



**Local Map Amendment for Glen Aldon, LLC G-909**

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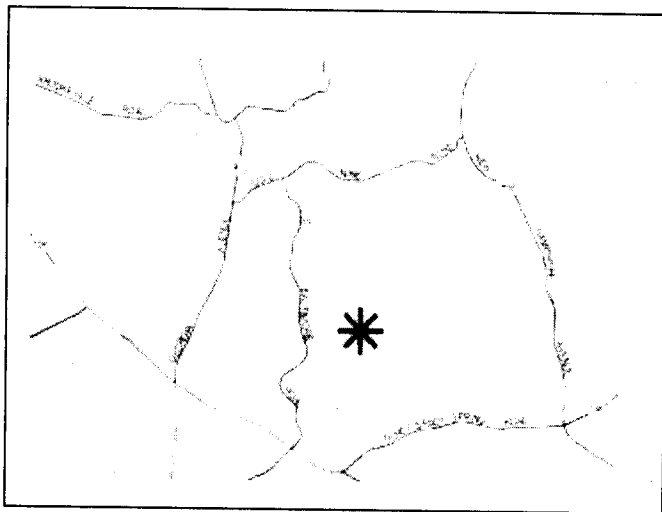
Robert.Kronenberg, Supervisor, Area 1, Robert.kronenberg@montgomeryplanning.org, 301 495-2187

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**Description**

**Date of Staff Report: 4/6/12**

- Located at 4857, 4858, 4890 and 4900 Battery Lane, west of the intersection with Woodmont Avenue
- Existing zoning is R-10 & R-10/TDR, 1994 Bethesda CBD and 2006 Woodmont Triangle Amendment, 5.29 acres
- Requesting a Local Map Amendment with a Development Plan to rezone the property to PD-100 with an alternative proposal to rezone the property to PD-88
- Applicant: Glenwood Glen Aldon, LLC
- Submitted date: October 25, 2011 (ZHE)
- Hearing Examiner date: April 27, 2012



Staff Recommendation: Approval of the PD-88 Zone with the accompanying Development Plan

**Key Issues to be decided:**

- 1) Whether to support the PD-88 application, as recommended by Staff because they found it to be more in keeping with the densities anticipated by the Master Plan while providing the full complement of TDR's and 97 Moderately Priced Dwelling Units ("MPDUs") or the PD-100 application, which has a greater overall density, more affordable units and fewer TDRs.
- 2) Whether to require the applicant to step back the building facing Battery Lane as anticipated in the Master Plan.

The subject application consists of four properties, totaling 5.29 acres, generally located along Battery Lane in the northernmost section of Bethesda referred to as the Battery Lane District. The applicant is requesting a rezoning of four properties from the R10 and R10/TDR Zones to the PD-100 Zone, and alternatively to the PD-88 Zone. The proposal is comprised of three new multiple-family buildings, one on the north side of Battery Lane and two on the south side of Battery Lane. The zoning request for the PD-100 proposes a maximum of 692 multiple-family dwellings, while the alternative request for the PD-88 proposes a maximum of 644 units, both of which include 15% moderately priced dwelling units in return for a 22% density bonus. In both scenarios the applicant has proffered to acquire TDRs, and the PD-100 zone application is also providing voluntary affordable units.

The PD-88 zone application complies with the purpose clause of the PD Zone. The proposed development is compatible with existing uses in the area, and the applicant's proposal is generally consistent with the 1994 Bethesda CBD Sector Plan and the Woodmont Triangle Amendment recommendations for the site.

