



The Lauren, 4901 Hampden Lane, Development Plan Amendment, DPA-14-02



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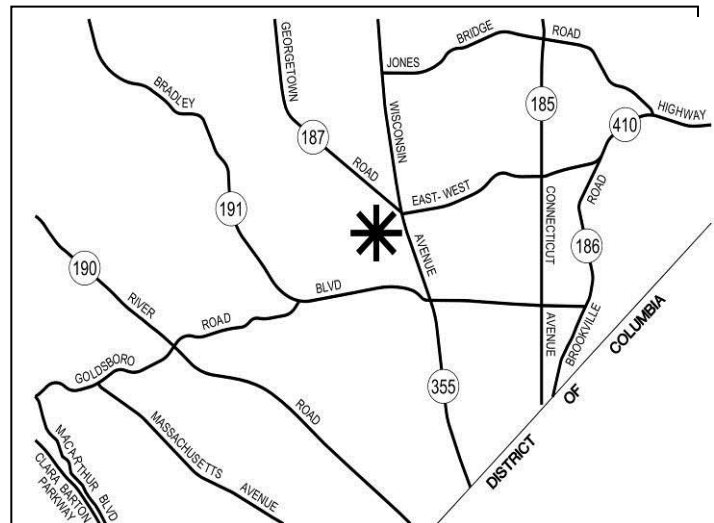
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Description

Date of Report: 6/27/14

- Location: 4901 Hampden Lane Bethesda
- Size: 30,819 square feet
- Request: Amend the approved Development Plan (G-819) to increase the height of the rooftop structure and to revise building materials and images
Size: 30,819 square feet
- Zone: TS-R Zone
- Sector Plan: Bethesda-Central Business District (CBD)
- Applicant: Lauren Condos, LLC
- Planning Board: July 10, 2014
- Filing Date: April 18, 2014



Summary

Staff recommends **approval** of Development Plan Amendment (DPA 14-02). The applicant, Lauren Condos, LLC seeks an amendment to 2006 Development Plan that was approved in accordance with Local Map Amendment (G-819) and subsequently amended and approved in 2012 under DPA 12-02.

The amendment requests the following: an increase in the height of the rooftop structure (elevator) and the elevator's larger footprint, a change in the façade treatment for the proposed building and a revision to the approved binding elements associated with elevator height and façade treatments. The core elements normally associated with a Development Plan Amendment including transportation, master plan conformance, public facilities remain unchanged and adequate to serve the proposed development.

Staff recommends approval of Development Plan Amendment 14-02 and an expedited hearing process that foregoes a Hearing Examiner's proceeding. However, if the Board decides that any of the above issues warrant more attention, the Board can recommend an evidentiary hearing before the Hearing Examiner.

DESCRIPTION OF PROPERTY

The subject site is located on the west side of Woodmont Avenue in downtown Bethesda and occupies the entire block between Montgomery Lane to the north and Hampden Lane to the south. The property is rectangular in shape and is approximately 30,819 square feet in size. It has frontage on Montgomery Lane of approximately 110 feet, on Woodmont Avenue of approximately 207 feet, and on Hampden Lane of approximately 120 feet. The site is relatively flat along Woodmont Avenue and there is a slight increase in grade along the frontage going west on Hampden Lane.

Presently, the site is developed with two one family detached dwelling units fronting on Montgomery Lane that are used for offices and a three story multi-family building containing apartments and several commercial uses that front on both Hampden Lane and Woodmont Avenue. A gravel parking lot separates the rear of the one-family structures from the rear of the multi-family building. This lot, with its access on Woodmont Avenue, serves as parking for all the site's commercial uses. Metered parking is located in front of the site on Hampden Lane. As developed, the site has vehicular access points on Montgomery Lane and Woodmont Avenues

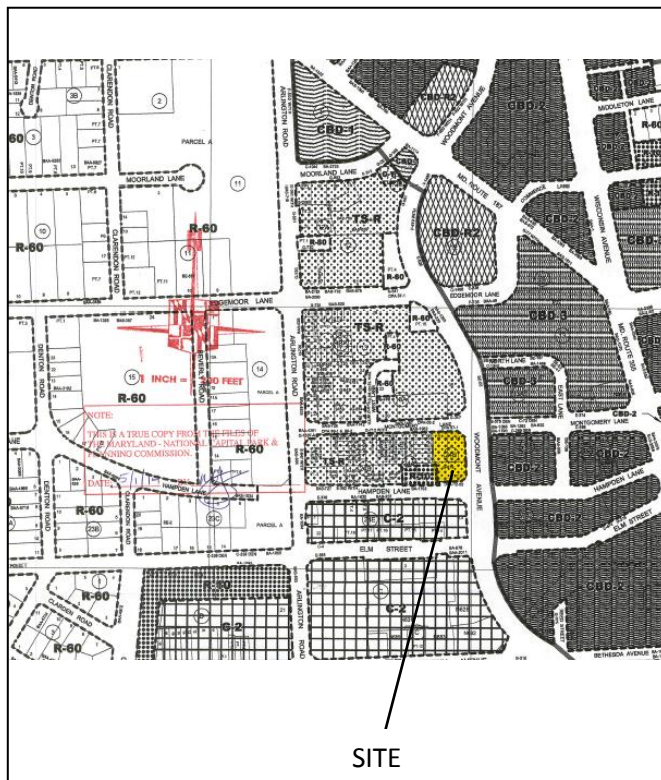


Site from southeast corner of Hampden Lane and Woodmont Avenue intersection

SURROUNDING AREA

The surrounding area is defined by Moorland Lane to the north, Woodmont Avenue to the east, Elm Street to the south, and Arlington Road to the west. This area was approved by the Council under G-819 and subsequently reapproved under DPA 12-02, and it remains unchanged in the requested Development Plan Amendment. The Bethesda CBD Sector Plan also designated this area as the Transit Station Residential District. The following text is offered for procedural reasons. It summarizes the uses and zones found in the surrounding area and includes a zoning map, followed by a graphic depicting this area.

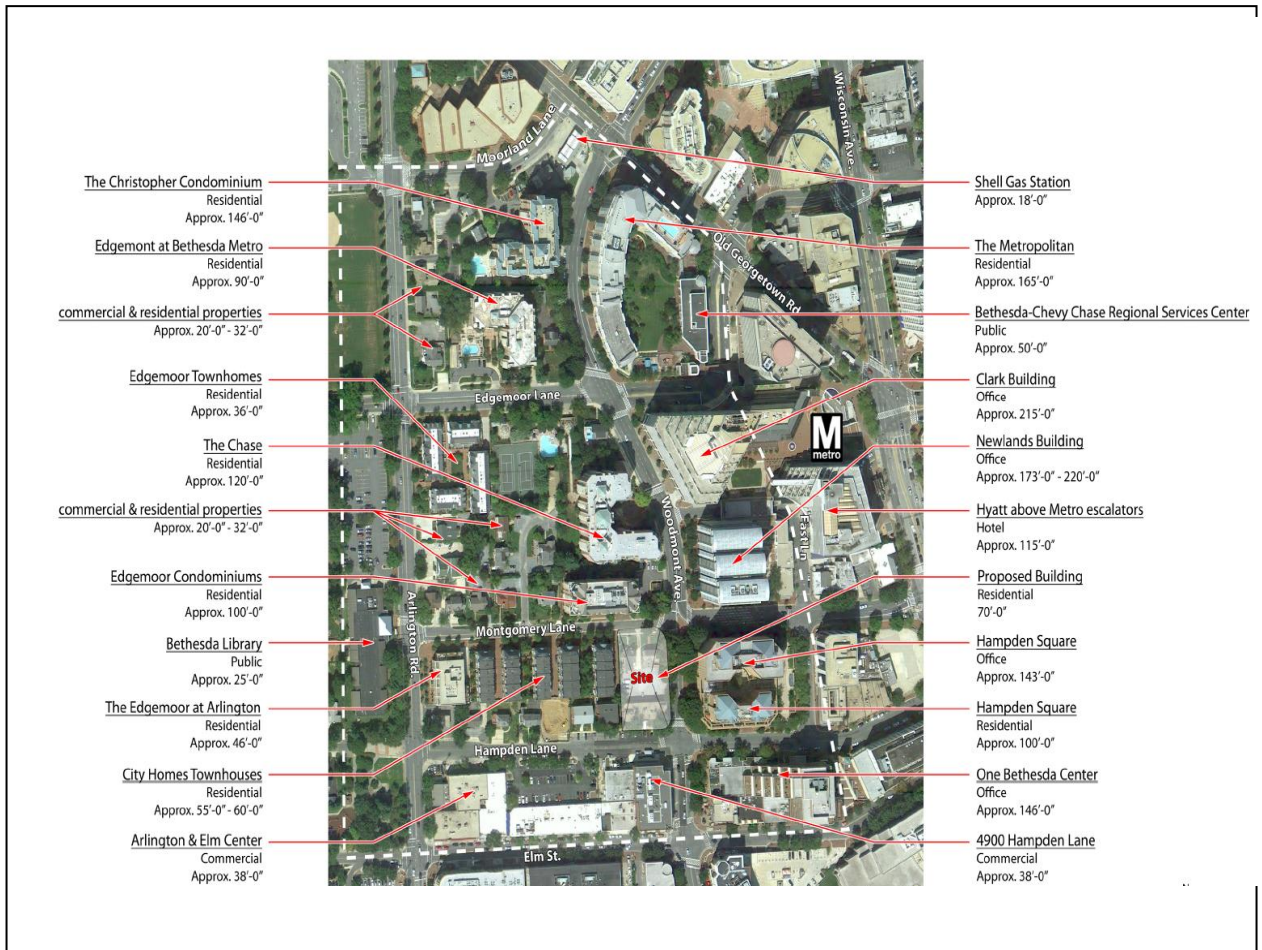
North of the subject site and across Montgomery Lane, the property is developed under the TS-R zone, as the Edgemoor a 10 story multi-family building. On Woodmont Avenue, north of the site the site is zoned TS-R and developed as The Chase, a 12 story multi-family building. Other multi-family in this area developed under the TS-R Zone include: The Christopher and the Chase II, located north of Edgemoor Lane and south of Moorland Lane.



A 3 story multi-family building zoned R-10 and fronting on Hampden Lane abuts the subject site's western property line. The remaining properties along the north side of Hampden Lane are zoned TS-R and developed or will be developed under the provisions of the TS-R Zone.

The properties along the south side of Hampden Lane are zoned C-2 (General - Commercial) and are developed as a strip shopping area with commercial and office uses. The properties along the north side of Elm Street are also zoned C-2 and are developed with a mix of commercial and office uses. Finally, along Arlington Road between Elm Street and Moorland Lane the properties contain mix of TS-R and C-2 zones and are developed with commercial and office uses in 1-2 story buildings or one family dwelling units.

SURROUNDING AREA AND TRANSIT STATION RESIDENTIAL DISTRICT (WHITE DASHED LINES ARE THE BOUNDARIES)



BACKGROUND AND CURRENT PROPOSAL

Background

The applicant, Hampden Lane LLC, is requesting an amendment to the Development Plan approved under Local Map Amendment (LMA) G-819. The following summarizes the history of the zoning application:

- LMA G-819 was filed in January 2004 to reclassify the subject property from the R-60 Zone to the TS-R Zone. On May 21, 2004 the Planning Board recommended to approve the application in excess of the recommended 65 foot height limit specified in the Bethesda CBD plan and forwarded this recommendation to the Hearing Examiner. On July 26, 2006, the District Council approved G-819 after extensive public hearings, a remand from the District Council, and two appeals in court. Attachment A.

- Preliminary Plan 120070280 and Site Plan 820070060 were approved by the Planning Board for this property on September 26, 2007, Attachments B and C, respectively.
- A certified site plan was approved on March 19, 2008.
- A record plat (220081260) was approved for one lot by the Planning Board on April 4, 2008 but has not been recorded.
- On September 27, 2012, the Planning Board recommended approval of Development Plan Amendment 12-02 which decreased the number of residential units to a minimum of 40 units and increased the percentage to MPDU's provided to 15%. On November 13, 2012, the County Council approved DPA 12-02 a copy of Council Resolution 17-599 is contained in Attachment D.
- On June 21, 2013, the applicant submitted a Site Plan Amendment 82007006A to change the building's architectural articulation, incorporate balconies into the design of above ground units, and to remove landscaping along private ground floor patios. This amendment was approved administratively by the Planning Director on December 13, 2013. Attachment E.

Approved Project Description

The proposed development will consist of a multi-family building containing 40 units with 15% of the units to be developed as MPDUs on site. The entire building will consist of approximately 94,218 square feet. The building's varied height will remain unchanged from the Council's approval of 60 feet at its northwest corner to no more than 70 feet in height along Woodmont Avenue. Parking for the units is provided in underground spaces located off of Hampden Lane. The proposed building will have its primary pedestrian entrance on Hampden Lane. Vehicular access for residents and services will also be from Hampden Lane. Public pedestrian access will be provided via sidewalks along Woodmont Avenue and Montgomery and Hampden Lanes.

