



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

MCPB
Item #
12/4/08



MEMORANDUM

DATE: November 21, 2008

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Subdivision Supervisor *CC*
Development Review Division

FROM: Patrick Butler 301-495-4561 *PB*
Development Review Division

REVIEW TYPE: Pre-Preliminary Plan

APPLYING FOR: An impervious area waiver in the Upper Paint Branch Special Protection Area (SPA) to allow 60,548 square feet (16.8% of the 8.3 acre site) of impervious surface with the intent to record 1 lot, and convert the Edgewood historic site single family home to a Country Inn and restaurant with ancillary retail uses.

PROJECT NAME: Edgewood Inn

CASE #: 720080220

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations and Chapter 59, Section 59-C-18.152

ZONE: Country Inn and RE-1

LOCATION: NE Quadrant at the Intersection of Oak Mill Road and Spencerville Road

MASTER PLAN: Cloverly

APPLICANT: Edgewood Inn, LLC (Contact: Steven Gudelsky)

ENGINEER: Greenhorne & O'Mara

ATTORNEY: David Freishtadt of Shulman, Rogers, Gandal, Prody & Ecker, P.A.

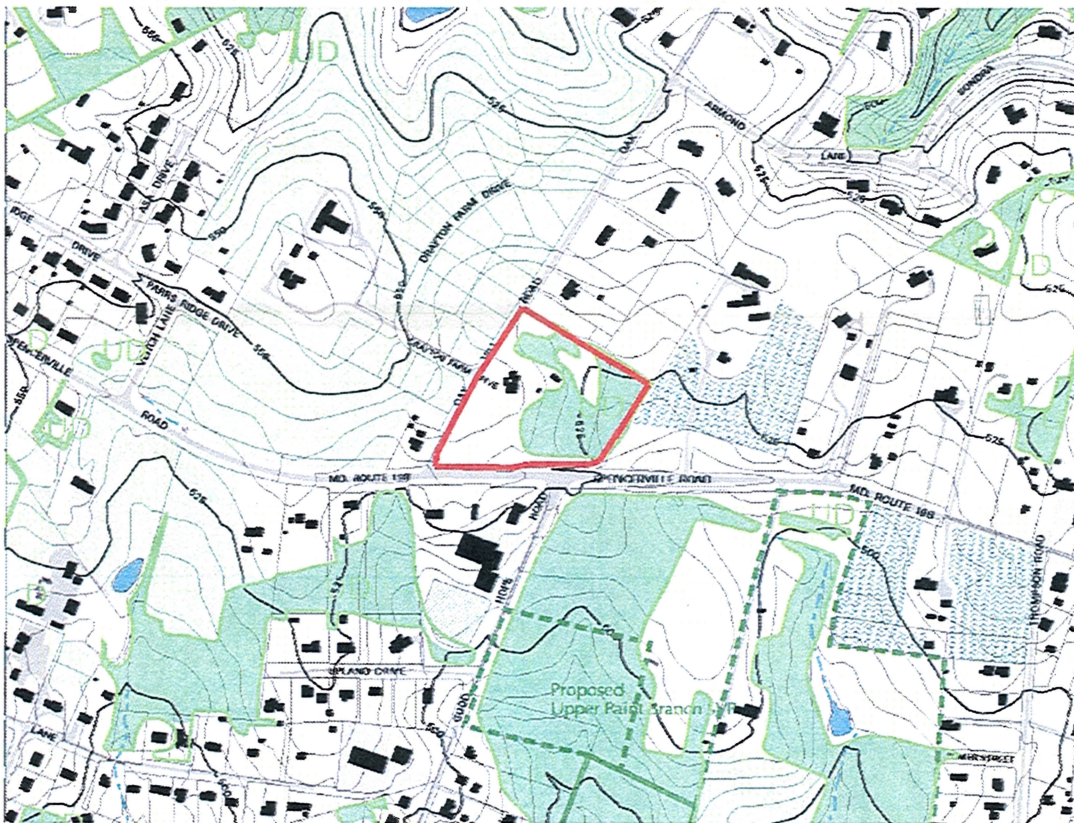
FILING DATE: May 1, 2008

HEARING DATE: December 4, 2008

RECOMMENDATION: Staff recommends denial of the impervious surface waiver request. Pursuant to Article V of the Montgomery County Code (Special Protection Area Law), waivers may be granted by the Planning Board in this circumstance. Since a Planning Board action on a preliminary plan of subdivision is required for this project, the necessary action on the waiver from the Overlay Zone’s impervious limit would be made by the Planning Board as part of the preliminary plan decision.

SITE DESCRIPTION (Attachment A – Vicinity Map)

The Subject Property, as shown below and in Attachment A, consists of 8.30 acres in the Country Inn and RE-1 zones. The Property is comprised of two unrecorded parcels (P161 7.27 acres and P158 1.03 acres) located on the northeast quadrant of Oakhill Road and Spencerville Road in the Cloverly Master Plan area. Parcel P161 is zoned Country Inn (C-I), and Parcel P158 is zoned RE-1. The site currently contains the historic home, various ancillary buildings, and two separate driveways. Small areas of gravel that appear to be used for parking or driveways for vehicles are also present. A remnant of an old, apparently unused driveway exists at the northwestern portion of the property. These improvements comprise a total of 9.1% impervious surface on the C-I property, and 8.9% over the 8.3 acre site. A driveway connecting Oak Hill Road to Route 198 traverses through the property. The land use of the site is Commercial/Office, while the surrounding land use is primarily Rural and Single-Family Residential. The surrounding area is primarily zoned RE-1 with RC zoning further to the north of the Subject Property.



Parcel P161 of the Subject Property makes up the historic environmental setting boundary of the Individually Designated Master Plan Site, #15/52 Edgewood II.

The Subject Property is located in the Environmental Overlay Zone for the Upper Paint Branch Special Protection Area (SPA), which has an impervious surface limit of 8%. Any site located in the SPA that currently exceeds the 8% impervious surface limit is allowed to retain its impervious surfaces, but cannot increase the percentage of impervious surfaces on site without a waiver.

Forest covers about 1.8 acres of parcel P161. Tree cover also exists throughout much of the remaining property surrounding the existing structures, and there are approximately 110 large and significant trees on this parcel. Parcel P158 is entirely forested, and includes approximately fourteen large and specimen trees. There are no existing structures on parcel P158.

There are no streams, wetlands, or steep slopes identified on the Subject Property, however, there is an existing Category I conservation easement located off-site and adjacent to the northern property boundary.

PROJECT DESCRIPTION (Attachment B – Proposed Plan)

The applicant is requesting to subdivide the Subject Property and convert the Edgewood historic site single family home to a Country Inn restaurant with ancillary retail uses. To realize the full extent of the proposed plan, the applicant is requesting that the Planning Board approve an impervious area waiver to allow approximately 16.8% of the 8.3 acres site for impervious surfaces. Pursuant to the Sec. 59-C-18.15 Environmental Overlay Zone for the Upper Paint Branch Special Protection Area, current SPA standards set an impervious cap of the greater of 8.0%, or the existing imperviousness (8.9%), so a waiver is necessary for imperviousness above 8.9%.

Background

On January 30, 1990, the County Council for Montgomery County, Maryland adopted Resolution No. 11-1840, which granted approval to Application No. G-640. This application requested reclassification of parcel P161 of the Subject Property from the RE-1 zone to the Country Inn zone. The Certified Development Plan was signed on March 12, 1990 for the Edgewood Country Inn. At that time, the Council agreed with the findings of the Hearing Examiner, the Technical Staff, and the Planning Board, which all recommended approval of the proposed Development Plan.

Some of the elements identified throughout the Resolution for the 1990 Development Plan are as follows:

- The proposed development would retain the existing residential structure as a country inn restaurant to serve up to 90 patrons.
- Several of the outbuildings would be retained and refurbished to provide for antique and craft shops.
- A barn would be reconstructed slightly to the northwest of its current location.

- Parking for 81 cars was proposed (specific location and driveways to be addressed at site plan review).
- Building coverage was limited to 4% of the site, while 83% of the site was devoted to green space.
- There will be no signage along Oak Hill Road, and all commercial traffic will enter the Subject Property from Spencerville Road (Route 198).
- The common property line between the Subject Property (P161) and the property located at 16107 Oak Hill Road (N52, N59) will be appropriately landscaped, subject to Planning Board approval at the time of site plan review.
- All commercial traffic will enter the subject property from the entrance off of Maryland Route 198.
- The noise level from any outdoor entertainment will not exceed levels for a rural residential community as established in the Montgomery County code or regulations related thereto.

The development standards of the Country Inn zone permit building coverage up to a maximum of 10% of the site and green space of 50% of the site. These standards do not take into account that impervious surface may be otherwise limited as part of an overlay zone such as the one that applies to the Subject Property.

The Upper Paint Branch SPA Environmental Overlay Zone was first adopted in 1995. Initially, the maximum amount of impervious surfaces allowed in this SPA was 10%. However, the ordinance was amended in 2007 to reduce the amount of impervious surfaces allowed in the SPA from 10% to 8%. To be grandfathered from these new requirements, any previously approved development had to receive a building permit prior to the effective date of the legislative change. Development on the Subject Property is not possible without the approval of a subdivision plan because the necessary building permit(s) cannot be issued for an unrecorded property. Site plan approval is also required.

Current Request

The current pre-preliminary plan application was received on May 1, 2008. With this application, the applicant is requesting the Planning Board make a binding decision on two issues:

1. A waiver of the Upper Paint Branch Special Protection Area eight percent impervious surface area limitation. The applicant is requesting the Board not set a limit to allow flexibility while coordinating with jurisdictional agencies.
2. A finding that the proposed plan is consistent with the approved Development Plan and that subsequent Preliminary and Site Plans prepared to the same specifications can be considered as conforming to the illustrative and non-illustrative elements of the approved Development Plan.

