

Item #13

October 6, 2003

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THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

By Telefax (301) 495-1320
Mr. Derick P. Berlage, Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: Edgemoor, Lots 22 and 23, Block 17, Subdivision File
No: 7-04004

Dear Chairman Berlage:

We are writing to support the above-referenced application to subdivide two previously separate lots in our neighborhood. We reside at 7108 Exeter Road and have been neighbors of the applicants for many years. We are active members of the Edgemoor Citizens Association (ECA), and our family members are members and frequent users of the Edgemoor Club, which is located immediately across the street from the property in question.

We share the concerns of many of our neighbors about the current wave of building oversized houses in our close-in neighborhood, but are confident that this proposal will not contribute to this problem. The current property, which was originally two lots, can quite logically be separated again without doing any harm to the "normal" lot size or engendering an adverse increase in density in the neighborhood.

Overbuilding on a given lot is a separate issue. In this regard, we have every confidence that the applicants will be good stewards of the community's quality of life. The applicants have been very active in the community's civic activities, with Ms. Stevenson serving on the Board of the ECA. As such, we believe that the applicants will construct their new home in keeping with the character of the neighborhood. In fact, given the demonstrated bias of outside developers to over-build on lots in our community, we believe that dividing the property would hinder a developer from erecting a mega-mansion on this oversized lot.

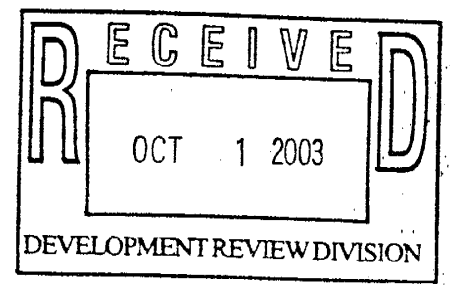
For these reasons, we strongly support this application and urge the Planning Board to grant the request.

Respectfully submitted,

Carol Green *Robert Snyder*
Carol Green and Robert Snyder

Submission of Adjacent Residents Regarding Pre-Preliminary Plan No. 7-04004

To: Development Review Division, Montgomery – NCPPC
Date: September 29, 2003
From: Nancy and Bill English - 7420 Exeter Road,
Diane and Kenneth Feinberg – 5200 Edgemoor Lane
Christine and Andrew Haire - 5202 Edgemoor Road
Barbara and Hank Levine - 5208 Edgemoor Road
Erica and Richard Lodish - 5201 Hampden Lane
Wendy and Donald Susswein - 5203 Hampden Lane



Summary

We are writing to express our concerns with the above-described proposal to subdivide a single buildable lot at 7424 Exeter Road into two buildable lots. The owners' ("Current Owners") stated purpose is to build a new house on a newly created 8,218 sq. foot lot, and sell their existing house with the remaining 17,522 sq. foot lot.

We are opposed to the proposal in its current form. Our concerns include --

- (1) the adverse effect on the neighborhood and possible illegality of allowing a new lot smaller than the adjacent properties and smaller than the lot originally planned for on the existing property -- due to some of that lot's property having previously been sold to an adjacent lot holder.
- (2) the effects on traffic on and around Exeter Road, a narrow street. The Edgemoor Club is located on Exeter immediately across from the proposed new lot, and the street is already dangerously crowded, particularly during the bulk of the year when the club facilities are extensively used.
- (3) the direct effects of the proposed new house construction on adjacent properties, notably related to drainage.

Even if the Staff or Members of the Planning Board should disagree with our view that the proposed new lot is too small, we believe it would be inappropriate to reopen the existing subdivision plan to allow smaller lots such as this on a piecemeal basis. As noted below, in recent years the Board has rejected piecemeal lot subdivisions in Edgemoor. If the Board wishes to change its views on that issue and permit smaller lots than provided for in the existing subdivision plan, the way to do so is to consider whether *all* existing Edgemoor residents should be permitted to subdivide their lots, presumably within the limits permitted by existing zoning. That community planning issue should be presented to the community and reviewed by the Board on a comprehensive basis.

Indeed, even if the Board's intention were *not* to establish any generally applicable precedent, we are concerned that any action subdividing an individual lot may place the Board in the position of having to legally defend such action as consistent with standards applicable to the Edgemoor community *generally*. Thus, the establishment of precedent may be unavoidable.

The detailed comments that follow address these issues in detail.

Lot Size and "Spot" Planning

The subdivision requirements of applicable law complement the zoning rules and regulations. One of their stated purposes – in addition to concern with such issues as traffic and drainage – is to provide for “*conformity of resubdivided lots to the character of lots within the existing subdivision with respect to area, frontage and alignment to existing lots and streets.*” (Sec. 50-2(i)). Thus, the mere fact that a proposed lot is consistent with the existing minimum zoning requirements is not sufficient to justify resubdivision if the resulting lots would be smaller than lots within the existing subdivision. See Lee v. Maryland-National Capital Park & Planning Commission, 107 Md.App. 486, 668 A.2d 980 (1995).