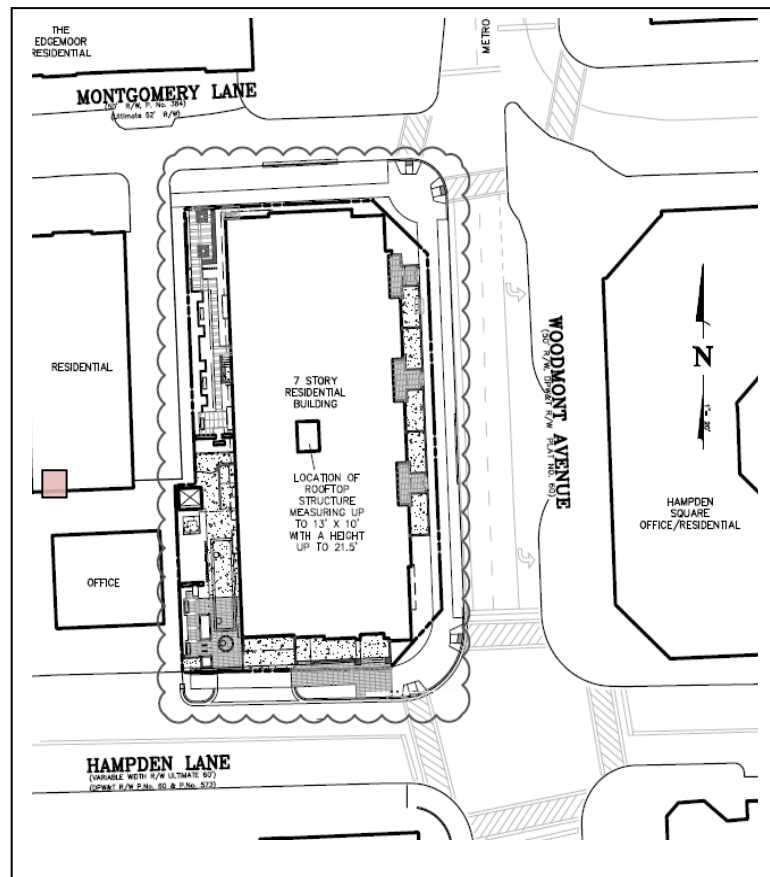
Current Proposal

There is no change to the number of units, landscaping or land use. This amendment seeks the following revisions to the previously approved rezoning application and subsequent development plan amendment:

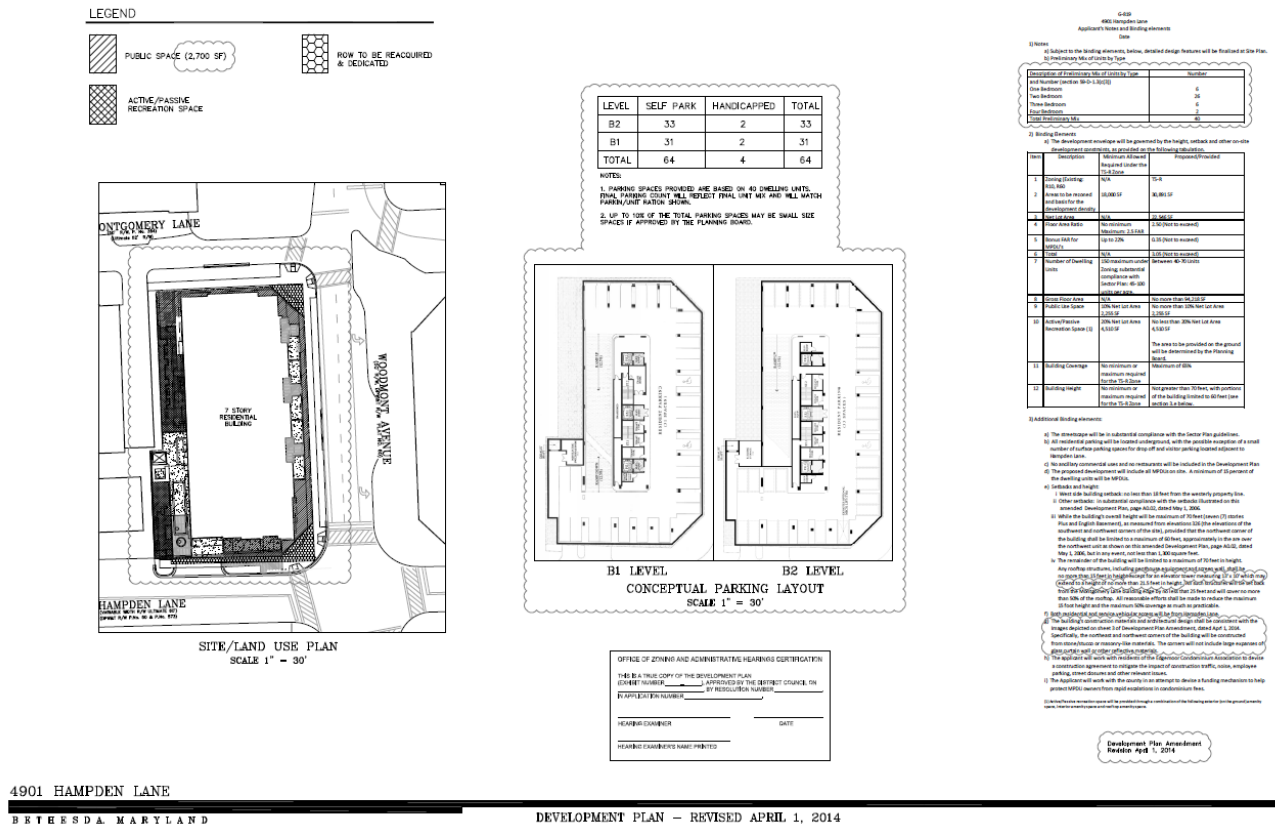
- To increase the height of the proposed rooftop elevator structure and to increase the proposed elevator's footprint;
- To revise binding elements 3.e.iv) and 3.g) that are associated with the rooftop height and structures; and
- To incorporate the building façade and design changes approved administratively under Site Plan Amendment 82007006A.

The rooftop elevator would increase in height from 15 feet to 21.5 feet and its footprint would expand to 130 square feet. This elevator will be located in the center of the roof and in this location it will have a minimal impact on the view from surrounding properties. The applicant's statement notes that the current developer is providing more rooftop amenities and assembly space for future residents than originally anticipated. Based on that information, the Montgomery County Fire and Rescue Services (MCFR&S) requires a larger elevator to accommodate emergency equipment to service situations on the roof. This larger elevator and its mechanical equipment cannot fit into the previously approved structure that was 15 feet in height.

Rooftop Layout Proposed Elevator (Location in Red)



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Proposed Revised Binding Elements DPA 14-02
Changes outlined in clouds

G-819
 4901 Hampden Lane
 Applicant's Notes and Binding elements
 Date

1) Notes

a) Subject to the binding elements, below, detailed design features will be finalized at Site Plan.

b) Preliminary Mix of Units by Type

Description of Preliminary Mix of Units by Type and Number (section 59-D-1.3(c)(3))	Number
One Bedroom	6
Two Bedroom	26
Three Bedroom	6
Four Bedroom	2
Total Preliminary Mix	40

2) Binding Elements

a) The development envelope will be governed by the height, setback and other on-site development constraints, as provided on the following tabulation.

Item	Description	Minimum Allowed Required Under the TS-R Zone	Proposed/Provided
1	Zoning (Existing: R10, R60	N/A	TS-R
2	Areas to be rezoned and basis for the development density	18,000 SF	30,891 SF
3	Net Lot Area	N/A	22,546 SF
4	Floor Area Ratio	No minimum Maximum: 2.5 FAR	2.50 (Not to exceed)
5	Bonus FAR for MPDU's	Up to 22%	0.35 (Not to exceed)
6	Total	N/A	3.05 (Not to exceed)
7	Number of Dwelling Units	150 maximum under Zoning; substantial compliance with Sector Plan: 45-100 units per acre.	Between 40-70 Units
8	Gross Floor Area	N/A	No more than 94,218 SF
9	Public Use Space	10% Net Lot Area 2,255 SF	No more than 10% Net Lot Area 2,255 SF
10	Active/Passive Recreation Space (1)	20% Net Lot Area 4,510 SF	No less than 20% Net Lot Area 4,510 SF The area to be provided on the ground will be determined by the Planning Board.
11	Building Coverage	No minimum or maximum required for the TS-R Zone	Maximum of 65%
12	Building Height	No minimum or maximum required for the TS-R Zone	Not greater than 70 feet, with portions of the building limited to 60 feet (see section 3.e below.

Proposed Revised Binding Elements DPA 14-02 (Changes outlined in clouds)

3) Additional Binding elements:

- a) The streetscape will be in substantial compliance with the Sector Plan guidelines.
- b) All residential parking will be located underground, with the possible exception of a small number of surface parking spaces for drop off and visitor parking located adjacent to Hampden Lane.
- c) No ancillary commercial uses and no restaurants will be included in the Development Plan
- d) The proposed development will include all MPDUs on site. A minimum of 15 percent of the dwelling units will be MPDUs.
- e) Setbacks and height:
 - i West side building setback: no less than 18 feet from the westerly property line.
 - ii Other setbacks: in substantial compliance with the setbacks illustrated on this amended Development Plan, page A0.02, dated May 1, 2006.
 - iii While the building's overall height will be maximum of 70 feet (seven (7) stories Plus and English Basement), as measured from elevations 326 (the elevations of the southwest and northwest corners of the site), provided that the northwest corner of the building shall be limited to a maximum of 60 feet, approximately in the are over the northwest unit as shown on this amended Development Plan, page A0.02, dated May 1, 2006, but in any event, not less than 1,300 square feet.
 - iv The remainder of the building will be limited to a maximum of 70 feet in height. Any rooftop structures, including penthouse equipment and screen wall, shall be no more than 15 feet in height except for an elevator tower measuring 13' x 10' which may extend to a height of no more than 21.5 feet in height. All such structures will be set back from the Montgomery Lane building edge by no less that 25 feet and will cover no more than 50% of the rooftop. All reasonable efforts shall be made to reduce the maximum 15 foot height and the maximum 50% coverage as much as practicable.
- f) Both residential and service vehicular access will be from Hampden Lane.
- g) The building's construction materials and architectural design shall be consistent with the Images depicted on sheet 3 of Development Plan Amendment, dated April 1, 2014. Specifically, the northeast and northwest corners of the building will be constructed from stone/stucco or masonry-like materials. The corners will not include large expanses of glass curtain wall or other reflective materials.
- h) The applicant will work with residents of the Edgemoor Condominium Association to devise a construction agreement to mitigate the impact of construction traffic, noise, employee parking, street closures and other relevant issues.
- i) The Applicant will work with the county in an attempt to devise a funding mechanism to help protect MPDU owners from rapid escalations in condominium fees.

(1) Active/Passive recreation space will be provided through a combination of the following exterior (on the ground) amenity space, interior amenity space and roof top amenity space.

Development Plan Amendment
Revision April 1, 2014

Proposed Building Elevations with Revised Materials



*View from Woodmont Avenue
Southeast Corner of Building*

Development Plan Findings
Sect 59-D-1.61. Findings.

Before approving a development plan amendment, specific findings must be made under Section 59-D-1.61 of the Zoning Ordinance. These findings relate to conformance with the master or sector plan, compatibility with surrounding development circulation and access, preservation of natural features and perpetual maintenance of common areas.

However, as this development plan amendment does not change the intent, purpose and standards of the TS-R zone per previous Council approvals because the development plan was amended in 2012, with subsequent amendments to the certified site plan in 2013, an abbreviated analysis of the required development plan findings and the TSR-Zone is provided.

The required Development Plan findings of Section 59-D-1.61 are set forth below with analysis following:

Sect 59-D-1.61 (a) *The proposed development plan substantially complies with the use and density indicated by the master plan or sector plan, and does not conflict with the general plan, the county capital improvements program, or other applicable county plans and policies. However:*

- (1) *To permit the construction of all MPDUs under Chapter 25A, including any bonus density units, on-site in zones with a maximum permitted density more than 39 dwelling units per acre or a residential FAR more than .9, a development plan may exceed:*

(A) any dwelling unit per acre or FAR limit recommended in a master plan or sector plan, but must not exceed the maximum density of the zone; and

(B) any building height limit recommended in a master plan or sector plan, but must not exceed the maximum height of the zone.

The additional FAR and height allowed by this subsection is limited to the FAR and height necessary to accommodate the number of MPDUs built on site plus the number of bonus density units.

- (2) *To permit the construction of workforce housing units under § 59-A-6.18 and Chapter 25B on site, the District Council may permit:*

(A) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent.

(B) any residential density or residential FAR limit recommended in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum density and FAR of the zone, except as provided in paragraph (1); and

(C) any building height limit recommended in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone.

The Bethesda CBD Sector plan ("The Plan") recommended the TS-R zone for this property and rezoning application (G-819) reclassified this property to the TS-R zone which the Council approved in July, 2006 and again reconfirmed under DPA 12-02. The Plan recommended residential uses for the property and a density of 45 to 100 du/acre for this site, which is located in the Transit Station Residential District. This project will provide a minimum of 40 dwelling units and a maximum 70 dwelling units, which is unchanged from previous approvals. The subject amendment continues to be in substantial compliance with the Plan's recommendation for residential uses and for a density of 45 to 100 du/acre for the Transit Station Residential District.

Under this amendment, a minimum of 15% of the total number of units will be developed as MPDUs. The applicant is proposing to build a total of 40 units, 15% of the total number will yield 6 MPDU's for the project. The construction of these MPDUs furthers one of the objectives of the Sector Plan to create more housing stock in Bethesda and to offer a variety of housing options including MPDUs.

The Plan recommends a height of no more than 65 feet for this area. The District Council approved a maximum height of 70 feet. The increased height was necessary to accommodate the

construction of onsite MPDUs. The height of 70 feet continues to meet the Plan's dual objectives of more housing stock and adding MPDUs to downtown Bethesda.

The proposed elevator tower will be approximately 21.5 feet in height; an increase of 6.5 feet from the previous approval. However, the increased height of the elevator tower does not increase the overall approved height of the building. According to Sect. 59-B-1.1 of the Zoning Ordinance ... "building height limits do not apply to "...air conditioning units or similar roof structures or mechanical appurtenances...". The elevator is deemed a rooftop structure and is not counted as part of the approved building's height. According to the Montgomery County Department of Permitting Services (MCPDS) the larger elevator tower is not inconsistent with the binding elements related to the overall height of the proposed building per their interpretation of the Zoning Ordinance. A copy of the MCPDS comments is included as Attachment F. Thus, the building's height has not increased under this request.

Sect. 59-B-1.1 of the Zoning Ordinance also states. "A rooftop structure must not have a total area greater than 25 percent of the roof area except that a larger area may be approved for buildings by the Planning Board under the optional method of development procedures in the central business district zones." The larger elevator will occupy less than 1 percent of the roof well and is below the 25 percent coverage limit. Furthermore, there is no work force housing units proposed under this amendment nor is there any conflict with the general plan and county capital improvements program.

Conformance with the Sector Plan Conformance to the Bethesda CBD Sector Plan for this project was established by the Council at the time of approval for rezoning application G-819. The property is located in the Transit Station Residential District; the Plan recommends that development follow the recommendations and guidelines for that district, as well as the Sector Plan.

"The Plan recommends a minimum of 45 dwelling units per acre everywhere except Arlington Road, where there would not be a minimum density in order to allow townhouse development at lower densities. The Plan anticipates that some projects will incorporate higher densities, and the full 2.5 FAR densities (about 100 dwelling units per acre) would be allowed." (p 82).

The project is approved for 40 to 70 multi-family dwelling units, which yields 56 to 99 dwelling units per acre. This range is within the Plan recommendation of 45 to 100 dwelling units per acre. The property is developing at a FAR of 3.05. The Plan recommends a FAR of 2.5. The approved development plan is providing a minimum of 15% MPDUs constructed on site and the applicant received a 22% bonus density allowed in the Zoning Ordinance in return for the additional MPDUs which equals an additional FAR of 0.55. Therefore, the 3.05 FAR remains in substantial compliance with the Plan recommendation.