## SUMMARY OF REPORT

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Public Hearings:         | April 19, 2012 (Planning Board)<br>April 27, 2012 (Hearing Examiner)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Overview of Site:        | The site is comprised of approximately 5.29 acres of land within the Bethesda CBD and Woodmont Triangle of the Bethesda CBD, located along the north and south sides of Battery Lane, directly west of the intersection with Woodmont Avenue. The land, which is now zoned R-10 and R-10/TDR, currently contains 260 units in 4-story garden apartment buildings.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Proposed Zone            | The applicant is proposing the PD-100 zone with a maximum of 692 multi-family units and an alternative PD-88 zone application to develop a maximum of 644 multiple-family units. Both applications are proposing the same layout to accommodate three separate buildings ranging from 5 to 11 stories. Both applications are receiving a density bonus for providing 15 percent of the units as MPDUs, however, the PD-100 application is providing 10 voluntary affordable housing units, comparable to the workforce housing unit. TDRs are being proffered in both applications as well, however, a fewer number of TDRs is proposed in the PD-100 zone as an effort to balance the voluntary affordable units. Staff is recommending the PD-88 proposal because it is more consistent with the recommended PD-75 density recommended for Site 1 in the Master Plan and would provide a benefit through the acquisition of more TDRs. The PD Zone provides more flexibility and density than the underlying R10 zones even given the TDR designation on parts of the site. |
| Master Plan Consistency: | The proposals are generally consistent with the recommendations of the <i>1994 Bethesda CBD Sector Plan and the 2006 Woodmont Triangle Amendment to the Sector Plan</i> . The site is located within the Battery Lane District of the Sector Plan. The Sector Plan specifically recommends PD-75 zoning for a portion of the north side of Battery Lane (Site 1), however it is silent on any recommendation for a floating zone on the southern properties. The Master Plan recognizes that the rents for the current units, though unregulated, are comparable to the rents for the County's affordable housing stock, however, additional regulated affordable housing is recommended as is the acquisition of TDRs.                                                                                                                                                                                                                                                                                                                                                       |
| Zoning Provisions:       | The project satisfies the purpose clause and regulations of the PD-100 Zone and, alternatively, the PD-88 Zone.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Recommendation:          | Approve the alternative PD-88 Zone, in-lieu-of the higher density PD-100 Zone proposal at this location.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Subsequent Review:       | If the County Council approves either rezoning request, the applicant will be subject to both subdivision and site plan review.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

## I. PROCEDURAL HISTORY

Application G-909 seeks a local map amendment (rezoning) to reclassify approximately 5.29 acres from the R-10 Zone and R-10/TDR Zone to the PD-100 Zone, with an alternative request to the PD-88 Zone. Only one application can be approved that supports the findings and conclusions relevant to the PD Zone.

The applicant filed for the PD-100 and alternative PD-88 zoning reclassification with accompanying Development Plans on October 25, 2011 with the Zoning Hearing Examiner. After working closely with the Montgomery County Planning Department (“Staff”) and other agencies to address comments related to the affordable housing units, acquisition of Transferable Density Rights (“TDRs”) and compliance with the recommendations of the Bethesda CBD Sector Plan (“Sector Plan”) and Woodmont Triangle Amendment (“Amendment”), the applicant revised the plans and report on March 19, 2012 to its current state. The policy goals at the time of the 1994 Sector Plan recommended a portion of the site as a TDR receiving area as well a site for additional affordable housing within the Battery Lane District. Both policies appropriately support additional housing in the central business district, which effectively increases the availability of affordable housing in the County as well. The Sector Plan recognized the significance of the property’s proximity to the National Institutes of Health (“NIH”), two Metro stops, existing infrastructure and convenient services and facilities.

The Office of Zoning and Administrative Hearings has scheduled a public hearing date on this application for April 27, 2012, in the Stella B. Werner Council Office Building at 100 Maryland Avenue, Rockville, Maryland. Before the Hearing Examiner’s proceedings, the Montgomery County Planning Board will conduct an initial public review of the application on April 19, 2012, at 8787 Georgia Avenue, Silver Spring, Maryland.

## II. THE PROPOSAL

### A. Overview

*The Site.* The site, which totals 5.29 acres<sup>1</sup>, is comprised of four properties, containing existing 4-story garden apartment buildings. All of the properties are located on Battery Lane, directly west of the intersection with Woodmont Avenue. The property on the north side of Battery Lane (4857 Battery Lane) is approximately 60 feet west of Woodmont Avenue and has lot frontage of approximately 119 feet. The properties (4858, 4890 & 4900 Battery Lane) on the south side of Battery Lane start at the intersection with Woodmont Avenue and collectively extend westward approximately 640 feet. Each building on the respective properties has a circular drive for visitor drop-off announcing the entrance for each site. No significant vegetation exists on the Property, with the exception of shade trees at the building entrances and in the courtyards. The collective properties (“Property”) are predominately impervious with buildings and surface parking covering the majority of the site.

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<sup>1</sup> Gross Tract Area is calculated using both future right-of-way dedication [0.18 ac.] and prior right-of-way dedication [0.20 ac.] to establish the Gross Site Area or Net Site Area [5.6724 ac. – 0.38 ac. =5.29 ac.]

The properties are all recorded in Plat Books 83 and 134 of Northwest Park and are identified as Lot 22, Block 2; Lots 8, 39-42, Block 1; and parts of Lots 35-38 and part of Lot 5, Block 1.

