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ATTORNEYS

RECEIVED

MARTIN J. HUTT

DIRECT 301.657.0170

MJHUTT@LERCHEARLY.COM

APR 28 2004

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS

April 27, 2004

VIA FACSIMILE & REGULAR MAIL

Francoise Carrier, Director
Office of Zoning and Administrative Hearings
Stella Werner Office Building, Room 200
100 Maryland Avenue
Rockville, Maryland 20850

Re: In the Matter of Hemmingway Homes, LLC
Zoning Application No. G-805

Dear Ms. Carrier:

The above referenced zoning application requested and was approved by the District Council for reclassification from the R-60 zone to the R-T 15 zone on September 23, 2003. The application was filed under the optional method provisions of Section 59-H-2.52 of the Montgomery County Zoning Ordinance, which requires submission of a schematic development plan that specifies which elements of the plan are illustrative and which are binding i.e. elements to which the Applicant consents to be legally bound. A copy of the certified Schematic Development Plan is attached.

In the instant case, the Applicant proposed seven binding elements, which included limiting density to 11 dwelling units per acre of the site with a maximum of 18 units; specify setbacks larger than the minimum required from University Boulevard and from the end unit. The binding elements also note that the setback from the nearest property zoned for single family detached us would be 20 feet, measuring from the present internal lot lines, but would rise to 250 feet if the full two-acre parcel were combined into a single lot as proposed and 30 feet from one side of the end unit.

Subsequent to County Council approval, the Applicant has filed both a preliminary plan of subdivision application (1-04087) and a sitc plan application (8-04021) with the Montgomery County Planning Board. A copy of the Site Plan is attached. As previously discussed with you by Dean Packard, the project engineer, both of these plans reflect the following:

ATTORNEYS

April 27, 2004

Page 2 of 4

1. The proposed unit types changes from attached/townhouse condominium units to conventional townhouse units with a home owners' association.
2. The development now consists of a maximum of 11 townhouses rather than the approved maximum of 18 townhouse and single family attached units.
3. The change from 18 townhouses and single family attached units to a standard townhouse development with 11 townhouses, results in the stacking plan being changed from three buildings with a total of 6 units per building to two groupings of 7 townhouses and 4 townhouses.
4. Seven of the eleven townhouses will have built in garages thereby creating more parking.

It is important to note the following about the above changes:

1. The nature of the organization responsible for maintenance of the common areas of the proposed development was not one of the binding elements. Moreover, the change in unit ownership from a condominium development to individual lot ownership with a home owner association still provides for and assures the perpetual maintenance of areas intended for common ownership by the proposed development. A review of the home owner association document assuring this perpetual maintenance is part of the Planning Board's site plan review and approval process.
2. The proposed 11 townhouse units are within the certified Schematic Development Plan's binding element of a maximum of 18 dwelling units.
3. The development footprint for the proposed 11 townhouse units shown on the Site Plan is substantially the same development footprint proposed for the 18 dwelling units as shown on the certified Schematic Development Plan. The currently proposed development footprint will be 4' longer than the footprint shown on the Schematic Development Plan.



ATTORNEYS

April 27, 2004
Page 3 of 4

4. The building foot print for the proposed 11 townhouses is still setback from the property lines the same or substantially the same distances as shown on the certified Schematic Development Plan for the originally proposed 18 dwelling units i.e. 28' from University Boulevard; 16' rather than the 20' from the nearest single detached property line (246' rather than the 250' if the 2 parcels are combined into one lot which is not now the proposal); and the end unit of each grouping of units is still at least 30 feet from the shared property line with the adjoining Korean Community Service Center.
5. Section 59-C-1.732 (c)(1) of the Montgomery County Zoning Ordinance requires a minimum side yard setback for the end unit of each stack of town houses of 8' from the side lot line lot. The change from condominium units to standard townhouse units, with each townhouse now on its own individual subdivision lot requires the end townhouse units on proposed lots 7 and 8 to be set back a minimum of 8' from that lot's side lot line. In compliance with this requirement the Site Plan indicates a required side yard building setback of 8' and 8' being provided. Compliance with Section 59-C-1.732(c)(1) now provides for a distance of 16' between the townhouse units proposed for lots 7 and 8. In contrast, the distance between each end unit on the Schematic Development Plan was only 10'.