The Plan also proposes *"a combination of private and public open space both within and outside the TS-R district to serve new residents. Open space within the TS-R neighborhood would be developed as private recreational areas, possibly with both housing and private outdoor areas located above structured parking".(p 82)*

The development plan amendment shows active/passive recreation space serving as private open space along the northwestern property line. Additionally, the rooftop deck will also provide private open space for the building's future residents. Public open space is also shown on the development plan along the site's frontage on Woodmont Avenue. This Woodmont Avenue space will include benches, landscaping and streetscaping. These features will create a usable public open space for residents,

workers and visitors to downtown Bethesda CBD. These improvements will improve the pedestrian environment on Woodmont and create open space where one does not presently exist.

This amendment continues to meet the following applicable Sector Plan's Urban Design guidelines:

1. Permit projects with a minimum lot size of 18,000 square feet to encourage smaller scale projects. Projects should not leave isolated parcels.

This site has a minimum lot size of 30,819 square feet.

2. Encourage low-rise buildings to fill out the parcel.

This amendment shows a low-rise building with a varied height between 60 feet and 70 feet which fills out most of the parcel.

3. Maintain low-rise building heights which step down to three floors along Arlington Road. Heights of up to six floors are preferred along Woodmont Avenue to achieve the desired urban form.

The 70 foot height along Woodmont Avenue was approved under rezoning application G-819 to accommodate the construction of onsite MPDUs. Under the subject amendment the height of the building will not change, however, the elevator height will increase from 15 feet to 21 feet 5 inches. The increase of the elevator's footprint and height is minimal on the overall height of the proposed building. The building will continue to achieve the desired urban form recommended in the Plan by providing a bridge in building heights between the high rise buildings along the eastern side of Woodmont Avenue and the 4 story residential uses along the site's northwestern lot line.

4. Provide 25-foot building setbacks from the curb (15 feet from the Sector Plan right of-way) along Arlington Road. Setbacks in the remaining portion of the TS-R District will be decided on a case by case basis as redevelopment proceeds through the Planning Board approval process

The proposed building will not face on Arlington Road. The building setbacks were addressed and found acceptable in the Planning Board approval for Preliminary Plan 120070280 for the property and remain unchanged in the subject application.

5. Design roof tops to achieve a residential image using hip roofs, gables, turrets, and other types of pitched roof lines. The varied roof line is desirable to improve character and reduce the sense of bulk.

The issue of rooftops was addressed by the Planning Board in the approval of Site Plan 820070060 for the property.

6. Locate front unit entrances along the street when residences are provided on the first floor to encourage street life.

Under this Amendment the building's primary entrance on Hampden Lane remains unchanged. This entrance continues the tradition of street life activity along this roadway and fulfills this design guideline.

7. *Locate required parking either underground or in rear decks, so as not to be seen from surrounding streets.*

The amendment shows an underground garage parking with access from Hampden Lane to service this project. Some parking spaces may be visible only when the garage door is open for entering or exiting vehicles.

Sect 59-D-1.61 (b) *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.*

In its approval on July 26, 2006, the Council established that the proposal complied with the purpose and standards of the TS-R Zone as it provided for a maximum of safety, convenience and amenity of residents of the development and would be compatible with adjacent developments.

In September 2012, the Planning Board recommended approval of DPA 12-02 as it met the purposes, standards and regulations of the TS-R Zone. In November, 2012, the Council approved DPA 12-02 as it also found the application met these criteria. The subject amendment continues to meet the purposes, standards and regulations of the TS-R zone.

Intent, purposes and general requirements of the TS-R Zone. The intent and general requirements for the TS-R Zone contain goals and objectives, all of which are satisfied by this application. The findings for each subsection of the intent clause are discussed in the following paragraphs.

59-C-8.21. Intent

(a)The TS-R and TS-M zones are intended to be used in a Transit Station Development Area as defined in section 59-A-2.1. However, the TS-R zone may also be used in an area adjacent to a Central Business District, within 1,500 feet of a metro transit station, and the TS-M zone may be also be used within a Central Business District if the property immediately adjoins another property outside a Central Business District that is eligible for classification in the TS-M zone or separated only by a public right-of-way from property outside a Central Business District that is eligible for classification in the TS-M zone.

(b)The TS-R zone is intended for locations where multiple-family residential development already exists or where such development is recommended by an approved and adopted master plan.

The property is located within a Transit Station Development Area and District and is located approximately 750 feet from the Bethesda Metrorail Station. The Sector Plan recommended the TS-R zone for this property as a way to achieve multi-family residential development in this location. This requested amendment continues to implement the Plan's recommendation for multi-family development on this site and in this area.

(d)In order to facilitate and encourage innovative and creative design and the development of the most compatible and desirable pattern of land uses, some of the specific restrictions which regulate, in some other zoning categories, the height, bulk and arrangement of

buildings and the location of the various land uses are eliminated and the requirement substituted that all development be in accordance with a plan of development meeting the requirements of this division

There are no changes to the proposed building's height, bulk, or arrangement, under this development plan amendment. This amendment focuses on the increased height of the rooftop elevator and its expanded footprint. The MCDPS has determined that the larger elevator tower is not inconsistent with the binding elements related to the overall height of the proposed building per the interpretation of the Zoning Ordinance by the. In redeveloping the site, the applicant employed the flexible standards of the TS-R Zone to incorporate the proposed building into the surrounding area. The binding elements for setbacks specified in the approved rezoning application ensure compatibility with the adjacent multi-family building and townhouses abutting the western lot line. The building's design employs a varied height limit with more refined and compatible materials that will blend well with the commercial and residential developments nearby in terms of height and bulk. This amendment continues to achieve a compatible and desirable land use on the subject property.

Sect 59-C-8.23 Purpose of the TS-R Zone

(a) The promote the effective use of the transit station development area and access thereto:

This amendment continues to promote the effective use of the Metrorail Station by adding new residential uses in close proximity to this station and at this location. The property is located within 750 feet of the Bethesda Metrorail station.

(c) To provide a range of densities that will afford planning choices to match the diverse characteristics of the several transit station development areas within the county; and

There is no change in the range of densities provided under the requested DPA 14-02. DPA 12-02 was approved by the Council in November 2012, with a density to 56 to 99 dwelling units/ acre depending on the final unit count. This density is within the Plan's recommendation of 45 to 100 dwelling units per acre and it offers choices to match the diverse characteristics of housing found within the Bethesda CBD.

(d) Design of buildings to stimulate the coordinated, harmonious and systematic development; prevent detrimental effects to the use or development of adjacent properties or the surrounding neighborhood; to provide housing for persons of all economic levels;

The approved binding elements for setbacks along the western property line ensure that detrimental effects to these adjacent residential properties will be minimized. The proposal will offer housing for persons of all economic levels. With a building mass and height comparable to the surrounding existing and proposed residential developments, this amendment continues to provide a coordinated, harmonious and systematic development of this area as envisioned by the sector plan.

Sect 59-C-8.24. Location. According to Section 59-C-8.24 of the Zoning Ordinance, “the TS-R and TS-M zones are permitted only in a Transit Station Development Area and in accordance with an approved and adopted master plan or sector plan.”

The subject site was recommended for reclassification to the TS-R zone in the Plan and is in Transit Station Development Area designated by the Plan.

Sect 59-C-8.25. Public facilities and amenities.

A development must conform substantially to the facilities and amenities recommended by the approved and adopted master or sector plan, including and granting such easements or making such dedications to the public as may be shown thereon or are deemed necessary by the Planning Board to provide for safe and efficient circulation, adequate public open space and recreation, and insure compatibility of the development with the surrounding area, and assure the ability of the area to accommodate the uses proposed by the application. The provision of MPDUs does not authorize a reduction in any public facility and amenity or active or passive recreation space recommended in a master plan or sector plan.

The subject property is served by existing sewer and water mains. The site is located within the service areas of the Bethesda Chevy Chase Cluster (B-CC) which includes Bethesda Elementary School, Westland Middle School, and Bethesda-Chevy Chase High School. According to the FY 2015 Montgomery County Annual School Test the capacity of each school level is adequate, thus no facilities payment is required.

The submitted development plan shows future roadway dedication at the northeast corner of Woodmont Avenue and Montgomery Lane and along the southeast corner of Hampden lane and Woodmont Avenue as well as along the entire frontage of the site on Hampden Lane. The Plan recommends this dedication to ensure safe and efficient circulation along the public sidewalks for residents, workers and visitors in the Bethesda downtown as well as future residents of this project. The public use space along Woodmont Avenue will offer a previously underutilized space as new public open space. The right of way dedication and the new public use space continues to reinforce the compatibility of this development with the surrounding area by providing sidewalks and adequate public use space.

Sect 59-8.3 Land uses.

Dwelling units are permitted in the TS-R Zone. Multi-family units are included in the definition for “dwelling units” contained in Sect 59- A-2.1 of the Zoning Ordinance.

Sec. 59-C-8.4. Development standards. The table below notes how DPA 14-02 continues to meet the development standards required in the TS-R zone.

Development Standard	Permitted /Required	Approved G-819	Amendment DPA 12-02	Amendment DPA 14-02	Zoning Provision if applicable
Minimum Area	18,000 sq. ft.	30,819 sf	30,819 sf	30,819	Sect 59-C-8.41
Net Lot Area	18,000 sq. ft.	22,546 sf ¹	22,546 sf	22,546	NA
Number of Dwelling Units	NA	50-70 units	40-70 units	40	NA
Dwelling Units per Acre	150	70-99 ²	56-99	56	Sect 59-C-8.42(b)
MPDUs	12.5%	15%	15%	15%	NA
MPDUs (#)	NA	8-11	6-11	6 ³	NA
FAR	2.5	3.05 ⁴	3.05	3.05	Sect 59-C-8.42(a)
Building Height	Determined at site plan	60- 70 feet ⁵	60- 70 feet	60-70 feet	Sect 59-C-8.51
Setbacks ⁶ From western property	NA	NLT 18 ft	NLT 18 ft	NLT 18 ft	NA
Woodmont Ave	NA	13 ft	13 ft	13 ft	
Hampden La	NA	13 ft	13 ft	13 ft	
Montgomery La	NA	2 ft	2ft	2 ft	
Minimum Percent Public Use Space	10% (1,800 sq. ft.)	10% (2,255 sf)	10% (2,255 sf)	11.9%(2,770sf) ⁷	Sect 59-C-8.43 (a)
Minimum Percent Active/Passive Recreational Space	20% (3,600 sf)	20% (4,510sf) ⁸	10% (4,510sf)	10% (4,510sf)	Sect 59-C-8.43 (b)
Total minimum open space	30%	30%	30% (6,765 sf)	31.9% (7,280 sf)	Sect 59-C-8.43
Parking	NA	90 spaces	90 spaces	40 spaces ⁹	Sect 59-E 3.7

¹Gross site area: 30,819 sq ft minus dedication of 8,273 sq ft. = 22,546 sq ft net lot area.

²The TS-R zone allows 150 dwelling units per acre. The Bethesda CBD sector Plan recommends 45-100 dwelling units in the Transit Station Residential District

³DPA 12-02, approved a of range residential units (40-70) with 15% of these units as MPDUs's. DPA 14-02 proposes a total of 40 units with 6 MPDU's which meets the 15% requirement.

⁴FAR – Floor Area Ratio is calculated on gross tract area of the site. The project is utilizing the full density bonus of (0.55 FAR) by constructing a minimum of 15% MPDU's onsite.

⁵The Bethesda CBD Sector plan recommends a height of 65 feet for this area. The District Council in LMA G 819 approved a height limit of a maximum of 70 feet based on the request to provide all 15% of the MPDUs onsite. Binding Elements approved under G-819 specified a height of 60 feet for the top floor northwest unit and 70 feet as measured from the elevations of 326 feet (elevations of southwest and northwest corner of the site. Based on this elevation measurement the approved Site Plan 820070060 shows a building height of 72 feet, 9 inches which was found acceptable at the time of site plan and approved by the Planning Board on September 26, 2007, MCPB Resolution 07-166.

⁶Setbacks are not required in the TS-R Zone. Binding elements approved under G-819 specified a setback of Not Less Than (NLT) 18 feet along the northwestern property line (abutting City Town Townhouses) and not less than 28 feet abutting the multi-family units on Hampden along the southwestern property line and the other setbacks as noted in the table

⁷Amount of Public Use Space increased by 445 square feet due to adjustments made by façade and buildings changes approved under Site Plan Amendment 82007006A

⁸Recreational space calculated on net area of site

⁹Parking count is based on 40 units; final parking count will reflect the final unit mix and will match the unit count.

59-C-8.45 Procedures for application and approval. DPA 14-02 will need to be approved by District Council in accordance with provisions contained in section 59-D--1 of Zoning Ordinance entitled "Development Plan". The applicant is not seeking partial cost developer participation for the subject site which located under in the transit station development area zone.

Sect 59-C-8.5. Special requirements in the TS-R zone

Sect 59-C-8.51. Building height limit.

The building height was established and approved under the rezoning application G-891. As approved the building will vary in height from 70 feet along Woodmont Avenue to 60 feet in the northwest corner of the building. These height limits were added as binding elements to the rezoning application and continue to remain unchanged under this amendment application. However the subject amendment seeks to increase the height of the elevator tower not the height of the proposed building. The elevator tower is deemed a rooftop structure such as a mechanical appurtenance which is exempt from height restrictions under the Zoning Ordinance per the interpretation of the MCDPS.

59-C-8.52. Off-street parking, minimal impact on adjoining residential properties.

Parking shall be located as to have a minimal impact on any adjoining residential properties. An underground parking garage will provide parking for the development with its access will be off of Hampden Lane. Underground parking will minimize the sight and sounds that above ground parking can create, thereby lessening the impact on adjoining residential uses.

59-C-8.53. Streets, interior and right of -way .

There are no interior streets proposed under this application.

59-C-8.54. Ancillary commercial uses.

No ancillary commercial uses are proposed under this project.

Sect 59-D-1.61 (c) That the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.

The subject DPA has an Adequate Public Facilities (APFO) approval for up to 64 high-rise multi-family dwelling units vested through approved Preliminary Plan 120070280. Unless, the final residential unit count exceeds 64 multi-family units, a new APF determination will not be required for future preliminary plan and site plan amendments.

The active/passive recreation space along the site's western property line will offer future residents and visitors a safe adequate and efficient means to move around the property and into building. The provision of only one vehicular access point along Hampden Lane was designed to minimize pedestrian and vehicular conflicts into the site. This access point serves as the entrance to the underground parking garage and will be clearly delineated.

The proposed internal vehicular and pedestrian circulation system and points of external site access were reviewed as part of the previous applications and were determined to be safe, adequate, and efficient. The proposed amendment will not affect the earlier findings and will not have an adverse effect on vehicular, pedestrian, or bicyclist access or safety in the area.

The peak-hour trip generation estimate for the proposed development, based on trip generation rates included in the *LATR/PAMR Guidelines*, (summarized in Table 1) shows that the maximum development density (70 units) would generate 21 peak-hour trips during the weekday morning and evening peak periods. At the vested density of 64 units, the subject amendment would generate 19 peak hour trips during the weekday morning and evening peak hour trips.

