposed development is designated Transit Station – Residential (TS-R), which was created to provide locations where multiple-family residential development already exists or where such development is recommended by an approved and adopted master plan. The development standards are minimal within the TS-R Zone because these projects are subject to the provisions of a development plan approved by the District Council.

The purpose of the TS-R Zone includes: promoting effective use of transit stations and areas; providing residential and compatible uses within walking distance of transit stations; providing a range of residential densities and price ranges; and providing freedom in building design and site layout that will be harmonious with the context. The proposed development provides 12 multi-family units – all MPDUs – within two blocks of the Bethesda Metro Station. The building has been designed as a low- to mid-rise apartment building well within the height recommendations of the Sector Plan. The site has been detailed and designed to create a comfortable, functional environment for daily life.



The following data table indicates the proposed development's compliance with the Zoning Ordinance.

*Project Data Table for the TS-R Zone*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Approved w/the Binding Elements</b>	<b>Proposed for Approval</b>
<b>Min. Gross Tract Area (square feet)<sup>2</sup></b>	18,000	n/a	7,445 <sup>3</sup>
<b>Max. Building Height (feet)</b>	n/a	48 <sup>4</sup>	48
<b>Max. Floor Area Ratio (FAR)</b>	2.5	2.5	2.5
<b>Max. Dwelling Units per Acre</b>	150	12 total	12 total
<b>Building Setbacks (feet)</b>			
Right-of-Way	n/a	n/a	0
Rear (north property line)	n/a	n/a	0
Side (east property line)	n/a	n/a	0
<b>Open Space (% of net lot)</b>			
Public Use Space	10	10	10
Active/Passive Recreation Space	20	25	48
<b>Total</b>	30	35	58
<b>Parking Spaces</b>	6	n/a	0 <sup>5</sup>

#### **MPDU Calculations**

<b>Unit Distribution</b>	<b>One-Bedroom</b>	<b>Total</b>
Total Units:	12	12
Total MPDUs Provided:	12	12

<sup>2</sup> Net lot area is 5,344 square feet after previous and proposed dedication.

<sup>3</sup> Gross tract area may be less than 18,000 square feet if site is recommended TS-R in the sector plan and adjacent to other TS-R-zoned land that together are subject to a single approved development plan.

<sup>4</sup> Measured from the building height measurement point determined by DPS.

<sup>5</sup> Property is within the Bethesda Parking District and not required to provide any parking on-site.

## FINDINGS

1. *The site plan conforms to all non-illustrative elements of the development plan certified by the Hearing Examiner under Section 59-D-1.64 and all binding elements of the approved Zoning Application.*

The proposed development is consistent with the approved Development Plan Amendments (DPA 00-2 as amended by DPA 06-2) regarding land use, density, location, building height and development guidelines. In addition, the proposed development conforms to the following binding elements from these Development Plan Amendments and the Approved Zoning Application G-842. Parking has been determined to be unnecessary given the usable land area which is instead devoted to recreation.

- a. The proposed building will have a maximum height of 48 feet.
- b. The development will have a maximum density of 12 dwelling units.
- c. The development will comply with the requirements of Chapter 25A.
- d. Recreation and parking for the HOC transitional housing to be relocated on Lot 5, Block 24D and will be considered by the Planning Board at site plan review.

2. *The Site Plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the Transit Station – Residential (TS-R) zone as demonstrated in the project Data Table on page 14. In particular, the proposed development meets the requirements for an exception to the minimum required area; the permitted density of development; less than the permitted density of dwelling units per acre; and more than the required amount of public use space and recreational open space. There are no height restrictions or setbacks in the TS-R Zone – these were established during the Development Plan and are being retained with this site plan application. Those development standards approved with the DPA 06-2 are also met.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

- a. Locations of buildings and structures

The proposed building provides a relatively low-density residential use on an optimal site for accessibility to mass transit and neighborhood facilities. The design and layout of the building is compatible with the surrounding buildings in terms of massing, detailing, and height. The street entrances, porches, and public use space provided in the front of the building will help create an active and engaging pedestrian experience. Both the use and the design elements of the architecture provide an adequate, safe, and efficient building on the subject site.

- b. Open Spaces

The plan proposes 10 percent on-site Public Use Space along the frontage of Hampden Lane. This area provides a traditional front yard feel but also provides an expanded sidewalk and benches integrated into the landscape. The public open space



is complemented by an additional 48% on-site active and passive recreational space provided for residents. This space includes a lobby, party room, and outdoor terrace. Each of these spaces has a distinct atmosphere and provides the variety necessary for many different types of activities and groups.

c. Landscaping and Lighting

The proposed landscaping on the site consists of traditional foundation plantings along the foundation of the building and street trees along Hampden Lane. Bark color, foliage texture, and flowers will provide interest and beauty throughout the year. The street trees will be installed per the Bethesda Streetscape Plan details for trees within a lawn panel. The shade provided by these trees and the plantings along the pedestrian paths provides an adequate, safe, and efficient environment for residents and passers-by.

Due to the minimal frontage, the lighting plan consists of a streetscape-specified Washington Globe Luminaire on Hampden Lane. Other lighting is building-mounted to provide safe pedestrian ingress and egress.

d. Recreation Facilities

There are no required recreation facilities for an apartment house with only 12 units. An interior game room and several sitting areas are provided, however, in addition to the facilities at nearby parks.

e. Pedestrian and Vehicular Circulation Systems

Sidewalks along Hampden Lane will be improved to conform to the Bethesda Streetscape Plan. These sidewalks will integrate the development into the existing community and provide safe and efficient pedestrian access to the neighborhood circulation system. The pedestrian environment, as a whole, is adequate, safe, and efficient.