ANALYSIS AND FINDINGS

Issue #1 – Impervious Surface Area Waiver

There are two ways in which a development project located within the Upper Paint Branch SPA can exceed the 8% impervious surface cap as stated in Section 59-C-18.152 of the Zoning Ordinance. The first is a grandfather provision in Section 59-C-18.152(a)(1), which states:

“Any development must not result in more than 8 percent impervious surface of the total area under application for development.

- (A) Any impervious surface lawfully existing pursuant to a building permit issued before July 31, 2007 that exceeds the 8 percent restriction, may continue or be reconstructed under the development standards in effect when the building permit was issued.**
- (B) Any impervious surface which results from construction pursuant to a building permit may be constructed or be reconstructed under the development standards in effect on July 31, 2007 if:**
 - (i) the building permit application was pending before the Department of Permitting Services on July 31, 2007, or...**”

The second way a project may exceed the impervious surface restriction is by request for a waiver. The criteria for requesting a waiver are located in Section 59-C-18.152(a)(2) as follows:

“The Director¹ may grant a waiver from the 8 percent impervious surface restriction subject to the following standards and procedures:

- (A) Written Request.** An applicant may apply for a waiver from the 8 percent impervious surface restriction if enforcement would result in undue hardship to the applicant. The request must be in writing to the Director.
- (B) Review and action.** The Director may grant a waiver from the 8 percent impervious surface restriction if the applicant shows by clear and convincing evidence that :
 - (i) the 8 percent impervious limitation would result in undue hardship to the applicant because of events or circumstances not caused or facilitated by the applicant;**

¹ Pursuant to Article V of the Montgomery County Code (Special Protection Area Law), waivers may be granted by either the Planning Board or Montgomery County Department of Permitting Services (DPS) Director. Planning Board action on a preliminary plan of subdivision is required for this project. The necessary action on the waiver from the Overlay Zone’s impervious limit must be made by the Planning Board as part of the preliminary plan decision.

- (ii) the applicant complies with all applicable federal, state, and county water quality standards; and**
- (iii) the relief sought is the minimum needed to prevent the hardship and the Director must consider alternative techniques.”**

Grandfather Provision

As discussed above, the Subject Property currently includes impervious surfaces that cover a total of 8.9% over the 8.3 acre site. Since these impervious surfaces were constructed prior to July 31, 2007, they may continue as is or be reconstructed under the grandfathering provision of the Overlay Zone. Therefore, the Property could be redeveloped as a Country Inn with a total of 8.9% impervious surface over the 8.3 acre site without the need for a waiver. However, the Country Inn envisioned as part of the approved Development Plan would require additional impervious surfaces. A building permit for the proposed Country Inn pursuant to this Development Plan was not on file with the Montgomery County Department of Permitting Services prior to July 31, 2007, so impervious surface covering more than 8.9% of the Property may not be constructed under the grandfather provision and a waiver is necessary to implement the Applicant’s proposed plan.

Waiver Request

Based on staff’s evaluation, the existing impervious surfaces on the Country Inn-zoned (P161) portion of the Subject Property cover 0.66 acres. The Environmental Overlay Zone permits these impervious surfaces to remain or be reconstructed even though they amount to more than 8 percent of the parcel. The application also includes the adjacent undeveloped RE-1-zoned parcel P158. The acreage of this parcel can be used to create an additional 0.08 acres of impervious surface which amounts to 8 percent of the added parcel. Therefore, a total of 0.74 acres (32,234 square feet) of impervious surface can be retained, reconstructed, and newly constructed on the Subject Property under the impervious surface limits set by the Environmental Overlay Zone. This is equivalent to an imperviousness of 8.9 percent over the total tract area of parcels P161 and P158 (see Table 1, below).

The applicant’s proposed concept plan results in an impervious surface cover of 1.39 acres. This exceeds the impervious surface limit set in the Environmental Overlay Zone by approximately 0.65 acres. This equates to a proposed imperviousness of 16.8 percent, if the imperviousness is averaged over the combined Country Inn and RE-1-zoned properties (Table 1).

TABLE 1. Comparison of Upper Paint Branch SPA Environmental Overlay Zone Imperviousness Limits and Proposed Concept Plan

Environmental Overlay Zone Limits	Allowed Impervious Surface Without Waiver	Proposed Impervious Surface on Concept Plan	Approved Development Plan (Approved Jan. 30, 1990) Impervious Surface
8% impervious surface of total area under application for development	8% of RE-1 property → 0.08 ac.	0% on RE-1 property → 0.00 ac.	Not applicable. RE-1 property not part of application.
Existing impervious surface that exceeds 8% of site may remain or be reconstructed	9.1% of C-Inn property is existing impervious surface → 0.66 ac.	19.1% on C-Inn property → 1.39 ac.	18.4% on C-Inn property → 1.34 ac.
Total Impervious Surface	8.9 % of entire site (RE-1 + C-Inn) → 0.74 ac.	16.8% of entire site (RE-1 + C-Inn) → 1.39 ac.	16.2% of entire site (RE-1 + C-Inn) → 1.34 ac.

With the subject application and accompanying letters dated, July 2, 2008 and September 5, 2008, (Attachment D), the applicant is requesting that the Planning Board grant a waiver to permit their development to exceed the impervious surface restrictions of the Overlay Zone. The requested level of imperviousness significantly exceeds the Overlay Zone limits and is not supported by staff.

Discussion

As previously noted, the Planning Board may grant such a waiver if the applicant shows by clear and convincing evidence that they meet all **three criteria** specified in Section 59-C-18.152(a)(2)(B), which are as follows:

- (i) The 8 percent impervious limitation would result in undue hardship to the applicant because of events or circumstances not caused or facilitated by the applicant;
- (ii) The applicant complies with all applicable federal, state, and county water quality standards; and
- (iii) The relief sought is the minimum needed to prevent the hardship and the Director must consider alternative techniques.

Criteria I:

Section 59-C-18.152(a)(2)(B)(i) – Undue hardship

Applicant's Position

The applicant believes the 8 percent impervious area limitation on the Subject Property prevents the implementation of the adaptive reuse of the historic property as approved at the time of rezoning, thus creating an undue hardship for the applicant. In the opinion of the applicant's representative, the impact to this property and the approved development plan is an unintended consequence of the impervious surface area limitation that was subsequently created by the Zoning Ordinance and was not caused or facilitated by the applicant.

Staff's Position

In staff's opinion, no evidence has been supplied to support the applicant's statement that the hardship they will experience if the waiver is not granted has not been caused or facilitated by them. The applicant had several years prior to the creation of the Overlay Zone to develop in accordance with its approved Development Plan for a Country Inn (from 1990 to 1997) and did not do so. Furthermore, when the Overlay Zone was created, and the provision that tied its applicability to the issuance of building permits was included, the County Council recognized that there would be projects that hadn't received building permits that would be affected. This point was further made when the Overlay Zone was amended to further limit imperviousness in 2007 and the County Council retained the building permit language. Therefore, the impact of the law on the previously-approved development plan was not an unintended consequence as the applicant's representative suggests, but rather a consequence of the fact that the applicant did not timely pursue their plan. In other words, the hardship is considered to be self-imposed by the lack of action to implement the approved development plan in a timely fashion.

Criteria II:

Section 59-C-18.152(a)(2)(B)(ii) – Compliance with applicable water quality standards

Applicant's Position

The applicant believes they can and will demonstrate compliance with the stormwater management and water quality standards established by the County and M-NCPPC. In the applicant's opinion, successful navigation of the stormwater management and water quality plan approval processes satisfy the criteria of subsection (a)(2)(B)(ii).

Staff's Position

In staff's opinion, the applicant has not shown by "clear and convincing evidence," that they comply with applicable water quality standards. A determination of compliance with water quality standards requires input from DPS' review and action on a stormwater management plan, and sediment and erosion control plan. A stormwater management concept has not been submitted, reviewed, or approved by DPS for the proposed concept plan. Therefore, staff

recommends the Board not make a finding that the proposed project complies with all applicable water quality standards as required by Section 59-C-18.152(a)(2)(B)(ii).

Criteria III:

Section 59-C-18.152(a)(2)(B)(iii) – Waiver is Minimum Needed

Applicant's Position

The applicant is requesting an impervious surface waiver of at least a 7.9% (or 89%) from the standard with the proposed concept plan. The applicant's representative indicates that the amount of impervious area proposed, plus additional area that may be needed for elements not shown in the current plan, is the minimum amount necessary to implement the approved plan. As examples of the additional area, the applicant cites that the Montgomery County Fire Marshal has requested that the turning radius at Spencerville Road be at least twenty-five feet for adequate fire access, and the State Highway Administration review may result in the addition of sidewalks and a deceleration/acceleration lane into and out of the driveway on Spencerville Road. The applicant believes such an unlimited waiver is necessary to permit the reviewing agencies and the applicant to work together to reach the best possible project. To reduce the impacts of this additional impervious surface on the watershed, the proposed plan includes numerous water quality techniques such as pervious paving, ground water recharge, and shaded detention facilities.

The applicant emphasizes the intent to continue to work with Planning staff and other agencies to assure that the amount of impervious surface area is the minimum amount necessary to effectively implement the approved Development Plan for the Edgewood Inn.