TABLE 1
SUMMARY OF SITE TRIP GENERATION

Trip Generation	Morning Peak-Hour			Evening Peak-Hour		
	In	Out	Total	In	Out	Total
Maximum Density 70 high-rise multi-family dwelling units	4	17	21	14	7	21
Proposed Density 64 high-rise multi-family dwelling units	4	15	19	13	6	19

Notes:

1. The table above present site trip generation using Bethesda CBD trip rates included in the *LATR/PAMR Guidelines* for residential high-rise uses (0.30 trips per unit). The Traffic Statement submitted by the Applicant at the time of Preliminary and Site Plans for a 64 multi-family unit, 7-story building utilized Bethesda CBD trip rates included in the *LATR/PAMR Guidelines* for garden apartments (0.45 trips per unit) and presented a trip generation of 29 peak-hour trips during the weekday morning and evening peak periods. The consultant for the Applicant used the higher trip generation rate to calculate site trips at the time of subdivision since residential buildings are categorized as high-rise only if they are 10 stories or more. In the subject case, the proposed multi-family building is only 7 stories high and therefore was not categorized as a high-rise building. However, the proposed building cannot be categorized as a garden apartment either, which are typically buildings that are 4 or less stories high. The proposed building thus falls under the category of a mid-rise building. Given the proximity of the proposed development to Bethesda Metro Station, for the purposes of site trip generation, staff believes it is appropriate for the development to utilize the Bethesda CBD trip rates for residential high-rise buildings as shown in the table above.
2. The site is currently developed with a 12-unit, 3-story apartment building and two single-family homes occupied with office uses. The table above does not reflect any credit for existing peak-hour trips that the Applicant could apply towards future peak-hour site trip generation, and therefore presents a conservative estimate for “additional” trips that may be generated by the development.

Since the subject amendment will generate less than 30 peak-hour trips during the weekday morning and evening peak periods, a traffic study is not required. With documentation of site trip generation as shown in Table 1, the application satisfies the LATR requirement of the APFO test.

Since the subdivision plan was submitted prior to January 1, 2007, the amendment is not subject to the PAMR requirement of the APFO test.

Staff offers the following transportation planning recommendations to the Planning Board for the subject amendment, while noting that these comments may or may not satisfy APFO or other Plan requirements at the time of filing future preliminary plan and site plan amendments.

1. The Applicant must limit development on the site to a minimum of 40 and a maximum of 70 high rise residential dwelling units.
2. The Applicant must provide frontage dedication, corner truncation, as well as roadway and sidewalk improvements along Woodmont Avenue, Montgomery Lane, and Hampton Lane as stipulated under Preliminary Plan No. 120070280 and Site Plan No. 82007006A approvals.
3. The Applicant must satisfy APFO requirements in effect at the time of any future preliminary or site plan amendments that seek to increase the development program above the previously approved 64 high rise dwelling units.

Sect 59-1.6 (d) 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.

The site is exempt from forest conservation requirements due to its size and the lack of existing forest cover. The Department of Permitting services (DPS) approved a stormwater management concept plan (#225168) in 2007. That approval was reconfirmed by DPS December 10, 2010.

Sect 59- 1.6 (e) That 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

A draft statement to ensure the perpetual maintenance of the common areas was submitted by the applicant under DPA 12-02 and found to be acceptable by the Council. At time of final approval of DPA 14-02, the applicant will need to provide these documents to the Hearing Examiner.

Community Input – Letters in support of this amendment are contained in Attachment G

CONCLUSION

The proposed Development Plan Amendment 14-02 continues to be consistent with the purpose clause and all applicable standards for the TS-R Zone and continues to be in accordance with the land use recommendations contained in the 1994 Bethesda CBD Plan. Therefore, staff recommends approval of proposed Development Plan Amendment 14-02

Attachments

Attachment A – Approved Council Resolution No. 15-1559
Attachment B Approved Resolution MCPB 07-166 for Site Plan 820070060
Attachment C – Approved Corrected Resolution MCPB 07-164 for Preliminary Plan 120070280
Attachment D– Approved Council Resolution No. 17-599 for DPA 12-02
Attachment E - Memorandum for Site Plan Amendment 82007006A
Attachment F- MCDPS correspondence
Attachment G- Community Letters

Resolution No.: 15-1559

Introduced: July 25, 2006

Adopted: July 25, 2006

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

By: County Council

SUBJECT: APPLICATION NO. G-819 FOR AMENDMENT TO THE ZONING ORDINANCE MAP,
Erica Leatham, Esquire, Attorney for Applicant Hampden Lane, LLC, OPINION AND
RESOLUTION ON APPLICATION

Tax Account Nos. 07-00490078, 07-00489822, 07-00486726 and 07-00486726

OPINION

Local Map Amendment Application No. G-819, filed on February 3, 2004 by Applicant Hampden Lane, LLC, requests reclassification from the R-10 (Residential, multi-family) and R-60 (Residential, single-family) Zones to the TS-R Zone (Transit Station-Residential) of 30,891 square feet of land in the Edgemoor subdivision (7th Election District) comprised of part of Lots 5 and 6, Block 24B; part of Lots 8 and 9, Block 24D; 313 square feet of right-of-way owned by Montgomery County that was formerly part of Lot 6, Block 24B; and 815 square feet of right-of-way owned by Montgomery County that was formerly part of Lots 8 and 9, Block 24D.¹ The site is located at 4802 and 4804 Montgomery Lane and 4901 and 4905 Hampden Lane, Bethesda.

¹ The Applicant owns approximately 29,763 square feet of the area proposed for rezoning. This includes 7,217 square feet of land that is already dedicated for roadway use. Based on past practice, the Planning Board can be expected to include the past dedication in the tract area used to calculate permitted density. As noted in the text above, the area proposed for rezoning also includes 1,128 square feet of land that is owned by Montgomery County, having been acquired by eminent domain in the past. This property was previously part of the lots and blocks at issue here. The Applicant hopes to buy this property back from the County, then immediately re-dedicate it for public use in connection with its development of the site. The Applicant and Montgomery County entered into a Memorandum of Understanding Agency Authorization (Exhibit 26(a)) on April 6, 2004, which authorizes the Applicant to seek rezoning for the County-owned land included in this application, and at least impliedly authorizes the Applicant to seek rezoning for the dedication parcels, to the extent such authorization may be necessary. The Memorandum of Understanding states explicitly that it "shall not affect, in any manner whatsoever, any public action, review or approval process involving the County. . . ." Ex. 26(a) at 3.

The Hearing Examiner recommended approval of the original application, as did the Montgomery County Planning Board (the "Planning Board"). The Planning Board's Technical Staff recommended denial of the application on grounds that it would not be consistent with the recommendations of the 1994 Bethesda CBD Sector Plan (the "Sector Plan").

The District Council first considered this matter on February 8, 2005, and granted a request for oral argument. Following oral argument on March 1, 2005, the District Council remanded the case to the Hearing Examiner to reopen the record, for the limited purpose of giving the Applicant the opportunity to amend its development plan to specify, as a binding element, that all moderately priced dwelling units ("MPDUs") would be provided on site. The Hearing Examiner submitted a Supplemental Report and Recommendation following the remand, which referenced the revised Development Plan and reiterated the conclusions and recommendation stated in the original Report and Recommendation in this matter.

On April 12, 2005 the District Council voted 9 to 0 to deny the application, finding that the application was inconsistent with the recommendations of the Sector Plan due to the 100-foot height proposed for the building, and would not be compatible with surrounding development. The Applicant then filed a request for reconsideration, which the Council denied. The Applicant petitioned the Circuit Court to review the District Council's denial of the application. During court proceedings, the applicant and representatives of the surrounding community agreed to revise the proposed development plan to conform the project to the Sector Plan recommendations. With the consent of the parties, the Circuit Court granted a motion by the applicant to remand the case to the District Council. The District Council remanded the case to the Hearing Examiner, finding that further proceedings, including consideration of any revised development plan that the Applicant might submit, would serve the public interest.

Following the Council's remand to the Hearing Examiner, the Applicant submitted revised plans that propose a maximum building height of 70 feet. Technical Staff recommended approval of the revised application, finding that it was much closer to the Sector Plan recommendations

and, in light of the Planning Board's earlier recommendation of approval, would be appropriate for the site. The Alternative Review Committee (the "ARC Committee") made a finding that with moderately priced dwelling units on site, the proposed development would not be financially feasible within the constraints of the 65-foot height limit recommended in the Sector Plan. The Planning Board concurred with this finding and recommended that the proposed Development Plan be approved with a maximum height of 70 feet. Following a public hearing, the Hearing Examiner recommended approval of the application on grounds that it satisfies the requirements of the zone, it would be compatible with land uses in the surrounding area, and it would serve the public interest.

The District Council agrees with the Hearing Examiner's conclusions, and incorporates herein by reference the Findings of Fact, Summary of Hearing, Zoning Issues and Conclusions portions of her report and recommendation dated July 14, 2006.

A. Subject Property

The subject property is located in downtown Bethesda, on the west side of Woodmont Avenue. It occupies the entire block between Hampden Lane and Montgomery Lane. The property is currently developed with two single-family detached residential buildings facing Montgomery Lane in the R-60 Zone, which are used for offices; a three-story multi-family building facing Hampden Lane in the R-10 Zone, which contains apartments, an upholsterer and offices; and a gravel parking area filling the middle portion of the site.

The subject property has street frontage on three sides. To the east it fronts on Woodmont Avenue, an arterial road with four to five lanes providing access for north-south traffic in the CBD. Sections of Woodmont Avenue operate in a one-way direction, southbound, adjacent to the subject property. To the south, the subject property fronts on Hampden Lane, a business district street with two travel lanes providing for east-west travel between Arlington Road and Woodmont Avenue. The right-of-way on Hampden Lane varies, but is recommended in the Sector Plan to be 60 feet. To the north, the subject property fronts on Montgomery Lane, a narrow business district street that is recommended in the Sector Plan for a 52-foot right-of-way. Travel on Montgomery Lane is primarily

two-way east-west, except for a stretch between Woodmont Avenue and a small side street called West Lane, adjacent to the subject property, where travel is permitted only in a westbound direction.

B. Surrounding Area and Zoning History

The surrounding area for this application consists of the area bounded roughly by East Lane on the east, Moorland Lane on the north, Elm Street on the south and properties fronting on Arlington Road on the west. This area includes the Transit Station Residential District ("TS-R District") defined in the Sector Plan and a portion of the Metro Core District defined in the Sector Plan.

The surrounding area contains a wide mix of uses and zones, as described in detail on pages 7 through 11 of the Hearing Examiner's July 14, 2006 report and recommendation. Confronting to the east is a high-rise building with a 143-foot-tall office component and a 100-foot-tall residential component. Confronting to the south, across Hampden Lane, is a two-story commercial building. Abutting to the west is a luxury townhouse development, the City Homes Townhouses, with five rows of four-story townhouses reaching 55 to 60 feet in height. Confronting directly to the north, across Montgomery Lane, is a small open area. Adjacent to that open area and partially confronting the subject property is the 100-foot-high Edgemoor Condominiums building. Other uses in the surrounding area include additional residential and office high-rises, low-rise residential, office and institutional uses, and additional townhouses.

The subject property was classified under the R-10 and R-60 Zones in the 1954 Regional District Zoning. This zoning was reaffirmed in the 1958 Countywide Comprehensive Zoning, and by Sectional Map Amendment in 1977 (SMA G-20) and 1994 (SMA G-711).

C. Proposed Development

The Applicant proposes to construct a high-rise, multi-family residential building, and has offered binding elements that establish a number of key parameters for the building, including architectural elements. These are summarized below. The TS-R Zone specifies that building height must be established by the Planning Board during site plan review, taking into consideration factors such as parcel size, relationship to surrounding uses, and the need to preserve light and air for

surrounding properties. The Applicant has placed an upper limit on the height of the building in the textual binding elements, but the Planning Board retains the discretion to require a lower height.

Binding Elements, per Development Plan, Exhibit 116(b)

Area to be rezoned	30,819 square feet
Net lot area	22,546 sq. ft.
Floor area ratio (FAR)	up to 2.5, plus up to 0.55 FAR for MPDU bonus
Number of dwelling units	50 – 70
Gross floor area	no more than 94,218 sq. ft.
Public use space	not less than 10% of net lot area, 2,255 sq. ft.
Active/Passive Recreation Space	Not less than 20% of net lot area or 4,510 sq. ft., percentage on the ground determined by Planning Board
Building coverage	Maximum 65%
Building height	Not greater than 70 feet (7 stories plus English basement), with at least 1,300 sq. ft. in northwest corner limited to 60 feet
	Rooftop structures no more than 15 feet high, set back from Montgomery Lane building edge no less than 25 feet, and covering no more than 50% of rooftop
Streetscape	Substantial compliance with Sector Plan guidelines
Parking	Resident parking will be underground, with possible small number of surface parking spaces for drop-off and visitor parking adjacent to Hampden Lane
Ancillary commercial uses or restaurants	None
MPDUs	Up to 15%, all on site

Binding Elements, per Development Plan, Exhibit 116(b), cont.

Setbacks	Minimum of 18 feet on western property line. Other setbacks to be in substantial compliance with setbacks shown on Development Plan.
Access	All vehicular access from Hampden Lane
Materials/Design	Construction materials and architectural design to be consistent with images on Development Plan page A0.03. Northeast and northwest corners to be constructed from brick, metal floor spandrels, and windows, without large expanses of glass curtain wall or other reflective surfaces.
Construction agreement	Applicant to work with Edgemoor Condominium Association to devise construction agreement to mitigate construction impacts.
Condominium fees	Applicant to work with County on funding mechanism to protect MPDU owners from rapid escalations in condominium fees.

The area proposed for rezoning in this case (which is the tract area the Applicant proposes to use to calculate permitted density) is 30,891 square feet, or .71 acres. With this acreage, a 50-unit building would represent about 70 dwelling units per acre, and 70 units would be about 99 units per acre. The project will include at least the minimum number of moderately priced dwelling units ("MPDUs") required under county law (12.5 percent), all of which would be on site.

The proposed development will satisfy the zoning ordinance requirements to designate 10 percent of the site to public use space and 20 percent to active and passive recreation space. The latter will likely be provided in part on the ground outside the building, and in part on the rooftop and in interior spaces including a fitness center and a lobby/community room. The Applicant has committed, by binding element, to locate all vehicular access on Hampden Lane.