As noted above, the maximum density of 18 dwelling units is a binding element but the nature of the dwelling units (i.e. townhouse or attached single-family unit) is not a binding element. Therefore, the preliminary plan of subdivision application and the site plan application depicting only townhouse units is still in compliance with the binding element noted on the certified Schematic Development Plan.

A consequence of the proposed all townhouse unit development results in the yard space between the townhouse units and the Korean Community Service Center property line changing from a side yard to a rear yard. However, the building setback of the end unit as shown on the Site Plan filed as part of the Site Plan Application with the Planning Board at 32' is still in conformity with the 30' setback for the end unit noted as a binding element on the certified Schematic Development Plan. Moreover, the currently proposed 32' building setback still exceeds both the applicable required setback from an

ATTORNEYS

April 27, 2004

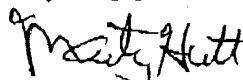
Page 4 of 4

adjoining lot of (a) a minimum 8' side yard (end unit) setback and (b) the 20' rear yard setback of Section 59-C-1.732(c) of the Montgomery County Zoning Ordinance.

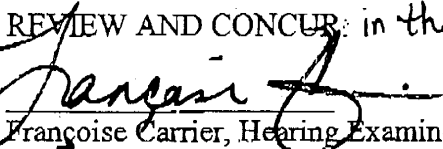
Under the provisions of Section 59-D-3.1 (b) of the County Zoning Ordinance, the site plan filed with the Planning Board must be "consistent" with the approved schematic development plan and recorded covenant. The Planning Board staff has advised the applicant that they do not see any of the development changes described above being inconsistent with the approved schematic development plan and binding elements but that they wanted the applicant to get the Hearing Examiner's concurrence that the above described changes are not inconsistent with the certified Schematic Development Plan or recorded covenant.

Both the preliminary plan of subdivision and site plan application are tentatively scheduled for County Planning Board consideration on May 6, 2004. Therefore, your prompt review and concurrence would be appreciated. To assist you we have prepared a signature block for your signature below. If you have any questions, please call me.

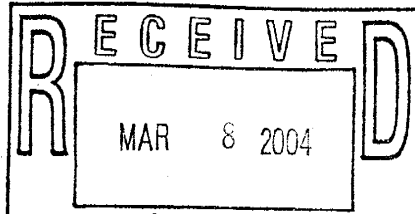
Very truly yours,


Martin J. Hutt

REVIEW AND CONCUR: *in the substance of the conclusion that the changes described are consistent with the approved schematic development plan and recorded covenant.*


Françoise Carrier, Hearing Examiner
Office of Zoning and Administrative Hearings

cc: Joel Galihue



703 Cornwall Street
Silver Spring, MD 20901

Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: Buckingham Terrace, File: 8-042021

Dear Mr. Joseph Gallagher, (MCDPP – Development Division):

This is an inquiry concerning the above captioned Site Plan to erect 11 Townhouses with boundaries directly adjacent to residence provided above and other residences of Buckingham Terrace (The Terrace). Please provide a written response to the following questions:

- Vehicular access to The Terrace currently is from University Boulevard via Buckingham Drive, to Compton Street, ending in the cul de sac of Cornwall Street. The existing cul de sac provides limited public parking.
 - Please describe how the proposed 11 townhouses would be accessed?
 - If access is proposed to be Cornwall Street describe how?
 - Because of the limited public parking on Cornwall Street please describe any probable impact(s)?