Staff's Position

In staff's opinion, the applicant has not demonstrated that the requested waiver is the minimum necessary to permit a Country Inn use on the Subject Property. The waiver request is based on a level of development envisioned at the time the Property was rezoned, but that plan was approved before the creation of the Overlay Zone. Since the Overlay Zone did not grandfather the approved Development Plan, it is staff's opinion that the new requirements should apply to the site. To obtain a waiver to exceed 8.9% imperviousness on the Subject Property, the applicant must demonstrate that all planning and zoning options to develop a country inn with the least possible amount of additional impervious surface have been pursued. The applicant has not explored all reasonable options to reduce the total impervious surface for the project.

For example, although the applicant states that the Fire Marshal has identified the Spencerville Road driveway as the fire access for the site, it may be possible to use the Oak Hill Road driveway and prevent the existing driveway from having to be widened. The applicant also states that this driveway is required by the Zoning Ordinance (Section 59-E-2.41) to be at least 20 feet wide to accommodate two-way traffic as the commercial vehicle entrance. However, per Section 59-E-4.5 of the Zoning Ordinance, the Planning Board may waive any requirement of the parking facilities plan if the requirement is not necessary to accomplish the parking facilities plan

objectives as identified in Section 59-E-4.2. That is, the Planning Board may waive the 20-foot wide requirement for the Spencerville Road driveway if the parking facility plan can provide an alternative means of meeting the objectives of Section 59-E-4.2. These are two of the options that should be explored before a widened Spencerville Road driveway is incorporated into the proposed development. In addition, proposed imperviousness could be reduced with a different mix, or fewer, accessory buildings, and the proposed walkways throughout the property could be constructed with a pervious material such as wood chips instead of a paved surface.

Another element of the proposed plan that has not been justified by the applicant is the scope and size of proposed uses within the country inn. For example, as shown in the table below, the uses in the currently proposed concept plan are different than those on the approved Development Plan and generate the need for 12 more parking spaces (see Table 2, below). The proposed parking lot contributes the greatest amount of impervious area on the Property. The elimination of the retail component and perhaps scaling back the proposed restaurant may significantly reduce the amount of required parking spaces.

TABLE 2. Proposed Uses and Required Parking Spaces in Approved Development Plan and Proposed Concept Plan

Elements of Plan	Approved Development Plan (Approved Jan. 30, 1990)		Current Proposed Concept Plan	
	Proposed Square Footage of Building(s)	Required Parking	Proposed Square Footage of Building(s)	Required Parking
Restaurant: Indoor area -- 25 spaces/1000 sf Outdoor area -- 15 spaces/1000 sf	2500 s.f. 0 s.f.	63 spaces 0 spaces	1450 s.f. 1400 s.f.	37 spaces 22 spaces
Retail Shops - 5 spaces/1000 sf	2000 s.f.	10 spaces	6100 s.f.	31 spaces
Resident Caretaker -- 2 spaces/d.u.	1 d.u.	2 spaces	1 d.u.	2 spaces
Museum -- 2.5 spaces/1000 s.f.	2000 s.f.	5 spaces	0 s.f.	0 spaces
Total required parking spaces		80 spaces		92 spaces

The difference between the impervious surfaces proposed in the concept plan and that allowed by the Environmental Overlay Zone is approximately 0.65 acre, or 28,314 square feet based on staff's estimates. Staff also notes that the proposed parking lot could be reduced in size by changing the proposed mix of uses on the site and/or through a parking waiver that the Planning Board could grant at the site plan review stage. Because the applicant has not applied all possible means to limit the amount of imperviousness on the proposed plan, it is staff's opinion that the applicant has not demonstrated that the relief sought is the minimum needed.

Staff also notes that the proposed parking lot could be reduced in size by changing the proposed mix of uses on the site and/or through a parking waiver that the Planning Board could grant at

the site plan review stage. Because the applicant has not applied all possible means to limit the amount of imperviousness on the proposed plan, it is staff's opinion that the applicant has not demonstrated that the relief sought is the minimum needed.

Further, the stormwater management techniques proposed by the applicant to offset the impacts of imperviousness will not be sufficient to protect this high quality watershed. The 8% imperviousness limit on new development, which is a reduction of the impervious surface limit of 10% in the Environmental Overlay Zone, was adopted in 2007 because of recommendations from the Paint Branch Technical Work Group. The original work group, comprised of technical experts from regional, state, and local agencies, was appointed by the Planning Board in 1994. Its charge was to review problems of the watershed's environmental health and recommend possible measures to restore and protect it. One of its recommendations resulted in the creation of an Environmental Overlay Zone to limit impervious surfaces in new developments to minimize water resource impacts.

In 2002, the late Councilmember Marilyn Praisner reconvened the technical work group in response to observations and concerns by various environmental groups and County and State agencies that ongoing land development activities in the watershed had resulted in the continuing decline in the quality of water resources of the stream system despite the limit on impervious surface and the application of stormwater management techniques as part of those developments. Lowering the Overlay Zone's imperviousness limit from 10% to 8% was a recommendation of the group to address this issue. In staff's opinion, the impervious surface proposed on the concept plan is too high even with the proposed alternative stormwater management techniques.

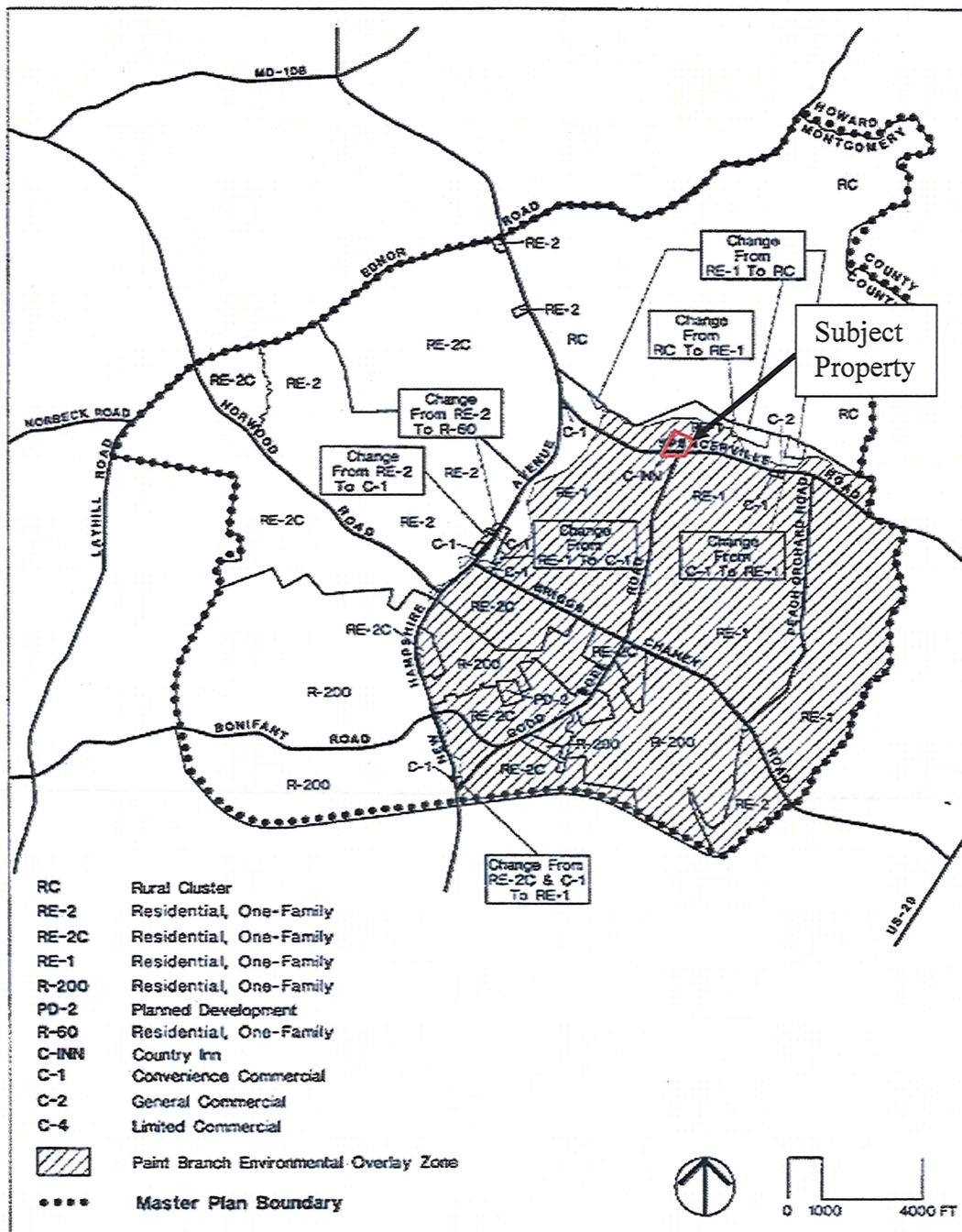
Issue #2 - Development Plan Compliance

Staff has reviewed the concept plan, and has determined that a Development Plan Amendment will be required. There are several binding elements the applicant is proposing to modify as identified in Resolution No. 11-1840, which granted approval to Application No. G-640. The mix of uses, number of parking spaces, and location of uses were very specific in the approved Development Plan, and any deviation from that plan would result in the need for a Development Plan Amendment. Therefore, the proposed plan is not consistent with the approved Development Plan and the Planning Board should not find that a subsequent Preliminary and Site Plans prepared to the same specifications would be considered as conforming to the illustrative and non-illustrative elements of the approved Development Plan.