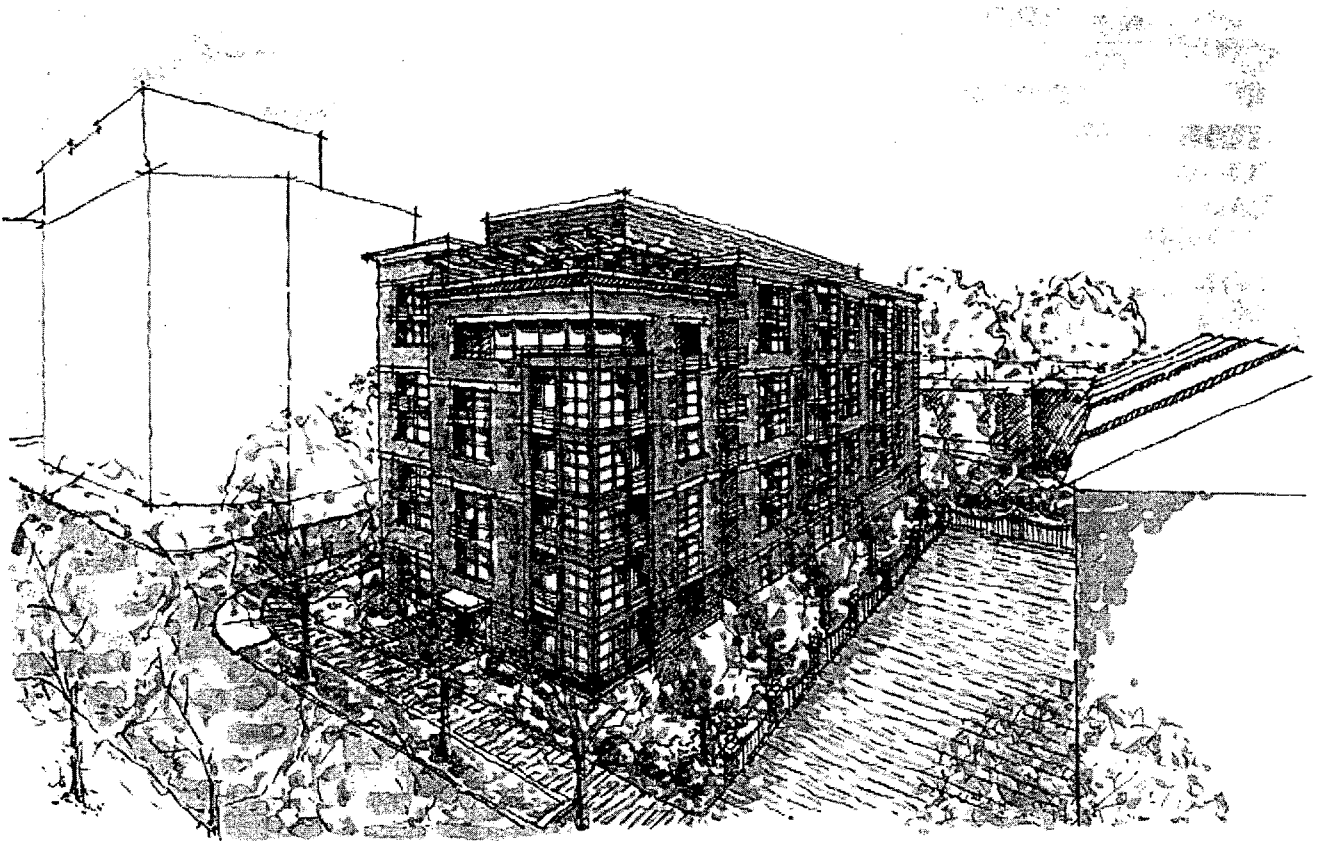
A Development Plan in the TS-R Zone must include the elements required under Code § 59-D-1.3, including a land use plan showing site access, proposed buildings and structures, a preliminary classification of dwelling units by type and number of bedrooms, parking areas, land to be dedicated to public use, and land intended for common or quasi-public use but not intended to be in public ownership. The principal component of the development plan in this case is a three-page document entitled "Development Plan," Exhibits 116(a) – (c), which contains a conceptual site plan drawing, as well as notes, written binding elements and a conceptual parking layout. Additional items required for a development plan have been submitted in the form of vicinity maps (e.g. Exs. 5 and 45(i)).

The textual binding elements require substantial compliance with the images depicted on Page A0.03 of the Development Plan, which are shown below and on the next page.

Artist's Rendering of Woodmont Avenue and Montgomery Lane Facades, from Ex. 116(c)

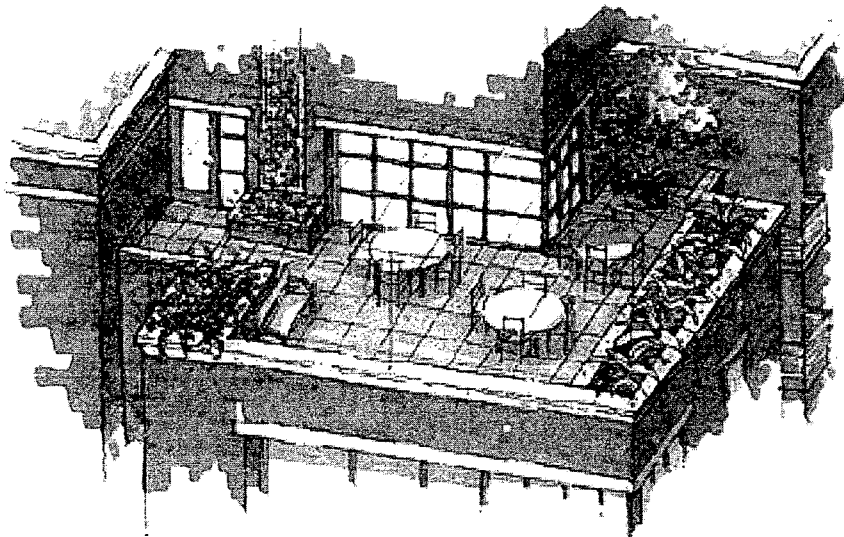


Artist's Rendering of Facades Facing Montgomery Lane and City Homes Driveway, from Ex. 116(c)



**Artist's Rendering of Terrace on Roof of 60-foot Portion of Building in Northwest Corner,
from Ex. 116(c)**

Terrace Area to be at least 1,300 square feet in size, per textual binding element.



D. Master Plan

The subject property is located in an area identified in the Sector Plan as the TS-R District. The Sector Plan's basic vision for the TS-R District is set forth below (Sector Plan at 5):

The Plan recommends 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 to up to about 100 dwelling units per acre. The Plan retains and revises the TS-R (Transit Station-Residential) Zone to achieve this vision.

The urban village concept was described in detail, with written objectives, extensive written recommendations, urban design guidelines and several maps and drawings. These elements, taken together, are clearly designed to carry out the high-density, low-rise "urban village" concept. The District Council agrees with the Hearing Examiner and Technical Staff that the Sector Plan recommends development of the subject property for multi-family residential use under the TS-R Zone. Thus, the development proposed here is consistent with the use recommended in the Sector Plan.

With regard to residential density, the Sector Plan recommends a minimum of 45 dwelling units per acre everywhere in the TS-R District except on lots facing Arlington Road, and states that higher densities with 2.5 FAR and "about 100 dwelling units per acre" would be allowed elsewhere in the district. See Sector Plan at 82. The range of 50 to 70 units proposed in this application would not necessarily produce a unit density approaching 100 units per acre. However, the proposed development would produce between 70 and 99 units per acre, in the top half of the range the Sector Plan recommends. Moreover, the present proposal would provide for the maximum floor area ratio ("FAR") recommended in the Sector Plan, which is another important measure of density. For all of these reasons, the District Council finds that the proposed rezoning substantially complies with the density recommended in the Sector Plan.

Turning to the Sector Plan's goal of achieving a "low-rise, high-density, urban village" form of development in the area of the subject site, the District Council agrees with the Hearing Examiner that the proposed development would support this goal. The building is proposed with seven stories rather than the six recommended in the Sector Plan, but the maximum height of the building

would be 70 feet, just five feet (less than ten percent) above the height limit recommended in the Sector Plan. In other respects, such as streetscape and the preference for shallow setbacks, the proposed development is fully consistent with the Sector Plan's vision. In addition, one corner of the building would drop down to 60 feet, reducing the overall mass of the building and its impact on adjacent properties. Moreover, the 70-foot height requested is consistent with the Sector Plan's scheme of greater heights along Woodmont Avenue, and would provide a significant step-down in height from adjacent high-rises to the north and east, as called for in the Sector Plan.

For all of the above reasons, the District Council concludes that the proposed development would substantially comply with the Sector Plan.

E. Public Facilities

A traffic study is not required for the proposed development under the Planning Board's guidelines for Local Area Transportation Review ("LATR") because the development is expected to generate only 13 new vehicular trips during the weekday morning and evening peak hours. Below the threshold level of 30 peak hour trips, the LATR Guidelines consider a development too small to have a measurable traffic impact on a specific local area. Accordingly, the Applicant did not submit an LATR study in this case. The Applicant did, however, submit two studies prepared by Technical Staff indicating that there were no intersections in downtown Bethesda that failed the County's test for unacceptable levels of congestion.

No evidence was presented to suggest that there is significant congestion in the area of the subject property or the Bethesda CBD in general, or that the proposed development would have adverse impacts on traffic. The District Council agrees with the Hearing Examiner that efforts by opposition parties to discredit the two Technical Staff studies were unavailing. Based on the preponderance of the evidence, the District Council finds the Applicant has adequately demonstrated that the proposed development would not have adverse impacts on traffic.

The proposed development is expected to generate approximately three elementary school students, two middle school students and one high school student. According to school capacity

calculations prepared by Montgomery County Public Schools, enrollment is expected to exceed capacity for the entire six-year forecast period in the relevant elementary school. Excess enrollment projected in the applicable middle and high schools is expected to be resolved by expansions identified in the FY 2005-2010 Capital Improvements Program. Based on the school capacity methodology adopted under the County's Growth Policy, capacity has been found to be adequate to support additional development throughout the relevant school cluster, the Bethesda-Chevy Chase cluster. Under these circumstances, and particularly in light of the very small number of potential students involved, the District Council concludes that the possible impact on the public schools is not sufficient to justify denial of the present application.

F. Development Plan Findings

The District Council finds that the Development Plan submitted with this application satisfies all the requirements for a development plan under Code §59-D-1.61(a)-(e). Each of the required findings is addressed below.

§59-D-1.61(a): substantial consistency with use and density indicated in master plan, no conflict with other county plans and policies. As discussed in Part D above, the District Council concludes, based on the preponderance of the evidence, that the proposed rezoning and development will substantially comply with the use and density recommended in the Sector Plan. No evidence of record suggests that the proposed development will conflict with any established county plan or policy. Moreover, the evidence indicates that the proposed rezoning will be consistent with the Growth Policy and the Capital Improvement Program.

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

1. Intent and Purpose of the Zone

Section 59-C-8.21 of the Zoning Ordinance states that the TS-R Zone is intended to be used in transit station development areas and in locations where multiple-family residential development already exists or is recommended by the master plan. The District Council finds that the

proposed rezoning will satisfy this intent because the subject property is located less than 750 feet from the TS-R District, in an area that already has multiple-family residential development and was designated in the Sector Plan as the Transit Station-Residential District.

The purposes of the TS-R Zone are to promote the effective use of transit station development areas; to provide residential uses within walking distance of transit stations; to provide a range of densities to match the diverse characteristics of the County's several transit station areas; and to stimulate coordinated, harmonious development, prevent detrimental effects on the use or development of adjacent properties or the surrounding neighborhood; provide housing for persons of all economic levels; and promote health, safety and welfare. The District Council finds that the proposed rezoning will be consistent with these purposes because the site is located within walking distance of the Bethesda Metro Station; the improved sidewalks and streetscape will enhance pedestrian connections to the Metro; the range of densities proposed will add to the high density intended for the TS-R District and will be compatible with the characteristics of the transit station area; the form of development proposed will be compatible with the surrounding area and therefore will contribute to coordinated, harmonious development and avoid detrimental effects on the use or development of adjacent properties or the surrounding neighborhood; on-site MPDUs will ensure that the proposed development provides housing for persons of different income levels; and the development will promote health, safety and welfare by providing needed housing in downtown Bethesda, in a form that is compatible with the surrounding area.

The District Council's finding of compatibility rests on a number of factors. The use proposed here – multi-family residential – is clearly compatible with the residential uses in adjoining buildings. The use is also compatible with non-residential uses, which will benefit from a larger pool of residents to provide customers, employees, etc. Under the current configuration, compatibility of the proposed structure is equally clear. The shape of the subject property dictates that any building of significant size must face Woodmont Avenue, perpendicular to the Edgemoor Condominiums. With this orientation, the proposed building would extend the line of high rises down Woodmont Avenue in a

fashion quite harmonious with the Edgemoor Condominiums, while continuing the step-down in heights typically found in downtown Bethesda as one moves away from the Metro. The proposed building would inevitably interfere with views from the middle floors of the Edgemoor Condominiums, but the same would be true of any building on the site that is consistent with the Sector Plan.

The District Council agrees with the Hearing Examiner that the proposed building, with the setbacks, site configuration and height limitations shown on the Development Plan, would be compatible with the adjacent City Homes Townhouses to the west. The new building would be 10 to 15 feet taller than the townhouses, which is appropriate for a structure facing Woodmont Avenue, and would be separated from the townhouses by a grassy strip 18 feet wide, plus the 30-foot width of the townhouse driveway. The new building might extend closer to the street than the townhouses, but would be roughly even with the townhouses' side stoops, which face Montgomery Lane. Moreover, the townhouses' bulk would keep them from being visually overwhelmed by the proposed building.

The application's binding element of substantial compliance with the streetscape guidelines contained in the Sector Plan is a very important element of compatibility. Streetscape improvements would continue the attractive streetscape on Montgomery Lane and provided a much improved pedestrian environment on Woodmont Avenue. The textual binding elements further assure compatibility with the prevailing brick architecture of surrounding buildings, and prohibit the use of large expanses of glass on the corners closest to adjacent residences.

In sum, the District Council concludes that a building with the parameters presented here would fit compatibly into its surroundings.

2. Standards and Regulations of the Zone

The TS-R Zone includes requirements regarding location, which echo the intent of the zone as discussed above. The zone also includes a requirement that development conform to the facilities and amenities recommended by the Sector Plan, including providing any necessary easements or dedications. The textual binding elements specify that the development would substantially comply with the Sector Plan's streetscape recommendations. However, property to be

dedicated for roadway right-of-way is not clearly indicated on the Development Plan site layout (Exhibit 116(b)). In view of other evidence in the record of the Applicant's intention to provide necessary roadway dedications, the District Council does not consider this grounds for denial, but stipulates that this omission must be rectified on the Development Plan that is submitted for certification.