- Does the Commission or any other related organizations responsible or participating in planning for this proposal have any studies, environmental impacts statements, estimates, analysis(es) or other related information for the following items? :
 - Water Sewage and rain run-off resulting from building the townhouses and/or changes in landscape that may negatively impact the lower lying homes of The Terrace.
 - Please provide any studies, estimates or other types of information that specifically relates to the impact on the real estate value of the current homes on The Terrace.
 - The proposed site is currently covered with trees and foliage. Please describe any and all intents to remove and/or alter this site with regards to the current trees and foliage.
 - The current stand of trees and foliage helps in reduction of noise from traffic on University Blvd. Does the plan take into account these changes? If the answer is yes, please describe how this will be accomplished. If the answer is no, please indicate why.

- Buckingham Drive is becoming increasingly inadequate due to the limited narrow two lanes and public parking. Does the plan assess? :

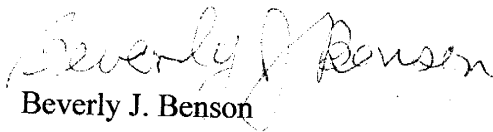
- How many parking spaces will be allotted for the townhouses? Will there be potential spillover parking from these new homes on to The Terrace?
- Is there a plan, study or other information regarding increased vehicular congestion for The Terrace and the surrounding neighborhood?

We are the most resent purchasers of property on The Terrace. A very important factor in our decision to move here is the serenity of the neighborhood. To put a human perspective to this we will cite an actual statement made by our daughter on one of her early visits. "This place feels like you are living in the country." The value of our home, as you can see, is based on more than the size and condition of the house and lot. This is a quality of life issue. How will these proposed additions, if developed, be done in a manner that does not change the intangible asset of peace and quiet?

Sincerely,



Vincent S. Benson



Beverly J. Benson

301-434-3891

cc: Vicki Baldassano, 913 Compton St., Silver Spring, MD 20901

Note: Ms. Baldassano, please feel free to share this letter with our neighbors and related associations. Thanks for bring this matter to our attention.



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

January 23, 2004

Robert C. Hubbard
Director

Mr. Dean Packard
PG Associate, Inc.
354B Hungerford Drive
Rockville, MD 20850

Re: Stormwater Management **CONCEPT** Request
for Buckingham Terrace
Preliminary Plan #: 1-04047
SM File #: 207476
Tract Size/Zone: 2.03 Ac./RT-15 & R-60
Total Concept Area: 0.88
Lots/Block: 1-11/3
Watershed: Notrhwest Branch

Dear Mr. Packard:

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

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

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. You must provide an orifice, minimum of two inches, for the WQv. Also provide a trash rack to protect the orifice.
5. Provide for 100% of the WQv in the storage tank unless you provide recharge prior to the 'StormFilter'.
6. Provide safe conveyance from storm drain outfall to the existing yard inlet.
7. Provide ten foot of clearance between the stormwater management structure and any utilities (i.e., water line).
8. Provide at a minimum a ten foot easement around the quality structure; include the flow splitter within the easement. Do not over lap utility and storm water management easements.