Master Plan Compliance

The Subject Property is located in the Residential Wedge of the Cloverly Master Plan (See Map Below). The Residential Wedge is located in the upper Northwest and upper Paint Branch watersheds. Land-use for the site is Commercial/Office, while the surrounding land-uses are a combination of Rural, Single-Family Residential, Religious/Institutional, and Park and Open Space. The Paint Branch portion of the Residential Wedge recommends that this area remain primarily low-density residential in character. The surrounding area is zoned RE-1 with the exception of the Cloverly Commercial Area, Spencerville Commercial Area, and the Subject Property, which is zoned Country Inn(C-I) (See Master Plan Map Below).

The proposed use of the Subject Property is consistent with the Master Plan; however, the Master Plan does not specifically recommend a waiver of impervious surface to accommodate the Country Inn. In fact, the Master Plan specifically recommends the implementation and strict enforcement of the requirements and guidelines of the Special Protection Area Law, and prohibiting, or placing conditions on permitted and special exception uses that create unacceptable adverse impacts on the resources of the Paint Branch.



Conclusion

As discussed above, Section 59-C-18.152 of the Zoning Ordinance specifies a grandfather provision and three specific criteria that an applicant must meet in order to qualify for a waiver from the 8% imperviousness requirement in the Upper Paint Branch Special Protection Area Environmental Overlay Zone. The proposed Country Inn does not meet the standards to qualify for the grandfather provision as specified in Section 59-C-18.152(a)(1) because a building permit for the proposed Country Inn was not on file with the Montgomery County Department of Permitting Services prior to July 31, 2007.

With regard to the waiver request, the applicant has not demonstrated that any hardship they will experience if the waiver is not granted has not been caused or facilitated by them. The applicant had more than sufficient time to file for a preliminary and site plan after the approval of the Development Plan in 1990 and did not. The fact that undeveloped projects would be affected by the creation of the impervious surface limits of the overlay zone was recognized by the County Council. Therefore, the overlay zone's impact on the Subject Property is not an unintended consequence of the legislation, but a consequence of the applicant's delay in moving the plan forward.

The Applicant has not requested an SPA pre-application meeting nor submitted a water quality plan. A stormwater management concept has not been reviewed or approved by DPS. Therefore, the Board cannot make a finding that the application meets all applicable water quality standards.

Finally, there are several options available to the applicant to reduce the amount of imperviousness on the site including: altering the mix of uses; proposing fewer or smaller additions to, and less reconstruction of, accessory buildings; and substitution of pervious materials for onsite paths and walkways. Therefore, the applicant has not demonstrated that the relief sought is the minimum needed to construct a country inn use.

Staff notes that, given stringent policies and significant investments to protect the Upper Paint Branch resources, impervious levels would need to be at or near the 8.9% standard for staff to support a waiver request. The size of this waiver – 89% higher the Environmental Overlay Zone standard – makes that level of reduction a formidable goal to accomplish.

For these reasons, staff finds that the proposed plan does not meet the requirements for protection of the Upper Paint Branch SPA. We therefore recommend that the Planning Board not grant the impervious surface waiver request.

Attachments

Attachment A – Vicinity Map

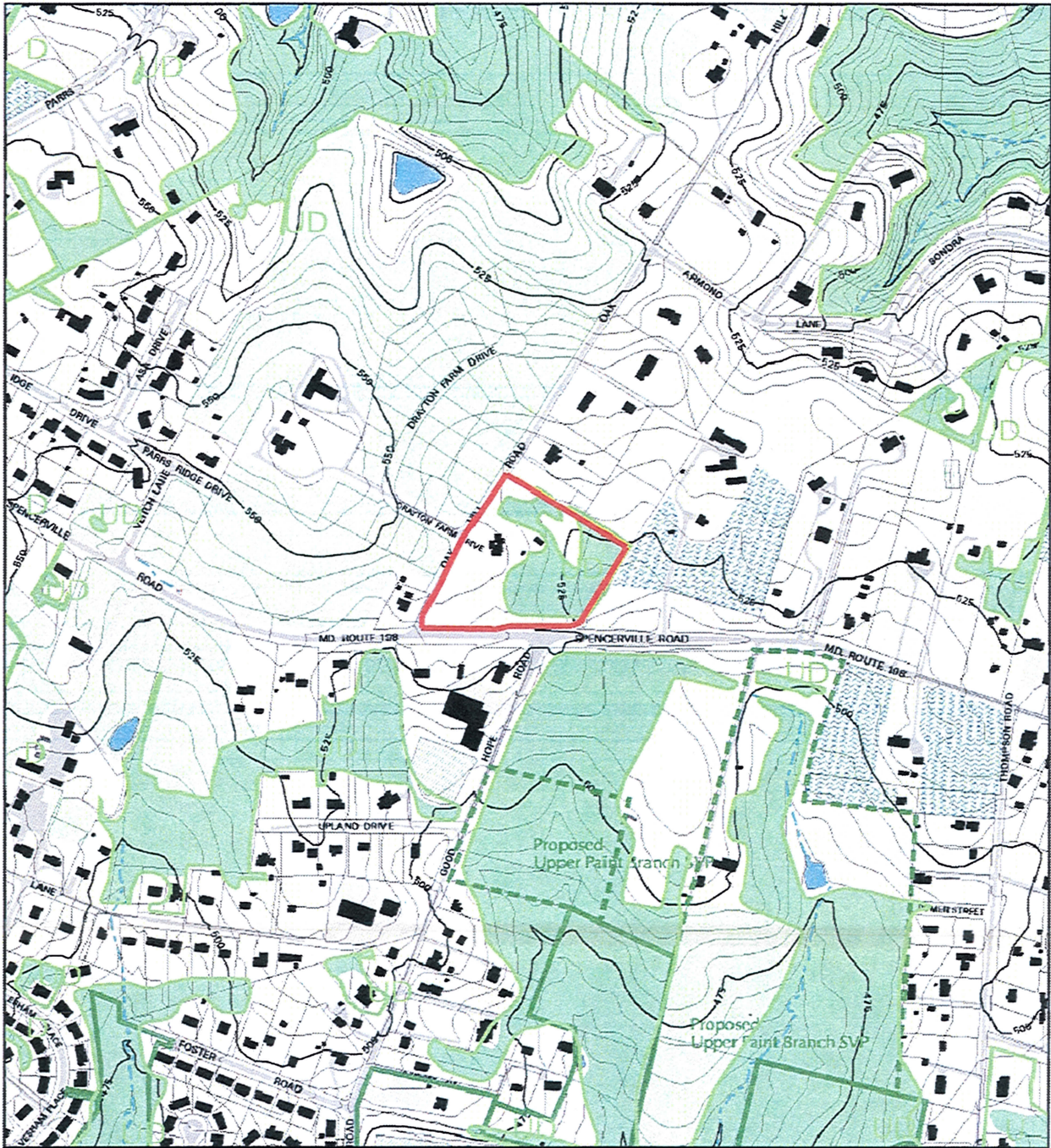
Attachment B – Pre-preliminary Concept Plan

Attachment C – Resolution 11-1840 (G-640 Rezone from RE-1 to Country Inn)

Attachment D – Applicant's Justification Letter 7/2/08

Attachment E – Applicant's Justification Letter 9/5/08

EDGEWOOD INN (720080220)



Map compiled on May 01, 2008 at 11:06 AM | Site located on base sheet no - 221NE02

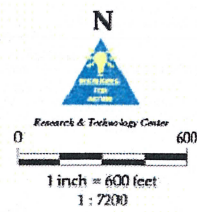
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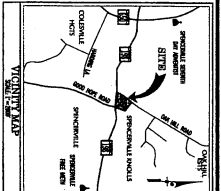
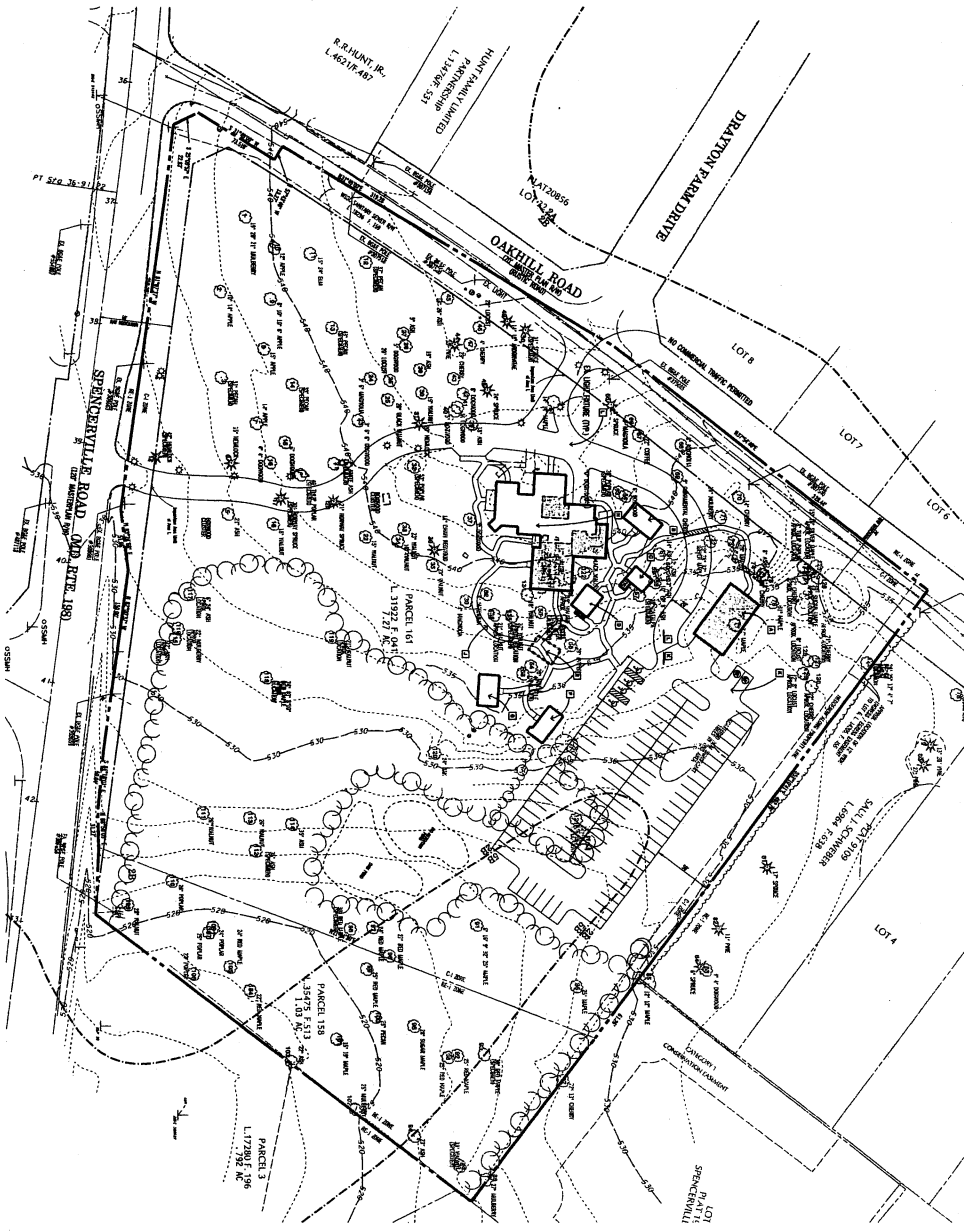
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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 8787 Georgia Avenue - Silver Spring, Maryland 20910-3700