The northern property, also referred to as Site 1 in the Sector Plan, is currently zoned R-10. It is 1.0 acre in size and drops in elevation by approximately 10 feet from Battery Lane to the NIH boundary. The remaining three properties on the south side of Battery Lane, referred to as Sites 2 and 3 in the Sector Plan, include three existing 4-story garden apartments. In total, the four buildings contain 260 multiple family dwellings, none of which are regulated affordable units, although their rents are more affordable than many in the county. Each existing building has a main entrance from Battery Lane, however, many of the first floor residents have separate ground level entrances. All of the existing apartment buildings have various owner entities controlled by the Brown Family and have been owned and operated by the family since the 1950's and 1960's.



Aerial view of Bethesda looking north with the subject property in the center of the image and NIH and the Naval Medical facility in the background.

The following are images of the existing properties:



Views west along Battery Lane from 4857 Battery Lane



Views along Battery Lane looking west-Sites 2 and 3



4857 Battery Lane "Glenwood At Battery Lane"-Site 1  
Proposed Site for Building "A"



4890 Battery Lane "Glen Mont"  
Proposed Site for Building "B"



4858 Battery Lane “The Glens at Battery Lane”  
Proposed Site for Building “C”

*The Surrounding Area.* A surrounding area must be identified in a floating zone application so compatibility can be properly evaluated. The applicant has defined the surrounding area as generally following the Battery Lane district boundaries identified in the Sector Plan, with the exception of the townhouses along North Brook Lane to the north and west, however, the surrounding area has been expanded to the south to include additional development in the CBD. The boundaries are defined by NIH to the north, Wisconsin Avenue to the east, and Old Georgetown Road to the south and west following Battery Lane. The southern boundary area generally follows Norfolk Avenue to the intersection with Woodmont Avenue and Cheltenham Drive. The surrounding area includes a mix of uses and services that create a transitional area from the Metro Core to the northern CBD boundary. This neighborhood area is appropriate for determining whether the proposed zone will be compatible with surrounding uses since it captures virtually all nearby properties that may be affected by the rezoning and demonstrates the predominant land use patterns of the area.

Although the Battery Lane District is predominately residential in character, the surrounding area contains commercial, institutional, governmental and parkland uses. Battery Lane Urban Park is a nearby public amenity that connects Battery Lane through to the Rugby/Norfolk Avenue intersection. The park includes tennis courts, a basketball court, a lighted pathway, seating areas and a playground for small children. The park contains mature trees with buffer planting on the edges from the adjacent multi-family buildings. NIH is zoned R-60 and defines the boundary to the north. The adjacent property to the east of this site is zoned PD-75 and is approved for the National Children’s Home, a philanthropic use, as well as 46 multi-family dwellings (Site Plan No. 820090010-Woodmont View). Other properties to the east

include primarily commercial establishments, however, a mix of commercial and residential uses have been approved. These properties are zoned CBD-1. Most of the property along Battery Lane is zoned R-10 and R-10/TDR, with the exception of the PD-75 property at the Woodmont Avenue intersection. A small piece of property to the southwest of the R-10 sites and adjacent to the Battery Lane Urban park is zoned C-T. The remainder of the adjoining properties to the south are situated along the boundary of the CBD and are zoned CBD-1, with the exception of Parking Garage #35 which is zoned CBD-R1. The surrounding area (exhibit) is shown on the following page.

### Surrounding Area



Glen Aldon Neighborhood Map provided by the applicant



Below are images of the surrounding area:



