

## **12. Letters**



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

## MEMORANDUM

DATE: May 5, 2004

TO: Marilyn Clemens, Community Based Planning Division

VIA: Mary Dolan, Countywide Planning Division, Environmental (M)

FROM: Marion Clark, Countywide Planning Division, Environmental (M)

SUBJECT: Zoning Application No. G-819  
Woodmont South

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### Recommendation

Environmental Planning staff recommends **approval** of this application. The following comments should be addressed in subsequent reviews:

### Discussion

#### **Zoning Ordinance**

Development Plans must meet specific findings of Section 59-D-1.61 of the Zoning Ordinance. The required finding for environmental issues states,

*"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 must also 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."*

This site is located in the highly urbanized area of the Bethesda CBD. The existing site is mostly impervious with little opportunity for erosion. There are two small yard areas associated with the existing development. A 29.5" Silver Maple in the yard is located in the yard facing Montgomery Lane and a 27" Japanese Pagoda and 18" - 24" Japanese Pagoda are located in the yard facing Hampton Lane. Other trees of significance are a series of 15" - 18" Zelkovas planted as street trees in the public right of way along Woodmont Ave. The Silver Maple and Japanese Pagoda trees will be removed as part of the proposed development. The application is exempt from the requirements of the Forest Conservation Act, Chapter 22A of the County Code because of the small size of

the property and the negligible forest cover. Stormwater management will most likely be located within a structural filtering device beneath the service drive. Final stormwater management will be reviewed during the preliminary plan and site plan process.

### **Forest Conservation – Chapter 22A**

A Natural Resources Inventory/Forest Stand Delineation has been approved for this application. This project is exempt from the requirements of the Forest Conservation Act, Chapter 22A because the property is less than 1 acre in size and activity will not result in the clearing of more than 30,000 square feet of existing forest, or any specimen or champion trees. Reforestation requirements would be less than 10,000 square feet. Tree Save would not be required.

### **Stormwater Management- Chapter 19**

A Stormwater Management Concept Plan has not been approved by DPS. A Stormwater Management Concept Plan is required at the time of Preliminary Plan approval. The final Stormwater Management Plan must be approved prior to issuance of sediment and erosion control permits. It appears that stormwater management requirements can be accommodated on the site.

### **Environmental Guidelines**

This site is not located within a Special Protection Area or Primary Management Area. There are no streams, floodplains, steep slopes or environmental buffers associated with environmental features.

### **Water Quality**

The site of this application is in the Willet Branch subwatershed of the Little Falls watershed. The *Countywide Stream Protection Strategy (CSPS)* assesses this tributary as having poor stream and habitat conditions. The subwatershed is designated as an Urban Watershed Management Area where the CSPS recommends supporting cost-effective stormwater quality controls on redevelopment sites, such as the subject site.

JCN

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APR 19 2004

16 April 2004

OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

To: The Honorable Derick Berlage, chair  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: Local Map Amendment No. G-819, 4901 Hampden Lane

Dear Mr. Berlage:

I am writing, as a long time resident of Bethesda and a neighbor of the proposed development at 4901 Hampden Lane, to endorse the project.

The developer, Steve Virostek of Triumph, recently briefed our condominium association. Many of us left the meeting impressed by the quality of the development proposed across the street from our condo building. The architecture of Shalom Baranes, the premium on green spaces and pedestrian access, the setback far from Woodmont Avenue—all suggest the potential for a stunning addition to the neighborhood.

Personally, I think the recently-completed Edgemoor at Woodmont Avenue and Montgomery Lane is an eye sore, with its faux French chalet haughtiness and its pancake profile. The proposed building at 4901 Hampden Lane, by contrasts, offers everything the Bethesda Sector Plan envisions. It adds quality to the neighborhood, in a contemporary way, while melding in to the nearby environment. Its setback assures that my view of the sunsets, which I treasure, will be no more affected by its footprint than it would by a shorter, squatter building. And a shorter, squatter building would rob the area of much needed greenery and pedestrian access. Far from being an unwelcome precedent, I think 4901 Hampden Lane will become a model for conscientious design in Bethesda.

I love downtown Bethesda, with its mix of shops and restaurants, its access to the Metro, its ethos as a friendly urban village. The last thing I want is for it to end up looking like Rosslyn, Virginia. What we need is fewer Edgemoors, and more building like the one proposed at 4901 Hampden Lane. Please approve this map amendment.

Sincerely,



Johanna Neuman

4801 Hampden Lane #502

Bethesda, MD 20814

Home 301 654 1241 Cell 301 503 2371

[johanna.neuman@latimes.com](mailto:johanna.neuman@latimes.com)

Francoise M. Carrier, Esq.  
Hearing Examiner for Montgomery County  
100 Maryland Avenue  
Rockville, Maryland 20850

May 5, 2004

Reference: Local Map Amendment No. G-819  
4901 Hampden Lane

Dear Ms. Carter,

I am an original owner at 4801 Hampden Lane, in the Hampden Square Condominium, located at the intersection of Hampden Lane and Woodmont Avenue, on the opposite corner from the proposed building to be constructed at 4901 Hampden Lane. My particular unit faces the new proposed use of the site. After carefully reviewing the proposed project, both for architectural integrity and density of size, it is of my opinion that the condominium will have a positive impact on our community.

I have always believed that Hampden Square, a small boutique building, to be the "Jewel of Bethesda". That being said, the new and tasteful "Upscale and Classy" design of the new building will add a new, warmly welcomed dimension to Bethesda!

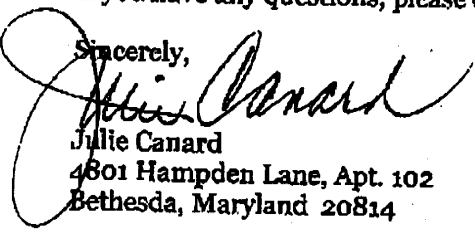
The Edgemoor, at 4821 Montgomery Lane, has not provided, in my opinion, the kind of quality which we, as neighbors, were so hopping for, but rather a building which tried to optimize every inch of dirt for concrete, in poor design, looming over the street. I will welcome a building similar in height, but with class, green space and walk-ways. I am excited over the idea of the developers to provide our area with long needed green space, which can only be given to us as a result of allowing the building to increase in size to a height of 100 feet. I encourage you to allow the developer the ability to achieve this goal.

Bethesda is a very exciting city! I love all the hustle and bustle and I am glad more people will enjoy not just visiting, but owning a piece of this treasure, as permanent residents. Wasn't that the plan, within walking distance to the metro, offices, restaurants, and shops?

As a successful realtor for over 20 years, associated with W.C. and A.N. Miller and Christie's Great Estates, I realize there is a tremendous need for large, luxury condominiums in the heart of Bethesda. Please allow this developer, Triumph Development, to proceed with his plan, so that he can enrich Bethesda with his talents.