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



Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

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

Sincerely,



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

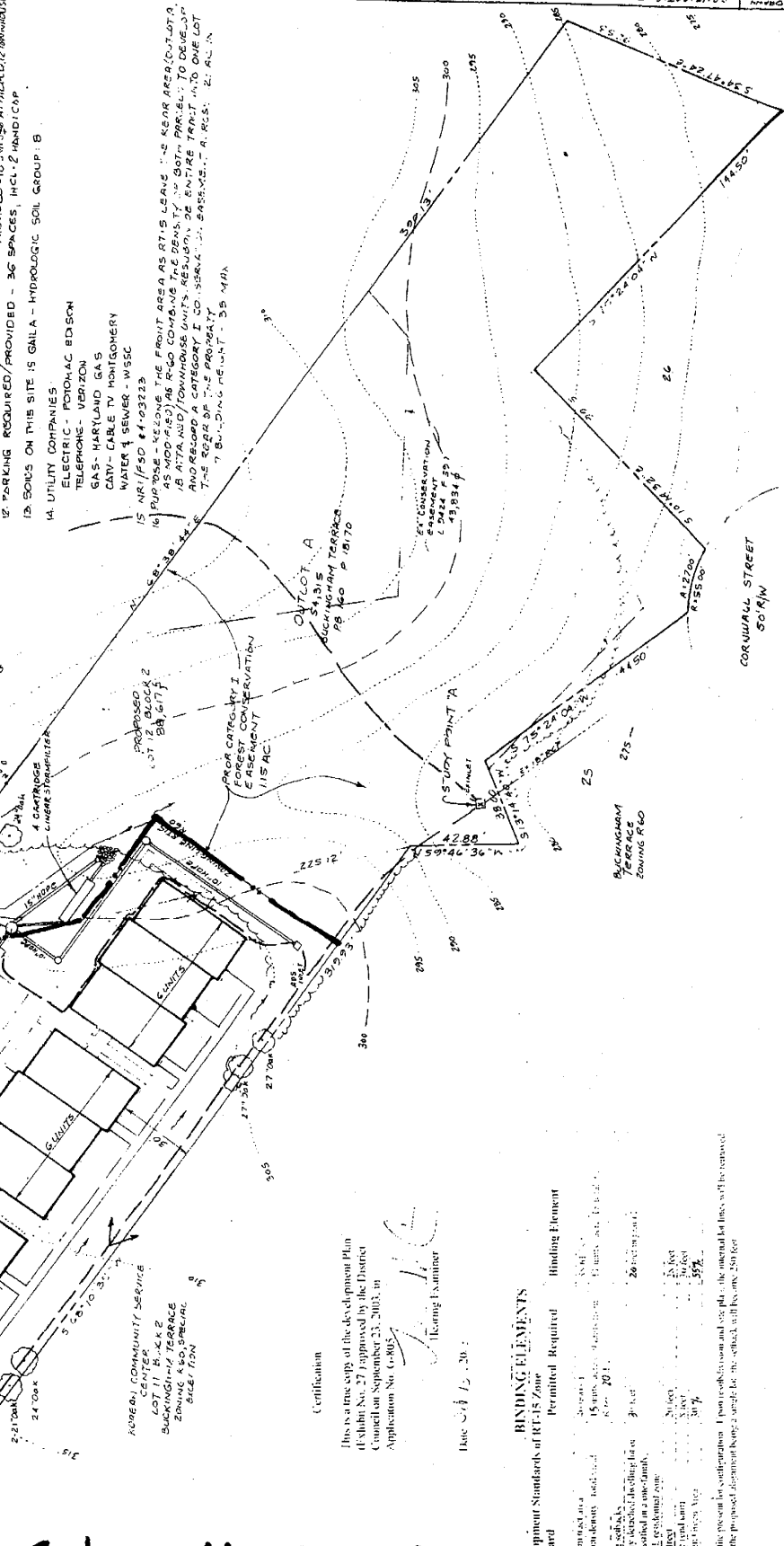
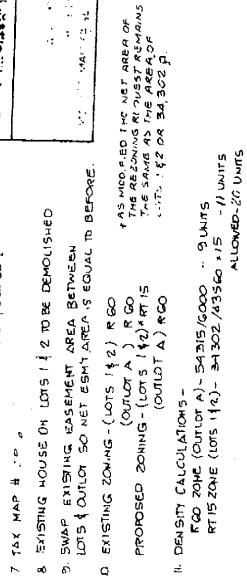
RRB:dm CN207476Buckingham Terrace.DWK