Entrance from Battery Lane into Battery Lane Urban Park

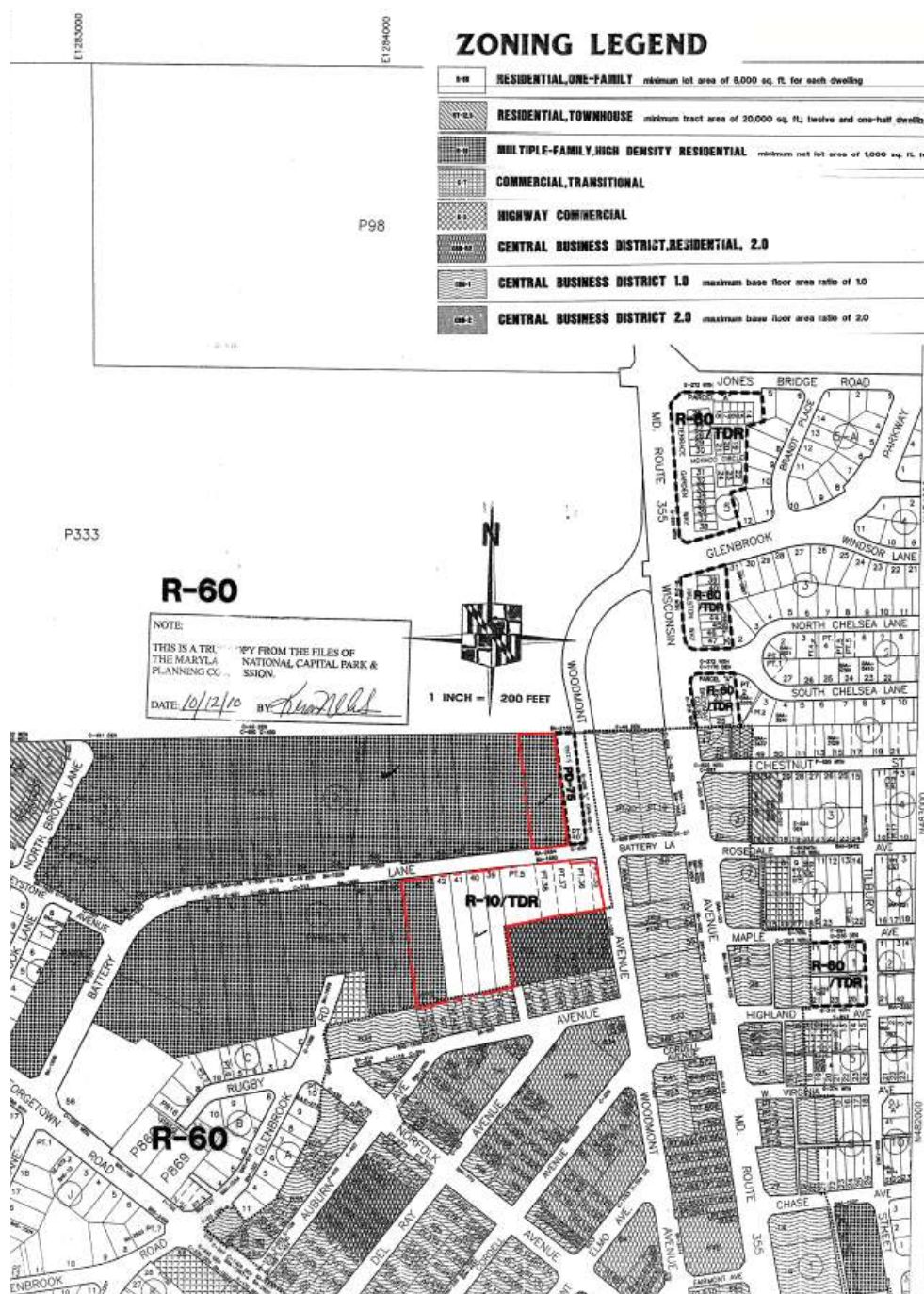


View of Battery Lane Urban Park toward Rugby/Norfolk Avenues

# Official Zoning Map

## ZONING LEGEND

|       |                                             |                                                                              |
|-------|---------------------------------------------|------------------------------------------------------------------------------|
| R-18  | RESIDENTIAL, ONE-FAMILY                     | minimum lot area of 6,000 sq. ft. for each dwelling                          |
| RT-24 | RESIDENTIAL, TOWNHOUSE                      | minimum tract area of 20,000 sq. ft.; twelve and one-half dwellings per acre |
| M-1   | MULTIPLE-FAMILY, HIGH DENSITY RESIDENTIAL   | minimum net lot area of 1,000 sq. ft. for each dwelling                      |
| C-1   | COMMERCIAL, TRANSITIONAL                    |                                                                              |
| H-1   | HIGHWAY COMMERCIAL                          |                                                                              |
| CB-1  | CENTRAL BUSINESS DISTRICT, RESIDENTIAL, 2.0 |                                                                              |
| CB-1  | CENTRAL BUSINESS DISTRICT 1.0               | maximum base floor area ratio of 1.0                                         |
| CB-2  | CENTRAL BUSINESS DISTRICT 2.0               | maximum base floor area ratio of 2.0                                         |



NOTE: The map was prepared by digitizing the maps prepared by the State of Maryland. The report list of survey should be reviewed if more property specific information is required. Please report any errors or omissions to the Montgomery County Planning Department, (301) 462-2178 or (301) 462-1327.

NOTE: This map was prepared by digitizing the maps prepared by the State of Maryland. The report list of survey should be reviewed if more property specific information is required. Please report any errors or omissions to the Montgomery County Planning Department, (301) 462-2178 or (301) 462-1327.