The proposed multi-family dwellings are a permitted use in the TS-R Zone. In addition, the proposed development will be consistent with applicable development standards, as shown in the table on page 65 of the Hearing Examiner's July 14, 2006 Report and Recommendation. The TS-R Zone further requires off-street parking to be located so as to have a minimal impact on adjoining residential properties. This requirement will be satisfied by providing residential parking underground, eliminating the sights and sounds of surface parking.

3. Maximum Safety, Convenience and Amenity of the Residents

The binding element concerning streetscape ensures improved pedestrian connections between Arlington Road and Woodmont Avenue. Moreover, the building will be extremely accessible to Metro, shopping, entertainment and outdoor recreation. Based on these elements, the District Council concludes that the proposed development will provide for the maximum safety, convenience and amenity of the residents of the development.

4. Compatibility

For the reasons discussed in Part F.1 above, the District Council concludes that the proposed development will be compatible with the land uses in the surrounding area.

§59-D-1.61(c): safe, adequate and efficient internal vehicular and pedestrian circulation systems. The evidence supports a finding that the proposed internal vehicular and pedestrian circulation systems and points of external access will be safe, adequate, and efficient.

§59-D-1.61(d): preservation of natural features. The subject property is located in a highly urbanized area and has few natural features. Technical Staff reports that two existing trees on the site will be removed, but efforts will be made to preserve trees in the public right-of-way. The application is exempt from forest conservation requirements because of the site's small size and lack of

existing forest cover. The developer will be required to conform to county requirements for stormwater management. Based on these factors, the District Council concludes that this requirement is satisfied.

§59-D-1.61(e): common area maintenance. Condominium association documents that have been submitted in draft form adequately and sufficiently demonstrate the intended ownership and perpetual maintenance of common areas.

G. Public Interest

The District Council concludes that the proposed zoning 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 normally considers master plan conformity, the recommendations of the Planning Board and Technical Staff, and any adverse impact on public facilities. As discussed in Part D above, the District Council finds that the subject application is in substantial compliance with the use and density recommended in the *Bethesda CBD Sector Plan*. Moreover, the evidence amply supports a finding that the proposed development would support the achievement of the “low-rise, high-density, urban village” form of development recommended in the Sector Plan, despite a minor deviation from the height recommendation.

The evidence demonstrates that the proposed development will not have any adverse impact on existing roadways in the area. The evidence suggests that the proposed development is expected to add three students to an elementary school that has adequate capacity under the Growth Policy, but is considered over capacity by Montgomery County Public Schools. The relevant middle and high schools are expected to have adequate capacity by the time the building proposed here is built. The District Council finds that under these circumstances, the minor potential impact on public schools is not sufficient to justify denial of the application.

Accordingly, having carefully weighed the totality of the evidence, the District Council concludes that approval of the requested zoning reclassification is in the public interest.

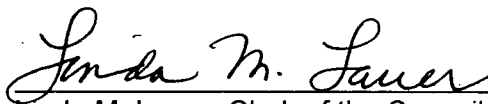
For these reasons and because to approve the instant zoning application would aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be approved in the manner set forth below.

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, Maryland approves the following resolution:

Zoning Application No. G-819, requesting reclassification from the R-10 and R-60 Zones to the TS-R Zone of 22,546 square feet of land located at 4802 Montgomery Lane, 4804 Montgomery Lane, 4905 Hampden Lane and 4901 Hampden Lane, Bethesda, all in the 7th Election District, is hereby **approved** in the amount requested and subject to the specifications and requirements of the final Development Plan, Ex. 116(a) – (c), 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, in accordance with § 59-D-1.64 of the Zoning Ordinance, with all land proposed for dedication as public right-of-way clearly indicated.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council

SEP 26 2007

**MONTGOMERY COUNTY PLANNING BOARD**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 07-166**Site Plan No. 820070060****4901 Hampden Lane****Date of Hearing: June 7, 2007****MONTGOMERY COUNTY PLANNING BOARD****RESOLUTION**

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review site plan applications; and

WHEREAS, on October 20, 2006, Hampden Lane, LLC, ("Applicant") filed an application for approval of a site plan ("Site Plan" or "Plan") for up to 64 multi-family residential units, including a minimum of 15% (up to 10) moderately priced dwelling units ("MPDUs") on 0.52 acres of TS-R zoned-land, located on the west side of Woodmont Avenue between Hampden Lane and Montgomery Lane ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820070060, 4901 Hampden Lane (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated May 28, 2007, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on June 7, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, on June 7, 2007, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on June 7, 2007, the Planning Board approved the Application subject to conditions on the motion of Commissioner Robinson, seconded by Commissioner Bryant, with a vote of 5-0, Commissioners Bryant, Hanson, Purdue, Robinson, and Wellington voting in favor.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910
MNCPPC Legal Department

www.MCParkandPlanning.org

Chairman's Office: 301.495.4605 Fax: 301.495.1320

E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820070060 for up to 64 multi-family residential units, including a minimum of 15% (up to 10) MPDUs, on 0.52 gross acres in the TS-R Zone, subject to the following conditions:

1) Development Plan Conformance

The proposed development shall comply with the Binding Elements of the approved Development Plan for Local Map Amendment G-819, approved by the District Council on July 25, 2006, and certified by the Hearing Examiner on August 7, 2006.

2) Preliminary Plan Conformance

The proposed development shall comply with the conditions of approval for Preliminary Plan 120070280, to be heard by the Planning Board on June 7, 2007.

3) Moderately Priced Dwelling Units (MPDUs)

- a) The proposed development shall provide on site 15 percent of the total number of units as MPDUs (up to 10) in accordance with Chapter 25A.
- b) The unit type distribution of MPDUs must match that of the market-rate units (i.e., if 55 percent of the market-rate units are two-bedroom units, 55 percent of the MPDUs shall be two-bedroom units).

4) Lighting

- a) Prior to Certified Site Plan, the Applicant shall provide a lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for residential development.
- b) All private light fixtures shall be full cut-off fixtures.
- c) The public lighting fixtures and poles shall match the Bethesda Streetscape Standard specifications.

5) Forest Conservation

As stated in the memorandum from M-NCPPC-Environmental Planning dated May 22, 2007, the Applicant shall comply with the conditions of approval of the final forest conservation plan. The Applicant shall satisfy all conditions of approval before recording of the record plat or MCDPS issuance of erosion and sediment control permits. Conditions include but are not limited to:

- a) The proposed development shall comply with the conditions of the approved Tree Save Plan prior to any demolition, clearing, or grading on the subject property.
- b) The final Sediment Control Plan must be consistent with limits of disturbance as shown on Tree Save Plan, dated May 22, 2007.

6) Noise

- a) Prior to issuance of the building permit, an acoustical engineer must certify through building shell analysis that interior noise levels will not exceed 45 DBA L_{dn} .
- b) The builder must construct the buildings in accordance with these acoustical recommendations, with any changes affecting acoustical performance approved by the acoustical engineer, with copy to M-NCPPC staff.
- c) The certification and builder acceptance letter must be provided to M-NCPPC Environmental Planning staff before building permits are issued.

7) Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated August 21, 2006, unless amended by the Montgomery County Department of Permitting Services.

8) Development Program

- a) Applicant shall 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 the Certified Site Plan. The Development Program shall include a phasing schedule as follows:
 - i) Street tree and on-site landscape planting shall progress as street improvements and building construction are completed, but no later than six months after completion of those improvements.
 - ii) Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
 - iii) Phasing of construction, dedications, stormwater management, sediment/erosion control, public use and amenities, or other features.

9) Clearing and Grading

No clearing or grading prior to M-NCPPC approval of the Certified Site Plan.

10) 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) Development program, inspection schedule, revised data table, and Site Plan Resolution;
- b) Limits of disturbance;
- c) The location of MPDUs on the Site Plan;
- d) Revise the parking counts to reflect the correct MPDU distribution described in condition 3(b) above.

BE IT FURTHER RESOLVED that all site development elements as shown on 4901 Hampden Lane drawings stamped by the M-NCPPC on May 21, 2007, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

The Site Plan conforms to all non-illustrative and binding elements of the approved Development Plan, as demonstrated in the Project Data Table below. Beyond the elements included in that table, the proposed building also meets the remaining binding elements of the Development Plan within the purview of the Planning Board:

- a. The streetscape improvements conform to the Bethesda Streetscape Standard;
 - b. All residential parking is located underground;
 - c. No ancillary commercial or restaurant uses are included in the plan;
 - d. The building height in the northwest corner of the site does not exceed 60 feet, approximately in the area over the northwest unit as shown on the Development Plan;
 - e. Both primary residential and vehicular access are from Hampden Lane.
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 TS-R zone as demonstrated in the Project Data Table below.

Requirements of the TS-R Zone

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the developments standards proposed for approval. The Board finds, based on the aforementioned data table and other evidence, that the Application meets all of the applicable requirements of the TS-R Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Data Table

Development Standard Approved by
 the Board and Binding on the Applicant

Lot Area, Minimum (sf.)	
Gross Tract Area (sf.)	30,891
Gross Tract Area (ac.)	0.71
Previous Dedication (sf.)	8,191
Proposed Dedication (sf.)	154
Net Tract Area (sf.)	22,546
Net Tract Area (ac.)	0.52
Density of Development, Maximum	
FAR , w/o MPDU Bonus	
Square Feet , w/o MPDU Bonus	
FAR , w/ 22% Bonus for Providing 15% MPDUs on site	3.05
Square Feet , w/ 22% Bonus for Providing 15% MPDUs on site	94,218
Dwelling Units per Acre, w/o MPDU Bonus	Up to 90
Maximum No. of Units @ 0.71 Acres	Up to 64
Dwelling Units per Acre, w/ 22% Bonus for Providing 15% MPDUs on site	
Maximum No. of Units @ 0.71 Acres	
MPDUs provided on site	
Minimum Percentage	15
Minimum Number of Units	Up to 10
Open Space, Minimum	
Public Use Space (%)	11.9
Public Use Space (sf.)	2,692
Active and Passive Recreation (%)	26
Active and Passive Recreation (sf.)	5,990
Total Open Space (%)	37.9
Total Open Space (sf.)	8,682
Building Height, Maximum (ft.)	
Recommended by Sector Plan (ft.)	
Approved by Development Plan and ARC	70/72.9
Number of Stories (not including the cellar or underground parking)	7

* The Development Plan height of 70 feet is expressed as 396 feet above sea level. Neither the zoning language nor DPS enforcement measures the height in this fashion. Using the measurement method in the zoning, for this site expressed as the highest curb height on the three surrounding streets, the equivalent of 396 feet is 72.9 feet.

Data Table (Continued)

Development Standard Approved by
 the Board and Binding on the Applicant

Building Lot Coverage, Maximum (%)	65
Building Setbacks, Minimum (ft.)	
Woodmont Avenue	13
Hampden Lane	13
Montgomery Lane	2
Adjacent Lot, Townhouses	18
Adjacent Lot, Apartments	28
Off-Street Parking, Minimum (No. of Spaces)	
NOTE: These counts are based on 64 units. If fewer are provided, the required parking spaces will be reduced accordingly.	
One-bedroom Units	
3 Market-Rate Units	3.75
1 MPDU	0.625
Two-bedroom Units	
30 Market-Rate Units	45
5 MPDU	3.75
Three-bedroom Units	
21 Market-Rate Units	42
4 MPDU	4
Sub-Total	99.125
Reduction if within 1,600 feet of Metro	9.9125
Total Off-Street Parking	Up to 90

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

a. Buildings and Structures

The plan proposes a seven-story multi-family residential building with up to 64 residential units. In an area of much re-building, this plan provides a strong building frontage for each of the surrounding streets. On the primary street, Woodmont Avenue, the design features first floor and English basement units that enter directly from the street, which, in combination with sensitive landscaping, helps to activate the street while

mediating between the public and private realms. On the secondary streets, Hampden and Montgomery Lanes, the building provides a book-end effect, holding the corner and providing a transition between the lower intensity uses to the west and the higher intensity uses to the east. The location of the building is adequate, safe, and efficient.

b. Open Spaces

The Application proposes over 10,000 square feet of public use and amenity space on and off site, approximately 47 percent of the Net Lot Area. On-site public use spaces include three street-access landscaped seating areas, an expanded sidewalk with benches along Woodmont Avenue, and attractive landscaping. Off-site amenities include streetscape improvements along Woodmont Avenue and Hampden and Montgomery Lanes. In each category of public use and recreation space, the plan provides greater than the minimum amount. The open space provided on site is adequate, safe, and efficient.

c. Landscaping and Lighting

The public use spaces on the site are well designed and located close to the street so as to be inviting to the public for casual everyday use and access. Along the Woodmont Avenue frontage, landscaping along the sidewalk helps to define the public seating areas and transition between public and private space. The landscaping and lighting provide for adequate, safe, and efficient use by residents.

d. Recreation Facilities

The plan provides residents with recreational opportunities on and off site. On site the plan provides several indoor and outdoor seating areas, an indoor fitness center, and a roof terrace. Nearby are urban parks and an extensive pedestrian system. Per the 1992 Recreation Guidelines, the on- and off-site recreational facilities are each greater than the minimum amount suggested. The recreation facilities provided on site are adequate, safe, and efficient.

e. Vehicular and Pedestrian Circulation

Vehicular Circulation

The plan provides one vehicular access point, from Hampden Lane. This grants access to both the underground parking and the loading and service area. All required parking will be located underneath the building.

Pedestrian Circulation

Pedestrian access to the site is from the sidewalks located on three sides of the site. The primary access to the building is from Hampden Lane, though each of the ground floor and most of the English basement units will have an individual access point ("front door") directly from the sidewalk on Woodmont Avenue and Montgomery Lane. A secondary access to the ground floor lobby is also provided from the recreation space in the northwest corner of the site.

Vehicular and pedestrian circulation are safe, adequate, and efficient.

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

The proposed building features seven stories and a cellar with up to 64 residential units. The site is located on the border of the Bethesda CBD, located between lower intensity residential, commercial, and civic uses to the west and the more intensive commercial and residential uses to the north and east. The structure will provide a "bridge" height between the four-story townhomes of City Homes, and the taller area condominiums and office buildings, including adjacent buildings along Woodmont Avenue that range from ten to 17 stories, which fulfills the Master Plan recommendation for a "tent effect" of building heights. The proposed setbacks are designed to create the desired "urban village" character along the frontages of Hampden Lane, Woodmont Avenue, and Montgomery Lane, which is expressed in the Master Plan. The rear setback of 18 feet provides an adequate separation from the City Homes property driveway retaining wall. The setback from Montgomery Lane, though less than that of City Homes, provides an "end-cap" to the block. This is a desirable transition between the less intensive character of City Homes and the more intensive development along Woodmont Avenue, providing a lateral, as well as vertical, buffer between the two. The building height, size, location, and residential use and the site landscaping and lighting are commodious and compatible with adjacent residential and commercial uses.