The Current Owners have stated that the proposed lot would be larger than most lots “in our neighborhood south of Edgemoor Lane.” If one is looking at Edgemoor as a neighborhood, there is no basis for *excluding* from the analysis the area north of Edgemoor Lane up to Wilson Lane. And not all of the areas south of Hampden belong in an analysis of the character of Edgemoor. Certainly the most immediately relevant neighborhood would be Block 17, bounded by Hampden, Exeter, Edgemoor, and Fairfax. The predominant *character* of that Block is *not* 3,800 square foot houses on 7,500 square foot lots. It is 2,500-4,000 square foot houses on 10-15,000 square foot lots.

Our best understanding is that the proposed new lot would be smaller than any other existing lot in the block bounded by Hampden Lane, Exeter Road, Edgemoor Lane, and Fairfax Road, smaller than any of the adjacent lots, and significantly smaller than many of the lots that typify the block – with 13,000 square feet or more. The size is important to the neighborhood and the people living in it because it provides valuable greenspace that has resisted encroachment by “mansionization”.

The argument has also been made that the proposed new lot was at one point a separate lot. It is our understanding from the current owners of Block 17 – Lot 7, that, at some time prior to 1960, approximately 25 feet of frontage was separated from the piece of property proposed to become the Current Owners’ new 8,218 foot lot, and sold to the then owners of Block 17 - Lot 7. Thus, the original subdivision lot provided for a lot on this location that was substantially larger than the proposed 8,218 foot new lot.

The Planning Board considered a proposal substantially similar to the Current Owners’ proposal about ten years ago and rejected it. Moreover, within the last decade the Board rejected an effort to carve a small lot out of the block bounded by Edgemoor, Exeter, Moorland and Fairfax, citing arguments similar to those made in the previous two paragraphs.

Even if the Board or its Staff now disagrees with our analysis concerning the creation of approximate 8,000 foot lots in a block whose typical lot size is approximately 50% larger, the decision on reopening the subdivision plan to allow property owners to subdivide their lots should be made comprehensively, not piecemeal, so that the neighborhood as a whole can comment on the weight to be given the desire to maintain the neighborhood’s “look and feel,” and any competing considerations – such as individuals’ desires to profit from subdividing their properties. Whatever the ultimate view of the community and the Planning Board, there should be no more room in sound community planning for “spot subdivisions” than there is for “spot zoning.”

Traffic Concerns and Past Board Action

As noted above, a substantially similar proposal to subdivide lot 19 was made and rejected a decade ago. Our understanding is that one of the reasons for the rejection at that time was concern with traffic on Exeter Road adjacent to the Edgemoor Club. That congestion has only grown with increased use of the Club and the changes in traffic patterns resulting from the renovation of Bethesda Elementary School. Adding another driveway might require a substantial reduction in the amount of on-street parking next to the Edgemoor Club in order to allow effective and safe access to the new driveway. This could pose a particular problem during construction of the proposed new house, but a problem would also exist even after construction. The traffic situation on Exeter Road is not good, to say the least.

The Planning Board should make clear what, if anything, it would feel bound to do in regard to safety and traffic – particularly with respect to continued allowance of parking on the Club's side of the street – in the event it decided to authorize another driveway opening out directly to the Club's pedestrian entrance.

Drainage Concerns

In the aftermath of the recent storms, the drainage and flooding problems faced by all of the homeowners adjacent to the proposed lot should be familiar to all in the neighborhood. Adding another house in close proximity would aggravate an already serious problem. Before an additional house is even considered, a drainage study should be conducted, and any subdivision should be conditioned upon the Current Owners bearing the cost of needed improvements in drainage for adjacent lot owners to remedy problems that a new house will create or aggravate.

Equitable Considerations and Sound Planning

To our understanding, the Current Owners were aware of the existing subdivision plan and did not have any intention or expectation of seeking a further subdivision when they acquired their property or when they renovated it. Our understanding is that they acquired the property from a builder whose own subdivision application had been denied. In addition, nothing about the property or its suitability or non-suitability for reasonable use under the existing subdivision plan has changed. Thus, planning considerations aside, there does not appear to be any equitable case in favor of the proposed subdivision. In our view, the balance of equitable considerations, as well as sound planning considerations, is against making a planning, zoning, or subdivision change here, particularly where the adjacent property owners seek to retain the subdivision plan currently in effect.

Respectfully submitted by the above-named signatories.

Please address any correspondence c/o the last above-named signatory, 5203 Hampden Lane, Bethesda, Maryland 20814, telephone 301-656-5851.