This project will remove a dangerous on-site perpendicular parking layout along Hampden Lane. No curb-cuts, driveways, or parking are provided on site.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The building is compatible with the other existing and proposed town-house and multi-family residential buildings to the north and east and west regarding massing, scale, detailing, and layout.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The subject site plan is exempt from forest conservation law.

The proposed storm water management concept consists of a waiver of water quality control due to the lack of a suitable storm drain system to connect to. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

## **RECOMMENDATION AND CONDITIONS**

Approval of 12 multi-family residential dwelling units, all of which are Moderately Priced Dwelling Units (MPDUs), on one 0.17-acre lot. All site development elements as shown on the site, landscape, and lighting plans stamped by the M-NCPPC on May 5, 2008 are required except as modified by the following conditions:

1. Preliminary Plan Conformance  
The proposed development must comply with the conditions of the approved Resolution for preliminary plan 120070720.
2. Development Plan Conformance  
The proposed development shall comply with the binding elements listed in the Zoning Map Amendment G-842 and associated Development Plan DPA 06-2.
  - a. The building will have a maximum height of 48 feet.
  - b. The development will have a maximum density of 12 dwelling units.
  - c. The development will comply with the requirements of Chapter 25A.
  - d. Recreation and parking for the HOC transitional housing to be relocated on Lot 5, Block 24D will be considered by the Planning Board at site plan review.
3. Lighting  
The Applicant must ensure that each of the following conditions is met:
  - a. Lighting distribution must conform to IESNA standards for residential development.
  - b. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
  - c. Illumination levels, excluding streetscape light fixtures, shall not exceed 0.5 footcandles (fc) at any property line abutting county roads or adjacent residential properties.
4. Streetscape  
The Applicant must construct the Hampden Lane streetscape in conformance with the Bethesda Streetscape Plan. This includes, but is not limited to, providing Littleleaf Linden trees 30 feet on center along Hampden Lane; a minimum 5-foot wide lawn panel with amended soil along Hampden Lane for all street trees; Washington Globe Decorative Luminares 60 feet on center along Hampden Lane and Arlington Road; and a minimum 6-foot wide brick sidewalk with the appropriate brick edging detail. These dimensions are subject to minimal changes due to on-site constraints and underground obstructions and must be coordinated with the layout for the Hampden Lane multi-family development to the west (site plan 820070100).



5. Moderately Priced Dwelling Units (MPDUs)
  - a. The proposed development must provide 12 MPDUs (100%) on-site in accordance with Chapter 25A of the Montgomery County Code. The Applicant is not receiving a density bonus.
  - b. The Applicant must obtain an agreement pertaining to the construction and staging of MPDUs from the Department of Housing and Community Affairs (DHCA) prior to the issuance of any building permits.
6. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated April 30, 2007 unless amended and approved by the Montgomery County Department of Permitting Services.
7. Development Program

The Applicant must construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of Certified Site Plan. The Development Program shall include a phasing schedule as follows:

  - a. Street tree planting must be completed within six months of the issuance of any use and occupancy permits.
  - b. Streetscape improvements, including the seating areas, the indoor game room, and the outdoor terrace, must be completed within six months of the issuance of any use and occupancy permits.
  - c. All on-site landscaping and lighting must be completed within six months of the issuance of any use and occupancy permits.
  - d. Phasing of pre-construction meetings, dedications, sediment/erosion control, or other features.
8. Clearing and Grading

Applicant must ensure that there is no clearing or grading of the subject site prior to M-NCPPC approval of the Certified Site Plan.
9. Certified Site Plan

Prior to Certified Site Plan approval the following revisions shall be included and/or information provided, subject to staff review and approval:

  - a. Minor corrections and clarifications to site details and labeling.
  - b. Minor corrections to coordinate streetscape with Hampden Lane project (site plan 820070100).
  - c. Development Program, Inspection Schedule, Forest Conservation Exemption Letter, and Site Plan Resolution.

## **APPENDICES**

- A. Preliminary Plan
- B. Zoning Map Amendment G-842
- C. Development Plan Amendment 00-2
- D. Development Plan Amendment 06-2
- E. DPWT Approval Letter
- F. DPS Stormwater Management Concept Approval





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## ODGEMOOR – Phase IV

7TH ELECTION DISTRICT -- MONTGOMERY COUNTY, -- MARYLAND

Resolution No.: 15-1617  
 Introduced: September 26, 2006  
 Adopted: September 26, 2006

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
 SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION  
 OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT  
 IN MONTGOMERY COUNTY**

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By: County Council

**SUBJECT:** APPLICATION Nos. G-842 and DPA 06-2 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Pat Harris, Esquire, Attorney for Applicant, Hampden Lane Associates, LLC, OPINION AND RESOLUTION ON APPLICATION Tax Account Nos. 07-00486167, 07-00491005, 07-00990353, 07-00490978, 07-00485733

**OPINION**

Application No. G-842, filed on November 1, 2005 by Applicant, Hampden Lane Associates, LLC (HLA), requests reclassification of approximately half an acre of land on Hampden Lane in Bethesda (Lots 5,4, 2 and Part of 1, of Edgemoor Subdivision, Block 24D, located at 4913, 4915, 4919 and 4921 Hampden Lane) from the R-60 Zone to the TS-R Zone in order to construct a 60-unit multi-family dwelling.<sup>1</sup> DPA 06-2, also filed on November 1, 2005, by Applicant seeks to amend the development plans in LMA's G-721, G-755 and G-769 and DPA's 98-1, 98-2 and 00-2, to allow relocation of the planned Housing Opportunity Commission (HOC) transitional housing from its currently approved location at 4917 Hampden Lane (Lot 3 of Block 24D, Edgemoor) to 4913 Hampden Lane (Lot 5 of Block 24D, Edgemoor). This relocation is made possible by a land swap agreed to by the County and the Applicant in a "Development Agreement" entered into on June 9, 2005. This land swap consists of Applicant trading its Lot 5 to the County in exchange for Lot 3.