The Board received public comments questioning the legality of the Alternative Review Committee ("ARC") process. As part of the development plan review process for this project, the ARC found that it would be financially infeasible to provide on-site MPDUs in a building shorter than 70 feet. The Board considered ARC's finding as part of its June 2006 review of the proposed development plan, and recommended that the District Council approve the development plan. The District Council approved the development plan on July 25, 2006 with a height limit of 70 feet. The concerns expressed about the ARC's role in determining the 70-foot height limit go to the validity of the ARC process, and not to the merits of whether the 70-foot building height limit established as part of the development plan for this project is appropriate. The validity of the ARC process is beyond the

scope of review of this project. But more importantly, as explained immediately above, the 70-foot building height is compatible with surrounding development.

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.*

Forest Conservation

A Forest Conservation exemption (4-07279E) was approved by Environmental Planning staff on May 22, 2007.

Water Quality

The site does not include any streams, wetlands, or floodplains.

Noise

A noise analysis was performed and detailed in a report by Polysonics, dated January 11, 2007. This analysis demonstrates that current and projected noise levels slightly exceed the 65 dBA L_{dn} guideline applied to external activity spaces in urban areas. The Woodmont Avenue façade and associated units will be affected the most. This project does not propose any exterior recreation areas and noise mitigation for balconies is impractical. Therefore only architectural methods will be used to mitigate for noise, with a building shell analysis provided at time of building permit to certify that interior noise levels will not exceed the 45 dBA L_{dn} standard.

Tree Save

There are three large or specimen trees onsite and this plan does not propose to retain any of these trees, due to the intensity of development proposed. There are two offsite trees (26" Bitternut Hickory, 12" Red Maple) that will be protected and retained through the use of root pruning and tree protection fence.

BE IT FURTHER RESOLVED, that this resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

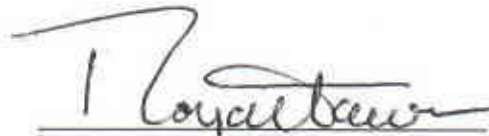
BE IT FURTHER RESOLVED, that this site plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this Resolution is SEP 26 2007 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

At its regular meeting held on Thursday September 20, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Bryant, seconded by Vice Chair Robinson, with Chairman Hanson, Vice Chair Robinson, and Commissioner Bryant present and voting in favor. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Site Plan No. 820070060, 4901 Hampden Lane.



Royce Hanson, Chairman
Montgomery County Planning Board



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

OCT 12 2007

MCPB No. 07-164
Preliminary Plan No. 120070280
Hampden Lane
Date of Hearing: June 07, 2007

MONTGOMERY COUNTY PLANNING BOARD

CORRECTED RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on October 20, 2006, Hampden Lane, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 1 lot on 0.52 acres of land located at the northwest quadrant of the intersection of Hampden Lane and Woodmont Avenue ("Property" or "Subject Property"), in the Bethesda Chevy Chase Central Business District (CBD) Sector Plan Master Plan Area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070280, Hampden Lane ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated May 15, 2007, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on June 7, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

Approved as to
Legal Sufficiency:

DM 9/24/07

8787 Georgia Avenue, Suite 200, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on June 7, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Wellington; seconded by Commissioner Bryant; with a vote of 5-0, Commissioners Bryant, Hanson, Perdue, Robinson, and Wellington voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120070280 to create 1 lot on 0.52 acres of land located at the northwest quadrant of the intersection of Hampden Lane and Woodmont Avenue ("Property" or "Subject Property"), in the Bethesda Chevy Chase Central Business District (CBD) Sector Plan master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 64 hi-rise multi-family dwelling units including a minimum of 12.5% MPDUs.
- 2) The proposed development must comply with the conditions of the approved tree save plan prior to any demolition, clearing, or grading on the subject property.
- 3) Final sediment control plan must be consistent with limits of disturbance as shown on Tree Save Plan, dated 5/22/2007.
- 4) At time of building permit:
 - a) An acoustical engineer must certify through building shell analysis that interior noise levels will not exceed 45 DBA L_{dn} .
 - b) The builder must construct the buildings in accordance with these acoustical recommendations, with any changes affecting acoustical performance approved by the acoustical engineer, with copy to MNCPPC staff.
 - c) The certification and builder acceptance letter must be provided to MNCPPC Environmental Planning staff before building permits are approved.
- 5) The Applicant must modify the preliminary plan prior to certification, to show the following ADA-compliant pedestrian accommodations:
 - a. ~~The crosswalk must be perpendicular to the curb across Hampden Lane's western leg at the intersection with Woodmont Avenue.~~
 - b. Show on the plan the handicapped ramps on the east and opposite side of Hampden Lane and the north side of Montgomery Lane. If they do not exist, provide them.
- 6) The Applicant must provide five bicycle lockers in the parking garage within 50 feet of the elevators. The applicant will coordinate with Transportation

Planning staff to determine the ultimate location of the bicycle facilities prior to approval of certified site plan.

- 7) The preliminary plan is subject to the Rezoning Case #G-819.
- 8) Final number of dwelling units and MPDU's as per condition #1 above to be determined at the time of site plan.
- 9) The Applicant must comply with conditions of MCDPWT letter dated, May 11, 2007, unless otherwise amended.
- 10) The applicant must provide access and improvements as required by MCDPWT prior to recordation of plat(s).
- 11) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated April 16, 2007.
- 12) The Applicant must dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 13) The Applicant must construct all road improvements within the rights-of-way 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.
- 14) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 15) Other necessary easements must be shown on the record plat.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the master plan.*

The proposed preliminary plan is subject to the 1994 Sector Plan for the Bethesda Central Business District which recommends high-rise residential and/or garden apartment development at the location of the Subject Property. Page 81 of the sector plan identifies properties zoned TS-R as floating zones. The preliminary plan proposes redevelopment for multi-family residential with MPDUs in accordance with the master plan goals.

2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

The proposed 64-apartment development would generate 29 peak-hour trips within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods. A traffic study is not required to satisfy LATR because the proposed residential development generates less than 30 total peak-hour trips.

Master-Planned Roadways and Bikeway

In accordance with the *Bethesda CBD Sector Plan*, Montgomery Lane and Hampden Lane are designated as business district streets with recommended rights-of-way of 52 and 60 feet respectively. Woodmont Avenue is designated as an arterial, A-68, with a recommended 80-foot right-of-way. In accordance with the *County Functional Master Plan of Bikeways*, a shared use path, SP-62, is designated along Woodmont Avenue.

Sector-Planned Transportation Demand Management

The site is located in the Bethesda Transportation Management District. As a residential only land use, the applicant is not required to enter into a Traffic Mitigation Agreement to participate in the Bethesda Transportation Management Organization.

Available Transit Service

The Bethesda Metrorail Station is located 1,500 feet to the north of the subject site. Although no transit service is available along Montgomery Lane and Hampden Lane, Ride-On routes 49 and 92 and Metrobus routes J-2, J-3, and J-4 operate along Woodmont Avenue.

Pedestrian Facilities

Sidewalks exist along Montgomery Lane, Hampden Lane, and Woodmont Avenue. The existing intersections have marked crosswalks and pedestrian signal heads at the signalized intersections. Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

3. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. Access and public facilities will be adequate to support the

proposed lots and uses. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lot was reviewed for compliance with the dimensional requirements for the TS-R zone as specified in the Zoning Ordinance and the Local Map Amendment Application G-819. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

There is no forest onsite, but three large or specimen trees are present. There are no streams, wetlands, or any associated buffers onsite. The property is exempt from forest conservation requirements. A Forest Conservation exemption (4-07279E) was approved by Environmental Planning staff on 5/22/2007. The property is within the Little Falls watershed; a Use I/I-P watershed.

Noise

A noise analysis was performed and detailed in a report by Polysonics, dated 1/11/2007. This analysis demonstrates that current and projected noise levels slightly exceed the 65 dBA L_{dn} guideline applied to external activity spaces in urban areas. The Woodmont Avenue façade and associated units will be affected the most. This project does not propose any exterior recreation areas and noise mitigation for balconies is impractical. Therefore, only architectural methods will be used to mitigate noise, with a building shell analysis provided at time of building permit to certify that interior noise levels will not exceed the 45 dBA L_{dn} standard.

Tree Save

There are three large or specimen trees onsite and this plan does not propose to retain any of these trees, due to the intensity of development proposed. There are two offsite trees (26" Bitternut Hickory, 12" Red Maple) that will be protected and retained through the use of root pruning and tree protection fence.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting*

Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.

On April 16, 2007, the MCDPS Stormwater Management Section approved the project's stormwater management concept, which includes topsoiling and an engineered sediment control plan for water quality control.

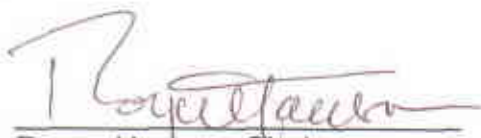
BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed *[MODIFY AS REQUIRED IF BOARD APPROVES PHASES WITH CONCURRENT VALIDITY PERIODS – OR DELETE IF PHASED VALIDITY PERIODS ARE SET FORTH IN CONDITIONS OF APPROVAL]*; and

OCT 12 2007 BE IT FURTHER RESOLVED, that the date of this Resolution is (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

At its regular meeting held on Thursday September 27, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Bryant, seconded by Vice Chair Robinson, with Chairman Hanson, Vice Chair Robinson, and Commissioner Bryant present and voting in favor. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan No. 120070280, Hampden Lane.



Royce Hanson, Chairman
Montgomery County Planning Board

Resolution No.: 17-599
Introduced: November 13, 2012
Adopted: November 13, 2012

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

By: District Council

SUBJECT: Approval of Development Plan Amendment (DPA) 12-02, 4901 Hampden Lane, Bethesda, Maryland

OPINION

On May 23, 2012, 4901 Hampden Lane Ventures LLC filed an application to amend a development plan approved on July 25, 2006 with Local Map Amendment (LMA) application G-819. LMA G-819 permitted a multi-family residential building with minimum of 50 and a maximum of 70 dwelling units. *Resolution 15-559* (Resolution). This DPA seeks to reduce the minimum number of dwelling units from 50 to 40 dwelling units and clarify that at least 15% of dwelling units will be MDPU's. The lower minimum number of dwelling units reduces the potential number of MDPU's from 8 to 6. The Applicant seeks the change to respond to the current real estate market for condominiums. T. 12.¹ There are no other amendments to the original development plan. A binding element from the original development plan continues to commit the Applicant to "work with the County in an attempt to devise a funding mechanism to help protect MPDU owners from rapid escalations in condominium fees." Exhibit 22. All amendments are to the textual binding elements of the development plan. These binding elements are attached hereto and incorporated herein as Exhibit A.

The property consists of approximately 30,819 square feet in the Transit Station—Residential (TS-R) Zone, and is located at the northwest quadrant of the intersection of Woodmont Avenue and Hampden Lane. Currently, the property is developed with two single-family structures used as offices and a 3-story multi-family building with some commercial uses.

Technical Staff of the Maryland-National Capital Park and Planning Commission recommended approval of the DPA with an expedited hearing process (i.e., without a public hearing before the Hearing Examiner). Exhibit 17. The Planning Board agreed with this recommendation and, no objections being filed, this case comes directly to the District Council

¹ All transcript citations are to the transcript of the September 27, 2012, public hearing before the Montgomery County Planning Board.

based on the record before the Planning Board. Exhibit 18; *Montgomery County Code*, §59-D-1.74(c)(3). After the Board's recommendation, the Applicant made technical corrections to the DPA. Exhibit 22. The Planning Board again recommended approval of the corrected DPA, finding that the technical corrections had no impact on the Board's initial recommendation. Exhibit 21.

Technical Staff concluded that the DPA complied with all of the standards for approval of a development plan amendment, all requirements of the TS-R Zone, and that it is in the public interest. Exhibit 17. As the Council as already found the development plan met all standards for rezoning in the original zoning case, only those standards affected by the amendment are discussed here.

The subject property is within the area covered by the *1994 Bethesda Central Business District Sector Plan* (Sector Plan or Plan). The Sector Plan designates the subject property as part of a "Transit Station Residential District" and recommends a density between 45 and 100 dwelling units. This DPA proposes densities between 56 to 99 dwelling units per acre. The Sector Plan recommends a floor area ratio of 2.5. While floor area of the DPA equals 3.05, the additional density is derived from the 22% bonus density for designating 15% of the units as MPDUs, and therefore remains consistent with the Sector Plan. The public and private open space, the urban design, and setbacks are unchanged from the original Development Plan. Exhibit 17.

Technical Staff also concluded that the application meets the requirements of TS-R Zone, set forth in §59-C-7.2 of the *Montgomery County Code*. One purpose of the TS-R Zone to "provide a range of densities that will afford planning choices to match the diverse characteristics of the several transit station development areas..." Technical Staff concluded that the reduced number of dwelling units proposed in this amendment continues to fulfill this purpose, as it is within the density recommended by the Sector Plan. Exhibit 17.

This DPA does not have an impact on public facilities. After the original development plan was approved, the Planning Board approved a preliminary plan for up to 64 multi-family units. Because this amendment reduces the minimum number of units to 40, this preliminary plan approval remains valid. For the same reason, school facilities remain adequate to serve the development.

At its regular scheduled meeting on September 27, 2012, the Planning Board voted 4-0 to recommend approval of DPA 12-02 as submitted. Exhibit 18. The Board stated that it "discussed with the applicant the importance of retaining the maximum number of MPDUs within a metro core area, but recognized the benefits of home ownership and the flexibility needed for the applicant to address market demands." *Id.* The Board found that the application "is consistent with the purpose clause and all applicable standards for the TS-R Zone and continues to be in accordance with the land use recommendations contained in the 1994 Bethesda CBD Sector Plan." *Id.* The Board also recommended approval of the corrected development plan (Exhibit 22) as it did not substantively change the application. Exhibits 22.

The record is now complete, and the matter can be considered directly by the District Council without the need for a hearing or recommendation by the Hearing Examiner.


The District Council has reviewed DPA 12-02 and concluded that the DPA meets the requirements of the Zoning Ordinance, and its approval would be in the public interest. Based on this record, the District Council takes the following action.

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.

DPA No. 12-02, which requests an amendment to the Development Plan approved July 25, 2006, in LMA G-819 to decrease the minimum number of dwelling units from 50 to 40 dwelling units and to clarify that a minimum of 15% of the units will be MPDUs located on-site, is hereby approved, **provided that** the DPA (Exhibit 22) is submitted to the Hearing Examiner for certification within 10 days of the District Council's action, pursuant to the provisions of Zoning Ordinance §59-D-1.64.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council

2) Binding Elements

- a) The development envelope will be governed by the height, setback and other on-site development constraints, as provided on the following tabulation.