If you have any questions, please contact me on my cellular at 202-236-2200

Sincerely,



Julie Canard  
4801 Hampden Lane, Apt. 102  
Bethesda, Maryland 20814

April 22, 2004

The Honorable Derick Berlage  
Chair  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, MD 20910

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APR 23 2004

OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Re: Local Map Amendment No. G-819  
4901 Hampden Lane

Dear Mr. Berlage:

I am writing to you today to approve the condominium project proposed at 4901 Hampden Lane in Bethesda. I live one block away at 5012 Hampden Lane in the Edgemoor neighborhood. It is a wonderful feeling to be able to walk to restaurants, shopping and the Metro from my home. I also walk two blocks to my office. This project will allow more Montgomery County residents the opportunity to do the same.

The current design of the project brings a breath of fresh air to Bethesda. By raising the height of the building to 100 feet (the same height as The Edgemoor), more green space can be added to Montgomery Avenue and Woodmont Avenue. This height also works well stepping down from the much taller Newlands and Hampden Square buildings.

By approving this project, you will give many residents the opportunity to experience living in what has become one of the most vibrant areas to live in the Washington DC area. This is what smart growth is all about. We need denser housing with less sprawl in the county and downtown Bethesda is where smart growth should be taking place.

Thank you for your consideration.

Sincerely,



Don McGlynn  
5012 Hampden Lane  
Bethesda, MD 20814  
301-908-2300

Dr Bernard Yanowitz  
4821 Montgomery Lane, Apt.703  
Bethesda, Md. 20814-6327

RECEIVED  
APR 26 2004

OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

The Honorable Derick Berlage, Chair  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

April 22, 2004

Re: Local Map Amendment No. G-819  
4901 Hamden Lane

Dear Sir,

We live across the street from the proposed new building on Hamden Lane. As residents in the Edgemore we enjoy the easy walking and accessibility to the Metro, the shopping, and the many restaurants. The street scape will be a welcome and attractive green space addition and a great improvement over the current settings.

The developers seem to have to have taken great care to conform to our Edgemore building in size and esthetics and the new building will be much lower than those across the street on the east side of Woodmont Ave.

We like the idea of more setback even if it results in greater height. We would like to add our support and approval of this project as part of the redeveloped Bethesda CBD.

Respectfully submitted,

*Bernard Yanowitz*  
*Helen Yanowitz*

**Concerned Families of City Homes (CFCH)  
Bethesda, MD**

May 4, 2004

Mr. Derek Berlage, Chairman  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, MD 20910

**R E C E I V E D**  
MAY 05 2004

**OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION**

Re: Local Map Amendment No. G-819  
4901 Hampden Lane  
Local Map Amendment to Reclassify 30,891 SF (the "Property")  
from the R-60 and R-10 Zones to the TS-R Zone, Transit Station Residential

Dear Mr. Berlage:

On behalf of our group (CFCH), I am enclosing for your review the following:

- 1) A letter outlining CFCH's position concerning the proposed construction by Triumph Development
- 2) A Memorandum of Understanding from Triumph Development with respect to the conditions negotiated with our group.

By way of background, our group owns the town homes which are located immediately adjacent to the proposed construction site. In concert with the urban planner/architect we hired, Larry Ponsford, our group reached certain conclusions, the most significant being that our four (4)-story town homes would be significantly impacted with respect to air, light and privacy regardless of whether the new building was sixty-five (65) feet or ninety-five (95) feet in height. Therefore, the issue for our group came down to a building which would be least invasive and most aesthetically pleasing. Our unanimous conclusion was that a nine (9)-story building with the smallest possible footprint and the maximum open space would best serve the interests of our community.

Consequently, our group and other residents of City Homes are supporting the nine (9)-story construction.

Thank you for recognizing our concerns along with the fact that we have the most at stake.

Sincerely,

  
Brent Piskis

Concerned Families of City Homes  
4808 Montgomery Lane  
Bethesda, MD 20814



Concerned Families of City Homes  
Bethesda, MD

May 4, 2004

Mr. Derek Berlage, Chairman  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, MD 20910

Dear Mr. Berlage:

We, the undersigned, are the owners of six (6) town homes (4806 – 4816 Montgomery Lane) now known as Concerned Families of City Homes. Our homes are sited adjacent to the construction proposed by Triumph Development and, as a result, are most impacted by the development of this new condominium.

Our group, in consultation with the urban planner/architect we have hired, Larry Ponsford, has engaged in meaningful discussions with the developer concerning the proposed condominium. Based on these discussions, Concerned Families of City Homes supports, in principle, the construction of a nine (9) story building provided:

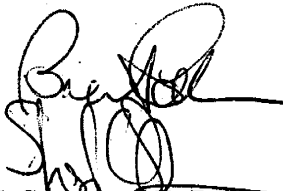
- the residential entrance is located on Montgomery Lane
- the sole means of ingress and egress for service vehicles is on Hampden Lane
- the building height steps down from east to west
- the building is sited closer to Woodmont Avenue
- the developer agrees to work in concert with the Board of Directors of City Homes of Edgemoor to insure that all reasonable steps are taken to safeguard the real and personal property of all homeowners residing in City Homes
- the developer will work with all affected residents of Montgomery Lane to mitigate the impact of construction traffic, noise, employee parking, street closures and other relevant issues.


These changes, at a minimum, are essential to mitigate air, light and privacy concerns and to promote a design that will respect the residential character of Montgomery Lane and our community of twenty-nine (29) town homes. This decision reflects the belief that in this case and this case alone, the nine (9) story building can offer the least invasive and most aesthetically pleasing design.

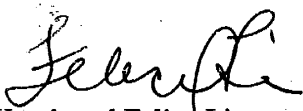
Thank you for your consideration.

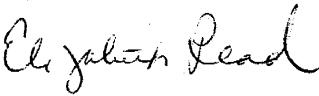
Concerned Families of City Homes:

  
Richard and Karen Hauser  
4806 Montgomery Lane

  
S. Staren and B. Polkes  
4808 Montgomery Lane

  
Thelma Olshaker  
4810 Montgomery Lane

  
Kwok and Felice Li  
4812 & 4814 Montgomery lane

  
Elizabeth Read  
4816 Montgomery Lane

# **TRIUMPH**

**DEVELOPMENT, LLC**

May 4, 2004

Hand Delivered

Mr. Brent Polkes

Concerned Families of City Homes of Edgemoor

4804 Montgomery Lane

Bethesda, Maryland 20814

Re: Support in Principle of Concerned Families of City Homes of Edgemoor  
Local Map Amendment No. G-819  
4901 Hampden Lane  
Local Map Amendment to Reclassify 30,891 SF (the "Property")  
from the R-60 and R-10 Zones to the TS-R Zone, Transit Station Residential

Dear Brent:

Thanks to you and to the other families comprising the Concerned Families of City Homes of Edgemoor: Mr. and Mrs. Hauser, Ms. Olshaker, Mr. and Mrs. Li, and Ms. Read, who considered reasonable modifications to our plans, so that we could accommodate your concerns and still provide what we believe to be an elegant addition to the new Bethesda residential urban environment.

The Families were kind enough to send to the Planning Board a letter of support, in principle, that includes their conditions. We are also grateful that your representatives will testify before the Planning Board to express their support, in principle, as well as the conditions.