The land exchange would allow Applicant to assemble contiguous Lots 1 through 4 of Block 24D (4921, 4919, 4917 and 4915 Hampden Lane) into a single development tract large enough to satisfy the

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<sup>1</sup> Lot 3 (4917 Hampden Lane) is included in the Development Plan, but not the rezoning request because it is already in the TS-R Zone.



TS-R Zone's minimum area requirements. Lot 3, which is in the middle of the tract, had already been rezoned to TS-R in 1998, by LMA G-769, as part of a different development plan by another developer (24 West, Inc.). Lot 3 (also known as "Edgemoor IV")<sup>2</sup> was conveyed by a successor to 24 West, Inc. (HSNK, LLC) to the County in April of 2004 to provide a location for HOC's transitional housing, purportedly in satisfaction of HSNK's MPDU requirements for Edgemoor I, II and III. Lot 5, which would be the new location for the transitional housing under the current plan, is still in the R-60 Zone (as are Lots 4, 2 and 1), so the re-zoning sought in LMA G-842 must occur in order for the development plan amendment sought in DPA 06-2 to proceed.

The building planned by Applicant for Lots 1 through 4 would step up from a height of 33 feet along Arlington Road to 71 feet (not including a 15 foot mechanical penthouse), in the middle of Hampden Lane, and it would include 9 moderately priced dwelling units (MPDUs) in its total of 60 units. As stated above, the HOC building now planned for Lot 5 had been slated to be located on Lot 3. Its design was modified in February of 2000 by DPA 00-2 (DPA Exhibit 45), which changed the proposed use from three townhouses to twelve transitional housing units and modified the proposed structure to a 38 foot tall, brick building. The design plans would remain substantially unchanged.

Both the Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC) and the Montgomery County Planning Board ("Planning Board") recommended approval of LMA G-842 and DPA 06-2. The Planning Board also recommended amending DPA 00-2 by modifying note # 2 on that amended development plan "to indicate that recreation for the 12-unit transitional housing will not be provided in the Edgemoor high-rise building" and by "removing note #3 regarding off-site parking." The Planning Board made these recommendations with the express understanding that it would consider parking and recreation needs for the transitional housing development at site plan review.

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<sup>2</sup> Edgemoor I, II and III are located on Montgomery Lane. Edgemoor I and II (on the south side of Montgomery Lane) became the "CityHomes of Edgemoor" townhouse development, and Edgemoor III (on the north side of Montgomery Lane) became the "Edgemoor Condominium" high-rise.

The Hearing Examiner did not recommend outright denial because he concluded that the subject site would be appropriate for the TS-R Zone. The Applicant challenged the Hearing Examiner's conclusions regarding the proposed development plan and requested oral argument before the Council, which was granted. Oral argument was held on September 19, 2006, at which time the District Council heard argument by both Applicant and the opposition. Based on the entire record, the District Council thereafter voted, six to three, to approve the rezoning to TS-R, as well as the Development Plan in G-842 and the Development Plan Amendment in DPA 06-2.

The subject site (*i.e.*, the combined HLA Property and HOC Property) consists of five lots located on the north side of Hampden Lane, bordered by Arlington Road to the west, garden apartments and Woodmont Avenue to the east and developments on Montgomery Lane (the Edgemoor at Arlington and the CityHomes of Edgemoor) to the north. Combined, the lots have 66 feet of frontage along Arlington Road and about 350 ft. along Hampden Lane. All are within the Transit Station Residential District described in the Bethesda CBD Sector Plan (p. 81).

The HLA Property is comprised of four lots – Part of Lot 1 located at the northeast corner of Hampden Lane and Arlington Road, and moving in an easterly direction, Lot 2, Part of Lot 3 and Lot 4, except for a five-foot wide portion of Lot 4 (running along the entire easterly property line), which will be included in the HOC Property. The HLA Property is essentially a long, narrow rectangle, with a gross tract area of 32,107 square feet. The HOC Property consists of Lot 5 and the five-foot wide portion of Lot 4, for a gross tract area of 5,694 square feet. Lot 5 has 65 feet of frontage along Hampden Lane. The HLA Property slopes gradually upward 12 feet from Arlington Road toward the east, while the HOC Property is generally flat. There are no historic structures or sites located on any of the properties, and each of the five lots is improved with a single family detached residential building, currently being used as non-residential professional offices. The subject site is located about 1,300 feet from the Bethesda Metro Station.



The surrounding area must be identified in a floating zone case so that compatibility can be evaluated properly. It is that area bounded by Edgemoor Lane on the north; Woodmont Avenue, including the properties fronting thereon, on the east; Elm Street on the south; and Arlington Road, including properties fronting thereon, on the west.

The HLA Property and the HOC Property are located in the southern portion of the Transit Station Residential District as delineated by the Sector Plan. In general, the Transit Station Residential District is composed of either multi-family or townhouse structures developed after the adoption of the Sector Plan, garden apartments or preexisting single-family homes, many of which are used for commercial purposes.

Immediately to the north of the HOC Property and most of the HLA Property is the CityHomes townhouse development (LMA G-721 and G-755 and DPA 98-1 and 98-2), consisting of a total of 29 townhouses, developed in five rows of brick structures, facing perpendicular to Montgomery Lane. The townhouses are approximately 55 feet in height (to roof peak) and are built on the common HLA property line and HOC property line. The distance between each row of townhouses is approximately 30 to 40 feet.