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## Montgomery County Zoning Map

The Maryland National Capital Park and Planning Commission: Montgomery County Planning Department

..... CENTRAL BUSINESS DISTRICT BOUNDARY

Scale: 1" = 200'

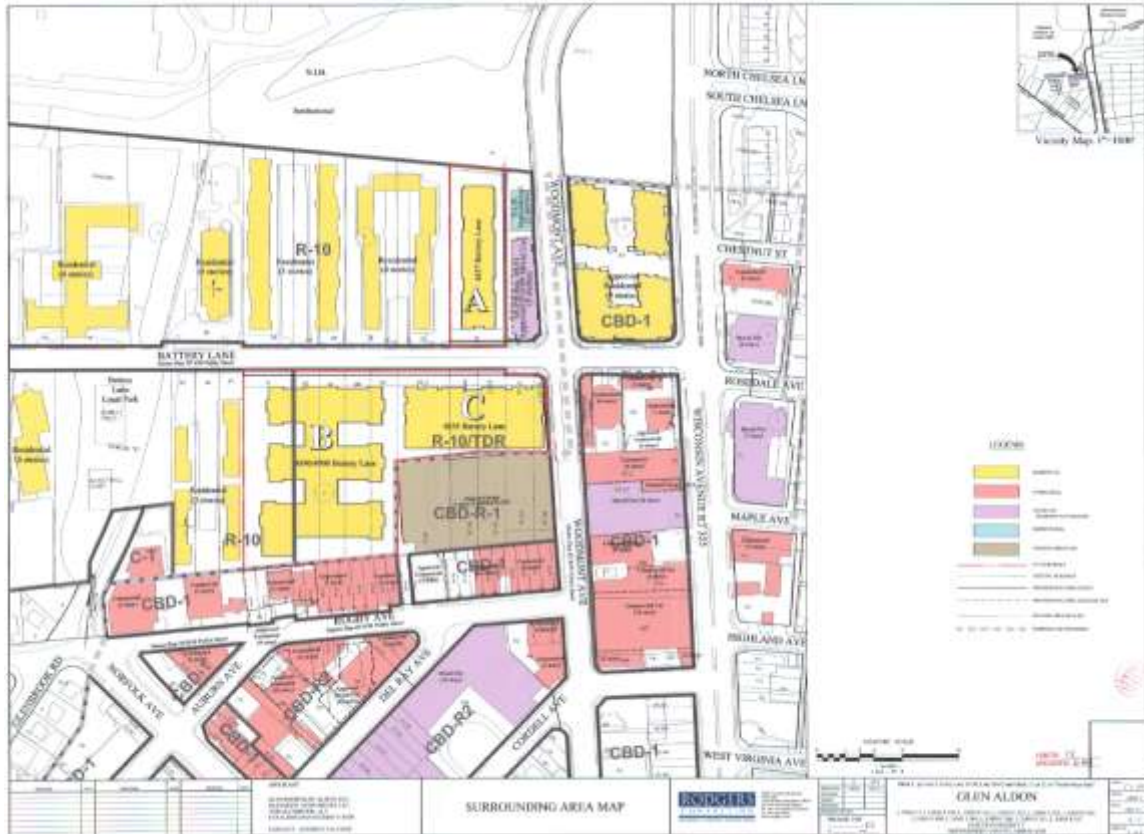
| ZONING UPDATES                |
|-------------------------------|
| S.M.A. F-735 ADOPTED 8/23/72  |
| S.M.A. G-30 ADOPTED 12/1/77   |
| S.M.A. G-655 ADOPTED 8/23/90  |
| S.M.A. G-711 ADOPTED 10/11/94 |

| ZONING UPDATES               |
|------------------------------|
| S.M.A. G-822 ADOPTED 1/17/98 |
| 3/4/03 4/11/06               |

| PROPERTY UPDATES  |
|-------------------|
| 12/28/98 04/09/02 |
| 02/25/99 07/30/02 |
| 01/30/02 09/24/02 |
| 02/11/02 10/03/02 |

210NW05

|       |       |       |
|-------|-------|-------|
| GP061 | HP121 | HP141 |
| GN263 | HR104 | HR143 |
| GN582 | HR122 | HR142 |



**Rendered exhibit indicating the zoning patterns and CBD boundaries**

*The Development Plan.* The applicant has stated a commitment to provide regulated affordable housing with each of the zoning applications. The PD-100 zone application achieves a higher density with 692 units, 15% MPDU's and 10 voluntary affordable housing units ("VAHUs"), which are comparable to workforce housing units but have a much shorter control period of 20 years instead of 99 years for rental units. The income eligibility requirements would be the same as those for workforce housing units. The applicant is providing 20 TDRs with this application in addition to the VAHUs being offered. The PD-88 zone application achieves a density of 644 units with 15% MPDUs. It is not providing any VAHUs but is proffering 31 TDRs, which is the amount of TDRs that would have been required with the underlying R-10/TDR zone. The zoning categories sought for these properties would replace the R-10 and R-10/TDR Zones with the PD-100 or, alternatively, the PD-88 Zone. According to the applicant, the rezoning is needed to replace aging buildings and units with more current architecture and amenities. The additional units are being sought to advance the housing initiative in the central business district and Woodmont Triangle area. The applicant's intent is to phase the development of the proposed buildings to accommodate the needs of the residents, while coordinating the logistics for tenant relocation, construction of the sites and provision of affordable housing within the new buildings.