OWNER/DEVELOPER:
EDGEWOOD INN, LLC
 1071 E BUCK ROAD
 SUITE 200
 PHOENIX, ARIZONA 85024
 CONTACT: MARK STRYDOM-COOPER



[Symbol]	EXISTING IMPERVIOUS AREAS
[Symbol]	PROPOSED IMPERVIOUS AREAS
[Symbol]	EXISTING PARKING LOTS
[Symbol]	PROPOSED PARKING LOTS
[Symbol]	PROPOSED DRIVEWAYS
[Symbol]	PROPOSED TRAILWAYS
[Symbol]	PROPOSED SIDEWALKS
[Symbol]	PROPOSED BICYCLEWAYS
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[Symbol]	PROPOSED BIKEWAYS

AREA	AREA	AREA
EXISTING IMPERVIOUS AREAS	10,000	10,000
PROPOSED IMPERVIOUS AREAS	10,000	10,000
EXISTING PARKING LOTS	10,000	10,000
PROPOSED PARKING LOTS	10,000	10,000
PROPOSED DRIVEWAYS	10,000	10,000
PROPOSED TRAILWAYS	10,000	10,000
PROPOSED SIDEWALKS	10,000	10,000
PROPOSED BICYCLEWAYS	10,000	10,000
PROPOSED BIKEWAYS	10,000	10,000

AREA	AREA	AREA
EXISTING IMPERVIOUS AREAS	10,000	10,000
PROPOSED IMPERVIOUS AREAS	10,000	10,000
EXISTING PARKING LOTS	10,000	10,000
PROPOSED PARKING LOTS	10,000	10,000

STANDARD	STANDARD	STANDARD
MAXIMUM BUILDING HEIGHT	35 FT. MAX.	35 FT. MAX.
MINIMUM SETBACKS	10 FT. FRONT, 5 FT. SIDE, 5 FT. REAR	10 FT. FRONT, 5 FT. SIDE, 5 FT. REAR
MINIMUM LOT AREA	10,000 SQ. FT.	10,000 SQ. FT.
MINIMUM LOT WIDTH	100 FT.	100 FT.
MINIMUM LOT DEPTH	100 FT.	100 FT.
MINIMUM FRONT YARD SETBACK	10 FT.	10 FT.
MINIMUM SIDE YARD SETBACK	5 FT.	5 FT.
MINIMUM REAR YARD SETBACK	5 FT.	5 FT.
MINIMUM DRIVEWAY WIDTH	10 FT.	10 FT.
MINIMUM TRAILWAY WIDTH	5 FT.	5 FT.
MINIMUM SIDEWALK WIDTH	5 FT.	5 FT.
MINIMUM BIKEWAY WIDTH	5 FT.	5 FT.
MINIMUM BIKEWAY SETBACK	5 FT.	5 FT.

NOTES:

1. All proposed impervious areas shall be designed to meet the requirements of the Virginia Stormwater Management Manual (VSM) for the site.
2. All proposed parking lots shall be designed to meet the requirements of the Virginia Stormwater Management Manual (VSM) for the site.
3. All proposed driveways shall be designed to meet the requirements of the Virginia Stormwater Management Manual (VSM) for the site.
4. All proposed trailways shall be designed to meet the requirements of the Virginia Stormwater Management Manual (VSM) for the site.
5. All proposed sidewalks shall be designed to meet the requirements of the Virginia Stormwater Management Manual (VSM) for the site.
6. All proposed bikeways shall be designed to meet the requirements of the Virginia Stormwater Management Manual (VSM) for the site.

PARKING SPACE TABULATIONS:

TYPE	COUNT	AREA
EXISTING	100	10,000
PROPOSED	100	10,000

PRE-APPLICATION CONCEPT PLAN & PRELIMINARY CONSULTATION PLAN

EDGEWOOD INN

1071 E BUCK ROAD
 SUITE 200
 PHOENIX, ARIZONA 85024
 CONTACT: MARK STRYDOM-COOPER

DATE: 07/15/2010

SCALE: 1" = 40'

1 of 1

RECEIVED

FILE
0509-11B

FEB 6 1990

Montgomery County, MD

Resolution No.: 11-1840
Introduced: January 30, 1990
Adopted: January 30, 1990COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY

By: County Council

Subject: APPLICATION NO. G-640 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Susan W. Carter, Esquire, Attorney for Loyal Ralph and Laura Jeanette Swan Purchaser, Applicant, OPINION AND RESOLUTION ON APPLICATION
Tax Account No.05-00279326

OPINION

Application No. G-640 requests reclassification from the RE-1 Zone to the Country Inn Zone of 7.785 acres known as Part of Loyal Ralph Swan, et ux, Property, located at 16101 Oak Hill Road, Silver Spring, in the 5th Election District.

The Hearing Examiner recommended approval of the development plan and approval of the reclassification subject to the specifications and requirements of the development plan. These recommendations were based on conclusions that the Country Inn Zone at the proposed location satisfies the requirements of the zone; that the proposed use will be compatible with existing and planned land uses in the surrounding area; and that the proposed use bears sufficient relationship to the public interest to justify it. The Technical Staff and the Planning Board provided similar recommendations. The District Council agrees with the findings and conclusions of the Hearing Examiner, the Technical Staff, and the Planning Board.

The subject property lies in the Patuxent Watershed Conservation Area at the intersection of Spencerville Road, also known as MD Route 198, and Oak Hill Road. It is located about two-and-one-half miles west of U.S. Route 29. The property forms a trapezoid which contains 560 feet of frontage along Route 198 and 790 feet of frontage along Oak Hill Road. The topography gradually ranges from a

1113

high point adjacent to Oak Hill Road to a low point near the eastern boundary line. The site is currently developed with a two-and-one-half-story frame residence and is shown on the Locational Atlas and Index of Historic Sites as "Edgewood II." There are two access driveways, one from Route 198 and another from Oak Hill Road. A brick and stone walkway is located adjacent to the main residence. There are several outbuildings located on the site including an old blacksmith shop, a garage, several maintenance buildings, and a ruins of a barn. The site is densely wooded in the east and central portions and contains some tree clusters at its southwest corner.

The zoning history of the site reveals that it was initially classified for one-half acre residential density by the 1954 Regional District Zoning. This zoning category was reapplied by the 1958 Countywide Comprehensive Zoning. The property was downzoned to its current one-acre density by sectional map amendment in 1982. There have been no previous local map amendments pertaining to this site. The Eastern Montgomery County Master Plan, adopted and approved in 1981, recommended the site for the Country Inn Zone.

The surrounding area is generally bounded by the public land adjoining the Patuxent River to the north, Batson Road to the east, Good Hope Estates subdivision to the south and the area extending toward New Hampshire Avenue to the west. This area is predominantly rural in character with a mixture of farms, low density residential development and institutional uses. A church and school are located directly south of the site. The Good Hope Estates subdivision, developed at a density of two dwelling units per acre, is located further south. Farms are located west, east, and southeast of the site. The Spencerville Knolls subdivision is located north of the site along Armond Lane and Sondra Court. Some scattered single-family homes are developed along both sides of Spencerville Road.

The proposed development will retain the existing residential structure as a country inn restaurant to serve up to 90 patrons. The size of the restaurant is limited by the capacity of a private septic disposal system and well. Several of the outbuildings will also be retained and refurbished to provide for antique and craft shops. A barn will be reconstructed slightly to the northwest of its current location. Parking for 81 cars is proposed in an area located to the southeast of the frame house.

Building coverage will be limited to four percent of the site and 83 percent of the site will be devoted to green space. There will be no signage along Oak Hill Road and all commercial traffic will enter the subject property from Route 198. The common property line along the northeast boundary will be landscaped as approved by the Planning Board at the time of site plan. The issue of reconstruction of an existing fence along this property line will also be examined by the Board at site plan. The development will involve three stages: the opening of a restaurant operation in the existing frame house and construction of supporting driveway, parking, and walkway systems; the conversion of outbuildings into antique and craft shops, walkway links and the relocation of the caretaker to the third floor of the main house; and the construction of a new 600 square foot kitchen and 2,500 square foot dining room and the conversion of the main house dining room and food handling areas into a museum.