cc: M. Shaneman
S. Federline
SM File # 207476

QN -Onsite; Acres: 0.88
QL - Onsite; Acres: 0.88
Recharge is not provided

GENERAL NOTES

1. BOUNDARY - LOTS 1 & 2, P. 58 P. 1751 - W. CENTER STREET SUR
2. TOPOGRAPHY - MICRIFIC AERIAL
3. AOC MAP 37, GRID E 7
4. WSSC 200' SHEET 211 NE 1
5. PUBLIC WATER & SEWER AVAILABLE
6. WATERSHED - NORTHWEST BRANCH CLASS I
7. TAX MAP # 100
8. EXISTING HOUSE ON LOTS 1 & 2 TO BE DEMOLISHED
9. SWAP EXISTING BASEMENT AREA BETWEEN LOTS 1 & 2 OUTLOT 50 NET EBHT AREA IS EQUAL TO BEFORE.
10. EXISTING ZONING - (LOTS 1 & 2) R 60 (OUTLOT A) R 60
11. PROPOSED ZONING - (LOTS 1 & 2) RT 15 (OUTLOT A) R 60
12. DENSITY CALCULATIONS - R 60 ZONE (OUTLOT A) - 54315/2000 = 9 UNITS RT 15 ZONE (LOTS 1 & 2) - 31302/43560 x 15 = 11 UNITS ALLOWED - 20 UNITS PROVIDED - 18 UNITS ATTACHED 2-BR HOUSE
13. SOUS ON THIS SITE IS GAIA - HYDROLOGIC SOIL GROUP: B
14. UTILITY COMPANIES: ELECTRIC - POTOMAC EDISON TELEPHONE - VERIZON GAS - MARYLAND GAS CATV - CABLE TV MONTGOMERY WATER & SEWER - WSSC
15. AIR/FSD # 41-03223
16. PURPOSE - RESOLVE THE FRONT AREA AS RT 15 LEAVE THE REAR AREA (OUTLOT A) AS R 60 (P. 58) AS R 60 COMBINE THE REAR AREA TRAVEL TO DEVELOP AS A MIXED/TOWNHOUSE UNITS. RESUBMIT THE ENTIRE TRACT INTO ONE LOT AND RECLASS A CATEGORY I SO SEPARATE THE SERVICES. A. RES. 2: ALL IN THE REAR OF THE PROPERTY. BUILDING HEIGHT - 35' MAX



P.G. ASSOCIATES, INC.
 CIVIL ENGINEERS & SURVEYORS & LAND PLANNERS
 124 HUNTERS HILL DRIVE
 ROCKVILLE, MARYLAND 20851
 PHONE (301) 994-1161
 FAX (301) 994-1161

SCHEMATIC DEVELOPMENT PLAN
 BUCKINGHAM TERRACE
 LOTS 1 & 2, WATERSHED DISTRICT NO. 15
 DISTRICT OF COLUMBIA
 MONTGOMERY COUNTY, MARYLAND

Certification

This is a true copy of the development plan
 of Sublot No. 27 approved by the District
 Council on September 23, 2003, in
 Application No. C-805

[Signature]
Heating Hammer

Date: 07/15/2003

BINDING ELEMENTS

Development Standard of RT-15 Zone	Permitted	Required	Binding Element
Maximum building height	35'	35'	35'
Maximum density	11 units/acre	11 units/acre	11 units/acre
Minimum lot area	10,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.
Maximum setbacks	5' front, 5' side, 10' rear	5' front, 5' side, 10' rear	5' front, 5' side, 10' rear
Minimum setbacks	5' front, 5' side, 10' rear	5' front, 5' side, 10' rear	5' front, 5' side, 10' rear
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Minimum lot depth	20'	20'	20'
Minimum lot area	10,000 sq. ft.	10,	

Resolution No.: 15-350
Introduced: September 23, 2003
Adopted: September 23, 2003

**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-805 FOR AMENDMENT TO THE ZONING ORDINANCE MAP,
Martin J. Hutt, Attorney For Hemingway Homes, LLC, Applicant, OPINION AND
RESOLUTION ON APPLICATION**
Tax Account Nos. 13-00978166, 13-00978177

OPINION

Application No. G-805, filed on November 18, 2002 by Applicant Hemingway Homes, LLC, requests reclassification from the R-60 Zone to the R-T 15 Zone of 34,302 square feet of land known as Lots 1 and 2 of the Herbert R. Hardisty Subdivision, Plat No. 4751, located at 438 University Boulevard East between Melbourne Avenue and Buckingham Drive in Silver Spring, in the 13th Election District. The application was considered under the Optional Method authorized by Code §59-H-2.5, which permits binding limitations with respect to land use, density and development standards or staging.