The western end of the HLA Property is also bounded to the north, along Arlington Road, by the Edgemoor at Arlington (LMA G-778). The Edgemoor project is a brick structure and is 46 feet high (as measured from the top of the terrace, which varies in height from zero feet up to seven feet). It is a 36,700 square-foot building and it provides 12 dwelling units. Arlington Road borders the Property directly to the west, with the low-rise Bethesda Public Library located directly on the other side of Arlington Road.

Across Hampden Lane to the south of the HLA Property and the HOC Property is the low-rise Shoppes of Bethesda shopping center. The shopping center employs a traditional shopping center style, with the front portion of the site devoted to surface parking and the "L" shaped row of shops located back beyond the parking lot. The shopping center is zoned C-2 and located within the Arlington Road District, as designated by the Sector Plan.

Directly to the east of the HOC Property are two, three-story, brick, garden apartment buildings. Adjacent to these apartment buildings, and located at the northwest corner of Hampden Lane and Woodmont Avenue, is another similarly styled apartment building, with ground floor retail. The garden apartments are currently located on property zoned R-10, but are recommended for the TS-R Zone in the Sector Plan.

The subject site was classified in the R-60 Zone by the 1954 Regional District Zoning and confirmed in the 1958 County-wide Comprehensive Zoning. The R-60 Zone was confirmed again in SMA G-20 (adopted 10/10/1978) and SMA G-711 (adopted 10/11/1994). Lot 3 was rezoned to TS-R in LMA G-769 (adopted October 20, 1998). The development plan associated with that rezoning was amended in DPA 00-2, on February 1, 2000. At that time, the development plan covering Lot 3 of the subject site was amended to allow the 38-foot tall, 12-unit, transitional HOC housing still envisioned today. The present applications seek to move the proposed location of that same building to the east, from Lot 3 to Lot 5 on Hampden Lane. They also seek to rezone the remainder of the subject site on Hampden Lane from R-60 to TS-R.

Applicant HLA wishes to construct a multi-family condominium building on the north side of Hampden Lane, in the Transit Station Residential District delineated by the Bethesda CBD Sector Plan. The Gross Tract Area of the HLA property is 32,107 square feet. The building planned by Applicant would be 97,853 square feet and would occupy Lots 1 through 4 of Block 24D (4915, 4917, 4919 and 4921 Hampden Lane), in the Edgemoor Subdivision. Applicant's conceptual plans call for a glass and masonry structure, approximately 282 feet long, stepped up from a height of 33 feet along Arlington Road to a height of 71 feet (not including a 15 foot-tall mechanical penthouse) at the midpoint of the building on Hampton Lane. The proposed building would include 9 moderately priced dwelling units (MPDUs) in its total of 60 units (*i.e.*, 15% MPDUs), and it would have a floor area ratio (FAR) of 3.05.

According to Applicant's Project Description for the LMA, the HLA development would include ten percent public use space to be provided along a portion of Arlington Road and Hampden Lane. The



development would provide the required 20 percent passive and active recreational space, through a series of outdoor spaces, roof top terraces and inside recreational facilities. The proposed development would include 10 percent public use space to be interspersed along both the Hampden Lane frontage and the Arlington Road frontage of the HLA Property. On the north side of the project, the conceptual design extends the existing courtyard spaces of the CityHomes of Edgemoor townhouses into courtyards between sections of the proposed building, in an effort to avoid blocking the light and air into those spaces. The Applicant also proposes sidewalks along the entire frontage of both Arlington Road and Hampden Lane, in addition to the open space and active and passive recreation space promised by the Applicant. The proposed building would be constructed in a single phase and would not be dependent on any Capital Improvement Program.

According to Applicant's conceptual plans, the building would include a total of 89 parking spaces, to be located on two and one-half levels of below-grade parking. Vehicular access to the parking garage would be located on Hampden Lane along the eastern property line of the HLA Property. A 24-foot wide driveway would provide access to the parking garage, and a service entrance is in the same location with a 12-foot wide driveway, to be accessed directly from Hampden Lane. The building would have one centralized lobby located on Hampden Lane.

In addition to HLA's planned structure, the HOC transitional housing building, which had been planned for Lot 3 of Block 24D, would be moved to Lot 5 (4913 Hampden Lane). It's design would not be modified, and if approved, would consist of a 10,622 square foot, 38 foot tall, brick building, containing twelve transitional housing units (seven one-bedroom units, five studio apartments and a counselor's office on the ground floor). The Development Plan proposed for Lot 5 includes a 3-story building, with an amount of public use open space and active and passive recreational space comparable to the previous plan for its development on Lot 3. Consistent with the previously approved Site Plan for the transitional housing, the active and passive recreational space would be provided in the rear of the building and would include a



nicely landscaped outdoor area. Once all of the land use approvals are obtained, the development of the HOC building at 4913 Hampden Lane would proceed independently of the development of the remaining Hampden Lane properties. The development at 4913 Hampden Lane would occur in a single phase and will not be dependent on any Capital Improvement Program.

Pursuant to Code § 59-D-1.1, development in the TS-R Zone is permitted only in accordance with a development plan that is approved by the District Council when the property is reclassified to the TS-R Zone. The Development Plan and the Land Use Plan that constitutes one of its primary parts are binding on the Applicant except where particular elements are identified as illustrative or conceptual. Illustrative elements may be changed during site plan review by the Planning Board, but the binding elements cannot be changed without a separate application to the District Council for a development plan amendment.

The binding elements in this case are as follows:

1. The building will have a maximum height of 71 feet.
2. The development will have a maximum density of 3.05 FAR, including the MPDU bonus density.
3. The development will provide 15% MPDUs (9 units) on site.
4. The development will provide a minimum of 10% public use space.
5. The development will provide a minimum of 20% active and passive recreational space.