The District Council agrees with the determination of the Hearing Examiner that the development plan satisfies the requirements of Section 59-D-1.6. In this respect, the District Council finds that the Country Inn Zone at the proposed location is in compliance with the recommendations of the applicable Master Plan and does not conflict with the General Plan, the County CIP, or other applicable County plans or policies. Also, the proposed zoning is in compliance with the

requirements of the Country Inn Zone and will provide for the maximum safety, convenience, and amenities of residents of the area as well as being compatible with adjacent development. The evidence also demonstrates that the internal vehicular and pedestrian circulation systems are safe, adequate, and efficient. The development plan, by its site design, will minimize grading of the site and prevent soil erosion and preserve natural vegetation and other natural features of the site. Since the property is under single ownership, there is no need for documents showing perpetual maintenance of recreational, common, or quasi-public areas.

The District Council also agrees with the determination of the Hearing Examiner that the application satisfies the requirements of the Country Inn Zone. In this respect, the subject property is located in an area that is rural and will be an appropriate setting for a Country Inn as indicated by the Master Plan. The proposed use will be located in an existing residential structure and will be limited in a manner compatible with the rural character of the area. Significant tree cover will be preserved. Moreover, the minimum development standards of the zone are satisfied. The zone requires at least a two-acre minimum lot size and the subject property involves over seven acres. The zone permits building coverage up to 10 percent of the site, while the proposed use will only cover 4 percent. The zone requires green space of 50 percent of the site, while the proposed use will provide 83 percent. Required setbacks are 50 feet from any street and 75 feet from boundary lines. The closest buildings to a street or boundary line meet or exceed these requirements. The existing structure conforms with the building height restrictions of the zone. The parking exceeds the minimum off-street parking requirements.

The District Council also agrees with the determination of the Hearing Examiner that the proposed zoning will be compatible with the rural character of the area and will be in general conformity with the Master Plan. The evidence indicates that the proposed use will not adversely affect public facilities or propose a detriment to the public health, safety, or welfare. The Planning Board and the Technical Staff recommended approval. Hence, the proposed development bears sufficient relationship to the public interest to justify it.

For these reasons and because to grant the instant application would aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be granted in the manner set forth below.


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, approves the following resolution.

The amended development plan, submitted as Exhibits 20(a) and 29 is approved.

Application No. G-640 for the reclassification from the RE-1 Zone to the Country Inn Zone of 7.785 acres known as Part of Loyal Ralph Swan, et ux, Property, located at 16101 Oak Hill Road, Silver Spring, in the 5th Election District is granted for the Country Inn Zone in the amount requested subject to the specifications and requirements of the amended development plan approved above.

This is a correct copy of Council action.


Kathleen A. Freedman, CMC
Secretary of the County Council

SHULMAN ROGERS GANDAL PORDY & ECKER, PA.

Lawrence A. Shulman
Donald R. Rogers
David A. Pordy*
David D. Freishtat
Martin P. Schaffer
Christopher C. Roberts
Edward M. Hanson, Jr.
David M. Kochanski
Robert B. Canter
Daniel S. Krakower
Kevin P. Kennedy
Nancy P. Regelin
Samuel M. Spiritos*
Martin Levine
Worthington H. Talcott, Jr.*
Fred S. Sommer
Morton A. Faller
Alan S. Tilles
James M. Hoffman
Michael V. Nakamura
Jay M. Eisenberg*

Douglas K. Hirsch
Glenn C. Etelson
Karl J. Profil, Jr.*
Timothy Dugan*
Kim Viti Fiorentino
Sean P. Sherman*
Gregory D. Grant*
Jacob S. Frenkel*
William C. Davis, III
Michael L. Kabik
Scott D. Museles
Michelle R. Curtis*
Michael J. Lichtenstein
Howard J. Ross*
Jeremy W. Schulman
Rebecca Oshoway
Alan B. Sternstein
Michael J. Froehlich
Sandy David Baron
Christine M. Sorge
Jeffrey W. Rubin

Simon M. Nadler
Karl W. Means
Mimi L. Magyar
Glenn W.D. Golding*
Marthaw M. Moore†
Jeannie Eun Cho
David S. Wachen
Stephen A. Metz
Patrick J. Howley
Jacob A. Ginsberg
Christine P. "Tina" Hsu
Aaron A. Ghais
Eric J. von Vorys
Hong Suk "Paul" Chung*
Deborah A. Klis
Heather L. Howard*
Kristin E. Draper*
Melissa G. Bernstein*
John D. Sadler
Marc E. Pasekoff
Alexis H. Peters*

Thomas A. Gravely
Rebekah L. Bina
William F. Gibson, II*
William B. Schroeder*
Lawrence M. Kramer
Alexander C. Vincent*
Stacey L. Schwaberg*
Courtney R. Sydnort
Michelle Hunter Green*
Jessica O. Hepburn*
Mark R. Mann†
Max R. Masinter*
Alan B. Sutron*
Elizabeth T. Passyn*
Rachel E. Solomon*
Reza Golezorkhi*
Edward P. Henneberry*
SaMonna L. Warts*

Lawrence Eisenberg
Deborah L. Moran
Debra S. Friedman*
Laura L. Smith*
Ira E. Hoffman*

Special Counsel
Philip R. Hochberg*

Retired
Karl L. Ecker

Maryland and D.C. except as noted:
* Virginia also † D.C. only
* Maryland only † VA only
* D.C. and VA only
† MD and VA only
* MD and D.C. only

Attachment D

Writer's Direct Dial Number:

(301) 230-5206
dfreishtat@srgpe.com

July 2, 2008

Historic Preservation Commission
1109 Spring Street, Suite 801
Silver Spring, Maryland 20910

Re: Edgewood Inn
Preliminary Consultation
Requesting Support of Impervious Surface Area Waiver

To the Historic Preservation Commission:

We represent Edgewood Inn, LLC, the owner of the Edgewood Inn at 16101 Oak Hill Road in Silver Spring. Edgewood is categorized as a historic site and described in Places from the Past: The Tradition of Gardez Bien in Montgomery County, Maryland on page 314. We are seeking a preliminary consultation with the Historic Preservation Commission (HPC) to request the Commission's support of an Impervious Surface Area Waiver. We explain the project and the circumstances that necessitate the waiver below.

WRITTEN DESCRIPTION OF PROJECT

Below is a description of existing structure(s) and environmental setting, including their historical features and significance:

Originally built circa 1858, the dwelling was a 2 ½-story block, two rooms wide with a rear kitchen ell. Later, probably in the late 1800's, a new kitchen wing was added to the northeast corner and the old kitchen was converted into a dining room. About 1903, another rear wing was built to the northwest corner, giving the house a roughly U-shaped plan.

The dwelling is set within a grove of hardwood trees on approximately 7 ½ acres, from which the property obtained its name. North and East of the main dwelling are several outbuildings (3 red structures: a 1-story corn crib, a 3-level ice house and a 2-story carriage house), a 2-story tenant house, ruins of a stone ground floor to a 3-level 32 x 48 bank barn and a 2-story blacksmith shop.

Originally, the property was the home of one of the oldest Quaker families in the area, the Stablers. They were very influential in the area, active in the Horticultural Club and the Grange, and were one of the original incorporators of the Savings Institution of Sandy Spring. Their land

was considered to be some of the finest land in the county (part of a 102 acre parcel) with its gardens and orchards known for their productivity and beauty. A Stabler lived on the property until 1963. Most recently it was used as an inn, restaurant, antique shop and home to Mr. & Mrs. Ralph Swan.

Below is a general description of project and its effect on the historic resource(s), the environmental setting, and, where applicable, the historic district:

In 1990, Edgewood was rezoned Country Inn. The Development Plan was approved by the District Council as required in a Country Inn rezoning. (Please see the enclosed Development Plan.) In the approved Development Plan, the main house is to be converted to a restaurant and museum, the out buildings are to be converted into antique and craft shops, and the bank barn is to be rebuilt. In addition, the driveway from Spencerville Road/MD 198 is to be expanded to accommodate all commercial traffic and a parking lot is to be built off the front of the main house. Since 2006, when Edgewood Inn, LLC acquired the property, the owner has diligently worked to implement the Development Plan.

In the course of continuing to convert the property to a Country Inn the owners will make 4 main changes: an addition to the main house to hold a restaurant and perhaps shops, rebuild the bank barn, add a parking lot to accommodate patrons and a driveway from Spencerville Road/MD 198. We will apply separately for the Historic Area Work Permits for these changes after receiving the Impervious Surface Area Waiver, etc..

The M-NCPPC staff assigned to the HPC (Staff) is familiar with the main house as we have already sought their advice and approval to replace the roof. To be able to use the main house effectively as a restaurant the main house requires an addition for a commercial kitchen and patron area. After discussions with Staff members, Joshua Silver and Scott Whipple, the Development Plan addition for the main house was reduced by 2313 s.f.. The main house is 2873 s.f.. We propose to add 727 s.f. to the house, making the house 3600 s.f.. Please see the enclosed Pre-application Concept Plan & Preliminary Consultation Plan (Preliminary Consultation Plan). The addition will be built with materials that are consistent with the current house's materials.

We propose to rebuild the bank barn to be approximately 36 feet wide by 48 feet long and 2 stories tall. The barn will be used for storage, shops and an administrative office. The barn will be built very near the original foundation with same orientation and similar materials as the original barn to preserve the historic nature of Edgewood.