For our part, please be assured that we embrace the spirit and intent of the following steps that reflect the points raised by the Families' Planning Board letter, and which are designed to ensure an attractive and compatible neighboring development.

1. The residents' pedestrian and vehicular access is located on Montgomery Lane.
2. The sole means of ingress and egress for service vehicles is on Hampden Lane.
3. While the building's overall height will be nine stories the elevation facing the town homes (west elevation) will end at seven stories. The eighth and ninth floors, along the west façade will be set back, from the plane established by the lower floors. A trellis effect spanning above the two floors will accentuate the articulation and is acceptable.
4. The building is sited closer to Woodmont Avenue.

5. Work in concert with the Board of Directors of City Homes of Edgemoor to ensure that all reasonable steps are taken to safeguard the real and personal property of all homeowners residing in the City Homes.
6. Work with the affected residents of Montgomery Lane with the objective of developing the property, while mitigating the impact of construction traffic, noise, employee parking, street closures and other relevant issues.

Thank you for your conscientious work. I look forward to continuing our dialogue as we move through the approval process on this project.

Very truly yours,



Steven J. Virostek  
Principal, Triumph Development

cc: Timothy Dugan, Esq.

Christopher S. Abell  
8 Magnolia Parkway  
Chevy Chase, MD 20815

RECEIVED  
MAY 03 2004

OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

The Honorable Derick Berlage  
Chair  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: Local Map Amendment No. G-819  
4901 Hampden Lane

Dear Honorable Berlage,

As an owner of condominium unit 501 at The Edgemoor, located at 4821 Montgomery Lane in Bethesda, I have an interest in the eventual decision regarding the proposed Hampden Lane condominium project.

It is my understanding that the Hampden Lane building would have some potential negative effects on our building with regard to its size and our view. Nonetheless, I am very much in favor of the project because of its potential positive impact on the community.

Certainly I was attracted to The Edgemoor because of its small-city feel, its proximity to public transportation and the attractions of Bethesda, and its purposeful goal of placing housing options close to the city of Washington. I was delighted when the building received approval, and I bought my condominium knowing that it would be extremely likely that future similar residences, both in quality and size, would be built nearby. Indeed, I think one would be have been remiss had he not made such a conclusion before purchasing a unit at The Edgemoor. I firmly believe that a goal of redeveloping Behtesda with a variety of housing options for a broad spectrum of people makes sense. It supports proper growth located near the subway and bus systems and represents appropriate planning.

I believe that the Hampden Lane condominiums, which appear to be very similar in size and scope to The Edgemoor, is a good use of space and support its construction. I hope you will take my opinion into account as you make your decision.

Sincerely,



Christopher S. Abell

# *Bethesda Civic Coalition*

May 3, 2004

Hon. Derek P. Berlage  
Chairman, Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: TS-R Zoning Application G-819, 4901 Hampden Lane

Dear Chairman Berlage and Board Members:

We are writing on behalf of the Bethesda Civic Coalition, a group of residents and owners of apartments and townhouses in the Edgemoor condominium on Montgomery Lane at Woodmont Avenue, the Hampden Square condominium on Hampden Lane at Woodmont Avenue, and the Villages of Bethesda, on Arlington Road at Edgemoor Lane. We have recently come together due to our shared concerns about planning and zoning issues as they affect the quality of life in our Bethesda Central Business District communities.

The specific concern that is the subject of this letter is the TS-R rezoning proposed by Triumph Development for the parcel of land along Woodmont Avenue between Hampden Lane and Montgomery Lane. We oppose the application on two separate grounds, the height of the building and the location of its service lanes. These grounds, which are set forth in greater detail below, are the following:

- The proposed 100-foot height is incompatible with neighboring development as well as contrary to the approved and adopted Bethesda Sector Plan.
- Contrary to the developer's claims, the 100-foot height of the Edgemoor Condominium does not justify the proposed 100-foot height for the Hampden Lane project.
- A 100-foot height is not required to achieve a high-density residential project. To the contrary, the developer can get the dwelling units and FAR it seeks, and even more, with a low-rise building.
- The 100-foot height would create a dangerous precedent for future development of the TS-R District.

- The location of the building's service lanes on Montgomery Lane, which is an extremely narrow, one-way street, creates the potential for dangerous pedestrian and vehicular conflicts.

**A. Heights Concerns.**

**1. The proposed 100-foot height is incompatible with neighboring development as well as contrary to the approved and adopted Bethesda Sector Plan.**

One of the primary conditions for approval of a floating zone such as the TS-R zone is that the proposed development must be compatible with the surrounding community. In furtherance of this requirement, the County zoning code requires the Planning Board in approving height limitations for buildings in the TS-R zone to take into consideration both the relationship of the proposed development to surrounding uses, as well as the need to preserve light and air for the residents of surrounding properties. Montgomery County Code Zoning Ordinance ("Code"), § 59-C-8.51.

In this case, the 100-foot height proposed for the Hampden Lane project will loom over and block the light and air of both the townhouse community immediately to the west and the Hampden Square condominium across Woodmont Avenue to the east. At 100-feet, the proposed project will also block the light and air of the Edgemoor residential condominiums across Montgomery Lane to the north. The proposed 100-foot height is thus incompatible with the adjacent residential properties as well as inconsistent with the protections afforded the surrounding neighborhood in the Code with respect to preservation of its light and air.

A second major requirement for this rezoning is that the proposed development comply with the recommendations of the approved and adopted Bethesda Sector Plan ("Plan"). Code § 59-D-1.6. Relevant to this rezoning are the recommendations in the Plan for a high-density, low-rise "Urban Village" for the TS-R District in which the Hampden Lane property is located, with 65-foot maximum height limits for that site as well as for other properties in the TS-R area. Plan, p. 82. Indeed, the green/open space requirements of the TS-R zone were reduced after the Plan was finally approved from 50 percent to 30 percent to facilitate lower-rise residential construction in conformity with the "Urban Village" concept recommended by the Plan.

The Bethesda Sector Plan also envisions a step-down in heights from the Metro station both north to south and east to west in the TS-R District. Plan, p. 85. However, the 100-foot Hampden Lane project would not step down from either the 100-foot Edgemoor on the north or the 80-foot Hampden Square residential complex on the east. The 100-foot Hampden Lane project also would not step down toward the 35-foot Federal Realty development to the south. The primary appeal of the residential and commercial areas in the immediate vicinity of the proposed project are their livable scale and feel. Creating a canyon of high-rise buildings along Woodmont Avenue will totally destroy that appeal.

Finally, many of us who have purchased one of the newly-developed townhouses or condominium units in the TS-R District relied on the low-rise "Urban Village" concept for our TS-R area in making the decision to relocate to the Bethesda CBD. The provisions in the Plan for the "Urban Village" were, as the developer's planner Malcolm Rivkin acknowledges, enthusiastically endorsed by both the Planning Board and the Citizens Advisory Committee for the Sector Plan prior to the Plan's adoption in 1994. Planning and Zoning Report for 4901 Hampden Lane prepared by Malcolm D. Rivkin, AICP, January 2004 ("Rivkin Report"), p 14.