The binding elements are printed on the development plan's "Land Use Plan," LMA Exhibit 25(d). As specified in the "Site Area Analysis" on the Land Use Plan, Applicant has committed to dedicating 1,141 square feet to the public right-of-way along Arlington Road and Hampden Lane. Previously, 10,071 square feet of land had been dedicated to Arlington Road and Hampden Lane.

DPA 06-2 would amend DPA 00-2 and earlier development plans for Edgemoor I, II, III and IV, by showing the relocation of the proposed HOC transitional housing from Lot 3 (4917 Hampden Lane) to Lot 5 (4913 Hampden Lane). Another change had to be made to the Development Plan Amendment to reflect an

agreement by the developer of Edgemoor I, II and III on Montgomery Lane (HSNK, LLC) to transfer Lot 3 on Hampden Lane to the County (DPA Exhibit 39), purportedly in satisfaction of that developer's MPDU obligations. The District Council agrees with the Hearing Examiner's determination that this zoning review of LMA G-842/DPA 06-2 is not the appropriate forum for interpreting the contractual agreement between HSNK, LLC and the County regarding the development of Edgemoor I, II and III. As stated by the Hearing Examiner, accuracy of the development plan for this project can be restored by removing both notes 2 and 3 found in DPA 00-2, and replacing them with the following note in DPA 06-2: "Recreation and Parking for the HOC transitional housing to be located on Lot 5, Block 24D will be considered by the Planning Board at Site Plan Review." These changes are reflected in the revised DPA 06-2 (DPA Exhibit 57(c)).

Section 59-D-1.61 of the Zoning Ordinance requires the District Council, before it approves any application for re-zoning, to consider whether the application, including the development plan, fulfils the "purposes and requirements" set forth in Code Section 59-C for the new zone. In making this determination, Zoning Ordinance §59-D-1.61 expressly requires the District Council to make five specific findings, and Maryland law requires that zoning power be exercised in the public interest. *Regional District Act, Maryland-National Capital Park and Planning Commission Article (Art. 28), Md. Code Ann., § 7-110.*

**§59-D-1.61(a): Consistency with Master Plan and other County Policies.**

The first required finding is consistency with County plans and policies. The subject site is located within the area analyzed by the *Bethesda Central Business District (CBD) Sector Plan*, approved and adopted in July, 1994. More specifically, it is within the southern end of the Transit Station Residential District, as shown in Figure 4.13 from the Sector Plan (p. 81). The Sector Plan recommends (page 5) "creation of a high-density, low-rise 'urban village' that steps down in height from 6 floors along Woodmont Avenue to 3 floors along Arlington road, and provides from 45 up to about 100 dwelling units per acre. . . ." The Hearing Examiner concluded that the Applicant's concept of the proposed HLA building (LMA Exhibit 37) does not have the appearance of the "low-rise urban village" called for in the



Sector Plan. The District Council notes that strict compliance with the Sector Plan is not mandatory in this Zone, and finds that the proposed HLA building substantially complies with the use and density indicated by the Sector Plan, as required by Zoning Ordinance §59-D-1.61(a). However, the District Council expects the Planning Board, at Site Plan review, to carefully consider the appearance of the proposed HLA building in conjunction with the Sector Plan's Objectives, Recommendations and Urban Design Guidelines (Sector Plan, pp. 80-85) and with the appearance of the surrounding buildings.

Another County policy which must be considered is the Adequate Public Facilities Ordinance ("APFO," Code §50-35(k)). While the ultimate test under the APFO is carried out at subdivision review, evidence concerning adequacy of public facilities is also relevant to the District Council's determination in a rezoning case. Under the 2003-05 AGP Policy Element (p.14), which remained unchanged in FY 2006, "[t]he Planning Board and staff must consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence that a local area problem will be generated." There is no such evidence in this case. We therefore turn to the remaining three public facilities, transportation, schools and water and sewer service.

#### 1. Transportation

Under the 2003-05 AGP Policy Element, subdivision applications are subject to Local Area Transportation Review ("LATR") requirements. LATR generally involves a traffic study intended to evaluate whether a proposed development would result in unacceptable congestion during the peak hour of the morning and evening peak periods. In this case, the total number of projected trips (for both the HLA building and the HOC facility) is below the threshold (30 peak hour trips) necessary to require a full traffic study under local area transportation review (LATR) guidelines. Technical Staff concluded that "The hourly contribution to the peak hour traffic volumes is not considered significant or likely to cause additional congestion." Technical Staff also found that "Primary site access and service access is adequate and will not pose a threat to public safety." The District Council finds that Applicant's proposal complies



with the LATR standards and other transportation requirements.

2. School Capacity:

This property is located within the Bethesda Elementary School, Westland Middle School and Bethesda-Chevy Chase High School service areas. The Director of the Division of Long-range Planning, Montgomery County Public Schools, estimated that the impact of this project would be approximately five (5) elementary, three (3) middle and three (3) high school students. Since the current Growth Policy schools test finds capacity adequate in the Bethesda/Chevy Chase cluster, the District Council concludes that the public schools can meet the increased demand projected from the subject development.

3. Water and Sewer Service:

Under the FY 2003-05 AGP Policy Element, p.14, "applications must be considered adequately served by water and sewerage if the subdivision is located in an area in which water and sewer service is presently available, is under construction, is designated by the County Council for extension of service within the first two years of a current approved Comprehensive Water Supply and Sewerage Systems Plan (i.e., categories I, II, and III)." Sewer service and water lines rated as S-1 and W-1 are provided adjacent to the site, and based on the evidence, the District Council finds the facilities to be adequate.