A 92 space gravel parking lot is proposed to be built to the rear of the main house. Discussions with Staff contributed to the determination of the paving material and location. The number of parking spaces is the minimum number required under Section 59-E to provide for the commercial uses proposed. Please see the parking space tabulations on the enclosed Preliminary Consultation Plan.

A condition of the approved Development Plan is that all commercial traffic must enter from Spencerville Road/MD 198. A narrow driveway exists today but it must be widened to at least 20 feet, 10 feet in each direction, to accommodate the commercial traffic. The road will remain gravel. Please see the Preliminary Consultation Plan for the general location of the driveway. The exact location and configuration of the driveway will be determined at site plan.

We welcome any comments or suggestions as to how the driveway should be constructed to best preserve the historic nature and vegetation of the property.

IMPERVIOUS SURFACE AREA WAIVER REQUEST

The Development Plan was approved for the adaptive reuse of the historic site as a Country Inn. A Zoning Text Amendment (ZTA) created the Environmental Overlay Zone for the Upper Paint Branch Special Protection Area in 1997 with a development standard of 10% impervious area. The impervious area development standard was then subsequently amended to reduce the limit to 8%. Strict compliance with this standard makes the implementation of the approved Development Plan impossible.

The approved Development Plan illustrates an impervious area of 48,948 s.f. (1.12 acres) or 17% of what is now anticipated to be the Net Lot Area (NLA) of the property after future additional dedications to public right-of-way. Please see the attached Impervious Area Study for a depiction and tabulation of that impervious area.

In March, the owner purchased the adjoining property at 1700 Spencerville Road (Adjoining Property). The Adjoining Property is vacant and no development is contemplated for the property. Accordingly, the Adjoining Property is available to be included in this application in terms of impervious area computations. The 1.03 acre tract can support an additional 3,575 s.f. of impervious area at the contemporary standard of 8%. Added to the 48,948 s.f. of the previously approved Development Plan, the total area proposed for impervious area is 52,523 s.f. or 16% of the 8.3 acre combined tract. Thus, the percentage of impervious surface area, 16%, is less than the percentage of impervious area approved at the time of the rezoning and the approval of the Development Plan, 17%.

The enclosed Preliminary Consultation Plan has been designed to assure that the proposed plan does not exceed the amount of impervious area previously anticipated by the approval of the Development Plan. Because this previously anticipated amount of impervious area exceeds the contemporary development standard of 8% (Section 59-C-18.152(a)(1)), we are requesting that the Planning Board approve a waiver of that standard in accordance with Section 59-C-18.152(a)(2). That Section states:

The Director may grant a waiver from the 8 percent impervious surface restriction if the applicant shows by clear and convincing evidence that:

(i) the 8 percent impervious limitation would result in undue hardship to the applicant because of events or circumstances not caused or facilitated by the applicant;

(ii) the applicant complies with all applicable federal, state, and county water quality standards; and

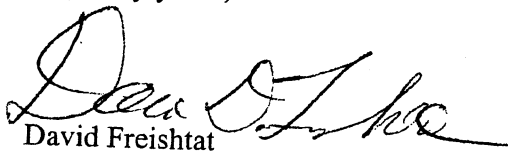
(iii) the relief sought is the minimum needed to prevent the hardship and the Director must consider alternative techniques.

The requested waiver satisfies these required findings. As previously stated, the ZTA imposing an impervious area limitation that effectively precludes the implementation of the

previously-approved, adaptive reuse of the historic property is certainly a circumstance of undue hardship to the applicant. The impact to this property is a potential unintended consequence of the ZTA that was not caused or facilitated by the applicant (finding *i*). A successful navigation of the extensive stormwater management and water quality plan approval processes will demonstrate compliance with the stringent water quality standards established by the County and M-NCPPC (finding *ii*). The amount of impervious area proposed is the minimum amount necessary to implement the approved plan and the proposed plan will include numerous water quality techniques to minimize the impacts such as pervious paving, ground water recharge, shaded detention, etc. (finding *iii*).

In conclusion, we respectfully request that the Historic Preservation Commission support a waiver for impervious surface area to allow 52,523 s.f. or 16% of impervious surface. We emphasize that the amount of impervious surface area proposed is the minimum amount necessary to effectively implement the approved Development Plan for the Edgewood Country Inn. Please call with any comments, questions and instructions. Thank you.

Very truly yours,


David Freishtat

Enclosures

cc: Mr. Barry Gudelsky
Mr. Steven Gudelsky
Mr. John Sekerak

**SHULMAN
ROGERS
GANDAL
PORDY &
ECKER, PA**

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September 5, 2008

Hand Delivery and Email

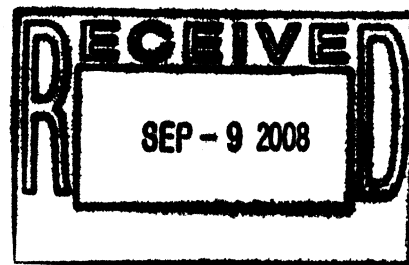
Ms. Catherine Conlon
Supervisor, Subdivision Section
Development Review Division
Montgomery County Planning Board
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Edgewood Inn
16101 Oak Hill Road, Silver Spring
Pre-Preliminary Plan No. 720080220
Planning Board Hearing
Our File No. 111365.00004

Dear Ms. Conlon:


This firm represents the applicant and owner of the historic Edgewood Inn, Edgewood Inn, LLC. We are writing to request that the Planning staff set an agenda date for a Planning Board hearing on the Edgewood Inn pre-preliminary plan. The pre-preliminary plan was submitted to the Planning staff on April 11, 2008, the Development Review Committee meeting was held on June 2, 2008 and a Historic Preservation Commission preliminary consultation was held on August 13, 2008. We would like to obtain the Planning Board's opinion on the following issues: (1) Will the Planning Board recommend that the Director of Department of Permitting Services grant a waiver of the Upper Paint Branch Special Protection Area eight percent impervious surface area limitation; and, (2) Will the Planning Board permit a few minor departures from the Development Plan approved by the District Council as part of the 1990 rezoning of the Edgewood Inn property to Country Inn without requiring an amended Development Plan?

The purpose of the August 13, 2008 Historic Preservation Commission preliminary consultation was to gain insight from the Commission on the proposed architecture's consistency with the site's historic nature and regulatory matters necessary to renovate the existing inn/restaurant. Historic Preservation staff is sending a letter to the Planning Board expressing the opinions and recommendations of the Historic Preservation Commission as conveyed at the preliminary consultation.




We are attaching a memorandum outlining our discussion with the Historic Preservation Commission, as well as providing further explanation of the two issues to be addressed at the Planning Board hearing that we are requesting with this letter. Please call with any comments, questions and instructions. Thank you.

Sincerely,



David D. Freishtat



Elizabeth T. Passyn

Enclosure

cc: Mr. Elza Hisel-McCoy
Mr. Joshua Silver

g:\175\gadelsky\redevelopment of edgewood inn\correspondence\letter-catherine conlon planning board hearing 09 04 08#1.doc

BEFORE THE MONTGOMERY COUNTY PLANNING BOARD
IN THE MATTER OF PRE-PRELIMINARY PLAN NO. 720080220
EDGEWOOD INN

MEMORANDUM OF ISSUES TO BE DISCUSSED

This firm represents the applicant and owner of the historic Edgewood Inn¹, Edgewood Inn, LLC. The applicant is working closely with Historic Preservation to assure that the Edgewood Inn redevelopment produces an economically viable project that promotes the property's overall historic character. To do so, the applicant is requesting that (1) the Planning Board recommend that the Director of the Department of Permitting Services grant a waiver of the Upper Paint Branch eight percent impervious surface area limitation; and, (2) not require a Development Plan amendment for the few minor departures that the applicant proposes due to requests of the reviewing agencies and the project's evolution. We explain the project and matters of concern below.

DESCRIPTION OF PROPERTY

Originally built circa 1858, the dwelling was a 2 ½-story block, two rooms wide with a rear kitchen ell. Later, probably in the late 1800's, a new kitchen wing was added to the northeast corner and the old kitchen was converted into a dining room. About 1903, another rear wing was built to the northwest corner, giving the house a roughly U-shaped plan.

The dwelling is set within a grove of hardwood trees on approximately 7 ½ acres, from which the property obtained its name. North and East of the main dwelling are several outbuildings (3 red structures: a 1-story corn crib, a 3-level ice house and a 2-story carriage house), a 2-story tenant house, ruins of a stone ground floor to a 3-level 32 x 48 bank barn and a 2-story blacksmith shop.

Originally, the property was the home of one of the oldest Quaker families in the area, the Stablers. They were very influential in the area, active in the Horticultural Club and the Grange, and were one of the original incorporators of the Savings Institution of Sandy Spring. Their land was considered to be some of the finest land in the county (part of a 102 acre parcel) with its gardens and orchards known for their productivity and beauty. A Stabler lived on the property until 1963. Most recently it was used as an inn, restaurant, antique shop and home to Mr. & Mrs. Ralph Swan.

The applicant purchased the Edgewood Inn in 2006. The approximately 7.27 acre property is located at 16101 Oak Hill Road and is identified as Parcel 161.² The Edgewood Inn is bordered to the west by Oak Hill Road and to the south by Spencerville Road/MD 198. In

¹ The site is shown on the Locational Atlas and Index of Historic Sites as Site 15/52, Edgewood II. The historic property is described in Places from the Past: The Tradition of Gardez Bien in Montgomery County, Maryland on page 314.

² The property's complete address is 16101 Oak Hill Road, Silver Spring, Maryland 20905. Parcel 161 is recorded in the Montgomery County Land Records at Liber 31922 and Folio 041.