The applicant has proposed a Development Plan that closely follows the goals, objectives and urban design recommendations provided in the 1994 Bethesda CBD Sector Plan. In general, the PD zone does not require the acquisition of TDRs, and originally the applicant was not proposing any. However, the Sector Plan designated a portion of the Property as a receiving

area, so staff recommended the acquisition of TDRs for the applications. In the PD-100 zone application, 20 TDRs have been proffered as a binding element, which represents two-thirds of the number that would have been required with the underlying R-10/TDR zone. In contrast, the PD-88 zone application is requesting a 10 percent density bonus pursuant to Section 59-C-7.14 (e) for providing the full complement of TDRs. This TDR density bonus is in addition to the 22 percent density bonus for providing 15 percent MPDUs. A discussion regarding the TDRs is found in Section II.B-Master Plan Consistency of the report. Below is a table highlighting the primary differences between the two plans:

|                                                                                                                         | PD-100                 | PD-88<br>At Master Plan Density<br>Plus the PD zone 10% density bonus<br>for TDRs<br>Per 59-C-7.14(e) |
|-------------------------------------------------------------------------------------------------------------------------|------------------------|-------------------------------------------------------------------------------------------------------|
| Max Units                                                                                                               | 692 du                 | 644 du<br>(480 x 1.10 PD bonus) x 1.22 MPDU<br>bonus = 644                                            |
| MPDUs                                                                                                                   | 15% (104<br>MPDUs)     | 15% (97 MPDUs)                                                                                        |
| TDRs                                                                                                                    | 20 TDRs                | 31 TDRs                                                                                               |
| Voluntary Affordable Housing<br>Units<br>At 25B workforce income<br>eligibility limits<br>for 20 year covenant ("VAHU") | 10 VAHU                | -0-                                                                                                   |
| Total MPDUs + VAHU at max<br>density                                                                                    | 114 regulated<br>units | 97 regulated units                                                                                    |

The proposed development will consist of three buildings for up to 692 multi-family dwelling units, as opposed to the four existing buildings. As stated above, the applicant is seeking approval for either a PD-100 zone, or alternatively a PD-88 zone. Under the PD-100 zone, a maximum of 692 units is being requested and would include 578 market rate units, 104 MPDUs, 10 VAHUs and the acquisition of 20 TDRs. Under the PD-88 zone, a maximum of 644 units is being requested and would include 567 market rate units, 97 MPDUs, and the acquisition of 31 TDRs. The applicant has indicated that the PD-100 Zone application seeks a higher density to accommodate the additional units, both market-rate and affordable. As stated by the applicant, the alternative PD-88 Zone was submitted to be closer in density to the underlying R-10 base zone and the Sector Plan recommendations for number of units. The PD-100 zoning application will provide approximately 7 percent more MPDUs (104 vs. 97) plus an additional 10 VAHUs. The difference in maximum yield between the two applications is only 48 units. Both applications are providing 15 percent MPDUs in return for the 22 percent density bonus, and, as stated earlier, the PD-88 application is requesting a 10 percent density bonus in return for the acquisition of TDRs. In the event that the proposed density in the PD-100 Zone application is deemed to be too great, the alternative PD-88 Zone application can be found to be

generally more in conformance with the Master Plan recommended density, exclusive of density bonuses. The PD-88 application is comparable to the recommended density of 100 dwelling units per acre in the Sector Plan when the base zoning is compared and no density bonuses are applied. Although voluntary workforce housing units are supported by DHCA, the changes proposed by this application to the control period are different from the standards in the Workforce Housing law and executive regulations in Chapter 25B. As described in their letter dated March 30, 2012<sup>2</sup> DHCA supports both PD-zone applications, but prefers the PD-100 zone application since a greater number of affordable units are being provided.

Both the PD-88 and PD-100 Zone are identified as “Urban High” in the Density Category in the zoning ordinance, and there is no minimum or maximum size of development indicated. Detached units are not permitted in the Urban High category and none are proposed with either application. Likewise, townhouse, attached and multi-family (4-story or less) dwellings are permitted, but not proposed with either application. The applicant is applying the (over 4-story) multi-family recommendation in the zone to each of the building sites. Both one and two-bedroom unit types are proposed to provide a variety of housing opportunities, however, no three bedroom units are included.