In sum, based on this record, the District Council finds that the requested rezoning does not conflict with County plans and policies.

§59-D-1.61(b): purposes, standards and regulations of the zone; safety, convenience and amenity of residents; and compatibility with adjacent development.

The second required finding is:

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 requirements for the TS-R Zone are found in Code §59-C-8. The TS-R Zone is a “floating zone,” intended to be used in transit station development areas and in areas adjacent to central business districts, within 1,500 feet of a Metro transit station. Section 59-C-8.21(b) also specifies that TS-R Zones are intended for locations where multiple-family residential development already exists or where such development is recommended by an approved and adopted Master Plan. That is the case here.

The purposes of the TS-R Zone are set forth in Code §59-C-8.22. The evidence amply demonstrates that the proposed development would satisfy the purposes of the TS-R Zone. It would put 72 residential units within easy walking distance of a Metro station and would provide for much higher densities than presently exist on the site, but within the range approved by the ARC and the Planning Board. Moreover, the combination of nine moderately priced dwelling units in the HLA building and 12 transitional units the HOC building insure that housing will be provided for persons of different economic levels.

Zoning Code §59-C-8.25 requires that a proposed development in the TS-R Zone conform to “the facilities and amenities” of the Sector Plan, include any required easements, provide for safe and efficient circulation and adequate open and recreation space, and insure compatibility with the surrounding area, as well as the ability of the area to accommodate the intended use. The proposed development would provide a sidewalk along Hampden Lane, a minimum of 10% public use space and 20% active and passive recreational space, well landscaped seating areas, and a small pocket park on Hampden Lane. The Development Plan includes dedication along Hampden Lane, which will establish a public right of way of 60 feet, and 40 feet of dedication along Arlington Road, both of which will allow the establishment of new public facilities and sidewalks to promote safe and efficient circulation.

Applicant’s plans meet the development standards spelled out in Zoning Ordinance §59-C-8.4, after their adjustment to allow for MPDUs, as approved by the ARC and the Planning Board in accordance with County law.



Code §59-C-8.51 provides standards for the Planning Board to use in setting the maximum building height at site plan review. In approving height limits, the Planning Board is required "to take into consideration the size of the lot or parcel, the relationship of the building or buildings to surrounding uses, the need to preserve light and air for the residents of the development and residents of surrounding properties and any other factors relevant to height of the building." The binding elements in this case limit height to a maximum of 71 feet. The Council approves that height as a maximum, but recognizes the Planning Board's responsibility to consider the impact of the current plan for a 71 foot building, with a 15 foot penthouse, upon the adjacent buildings to the north, which are considerably shorter than the proposed building. This compatibility issue must, however, be considered in conjunction with the County's policy of encouraging construction of moderately priced housing.

Code §59-C-8.52 specifies that parking shall be located so as to have "a minimal impact" on any adjoining residential properties. All HLA Development Plan parking (89 spaces planned, including 4 handicapped accessible) will be located under the building, within the parking garage, and will not impact adjoining properties. Access for parking is located along Hampden Lane and will have a minimal impact on the area. The Development Plan Amendment for the HOC transitional housing (DPA 06-2) leaves the question of parking to the Planning Board, which stated in its March 9, 2006, memorandum that it would consider parking and recreation needs for the transitional housing development at site plan review.

Code §59-C-8.53 is inapplicable because no private streets are called for either in the HLA Development Plan or in DPA 06-2. Section §59-C-8.54 is also inapplicable because there is no plan to include ancillary commercial uses in the development.

In sum, the District Council finds that Applicant's plans are in accordance with all of the purposes, standards and regulations of the TS-R Zone, as set forth in Article 59-C of the Code.

The next part of "Finding (b)" required by Section 59-D-1.61 is a determination that the proposed development would provide for the "maximum safety, convenience, and amenity of the residents." The proposed development would provide, as binding elements, a minimum of 10% public use space and 20% active and passive recreational space. Moreover, the conceptual plans call for well landscaped seating areas and a small pocket park on Hampden Lane. Based on the record, the District Council finds that Applicant has provided the maximum in safety, convenience and amenities for the future residents of this development.

The final required determination under "Finding (b)" is that the proposed development be compatible with adjacent development. To the north of the subject site are the 55 foot tall, CityHomes of Edgemoor development and the 46-foot high, Edgemoor at Arlington development; to the east will be the 38 foot tall, transitional housing and a couple of existing, three-story, garden apartments; to the west, across Arlington Road, is the low-rise, County library, and across Hampden Lane are low-rise commercial properties in the Shoppes of Bethesda shopping center. The District Council finds that, although the building proposed by HLA would be taller than the adjacent developments, it would be generally compatible with uses and structures in the surrounding area. Moreover, its height can be adjusted by the Planning Board at Site Plan review, if the Planning Board finds that the building, as presently planned, would unduly block the neighbors' air and sunlight. The District Council expects the Planning Board to look carefully at this issue in the manner discussed above in connection with Code §59-C-8.51.

Compatibility of the proposed HOC transitional housing has already been established by the Council's approval of DPA 00-2, which authorized the same development on Lot 3 that is now planned for Lot 5.

**§59-D-1.61(c): safe, adequate and efficient internal vehicular and pedestrian circulation systems.**

The third required finding is "[t]hat the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient." Primary and service vehicular



access to the property is shown conceptually from Hampden Lane. According to Technical Staff, the pedestrian and vehicular entrances, as shown on the plans, are located in such a way that they will provide for the safe and adequate movement of pedestrians and vehicular traffic. Applicant will provide a sidewalk along the north side of Hampden Lane, and that provides connection to the area sidewalks and the Bethesda Metro Station. Technical Staff noted that the pedestrian facilities that are proposed as part of the HLA Development Plan will enhance the existing sidewalk network, and concluded that primary site access and service access is adequate and will not pose a threat to public safety. Applicant's transportation expert testified that the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient. The District Council so finds.