The Hearing Examiner recommended approval of the application on the basis that the R-T 15 Zone at the proposed location would satisfy the requirements of the purpose clause; that the proposed reclassification would be compatible with existing and planned land uses in the surrounding area; and that the proposed reclassification bears sufficient relationship to the public interest to justify its approval. The Montgomery County Planning Board ("Planning Board") and its Technical Staff provided similar recommendations. The District Council agrees with these conclusions.

The subject property contains approximately 34,302 square feet and is located at 438 University Boulevard East, between Buckingham Drive and Melbourne Avenue. The subject property is part of a larger parcel, measuring approximately two acres, which is comprised of Lots 1 and 2 (making up the subject property) and Outlot A. Lots 1 and 2 are developed with a single-family dwelling, a small

garage and a semi-circular driveway with two access points to University Boulevard. The house has been condemned as uninhabitable. Outlot A is a forested area containing approximately 54,315 square feet. It was preserved as an undeveloped outlot during development of the adjacent Buckingham Terrace subdivision, and is covered by a conservation easement. The Applicant relies on the acreage of the entire two-acre parcel to support the housing density requested for Lots 1 and 2.

To the west, the subject property fronts on University Boulevard East. The subject property and Outlot A abut the Mount Jezreel Baptist Church to the north and the Korean Community Service Center, a senior housing facility operating by special exception, to the south. To the east, the irregular lot line of Outlot A abuts three detached single-family homes in the Buckingham Terrace subdivision and has a small amount of frontage on Cornwall Street.

The surrounding area for this application extends roughly to East Franklin Avenue to the north, Northwest Branch Park to the east, Heron Drive to the south, and Long Branch Park to the west. Roughly 75 percent of the surrounding area is developed with single-family detached homes in the R-60 Zone. Approximately five percent of the surrounding area is developed with townhouses, which are located approximately one block south of the subject property on both sides of University Boulevard East. The surrounding area also contains two religious institutions (including the church adjacent to the subject property), two public schools, a local park and the senior housing facility adjacent to the subject property. The surrounding area contains virtually no unbuilt developable land.

The subject property was classified under the R-60 Zone in the 1954 Regional District Zoning, and the same zoning was confirmed in 1967 (Sectional Map Amendment E-955), 1978 (SMA G-80), 1997 (SMA G-743) and 2001 (SMA G-790).

The Applicant proposes to build a maximum of eighteen townhouse and single-family attached units on the subject property. The units would be arranged in three buildings, each containing three first floor units and three second floor units. Three units in each building would face north and three would face south. The end units of each building would be townhouses, which have two exterior entrances, one on the front and one on the side. The middle units would be single-family attached dwellings, which have only one exterior entrance. The units would be served by a parking lot with 36

spaces, including two handicapped-accessible spaces. The development would have access to University Boulevard via a single drive permitting only right turn out/right turn in movements.

As shown on the schematic development plan, Exhibit 27 (the "SDP"), the development envelope would be contained almost entirely within Lots 1 and 2. The Applicant proposes to resubdivide the combined two-acre parcel into a single lot. If the District Council approves the requested rezoning, the new lot would have split zoning. The portion zoned RT-15 would be occupied by the proposed dwelling units and parking area. The remainder would retain its current R-60 zoning and would be subject to a new Category One Conservation Easement, which would prohibit the property owner from entering that portion of the property for any purpose other than removing noxious plant material such as poison ivy or invasive weeds. The new conservation easement would cover approximately the same amount of land as the original easement, although with a slightly different configuration.

If the proposed rezoning is approved, the project will be required to obtain approval for a preliminary plan of subdivision, a site plan and a final subdivision plat. At that time, landscaping would be required on the north, south and east ends of the property to screen the view of the development, and particularly the parking lot, from adjacent properties. In addition, there would be plantings for the beautification of the proposed dwelling units. Technical Staff recommended that the Applicant provide for a front setback deep enough to allow eight to ten feet for the installation of a wide sidewalk and tree planting strip along University Boulevard. This recommendation is reflected on the SDP as a 10-foot "PIE" (public improvement easement).