In relying in good faith on the Sector Plan provisions regarding future development in our immediate area, we had no reason to believe that our quality of life as well as our substantial investment in Bethesda's downtown residential community could be seriously threatened, if not destroyed, by high-rise construction on land the Plan explicitly designates for low-rise development. The high-density, low-rise "Urban Village" is not, and should not be treated as, "dead" as the developer claims, simply because several low-density, low-rise townhouse and condominium developments have sprung up along the Arlington Road corridor.

**2. Contrary to the developer's claims, the 100-foot height of the Edgemoor Condominium does not justify the proposed 100-foot height for the Hampden Lane project.**

Much of Mr. Rivkin's report is devoted to the proposition that the Hampden Lane developer is entitled to the proposed 100-foot height for its project because the adjacent Edgemoor condominium building is also 100 feet high. What is absent from his report, however, is any mention of the fact that the circumstances surrounding the approval of the Edgemoor's height were dramatically different from those surrounding the proposed project.

As a threshold matter, the Hearing Examiner and County Council approved the Edgemoor rezoning application, over the objections of the Planning Board and its staff, based on representations in the application that the 100-foot building would include approximately 150 rental units, including 20 MPDUs, with 188 structured parking spaces underneath the building. Council Resolution 13-1470, October 29, 1998 ("Council Resolution"), p. 4; Hearing Examiner's Report and Recommendation, October 8, 1998 ("H.E. Report"), p. 18.

The building was thus sold on the proposition that it would meet the intent and purposes of the TS-R zone and the Sector Plan by locating an extremely high-density residential building on a relatively small lot close to Metro, thereby providing a significant amount of new residential units that would promote the effective use of Metro. Council Resolution, p. 4. Indeed, the Council expressly found that "the proposed development represents a trade-off to permit the sector plan's zoning density and parking objectives to be achieved." Council Resolution, p. 5.

By comparison, the Hampden Lane parcel is larger than the Edgemoor parcel, but will include only 68 dwelling units with far fewer MPDUs and parking spaces. Nowhere in the Hampden Lane developer's application is there any explanation as to why the County should approve a 100-foot height for a mere 68 dwelling units.

The Hearing Examiner also noted that the proposed 100-foot, high-density structure proposed for the Edgemoor site was justified because the developer was "transferring" unused density from his adjacent low-rise, low-density TS-R townhouse project. H.E. Report, p. 4. In contrast, the Hampden Square developer is not borrowing or transferring any density to the Hampden Lane site.

A further justification for the 100-foot height for the Edgemoor building that was noted by the developer's experts and the supporters of the project during its rezoning proceeding was that it would step down significantly from its immediately adjacent neighbors, the 145-foot Bethesda Metro building, the 175-foot Newlands building, and the 120-foot Chase building, and thus provide an important transitional use for lower scale buildings located to the west. H.E. Report, p. 16 (testimony of Steven C. Gang, land planning expert); p. 19 (testimony of Lee Cunningham, land planning and traffic engineering expert); p. 21 (testimony of Benjamin King, owner of Gaylord's Lamps and Shades, member of the Bethesda business community); p. 22 (testimony of Norman Latker, resident of Edgemoor Lane). We have attached photographs that clearly show the step-down in question. However, the proposed 100-foot Hampden Lane project would not step down from either the 100-foot Edgemoor or the 85-foot Hampden Square condominiums, nor would it provide any significant transitional use to the west or south.

Finally, the Edgemoor project not only had community support when the application was presented to the Hearing Examiner and the County Council, it also had no significant opposition. Indeed, none of the adjacent property owners objected to the rezoning at the Planning Board stage, and one nearby owner filed a letter in support of the building. H.E. Report, p. 8. Moreover, as discussed above, by the time the case got to the Hearing Examiner and Council, the Edgemoor had active community and business support, with only one letter submitted in opposition.

Interestingly, that letter was from Mr. Rivkin, the Hampden Lane developer's planner, who urged that the application be denied because the proposed 100-foot height and density of the building represented an unwarranted change from the recommendations in the approved Sector Plan. H.E. Report, p. 24-25. In contrast, the Hampden Lane project as presently proposed is clearly the subject of substantial community opposition, as this letter demonstrates.

**3. A 100-foot height is not required to achieve a high-density residential project. To the contrary, the developer can get the dwelling units and FAR it seeks, and even more, with a low-rise building.**

We do not oppose the density or FAR sought by the developer, just the height of the project. We are well aware of the goal of the County's elected and appointed officials



to provide more affordable housing in the vicinity of the County's Metro station areas, and we too support that goal. However, this developer does not need a 100-foot structure to achieve the density proposed for the Hampden Lane project.

At a recent meeting with representatives of the developer, we were shown renderings of a low-rise, 65-foot building with the same number of units, including the MPDUs, as the proposed 100-foot building. At that meeting, the developer conceded that a low-rise 65-foot structure would be economically feasible, and that the proposed project could have even more residential units if the large number of luxurious three-bedroom condominiums were reconfigured into smaller one and two bedroom units.

This last point is critical. Both the tone and content of Mr. Rivkin's report suggest that the developer's proposed condominium complex for the Hampden Lane site represents the last clear chance for achieving additional high-density residential development in the Bethesda CBD. That suggestion of urgency is utter nonsense.

First, as the Board and staff are well aware, there are a substantial number of new high-rise residential complexes coming on line or under construction in the downtown area of Bethesda. There are also large parcels in various areas of Bethesda, including several in the immediate vicinity of the Hampden Lane site, which are being assembled for residential development as we write. Thus, any suggestion that the proposed Hampden Lane project represents the end of the residential development story for the Bethesda CBD is totally at odds with the facts.

Second, the idea that Montgomery County needs to provide major incentives such as 35 feet of extra height to encourage residential development in the Bethesda CBD, even if a few MPDUs are included, is simply ludicrous. The demand for quality housing near Metro stations is enormous. There are over 2,000 people signed up for units in the new complex under construction over the Best-Buy store at Tenley Circle, and we understand that waiting lists are being created for the new condominium developments on the Washington Clinic property in Friendship Heights and at the intersection of Bradley Lane and Wisconsin Avenue.

The Board and staff should thus ignore the Hampden Lane developer's "Chicken Little – the Sky is Falling" suggestions that its proposed 100-foot project represents a unique, one-time opportunity to increase the housing stock in the Bethesda Metro area. Instead, the Board and staff should consider what concessions the developer of this project should be required to provide in exchange for obtaining approval of what is virtually guaranteed to be a hugely profitable development.

**4. The 100-foot height would create a dangerous precedent for future development of the property in the TS-R area.**

Our final but no less significant concern relating to the proposed 100-foot height of the Hampden Lane project is the precedent it could set for future development in the

TS-R area along the north side of Montgomery Lane and the east side of Arlington Road, as well as along Woodmont Avenue south of Hampden Lane.