Proposed Building A, located at 4857 Battery Lane, would replace the existing building currently on the lot. Proposed Building B would be situated on both 4890 and 4900 Battery Lane, while proposed Building C would replace the existing building at 4858 Battery Lane.

Two entrances, one of which would be shared with the adjoining property to the east, are proposed from Battery Lane to Building/Site A. Two entrances will be located along the south side of Battery Lane, one of which would be a shared access between proposed Buildings/Sites B and C.

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<sup>2</sup> Letter from DHCA to Nancy Regelin, Esq. dated March 30, 2012, Attachment 1

PD-Zone Data Table:

| <b>Development Standards:</b><br>Sect. 59-C-7                                                                      | <b>Required/Permitted</b>                                                                                               | <b>Provided with the PD-88 application<br/>“Urban High”</b> | <b>Provided with the PD-100 application<br/>“Urban High”</b> |
|--------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|--------------------------------------------------------------|
| <b>Gross Tract Area (ac.):</b>                                                                                     | Not specified                                                                                                           | 5.67264                                                     | 5.67264                                                      |
| <b>Prior Dedication (ac.):</b>                                                                                     |                                                                                                                         | 0.38                                                        | 0.38                                                         |
| <b>Gross Site Area (ac.):</b>                                                                                      | Not Specified                                                                                                           | 5.29                                                        | 5.29                                                         |
| <b>Land for Public Use (sf./ac.):</b><br>(59-C-7.17)<br>-Battery Lane<br>-Woodmont Avenue<br>Total New Dedication: | Provided on Plans                                                                                                       | 7,139<br><u>816</u><br>7,955 (0.18 ac.)                     | 7,139<br><u>816</u><br>7,955 (0.18 ac.)                      |
| <b>Net Site Area (ac.):</b>                                                                                        |                                                                                                                         | 5.11                                                        | 5.11                                                         |
| <b>Minimum Area:</b><br>(59-C-7.122)                                                                               | That it contains sufficient gross area to construct 50 or more dwelling units under the density category to be granted. | 5.29 ac. X 88 = 465 du’s (not including density bonuses)    | 5.29 ac. X 100 = 529 du’s (not including density bonuses)    |
| <b>Master Plan Density</b><br>(59-C-7.121)                                                                         | 2 du’s/ac. Or higher                                                                                                    | 446 du’s (see chart page 27)                                | 446 du’s (see chart page 27)                                 |
| <b>Residential Density:</b> (59-C-7.14)                                                                            |                                                                                                                         |                                                             |                                                              |
| Base Density                                                                                                       | 100 du’s/ac. Per master Plan                                                                                            | 88 x 5.67264 gta = 499 du’s                                 | 100 x 5.67264 gta = 567.264 du’s                             |
| Density Bonus                                                                                                      | 22%                                                                                                                     | 499 x 1.22 = 609                                            | 567 x 1.22 = 692                                             |
| -MPDU<br>-VAHU<br>-Market Rate<br>Total Units:                                                                     | @ 15%                                                                                                                   | 97 (644 @15%)<br>N/A<br><u>567</u><br>644                   | 104 (692 @15%)<br>10<br><u>578</u><br>692                    |
| <b>Commercial Density:</b><br>(59-C-7.132)                                                                         | For >500 du’s, up to 10 sf. Max., gross floor area/du (615 x 10 sf. = 6,150 sf.)<br>(692 x 10 sf. = 6,920 sf.)          | 0 sf.                                                       | 0 sf.                                                        |
| <b>Minimum Setbacks:</b>                                                                                           |                                                                                                                         |                                                             |                                                              |
| Front (Battery Lane)                                                                                               | None required, except Master Plan recommends an established building line along Battery Lane                            | 24 +/- (south side)<br>26 +/- (north side)                  | 24 +/- (south side)<br>26 +/- (north side)                   |
| Front (Woodmont Ave.)                                                                                              | None required                                                                                                           | 0                                                           | 0                                                            |