The SDP in the present case includes seven binding elements, which specify a tract size of 88,617 square feet; limit residential density to 11 dwelling units per acre of the site with a maximum of 18 units; specify setbacks larger than the minimum required from University Boulevard and from the end unit; and set aside 55 percent of the site as green area. The binding elements also note that the setback from the nearest property zoned for single-family detached use would be 20 feet, measuring from the present internal lot lines, but would rise to 250 feet if the full two-acre parcel were combined into a single lot as proposed. The setback normally required is 30 feet, which would be amply satisfied

with the proposed re-subdivision. Moreover, the Planning Board has discretion to permit a smaller setback. See Code § 59-C-7.132(a).

The proposed development would be consistent with both the applicable general standards for the R-T 15 Zone and requirements for a combined tract, including the number of units and the amount of green space. The proposed Category One Conservation Easement would protect most of the forested area on the combined parcel. The Applicant proposes to satisfy forest conservation requirements through a combination of forest retention, forest planting, tree canopy and street trees, and would be required implement a Tree Save Plan to protect specimen trees. Stormwater quality treatment would be provided on site, and run-off would flow into the existing storm drain system.

The Applicant would be required to include a noise analysis in its preliminary plan submission to assess the impact of traffic noise on the proposed dwellings. Noise mitigation measures would be required for any areas subject to noise at a volume of 65dBa or greater.

The District Council concludes that the proposed rezoning would comply with the purpose clause of the R-T 15 Zone. The purpose of the R-T Zone is to provide suitable sites for townhouses in "sections of the County that are designated or appropriate for residential development at densities allowed in the R-T Zones" or in "locations in the County where there is a need for buffer or transitional uses between commercial, industrial, or high-density apartment uses and low-density one-family uses." Code §59-C-1.721. In the present case, the proposed development would satisfy elements of both parts of the purpose clause.

The area of the County in which the subject property is located is not specifically designated in the Master Plan for development at densities permitted in the R-T Zones, but the Master Plan recognizes that such development exists in the area. Two townhouse developments are located on University Boulevard within approximately a block and a half of the subject property, both classified under the R-T Zone. This suggests that the area of the subject property is considered appropriate for development at densities permitted in the R-T Zone. In addition, the proposed development would contribute to the established transition from higher density and institutional uses on University Boulevard to detached single-family homes further west. The proposed development would also serve

as a transition between the church to the north and the senior housing to the south, easing the stark juxtaposition of a small, single-family detached home located between two large institutional uses. Moreover, the evidence suggests that the current juxtaposition of uses has placed pressures on the subject property that make it unlikely to be redeveloped under its present zoning classification. As a result, the proposed zoning reclassification likely would contribute to the stability of the neighborhood by establishing a more viable type of residential use at that location.

For all of these reasons, the District Council concludes that the proposed rezoning and development would be consistent with the purpose of the R-T Zone. Moreover, the substantial open space at the rear of the combined parcel, as well as the Applicant's stated intention to include an outdoor sitting area such as a gazebo, would be consistent with the intent of the R-T Zone to provide amenities normally associated with less dense zoning categories. The evidence also demonstrates that the proposed rezoning and development would be consistent with the intent of the R-T Zone to prevent detrimental effects to adjacent properties and to promote the health, safety, morals and welfare of the present and future inhabitants of the district and the County.

The District Council finds that the proposed development would be compatible with existing and planned land uses in the surrounding area. The surrounding area contains mostly single-family detached homes at a density of approximately seven dwelling units per acre. It also contains two townhouse developments, two religious institutions, two public schools, a local park and a senior housing facility. The surrounding area contains almost no undeveloped land, suggesting that no new development is likely. The maximum density of 11 dwelling units per acre proposed for the subject property would represent a modest increase in density that would be compatible with existing development in the area. Likewise, the proposed townhouse and single-family attached dwellings would be compatible with the predominantly single-family character of the area. As discussed in the previous section, the type of use proposed for this infill development would serve as a transition between existing institutional uses, a useful function that would enhance its compatibility.