We are aware that, in theory, approval of a floating zone application is not supposed to be treated as creating a precedent for future projects. However, as a practical matter, whatever is built on the Hampden Lane site will become part of the surrounding community for future rezonings in the TS-R District. Moreover, the experts engaged by the developers of those future projects will undoubtedly argue – as has Mr. Rivkin with respect to the Edgemoor – that the characteristics of the Hampden Lane project, including its height, justifies whatever height over 65 feet is being proposed for the future project

In our view, therefore, allowing the Hampden Lane project to achieve a 100-foot height would effectively constitute a far reaching, substantive change to the Sector Plan that would have been made in a spot zoning proceeding involving a single parcel. If the Planning Board and its staff do not hold the 65-foot height limit for this TS-R project, the integrity of the planning process and the recommendations of the Sector Plan with respect to the Bethesda TS-R District will have been violated without benefit of a Sector Plan amendment. This will inevitably lead to a time-consuming and expensive legal challenge, a result that will benefit no one, including the developer.

#### **B. Traffic Concerns.**

The development plan the developer presented to our communities indicated that the service lanes to the new Hampden Lane complex would be located on Montgomery Lane, directly across from the service lanes to the Edgemoor building.

Montgomery Lane, however, is a one-way street at the point at which it is adjacent to the proposed development. Although it is so narrow that the County has recently designated both sides of the street as “no parking,” there has been a regular flow of service and other vehicles to and from both the townhouses and the Edgemoor that already have created highly congested conditions that are dangerous to both vehicular and pedestrian traffic. We have attached photographs of the traffic conditions on Montgomery Lane on an average Monday morning in early April.

The service traffic to and from the Hampden Lane project should not, therefore, be routed onto Montgomery Lane directly across from the Edgemoor service lanes. This will simply create more serious vehicular and pedestrian conflicts. Instead, the developer should relocate both service lanes in the new building to Hampden Lane.

#### **C. Conclusion**

The Bethesda Civic Coalition does not oppose the density or FAR sought by the developer. To the contrary, we support the County’s policy of encouraging “Transit Oriented Development” in and near the County’s Metro station areas, particularly development that will increase the availability of affordable housing in the Bethesda CBD. We do not believe, however, that the proposed 100-foot Hampden Lane project

with its 60 plus luxury condominium units is the type of development that will lead to the realization of the type of residential development envisioned by those policies. Instead, the proposed 100-foot height will adversely affect the quality of life in the surrounding residential area.

We thus urge the Planning Board and its staff to protect the integrity of the Bethesda Sector Plan, as well as the low-rise, high density "Urban Village" contemplated by the Plan, by limiting the height of the new project to the 65-foot limit designated by the Plan for the TS-R area in which it would be located. The Coalition also urges the Board and staff to protect the safety of pedestrians and vehicles on Montgomery Lane by requiring the service lanes for the new project access it from Hampden Lane.

Sincerely,

Bijon Atri  
Ted Caris  
Julie Davis  
Bernard Fisker  
Art Goldberg  
Genie Oliver  
Karen Simmons  
Jon Weintraub

Jeffrey Caplow  
Joan Cooney  
Carol Mary Doktor  
Kate Fisker  
Carlton Maley  
Ellen Peterson  
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Alison Weintraub  
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David Fairweather  
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Marion Newman  
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May 4, 2004

The Honorable Derick Berlage  
Chair, The Montgomery County Planning Board  
The Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Local Map Amendment Case No. G-819  
4901 Hampden Lane  
Local Map Amendment to Reclassify 30,891 SF (the "Property")  
From the R-60 and R-10 Zones to the TS-R Zone, Transit Station Residential

Dear Mr. Berlage and Members of the Planning Board:

We represent Hampden Lane, L.L.C. (the "Applicant"), which is applying to rezone the Property from the R-60 and R-10 Zones to the TS-R Zone, Transit Station Residential consistent with the Sector Plan.<sup>1</sup>

We are sending this letter to be certain that we have afforded the Planning Board the opportunity to consider our explanation of our local map amendment application and development plan application, rather than simply relying upon our short presentation at the public hearing.

This letter has the following sections:

The Big Picture. Complying with the Zoning Ordinance and Balancing Sector Plan  
Recommendations ..... 2  
The Question of Height ..... 5  
Summary ..... 17  
Area Photos..... 18

<sup>1</sup> The Approved and Adopted Comprehensive Amendment to the Bethesda Central Business District Sector Plan, July 1994.

The Big Picture. Complying with the Zoning Ordinance and Balancing Sector Plan Recommendations

The Application complies with the Zoning Ordinance and contributes to the fulfillment all of the applicable Sector Plan goals set forth therein on pages 3 and 4. The appropriate balancing will cause the Planning Board to advise the Hearing Examiner that the local map amendment and development plan are in compliance with the Zoning Ordinance, and that the project is a significant contribution to achieving the Sector Plan goals and recommendations, even though such goals and recommendations are not statutory mandates. My explanation follows.

1. Downtown

*Realize the vision of Bethesda as a diverse and lively downtown for Bethesda-Chevy Chase. Continue well-designed redevelopment within the Metro Core and reinforce the physical character and varied activities of districts radiating out from the Core so that each district has a distinct identity yet is linked into a coherent whole.*

The project will undoubtedly create a signature residential building linking the Metro Core and the TS-R District. The 100' height for 4901 Hampden Lane represents a step-down from the immediately-confronting Metro Core and the TS-R development to the north. The project will face both the 175' Newlands Building and the 143' and 98' sections of the Hampden Square Building, both located across the street, on the east side of Woodmont Avenue. To the north are: the 100' Edgemoor Condominium; the 120' Chase Apartments; and the 122' Christopher Condominium, all in the TS-R zone. Immediately west is the four-story townhouse complex known as "City Homes of Edgemoor," developed during the late 1990's, shortly before the Edgemoor Condominium, by the same developer.

4901 Hampden Lane will be developed on a net lot area of about one-half acre -- 22,540 SF. The building's lot coverage is expected to provide a comfortable look and feel on the ground, as well as in terms of setbacks, and light and air for its neighbors.

It will be set in landscaped public and private open space that will contribute to transforming the Woodmont Avenue sidewalk into a comfortable pedestrian precinct, which will be a welcoming area for people coming from both the Bethesda Avenue retail and restaurant areas as well as those coming from the Woodmont Triangle area, near Old Georgetown Road. Its physical character will be at the Plan-endorsed high density and its location will be within 730 feet of the Bethesda Metro Station portal. Thus, it will create an elegant link for several areas.

## 2. Urban Form

*Encourage infill development that complements the underlying physical form of Bethesda. Create a high-quality built and pedestrian environment, including a network of pathways and open spaces. Enhance Bethesda's commercial and residential districts with improvements appropriate to the character of each.*

4901 Hampden Lane is precisely the form of high-density infill for a CBD. The building will sit comfortably next to similarly sized buildings: both the Metro Core buildings and the Transit Station Residential District including: the Edgemoor Condominium, The Chase, and The Christopher. It will be adequately set back from the townhomes at the City Homes of Edgemoor located along the westerly common property line. The smaller footprint allows the building to be set back further away from the City Homes, than if the building were lower and squatter. In addition, the upper floors will be above the line of site from the townhomes' living rooms, kitchens, and bedroom windows. Therefore, the taller building's smaller footprint provides the townhomes a superior set back and a superior view.