**§59-D-1.61(d): preservation of natural features**

The fourth required finding is:

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.

No environmental issues were raised in this case. Applicant's engineer testified that the property contains no flood plains, protected soils, rock outcroppings, or other natural features that would impact development of the proposed project, and the subject site is not located in a special protection area. Technical Staff exempted the site from forest conservation plan requirements.

The current surface of the subject site is mostly impervious, and this project would be considered as a redevelopment. As such, the storm water management requirements for recharging the water runoff do not apply. Moreover, because the stormwater discharge from the proposed property is less than two cubic feet per second, the site is exempted from channel protection volume controls (*i.e.*, quantity control).

Quality control will be provided on site through an underground filtration system. Applicant will be required to submit a Stormwater Management Concept Plan at the time of Preliminary Plan of Subdivision.

During construction, Applicant will employ temporary sediment erosion control measures as required by Montgomery County and Maryland Department of the Environment. In addition, Applicant will stabilize construction entrances and silt beds protecting the perimeter of the property.

In sum, the District Council finds that Applicant has demonstrated the environmental controls required by "Finding (d)."

**§59-D-1.61(e): common area maintenance.**

The fifth required finding is "[t]hat 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." The ownership of the subject properties is set forth in the Development Agreement signed by the DHCA, HOC, HLA and all property owners. LMA Exhibit 32; DPA Exhibit 46. The HLA Property will ultimately be controlled by a homeowner's association (HOA), and Applicant provided a statement certifying that the HOA documents to be recorded in connection with the HLA property "shall provide for the private perpetual maintenance of all active and passive recreational spaces and public use spaces." LMA Exhibit 44(a). The HOC will be responsible for the ongoing maintenance of the HOC Property.

The District Council finds that Applicant has sufficiently demonstrated both ownership of the property and its commitment to perpetual maintenance of all recreational and other common or quasi-public areas.

***The Public Interest***

The applicant must show that the proposed reclassification bears sufficient relationship to the public interest to justify its approval. The State Zoning Enabling Act applicable to Montgomery County requires that all zoning power must be exercised:



*"... with the purposes of guiding and accomplishing a coordinated, comprehensive, adjusted, and systematic development of the regional district, ... and [for] the protection and promotion of the health, safety, morals, comfort, and welfare of the inhabitants of the regional district." [Regional District Act, Maryland-National Capital Park and Planning Commission Article (Art. 28), Md. Code Ann., § 7-110].*

When evaluating the public interest, the District Council has traditionally considered master plan conformity, the recommendations of the Planning Board and Technical Staff, and any adverse impact on public facilities. The District Council finds that compliance with its policy of encouraging the availability of moderately priced housing is also a significant factor in determining the public interest. In this case, the proposed development of the HLA building will make available nine moderately priced dwelling units (MPDUs), in addition to the twelve transitional housing units that are slated for the HOC structure.

Zoning Ordinance §59-D-1.61(a) permits a project to exceed the height and density recommendations of a sector plan if an Alternative Review Committee finds that it is not "financially feasible" to meet those recommendations because of the inclusion of MPDUs in the project. In such a case, the Planning Board may recommend permitting a height and density greater than recommended in the sector plan. This public policy consideration weighed heavily in the District Council's determination that a remand, as recommended by the Hearing Examiner, was not in the public interest because it would significantly delay the availability of affordable housing and transitional housing.

The impact on public facilities was discussed above. The evidence indicates that transportation, schools, and water and sewer services would not be adversely affected by the proposed development.

The Sector Plan expressly recommends the zoning change (to the TS-R Zone) sought by Applicant, and the District Council has found that the proposed HLA building substantially complies with the use and density indicated by the Sector Plan, as required by Zoning Ordinance §59-D-1.61(a). The District Council also finds that the HOC development plan amendment, DPA 06-2, is consistent with the Sector Plan and compatible with its surroundings.

The Hearing Examiner's report is incorporated herein by reference, and the District Council adopts the report's findings, except with regard to compatibility with adjacent development and consistency with the Sector Plan. As indicated above, the District Council finds that the proposed development is compatible with adjacent development and is not inconsistent with the Bethesda CBD Sector Plan.

Based on the foregoing analysis, and because approval of the instant rezoning application would aid in accomplishing a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the District Council concludes that the requested rezoning, the development plan in G-842 and the development plan amendment in DPA-06-2 should be approved.

### ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland approves the following resolution:

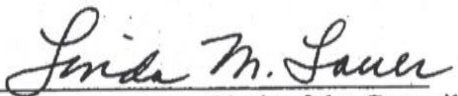
Zoning Application No. G-842, requesting reclassification from the R-60 Zone to the TS-R Zone of approximately half an acre of land on Hampden Lane in Bethesda (Lots 5, 4, 2 and Part of 1, of Edgemoor Subdivision, Block 24D, located at 4913, 4915, 4919 and 4921 Hampden Lane), in the 7<sup>th</sup> Election District, is hereby approved in the amount requested and subject to the specifications and requirements of the revised Development Plan, LMA Exhibit 25(d), provided that the Applicant submits to the Hearing Examiner for certification a reproducible original and three copies of the Development Plan approved by the District Council within 10 days of approval, as required under Code §59-D-1.64.