Item	Description	Minimum Allowed/ Required Under the TS-R Zone	Proposed/Provided
1.	Zoning (Existing: R10, R60)	N/A	TS-R
2.	Areas to be rezoned and basis for the development density	18,000SF	30,891SF
3.	Net Lot Area	N/A	22,546SF
4.	Floor Area Ratio	No minimum. Maximum: 2.50 FAR	2.50 (Not to exceed)
5.	Bonus FAR for MPDU's	Up to 22%	0.55 (Not to exceed)
6.	Total	N/A	3.05 (Not to exceed)
7.	Number of dwelling units	150 maximum under Zoning; substantial compliance with Sector Plan: 45-100 units per acre.	Between 40-70 Units
8.	Gross Floor Area	N/A	No more than 94,218SF
9.	Public Use Space	10 % Net Lot Area 2,255SF	Not less than 10% Net Lot Area: 2,255SF
10.	Active/Passive Recreation Space	20% Net Lot Area 4,510SF	No less than 20 % Net Lot Area: 4,510SF. The area to be provided on the ground will be determined by the Planning Board.
11.	Building Coverage	No minimum or maximum required for the TS-R Zone	Maximum of 65%
12.	Building Height	No minimum or maximum required for the TS-R Zone	Not greater than 70 feet, with portions of the building limited to 60 feet (see section 3.e below).

3) Additional Binding Elements:

- a) The streetscape will be in substantial compliance with the Sector Plan guidelines.
- b) All residential parking will be located underground, with the possible exception of a small number of surface parking spaces for drop off and visitor parking located adjacent to Hampden Lane.
- c) No ancillary commercial uses and no restaurants will be included in the Development Plan.
- d) The proposed development will include all MPDUs on site. A minimum of 15 percent of the dwelling units will be MPDUs.
- e) Setbacks and height:
- West side building setback: no less than 18 feet from the westerly property line.
 - Other setbacks: in substantial compliance with the setbacks illustrated on this amended Development Plan, page A0.02, dated May 1, 2006.
 - While the building's overall height will be a maximum of 70 feet (seven (7) stories plus an English Basement), as measured from elevation 326 (the elevations of the southwest and northwest corners of the site), provided that the northwest corner of the building shall be limited to a maximum of 60 feet, approximately in the area over the northwest unit as shown on this amended Development Plan, page A0.02, dated May 1, 2006, but in any event, not less than 1,390 square feet.
 - The remainder of the building will be limited to a maximum of 70 feet in height. Any rooftop structures, including penthouse equipment and screen wall, shall be no more than 15 feet in height. All such structures will be set back from the Montgomery Lane building edge by no less than 25 feet and will cover no more than 50% of the rooftop. All reasonable efforts shall be made to reduce the maximum 15 foot height and the maximum 50% coverage as much as practicable.
- f) Both residential and service vehicular access will be from Hampden Lane.
- g) The building's construction materials and architectural design shall be consistent with the images depicted on this amended Development Plan, page A0.03, dated May 1, 2006. Specifically, the northeast and northwest corners of the building will be constructed from brick, metal floor spandrels, and windows. They will not include large expanses of glass curtain wall or other reflective surfaces.
- h) The Applicant will work with residents of the Edgemoor Condominium Association to devise a construction agreement to mitigate the impact of construction traffic, noise, employee parking, street closures and other relevant issues.
- i) The Applicant will work with the county in an attempt to devise a funding mechanism to help protect MPDU owners from rapid escalations in condominium fees.

Revision May 18, 2012

SITE / LAND USE PLAN
CONCEPTUAL PARKING LAYOUT
NOTATIONS & BINDING ELEMENTS

EXHIBIT A



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

Memorandum

TO: Gwen Wright, Planning Director

VIA: Robert Kronenberg, Acting Chief, Area 1 *RAK*

FROM: Kathleen A. Reilly, AICP, Planner Coordinator, Area 1 *KAR*

RE: 4901 Hampden Lane, The Lauren
SITE PLAN #82007006A

DATE: December 13, 2013

Pursuant to Montgomery County Code Division 59-D-3.7 (Minor Amendments), the Planning Director may approve in writing certain applications for an amendment to the Certified Site Plan. Administrative or "Director Level" Amendments are modifications to the approved Certified Site Plan that are considered minor in nature and do not alter the intent and objectives of the plan.

A Pre-Application meeting with the community/public/parties of record is not required. A Pre-Submittal meeting with the DARC Intake Section is also not required; however, submittal of the application to DARC is applicable. Administrative Amendments must satisfy the noticing and posting requirements as identified in Sections 4.C and 4.D (a) (ii) of the Development Manual and require approval of the Planning Director.

On June 21, 2013, Lauren Condos, LLC ("Applicant") filed a site plan amendment application designated Site Plan No. 82007006A ("Amendment") for approval of the following modifications:

1. Change the building's architectural articulation;
2. Incorporate balconies into the design of above ground units; and
3. Remove landscaping along private ground floor patios.

A notice regarding the subject site plan amendment was sent to all parties of record by the Applicant on July 12, 2013, which gave the interested parties 15 days to review and comment on the contents of the amended site plan. Staff did not receive any written correspondence from the parties of record.

This amendment does not increase height or overall footprint nor does it prevent circulation on any street or path. It adds balconies to units above the ground level and changes the building's architectural façade. Balconies are permitted to extend no more than 3 feet into any required yard setbacks and the proposed balconies will not encroach into any required setbacks. This amendment also proposes to remove landscaping along the private ground floor patios to allow more light into these units. The changes proposed by this amendment will have minimal effect on the footprint, layout, quality or intent of the elements of the previously approved plan.

Furthermore, the proposed amendment is consistent with the provisions of Section 59-D-2.6 of the Montgomery County Zoning Ordinance for Minor Plan Amendments. The amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board for the originally approved site plan.

This Amendment shall remain valid as provided in Montgomery County Code § 59-D-3.8. The Applicant is responsible for submitting a certified site plan after approval by the Director for the specific modifications.

ACCEPTED & APPROVED BY:

Gwen Wright
Gwen Wright, Planning Director

12/12/13
Date Approved

Law Offices Of
MILLER, MILLER & CANBY
MM&C
CLIENT FOCUSED. RESULTS DRIVEN.

200-B MONROE STREET, ROCKVILLE, MARYLAND 20850 P: 301.762.5212 F: 301.424.9673 WWW.MILLERMILLERCANBY.COM

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BOBBY BAGHERI (DC)
AMY C.H. GRASSO (DC)
DAMON B. OROBONA (DC)
DIANE E. FEUERHERD

JSKLINE@MMCANBY.COM

May 23, 2014

Mr. Mark Beall
Montgomery County Department
of Permitting Services
255 Rockville Pike, 2nd Floor
Rockville, MD 20850

RE: Development Plan Amendment 14-02,
The Lauren, .
4901 Hampden Lane, Bethesda

Dear Mark,

On behalf of the owner of the above referenced property, we have filed Development Plan Amendment 14-02 for the very limited purposes of obtaining approval to construct a single elevator mechanical room, up to a height of 21.5 feet above the roof level of the proposed building. In order to answer the question that I will ask you at the end of this letter, the following information is provided.

1. The subject property was rezoned to the TS-R classification in 2006. At that time, the then owner agreed with neighbors to include a binding element stating that rooftop structures would not exceed more than 15 feet high, set back from the Montgomery Lane building edge no less than 25 feet, and covering no more than 50% of the rooftop (See excerpt from certified Development Plan, attached, Section 3.e.iii).
2. An additional binding element, also the result of negotiations with surrounding neighbors, read that ". . . the northwest corner of the building shall be limited to a maximum of 60 feet, approximately in the area over the northwest unit . . . but in

any event, not less than 1300 square feet." (See attached certified Development Plan excerpt, paragraph 3.e).iv).

3. Our client is proposing a much more active rooftop than contemplated in the original proposal, including many amenities and features for the residents of the building. The Fire and Rescue Services Department has advised our client that if we want to use the rooftop as proposed, there must be an elevator large enough to accommodate a gurney so that any person in need of emergency transfer can be removed from the rooftop by a rolling gurney. But the elevator experts tell us that the clearance space necessary to have an elevator large enough to contain a gurney must be at least 21.5 feet high.
4. In order to accommodate the requirements of the Fire and Rescue Services Department, we have applied to increase the maximum height for a mechanical structure to read as follows:

"Any rooftop structures, including penthouse equipment and screen wall, shall be no more than 15 feet in height except for an elevator tower measuring 13' x 10' which may extend to a height of no more than 21.5 feet in height."
(See excerpt from Binding Element No. 3.e).iv in DPA 14-02, attached).

5. Staff at M-NCPPC does not have an objection to the limited amount of height increase in order to accommodate the emergency equipment. It would like, however, to have DPS opine that the height increase to accommodate the elevator mechanical room does not violate the other building height provision proposed in the 2006 Development Plan Amendment limiting height in the northwest corner of the building to 60 feet nor the overall height of the building to 70 feet.

I had hoped to come to your office in order to be able to explain the situation in more detail but timing requires that I try to obtain conformation from the Department as quickly as possible so that as MNCPPC staff writes its report to the Planning Board it is known that there is no inconsistency between the request in DPA 14-02 to increase the height of the elevator tower to 21.5 feet and the overall height limitation set forth in a separate binding element. We reach that conclusion based on a review of Section 59-B-1.1 of the Zoning Ordinance which states that "... building height limits under this Chapter do not apply to ... similar roof structures and mechanical appurtenances," provided that the roof structures do not exceed 25% of the roof area and that they are used only for a use incidental to the main use of the building."

Parenthetically, I will add that I have submitted to the Office of Zoning and Administrative Hearings letters from all of the homeowners associations surrounding the subject property expressing no objection to the proposed DPA.

With all of the information provided above, could you please countersign a copy of this letter confirming what I understand to be the law of Montgomery County. Of course, if I have misinterpreted the meaning of Section 59-B-1.1, or its application in this instance, please revise the statement to be consistent with the Department's position, or give me a call so that we can work out alternative language with which you are comfortable.

Thank you for your attention to this request.

Sincerely yours,

MILLER, MILLER & CANBY

A handwritten signature in black ink that reads "Jody". The signature is written in a stylized, cursive-like font with a horizontal line above it.

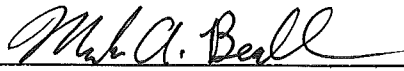
Jody S. Kline

JSK/blm

cc: Kathy Reilly
Larry Goodwin
John Conley
John Fitzgerald
Mike Plitt

Based on the information contained above, the Department of Permitting Services concludes that the request in Development Plan Amendment 14-02 is not inconsistent with the binding element found in Zoning Application No. G-819 and language found on the face of the associated Development Plan.

Montgomery County Department of Permitting Services

By: 
Mark Beall

Bethesda Civic Coalition
4821 Montgomery Lane #903
Bethesda MD 20814

April 3, 2014

Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910


RE: Development Plan Amendment
4901 Hampden Lane, Bethesda;
The Lauren Residences

Dear Chairperson Carrier and Members of the Planning Board,

Over the last six months, we have had a series of discussions with the developer of The Lauren Residences located at 4901 Hampden Lane, Bethesda. Through these discussions, it is our understanding that they are requesting relief from the 15' height cap for penthouse structures at their property so that they can have their service elevator provide elevator service to the rooftop amenities at the property. We understand that the requested relief is for an additional 6 feet in height limited to a 10 foot by 10 foot structure located on the southern side of the building. It is also our understanding that, with the exception of the service elevator, all other rooftop structures will conform to the 15' height cap as required by the existing development plan in place for the property. The developer has agreed to honor the agreements concerning the building that was previously entered into with Triumph Development and to maximize the aesthetic appeal of the project. In view of these promises we support and approve of the application to allow a 6-foot height increase to the 10 by 10 elevator enclosure area.

The development plan amendment application referenced above that will soon be presented to you for The Lauren has our support and we encourage you to approve the application.

Sincerely yours,
Bethesda Civic Coalition

By 
Steven A. Skalet



March 19, 2014

Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Development Plan Amendment
4901 Hampden Lane, Bethesda;
The Lauren Residences

Dear Chairperson Carrier and Members of the Planning Board,

Over the last six months, we have had a series of discussions with the developer of The Lauren Residences located at 4901 Hampden Lane, Bethesda. Through these discussions, it is our understanding that they are requesting relief from the 15' height cap for penthouse structures at their property so that they can have their service elevator provide elevator service to the rooftop amenities at the property. It is also our understanding that, with the exception of the service elevator, all other rooftop structures will conform to the 15' height cap as required by the existing development plan in place for the property.

We are pleased with the developer's vision for the look and feel of the exterior of the project as well as its vision for the project in its entirety. We also note that The Lauren will bring an added diversity of residential price points to the immediate neighborhood. Lastly, we are relieved to see that the high quality of materials, finishes, landscaping and the like will remain as we have been promised from the first approval for this project.

The development plan amendment application that will soon be presented to you for The Lauren has our support and we encourage you to approve the application.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Ashley Wiltshire".

Ashley Wiltshire

Owner of 4831 West Lane



THE EDMOOR CONDOMINIUM

4821 Montgomery Lane
Bethesda, Maryland 20814
Phone: (301) 907-9574
Facsimile: (301) 907-8614

April 3, 2014

Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Development Plan Amendment
4901 Hampden Lane, Bethesda;
The Lauren Residences

Dear Chairperson Carrier and Members of the Planning Board,

Over the last six months, we have had a series of discussions with the developer of The Lauren Residences located at 4901 Hampden Lane, Bethesda. Through these discussions, it is our understanding that they are requesting relief from the 15' height cap for penthouse structures at their property so that they can have their service elevator provide elevator service to the rooftop amenities at the property. We understand that the requested relief is for an additional 6 feet in height limited to a 10 foot by 10 foot structure located on the southern side of the building. It is also our understanding that, with the exception of the service elevator, all other rooftop structures will conform to the 15' height cap as required by the existing development plan in place for the property. The developer has agreed to work with our condominium association to maximize the aesthetic appeal of the roof areas as viewed from the Edgemoor, such as by prohibiting the use of "sails" as sunshades, using wood pavers and providing plantings to soften roof walls. Based on these discussions and agreements we support and approve of the application to allow a 6-foot height increase to the 10 by 10 elevator enclosure area.



THE EDMOOR CONDOMINIUM

4821 Montgomery Lane
Bethesda, Maryland 20814
Phone: (301) 907-9574
Facsimile: (301) 907-8614

We are pleased with the developer's vision for the project, including the high quality of materials, finishes, landscaping and the like, as we have been promised from the first approval for this project.

The development plan amendment application referenced above that will soon be presented to you for The Lauren has our support and we encourage you to approve the application.

Sincerely yours,

Stanley Stern, President