4901 Hampden Lane will replace obsolete structures built more than a generation ago. Its open space streetscape and landscaping along Woodmont Avenue will help create a pedestrian precinct. Its Montgomery Lane streetcape will complete such road's handsome pedestrian allée between the Edgemoor neighborhood/Library and the Metro Core. With substantial open space at street level, the building will allow ample light and air in the urban setting to residents and neighbors alike.

## 3. Housing and Neighborhoods

*Encourage and maintain a wide range of housing types and neighborhoods in and around Bethesda for people of all incomes, ages, lifestyles, and physical capabilities, in keeping with County goals. Provide an adequate supply of housing, including affordable units, to reinforce Bethesda as a place to live as well as work. Protect adjacent neighborhoods from commercial intrusion, undue traffic, and environmental degradation.*

4901 Hampden Lane is planned for both market rate and MPDU units on site, so that it will contribute to providing housing for people of all incomes. It will contribute to establishing the goal of providing a range of housing types and neighborhoods in and around Bethesda. For example, the building will contain English basement units having direct access to the Woodmont Avenue sidewalk,

which will animate the streetscape. Further, it will have units with access from the lobby. Its 50 plus units will reach the Sector Plan's targeted desirable density (close to 100 units per acre). The building will protect adjacent neighborhoods from commercial intrusion through continuing the residential form and continuing the open space and streetscape. Furthermore, it is well to include the text from page 80 of the Sector Plan:

*Reservation of the TS-R area for high-density housing is an important objective of the Sector Plan. To encourage provision of housing in the TS-R area, the Plan recommends greater incentives and flexibility.*

4901 Hampden Lane will be an excellent example of Transit-Oriented Development. The Edgemoor high-rise condominium is in the same Sector Plan area. The Edgemoor and 4901 Hampden Lane would be the closest to the Bethesda Metro Station since adoption of the Sector Plan, except for the Housing Opportunities Commission-developed (HOC) Metropolitan that immediately adjoins the Bethesda Metro Center. From a transportation standpoint, moreover, the developer will prepare a Transportation Management Program (TMP) with the County and the Bethesda Urban Partnership to minimize auto traffic generation.

4. Community Character

*Enhance Bethesda as an appealing environment for working, shopping, and entertainment. Strengthen its attraction as a destination for visitors while ensuring that residents find a sense of community. Reinforce a unique sense of place through the themes of Bethesda as a "garden" and a "cultural district."*

Because of its relatively small building footprint coverage (about 46 percent of the site), the project will offer a handsomely landscaped setting for residents and pedestrian passers-by alike. Its casual seating area along Woodmont Avenue could provide a boarding point for the Bethesda 8 shuttle. For the residents themselves, the community living room/lobby for meetings and parties will enhance a sense of togetherness which is possible to create in a relatively small high-rise residence.

5. Circulation

*Provide a safe and functional transportation system to serve the current and recommended land uses. Achieve a significant shift of travel from drive-alone auto use to transit, carpooling, and other alternatives. Enhance the pleasure, safety, and convenience of walking and bicycling.*

The easy walking distance to the Bethesda Metro Station will naturally foster transit use, and the developer will provide both off-street parking spaces within the building and a Transportation Management Program. On-site circulation has been carefully designed. Vehicle access has been confined to the western ends of the site, adjacent to neighboring vehicle access points, in a manner which minimizes the impact on the neighborhood.

Through the Applicant's continuing discussions with the owners of the six townhomes of the City Homes of Edgemoor, who live along the common westerly property line, the Applicant agreed to "flip" the access shown on the original local map amendment and development plan submission.

All resident and visitor parking will be underground and accessed by an on-site entrance on Montgomery Lane. All servicing will occur on-site from Hampden Lane. No curb cuts will interrupt the pedestrian way along Woodmont Avenue. Bike racks will be provided within the building, especially because the site is one block from the Capital Crescent Trail. Consequently, the project will foster the enjoyment of the area without an over dependence on automobiles.

Indeed, the only one of the six Goals for the Sector Plan which 4901 Hampden Lane does not directly address is Employment. Even though it is a residential addition to Downtown Bethesda, it is anticipated that many residents may be employed in Downtown -- reinforcing the Bethesda CBD's emerging role as both a fine working and living environment.