February 2008, the applicant acquired the adjoining property to the east, Parcel 158.³ The adjoining property consists of approximately 1.04 acres of unimproved land. No development is planned for the additional acreage. The purpose of purchasing Parcel 158 was to help mitigate the increase in impervious surface area that is required to transform the property into a commercially viable site.

DESCRIPTION OF PROJECT

In 1990, Edgewood was rezoned Country Inn. The Development Plan was approved by the District Council as required in a Country Inn rezoning. (Please see the Development Plan submitted with the Pre-preliminary plan application on April 11, 2008.) In the approved Development Plan, the main house is to be converted to a restaurant and museum, the out buildings are to be converted into antique and craft shops, and the bank barn is to be rebuilt. In addition, the driveway from Spencerville Road/MD 198 is to be expanded to accommodate all commercial traffic and a parking lot is to be built off the front of the main house. Since 2006, when Edgewood Inn, LLC acquired the property, the owner has diligently worked to implement the Development Plan.

In the course of continuing to convert the property to a Country Inn the owners will make four main changes: an addition to the main house to hold a restaurant and perhaps shops, rebuild the bank barn, add a parking lot to accommodate patrons and widen the driveway from Spencerville Road/MD 198.

To be able to use the main house effectively as a restaurant, the main house requires an addition for a commercial kitchen and patron area. We discussed with the Historic Preservation Commission (HPC) staff members, Joshua Silver and Scott Whipple, the size of the addition. Mr. Silver and Mr. Whipple voiced concern that the addition was too large. On the Development Plan the addition's footprint is 3040 s.f.. The main house has a 2873 s.f. footprint. The applicant is proposing to add just 727 s.f., making the house's footprint 3600 s.f., thus reducing the addition's footprint by 2313 s.f. from the Development Plan. Please see the revised Pre-application Concept Plan & Preliminary Consultation Plan (Pre-application Concept Plan).⁴ The addition will be built with materials that are consistent with the current house's materials.

We propose to rebuild the bank barn to be approximately 36 feet wide by 48 feet long and 2 stories tall. The barn will be used for storage, shops and an administrative office. The barn will be built very near the original foundation with same orientation and similar materials as the original barn to preserve the historic nature of Edgewood.

A parking lot is proposed to be built to the rear of the main house. Discussions with HPC staff contributed to the determination of the location. The number of parking spaces will be the minimum number required under Section 59-E to provide for the commercial uses proposed. Please see the parking space tabulations on the Pre-application Concept Plan. On the Development Plan, the parking lot is in the front of the main house. HPC staff recommended

³ Parcel 158 is recorded in the Montgomery County Land Records at Liber 35475 and Folio 513.

⁴ Greenhorne & O'Mara is submitting the revised Pre-application Concept Plan under a separate cover letter.

that the parking lot be relocated to an area where the parking lot will not detract from the site's historic nature. The applicant proposes to relocate the parking lot to the rear of the site's buildings.

A condition of the approved Development Plan is that all commercial traffic must enter from Spencerville Road/MD 198. A narrow driveway exists today but it must be widened to accommodate the commercial traffic. Please see the Pre-application Concept Plan for the general location of the driveway. The exact location and configuration of the driveway will be determined at site plan. We welcome any comments or suggestions as to how the driveway should be constructed to best preserve the historic nature and vegetation of the property.

IMPERVIOUS SURFACE AREA WAIVER

On August 13, 2008, the HPC held a preliminary consultation to discuss the Edgewood Inn redevelopment. The HPC commented positively on the project and its direction. The preliminary consultation's threshold issue was the necessity of the impervious surface area waiver. The property falls under the Environmental Overlay Zone for the Upper Paint Branch Special Protection Area's eight percent impervious surface area limitation.⁵ The HPC agreed that a waiver of impervious surface area limitation is necessary to make the property's revitalization economically viable as recommended for the Country Inn zone.

The property has an impervious surface area of approximately 7.7% without any new improvements.⁶ As evidence by the project's description, improvements that will add impervious surface are required to implement the Development Plan including the addition to the house, the replacement of the barn, a parking area for patrons, and widening the Spencerville driveway. We estimate that these improvements bring the impervious surface area to around sixteen percent. However, we cannot request a waiver for a specific percentage or area as the project has many steps left in the approval process that may tweak the project in a manner that requires more (or less) impervious surface area. As the project is examined by the various reviewing agencies, impervious surface treatments will be at issue. We have already dealt with the impervious surface issue with the Spencerville Road driveway. The Montgomery County Zoning Ordinance requires the driveway to be at least twenty feet wide to accommodate two-way traffic.⁷ The Fire Marshal requested that the turn in radius at Spencerville Road be at least twenty-five feet for the fire trucks. HPC staff expressed a concern that the driveway is too wide for the historic site at twenty feet. The State Highway Administration review may result in the addition of sidewalks and a deceleration/acceleration lane into/out of the driveway on Spencerville Road. As the Spencerville Road driveway example illustrates, the option to tweak the impervious surface improvements throughout the approval process will permit the reviewing agencies and the applicant to be able to work together to reach the best possible project.

⁵ Montgomery County Code Section 59-C-18.152(a)(1).

⁶ The 7.7% percentage was calculated by dividing the Edgewood Inn's current impervious surface area, 21,771 s.f. by the site's presumed future net tract area 6.46 ac or 281,398 s.f. The site's presumed future net tract area is that of Parcel 161, which is recorded in the Montgomery County Land Records at Liber 31922 and Folio 041.

⁷ Montgomery County Code Section 59-E-2.41.

We also satisfy the standard for granting an impervious surface area waiver in accordance with Montgomery County Code Section 59-C-18.152(a)(2). The Section states:

The Director may grant a waiver from the 8 percent impervious surface restriction if the applicant shows by clear and convincing evidence that:

- (i) the 8 percent impervious limitation would result in undue hardship to the applicant because of events or circumstances not caused or facilitated by the applicant;*
- (ii) the applicant complies with all applicable federal, state, and county water quality standards; and*
- (iii) the relief sought is the minimum needed to prevent the hardship and the Director must consider alternative techniques.*

The requested waiver satisfies these required findings. As previously stated, the limitation that effectively precludes the implementation of the previously-approved, adaptive reuse of the historic property is certainly a circumstance of undue hardship to the applicant. The impact to this property is a potential unintended consequence of the impervious surface area limitation that was not caused or facilitated by the applicant (finding *i*). A successful navigation of the extensive stormwater management and water quality plan approval processes will demonstrate compliance with the stringent water quality standards established by the County and M-NCPPC (finding *ii*). The amount of impervious area proposed is the minimum amount necessary to implement the approved plan and the proposed plan will include numerous water quality techniques to minimize the impacts such as pervious paving, ground water recharge, shaded detention, etc. (finding *iii*).

With the support of the HPC, we respectfully request that the Planning Board recommend that the Director of the Department of Permitting Services, at the time of site plan review, grant a waiver of the Upper Paint Branch eight percent impervious surface area limitation. We emphasize that we will continue to work with the Planning staff and other agencies to assure that the amount of impervious surface area is the minimum amount necessary to effectively implement the approved Development Plan for the Edgewood Inn.

DEVELOPMENT PLAN

We request that the Planning Board permit the minimal departures from the Development Plan, which are noted below and illustrated on the Pre-application Concept Plan, without requiring the applicant to amend the Development Plan.

1. Relocating the parking area to the back of the existing house as requested by the HPC staff.
2. Adding parking spaces due to a reconfiguration of the uses. The museum use has been eliminated and the area has been reallocated to the restaurant and retail uses.

Restaurant and retail require a greater number of parking spaces per square foot compared to museum thus more spaces are required.⁸ The applicant will work with the reviewing agencies to assure that the number of spaces requested is the minimum number required.

3. Eliminating the 90 patron limitation that was in place due to the property using a private well and septic system. The property is serviced by public water and sewer thus, the limitation is no longer applicable.
4. Relocating the caretaker's residence to an existing outbuilding from the third floor of the main building. The Country Inn zone's maximum height of the main building is two and half stories thus, the residence is in compliance with the zone in the new location.⁹
5. Reducing the size of the addition for the main house as a result of discussions with the HPC staff, as discussed above. The applicant reduced the addition by 2,313 s.f. We propose to add 727 s.f. to the main house, making the house 3,600 s.f. In turn, the smaller footprint reduces the impervious surface area thus, benefitting the environment. Please see the Pre-application Concept Plan.
6. Altering the Development Program on the Development Plan to implement the above changes.

As the departures from the Development Plan are not material, we believe that a formal amendment is not necessary. The degree of departure is typical of the long-standing practice of Development Plans of the era because these "concept" plans were appropriately general and left flexibility for logical evolution of detail as the plan migrated through the increasingly specific stages of the regulatory review process. The applicant will continue to work with the Planning staff and other agencies to assure that departures remain minimal and to best promote the overall historic character of the site. Therefore, we respectfully request that the plan permit the minimal departures from the Development Plan without requiring an amendment.

⁸ According to Montgomery County Code Section 59-E-3.7, indoor restaurant patron area requires 25 parking spaces for each 1,000 s.f., outdoor patron area requires 15 spaces, general retail area requires 5 parking spaces for each 1000 s.f. and museum area requires 2.5 spaces for each 1,000 s.f.

⁹ Montgomery County Code Section 59-C-4.395.

Thank you for your consideration.

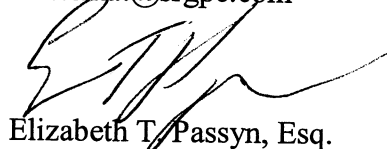
Respectfully submitted,



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