The large portion of the combined tract to be preserved in its natural state contributes significantly to compatibility. The preservation of this open space, together with evergreen landscaping,

would provide a significant visual and noise buffer between the proposed development and the abutting single-family detached neighborhood. The open space would serve as an amenity for the neighborhood as well as for residents of the new development, providing visual relief and a pocket of natural habitat in an area with relatively little open space.

The District Council further determines that the proposed reclassification bears sufficient relationship to the public interest to justify its approval. The proposed development would generally comply with the recommendations of the *Approved and Adopted 2000 East Silver Spring Master Plan* (the "Master Plan") to preserve the existing residential character, encourage neighborhood reinvestment, provide a greater range of housing types, and enhance the quality of life in East Silver Spring. The proposed infill development would provide a transition use between two institutional uses that would contribute to neighborhood stability. It would represent a beneficial re-use of a parcel that is unlikely to be redeveloped under its current zoning reclassification. The proposed townhouses and single-family attached units would create a moderate-density, residential development that would assist in preserving the existing residential character of the surrounding area while increasing the range of housing types and price levels available. For all of the above reasons, the District Council concludes that the proposed reclassification and development would be in substantial compliance with the Master Plan.

The evidence demonstrates that the proposed rezoning and development would have no adverse effect on public facilities, including roads, pedestrian walkways and schools that warrant denial of the application.

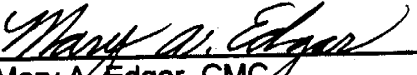
For these reasons and because to grant the instant zoning application would aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be granted in the manner set forth below.

ACTION

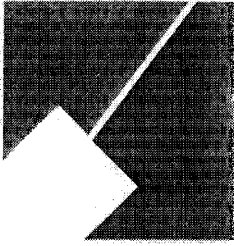
The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland approves the following resolution:

Zoning Application No. G-805, requesting reclassification from the R-60 Zone to the R-T 15 Zone of 34,302 square feet of land known as Lots 1 and 2 of the Herbert R. Hardisty Subdivision, Plat No. 4751, located at 438 University Boulevard East between Melbourne Avenue and Buckingham Drive in Silver Spring, in the 13th Election District, is hereby approved in the amount requested subject to the specifications and requirements of the final schematic development plan; provided that, within 10 days of receipt of the District Council's approval resolution, the Applicant must submit to the Hearing Examiner for certification a reproducible original and three copies of the final schematic development plan, Ex. 27, in accordance with §59-D-1.64; and provided, further, that upon receipt of the District Council's approval resolution the Applicant must immediately file the Declaration of Covenants in accordance with §59-H-2.54.

This is a correct copy of Council action.


Mary A. Edgar, CMC
Clerk of the Council

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

May 21, 2004

MEMORANDUM

TO: Wynn Witthans, RLA, AICP Development Review

FROM: Joel Gallihue, AICP Community Based Planning

SUBJECT: SITE PLAN 8-04021, BUCKINGHAM TERRACE

Staff Recommendation:

Approval on the basis that this proposal is consistent with the recommendations of the East Silver Spring Master Plan, approved and adopted December 2000.

Background

Eleven town homes are proposed for site plan approval at 438 East University as permitted by G-805. Townhouses are appropriate at selected locations in East Silver Spring. The East Silver Spring Master Plan seeks to preserve existing residential character, encourage neighborhood reinvestment, provide a range of housing types and enhance the quality of life throughout East Silver Spring. To this effect, the Plan acknowledges that there are a limited number of town homes at several locations in the area. The majority of the area is developed with detached, single family homes. This proposal is consistent with the Master Plan recommendations and the proposed new infill development will improve the range of housing types available in the area.