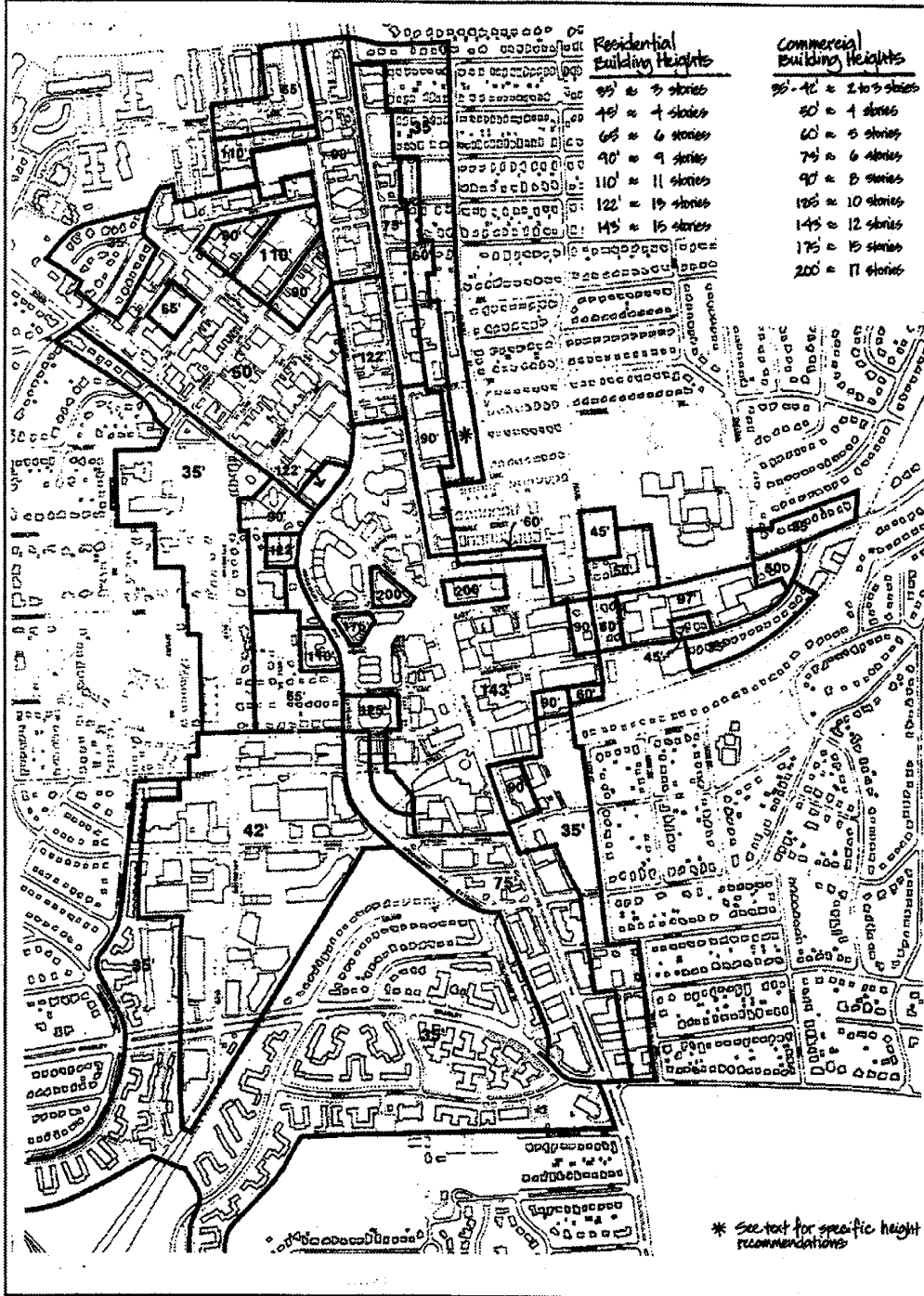
#### The Question of Height

The 100' height exceeds the 65 feet maximum height recommended by the Bethesda CBD Sector Plan, shown on Figure 3.2 on page 39. Similarly, the 10-story Edgemoor Condominium, located across Montgomery Lane from the Property, exceeds the 65' height recommendation. A copy of Figure 3.2 follows.



**BUILDING HEIGHT LIMITS**

**FIGURE 3.2**



Although this letter will provide ample information about the appropriateness of the building's height, the matter is to be addressed at the time of Site Plan, not the Local Map Amendment, as explained below.

As part of the development standards for the TS-R Zone, Section 59-C-8.51 provides that the height of 4901 Hampden Lane is *not* to be determined during the Local Map Amendment process, but during the Site Plan process. Section 59-C-8.51 provides as follows:

#### Building Height Limit

The maximum height permitted for any building shall be determined *in the process of site plan review*. In approving height limits the planning board shall take into consideration the size of the lot or parcel, the relationship of the building or buildings to surrounding uses, the need to preserve light and air for the residents of the development and residents of surrounding properties and any other factors relevant to height of the building.

*(Emphasis added.)*

Further, the County Council, through Hearing Examiner Tierney's report, accepted the finding regarding the Edgemoor Condominium's local map amendment application that the Sector Plan's height recommendation is not a limiting determination at the time of the local map amendment. The County Council's findings, at pages 5-6 of its report as to the height issue with respect to the Edgemoor project are directly applicable to 4901 Hampden Lane<sup>2</sup>. The Council found the following:

*The proposed development represents a trade-off to permit the sector plan's zoning, density and parking objectives to be achieved. In order to achieve these objectives, a tall building must be located on the site. The exact height of the building is a site plan issue as the Zoning Ordinance provides the Planning Board with explicit authority to approve building heights at site plan stage. . . The proposed development satisfies the requirements of the TS-R Zone and the development plan meets the requirements of the Zoning Ordinance.*

In light of the Council's findings, it is clear that the Sector Plan height recommendation did not preclude the Council from approving the Edgemoor local map amendment application and development plan. Just as in the Edgemoor matter, 4901 Hampden Lane's height of 100' would not hinder accomplishing the Sector Plan's goals and objectives. If additional height contributes to accomplishing those goals, height should be treated flexibly, as long as the project's development plan fits well within the neighborhood. Note also that later, the Planning Board approved the Site Plan

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<sup>2</sup> Resolution No. 13-1470, October 20, 1998.

Application even though the project would exceed the Sector Plan's 65' height recommendation.

As further support for the Applicant's position that the height issue is not part of the Local Map Amendment determination, we refer to a finding by the Hearing Examiner. In the October 8, 1998 Hearing Examiner's Report and Recommendation for Application No. G-763 and G-769; Development Plan Amendments (DPA) 98-1 and 98-2, at page 26-27, which report also concerned the Edgemoor Condominium, the Hearing Examiner noted the following:

A TS-R zoning application is not required to be in substantial compliance with the sector plan's building height limit for very specific reasons. The development plan only needs to conform with the "use and density" recommendations of the sector plan and not height limits. *See* Section 59-D-1.61(a). Moreover, the TS-R provides the Planning Board with explicit authority to approve building heights at the site plan stage for concrete and site specific factors. *See*, Section 59-C-8.51. Building height is not approved at the zoning stage. Consequently, the proposed 10-story high-rise can be reduced by the Planning Board if it finds problems with the height because of relationship to other buildings, light and air or other factors relevant to building height. Given these factors, it is inappropriate to deny this request purely on the basis of strict noncompliance with the sector plan's height limit.

Notwithstanding the above discussion, which the Applicant considers dispositive of the height matter, the Applicant provides information in the Application and in this letter about the height question, to address any argument that it should be considered under any of the elements about which the District Council must decide the Local Map Amendment, under Section 59-D-1.61.

In addition to the 100' building being consistent with the proper application of the applicable statutes, the height is consistent with the spirit and intent of the Bethesda CBD Sector Plan. The building's height of 100 feet, rather than 65 feet, is considered by some to constitute a violation of the Bethesda CBD Sector Plan, notwithstanding the District Council's approval of the Edgemoor Condominium's height, citing just one example. Their point of view has not been altered by the Planning Board's decisions approving many developments exceeding the Sector Plan's height recommendations.

Subsequent correspondence between the County Council and the Planning Director also supports the conclusion that the Sector Plan's height recommendations have been considered, but not applied as if they were statutory. Responding to a Council

inquiry, Planning Director Charles Loehr's July 15, 2002 letter to Council Staff Member Ralph Wilson stated:

*A variety of heights have been allowed in the [Bethesda] CBD by the County Council and Planning Board to achieve the planning goals outlined in the Sector Plan. Strict adherence to the height guidelines in the Sector Plan is not necessary to find compatibility with the surrounding neighborhood and consistency with the Sector Plan. Some projects have recently received approvals for allowing additional heights beyond the Sector Plan height guidelines. A few examples include.*

*\*Bethesda Theatre Café (90 foot Sector Plan height guideline, 96 feet approved by the Planning Board during review of the Site Plan)*

*\*Greenburg Highrise/Edgemoor 3 on Montgomery Avenue (65 foot height Sector Plan guideline, 100 feet approved by the County Council and supported by some of the Edgemoor neighborhood during review of the zoning case.*

*\*Bethesda Triangle (110 foot Sector Plan height guideline, 125 feet approved by the Planning Board during review of the Site Plan.*

*... The projects with heights significantly higher than the guidelines are all located away from the edge of the Bethesda CBD (e.g. Greenburg Highrise/Edgemoor 3 and Bethesda Triangle.)<sup>3</sup>*

The locational relationship of 4901 Hampden Lane is also located away from the edge of the Bethesda CBD. Just as the three projects above were found to be compatible with the Sector Plan, even though not strictly adhering to the height guidelines, the Hampden Lane project achieves the sector Plan's goals. It will, moreover, become a more compatible fit with existing new development nearby and the Bethesda Metro core.