DPA 06-2, seeking to amend the development plans in LMA's G-721, G-755, and G-769 and DPA's 98-1, 98-2 and 00-2, to allow relocation of the planned Housing Opportunity Commission (HOC) transitional housing from its currently approved location at 4917 Hampden Lane (Lot 3 of Block 24D, Edgemoor) to 4913 Hampden Lane (Lot 5 of Block 24D, Edgemoor), is hereby approved in the amount



requested and subject to the specifications and requirements of the revised Development Plan Amendment, DPA Exhibit 57(c), provided that the Applicant submits to the Hearing Examiner for certification a reproducible original and three copies of the Development Plan Amendment approved by the District Council within 10 days of approval, as required under Code §59-D-1.64.

This is a correct copy of Council action.

  
Linda M. Lauer, Clerk of the Council











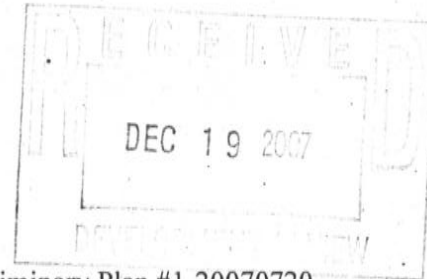
## DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Isiah Leggett  
County Executive

Arthur Holmes, Jr.  
Director

December 17, 2007

Ms. Catherine Conlon, Subdivision Supervisor  
Development Review Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760



RE: Preliminary Plan #1-20070720  
Edgemoor, Phase IV

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated 04/27/07. This plan was reviewed by the Development Review Committee at its meeting on July 30, 2007. We recommend approval of the plan subject to the following comments:

- All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.
1. Dedicate the necessary right of way for Hampden Lane in accordance with the Master Plan and improve it to commercial/industrial roadway standards (MC-214.02) from the existing road centerline along the site frontage. In doing so, coordinate and align the sidewalk and curb line on Hamden Lane with other preliminary plans on that roadway.
  2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
  3. In accordance with Section 49-35(e) of the Montgomery County Code, sidewalks are required to serve the proposed subdivision. Sidewalks are to be provided along the site frontage according to associated DPWT standard street section unless the applicant is able to obtain a waiver from the appropriate government agency.
  4. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
  5. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
  6. Please coordinate with Department of Fire and Rescue about their requirements for emergency vehicle access.

Division of Operations



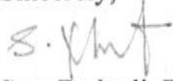
Ms. Catherine Conlon  
Preliminary Plan No. 1-20070720  
Date December 17, 2007  
Page 2

7. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Fred Lees of our Traffic Control and Lighting Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
8. Trees in the County rights of way - species and spacing to be in accordance with the applicable DPWT standards. A tree planting permit is required from the Maryland Department of Natural Resources, State Forester's Office [(301) 854-6060], to plant trees within the public right of way.
9. If the applicant is required to install Bethesda CBD streetscaping amenities along the site frontage – prior to approval of the record plat by DPS, execute and record a Declaration of Covenants (for Maintenance and Liability) or enter into an agreement with the Bethesda Urban District for the maintenance of those items.
10. Provide driveway access for the stormwater management facilities per associated DPS guidelines.
11. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
  - A. Street grading, paving, curbs and gutters, sidewalks and handicap ramps, storm drainage and appurtenances, and street trees along Hampden Lane per item 1 above.  
(with amended soil panels and underground watering system for Tree Pits(CBDs))
  - B. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
  - C. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
  - D. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.
  - E. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Traffic Engineering and Operations Section.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at [sam.farhadi@montgomerycountymd.gov](mailto:sam.farhadi@montgomerycountymd.gov) or (240) 777-6000.

Ms. Catherine Conlon  
Preliminary Plan No. 1-20070720  
Date December 17, 2007  
Page 3

Sincerely,



Sam Farhadi, P.E.  
Development Review Group  
Traffic Engineering and Operations Section  
Division of Operations

m:/subdivision/farhas01/preliminary plans/ 1-20070720, Edgemoor, Phase IV.doc

Enclosures ()

cc: Al Gentry, Housing Opportunities Commission  
Hans Baumann, Macris, Hendricks & Glascock  
Joseph Y. Cheung; DPS RWPPR  
Henry Emery; DPS RWPPR  
Sarah Navid; DPS RWPPR  
Shahriar Etemadi; M-NCPPC TP  
Gregory Leck, DPWT TEOS  
Preliminary Plan Folder  
Preliminary Plans Note Book





## DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

April 30, 2007

Carla Reid Joyner  
Director

Mr. Scott D. Roser, P.E.  
Macris, Hendricks & Glascock, P.A.  
9220 Wightman Road, Suite 120  
Montgomery Village, MD 20886-1279

Re: Stormwater Management **CONCEPT** Request  
for Edgemoor Phase IV  
SM File #: 231251  
Tract Size/Zone: 0.13 Ac./TS-R  
Total Concept Area: 0.13Ac.  
Lots/Block: 5/24D  
Watershed: Little Falls Branch

Dear Mr. Roser:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of a waiver of on-site water quality control due to the lack of a suitable storm drain system to connect to. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

The following **conditions** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A Small Land Disturbance Application (SLDA) may be submitted for this development.
3. Please investigate at design stage if dry wells may be used, depending on the site plan requirements.

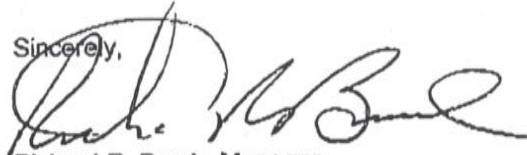
This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact David Kuykendall at 240-777-6332.

Sincerely,



Richard R. Brush, Manager  
Water Resources Section  
Division of Land Development Services

RRB:dm CN200733.Edgemoor Phase IV Reconfirmation.DWK

cc: C. Conlon  
S. Federline  
SM File # 200733

QN - On Site; Acres: 0.13  
QL - Waived; Acres: 0.13  
Recharge is not provided