As further evidence that the Sector Plan height recommendations are not statutory, the Applicant quotes below the Bethesda CBD Sector Plan at page vii:

*Master Plans generally look ahead to a time horizon of about 20 years from the date of adoption, although it is intended that they be updated and revised about every ten years. It is*

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<sup>3</sup> A copy of such correspondence is included as an exhibit in the 4901 Hampden Lane application.

*recognized that the original circumstances at the time of plan adoption will change over time, and that the specifics of a master plan may become less relevant as time goes on. Any sketches or site plans in an adopted plan are for illustrative purposes only, and are intended to convey a general sense of desirable future character rather than any specific commitment to a particular detailed design.*

*(Emphasis added.)*

We include the above language because it supports the Applicant's position that the District Council should not be advised to follow a 10-year-old Sector Plan recommendation as if it were a statute, nor should the District Council be advised to treat a one-year-old sector plan recommendation in such a fashion.

The Applicant brings to the Planning Board's attention its decision regarding the Arlington East project, which concerned the preliminary plan and site plan applications, not the local map amendment application and development plan.<sup>4</sup>

On February 19, 2004, the Planning Board approved a height of 65' for the Arlington East project, located along the easterly edge of Arlington Road between Bethesda Avenue to the south and Elm Street to the north, near the westerly edge of the Bethesda Central Business District. Such 65' height is greater than the 42' maximum height recommended in the Bethesda CBD Sector Plan, again, as shown on Figure 3.2 on page 39. The height exceeds the Sector Plan's recommended height by 55%. Similarly, the 4901 Hampden Lane 100' height would exceed the Sector Plan's 65' height recommendation by 54%. However, 4901 Hampden Lane's 100' height would *match* that of the Edgemoor Condominium.

The Planning Board Chairman explained the weight to be accorded the Sector Plan recommendations with reference to the Arlington East project. Just as the Planning Board considered all of the Sector Plan recommendations and considered the Zoning Ordinance provisions in such case, we are confident that the Planning Board will conduct itself in a similar fashion concerning the 4901 Hampden Lane application. We urge the Planning Board to consider the "big picture" and not treat every Sector Plan recommendation as a statutory requirement.

We support the Planning Board Chair's recent comments regarding the weight to be accorded the Sector Plan recommendations, which we quote below:

On the merits of this application. This application has been before us on a number of occasions. Well, not this application, but different versions of applications involving this property. So, the board is very well aware of the facts and we have a very lengthy

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<sup>4</sup> February 19, 2004 Arlington East. Preliminary Plan (No. 1-04041); Site Plan (No. 8-04014). The excerpt was typed from the taped transcript purchased from the M-NCPPC.

staff report, and the fact that we may not debate the merits, as long as we debated the preliminary issues, should not be taken by anyone as a suggestion that we're not very familiar with the facts of this application. We are, and we've had a large amount of public testimony which I know all of us have read, and a lengthy staff packet which all of us have read.

There is no question in my mind but that this application is consistent not only with the zoning text amendment but with the master plan. And I know there are those who question its conformity with the master plan. It may be worth mentioning that under Section 50-35 we actually can approve an application even if it's inconsistent with the master plan if we find the circumstances have changed and on this record one might well find that but I don't need to go that far. I believe it is, this application is very consistent with the master plan.

The master plan, I made these comments the last time we were considering this property, and with everyone's indulgence I'll make them again, because I think they're important. The master plans, people have said, "It's just a guide, just a plan." Well, it's not just anything. It's a very, very important document and it is the document that should guide us. But the master plan is also not a statute. It's very different from a statute. It's very different from the zoning ordinance, which is a statute. The master plan provides the broad policy parameters that we are to follow and that we are to use to implement our decisions on individual applications. But those individual applications get reviewed on a much more micro level against the requirements in the zoning ordinance. And this, I think it's been well established that the application that's before us today is consistent with the zoning ordinance.

The master plan contains many, many different types of guidance. It talks about height. It talks about the importance of housing. It talks about the importance of a vibrant retail environment, a vibrant pedestrian environment and when the planning board considers an individual application against the backdrop of a master plan we always have to balance those different considerations. I can't ever remember any situation where any one sentence or one, you know, point in the master plan didn't have some other sentences and some other points that were somewhat in tension with it that we needed to balance because that's the kind of document a master plan is. But if you look at the Bethesda master plan, its most important, the CBD master plan's most important

recommendations, have to do with the, we didn't call it "smart growth," at the time that plan was approved. That, in essence is what it calls for. Transit area to development, pedestrian friendly environment, good mixed use projects and this particular application meets all of those requirements and meets them at a very high level of quality and I have no reservations whatsoever about supporting the motion that Mr. Bryant has made.

Not only are the above comments reasonable, and represent the Planning Board's lawful approach to the matter, they are consistent with County precedent.

As further support as to the relative weight given to the Sector Plan's height recommendations, we include below copies of pages from the Planning Staff's Arlington East report where the Staff addressed the appropriateness of a 65' tall building at Arlington East. At page 14 of their report, the Staff advised the Planning Board that:

The subject application [Arlington East] is consistent with the Sector Plan objectives and recommendations. Staff finds that allowing the 65 feet in height along Arlington Road is acceptable as a means to accomplish the mixed-use land and housing objectives of the Plan. The proposed height along the western [*sic* should be "east"] property boundary is acceptable as it is adjacent to the public parking garage and the garage will [be] attractively screened from the Arlington Road street level and the residential community to the west.

This project will not introduce commercial encroachment into the residential community and will add a desirable residential component to the retail and commercial activity in the Arlington Road District. Allowing the residential development on this site will eliminate the potential of additional office development competing with the Metro Core District. The residential development will be within easy walking distance to the Metro Station.

The Staff continued its height analysis at page 18 of their report, as follows:

The core of Bethesda includes buildings with permitted heights up to 200 feet, which step down to the proposed sixty-five foot high, proposed mixed-use building; forth-two foot tall new Giant Food supermarket, located across Arlington Road from the Property; and finally, the three-story multi-family buildings along the western edge of the business district, which adjoins single-family residential subdivisions. This stepping down honors the Sector Plan recommendation of an overall step down in building heights 'from the

Bethesda Metro Center properties to achieve desirable and compatible transitions to adjacent areas.'

The Applicant refers to the Staff report for the Arlington East project for two reasons: (1) it illustrates a recent Planning Board decision (supported by its Staff) where the Sector Plan height recommendation was exceeded; and (2) it underlines the appropriateness or compatibility of the 100' height of 4901 Hampden Lane. Stated another way, if the Planning Board found that a 65' building at Arlington East is appropriate at the CBD's edge, as "honoring the Sector Plan recommendation," then a 100' height of 4901 Hampden Lane, a residential condominium across the street from the 100' Edgemoor Condominium and from the 143' Newlands Building, similarly "honors the Sector Plan recommendation."

The pages containing the Staff report excerpts are provided below.