|                                               |                                                                                                                                          |                                                                      |                                                                      |
|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------|
| Rear                                          | None required                                                                                                                            | 0                                                                    | 0                                                                    |
| <b>Maximum Building Height (ft.):</b>         |                                                                                                                                          |                                                                      |                                                                      |
| Proposed Building A (Site 1)                  | None required by zone<br>Master Plan requires 65 feet                                                                                    | Up to 79 feet<br>(additional height requested for MPDUs 5-7 stories) | Up to 79 feet<br>(additional height requested for MPDUs 5-7 stories) |
| Proposed Building B & C (Sites 2 and 3)       | None required by zone<br>Master Plan requires 65 feet along Battery Lane stepping up to a maximum of 110 toward the rear of the property | Up to 110 feet<br>5-11 stories                                       | Up to 110 feet<br>5-11 stories                                       |
| Maximum Building Coverage:                    | None specified                                                                                                                           | N/A                                                                  | N/A                                                                  |
| <b>Minimum Green Area (%):</b><br>(59-C-7.16) | 30% of Gross Site Area<br>(69,104 sf.)                                                                                                   | 30                                                                   | 30                                                                   |
| <b>Minimum Parking:</b> (59 E) <sup>3</sup>   |                                                                                                                                          |                                                                      |                                                                      |
| 1 Bedroom                                     | 1.25 sp/du                                                                                                                               | 418 x 1.25 = 523                                                     | 450 x 1.25 = 563                                                     |
| 2 Bedroom                                     | 1.5 sp/du                                                                                                                                | 226 x 1.5 = 339                                                      | 242 x 1.5 = 363                                                      |
| Total Parking Required:                       |                                                                                                                                          | 823 spaces                                                           | 926 spaces                                                           |

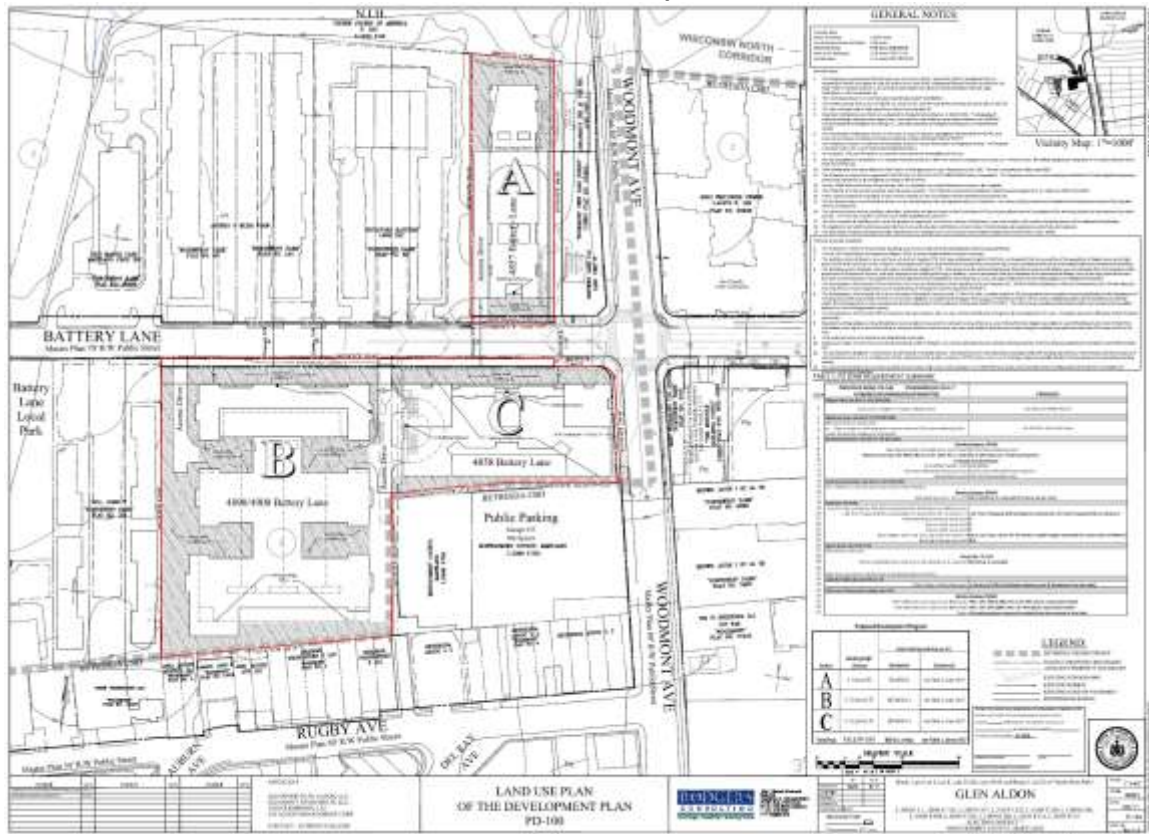
<sup>3</sup> Final parking calculations to be determined at Site Plan based upon number of units and bedroom mix.

# Development Plan





## PD-100 Proposal



### PD-100 Zone Textual Binding Elements<sup>4</sup>:

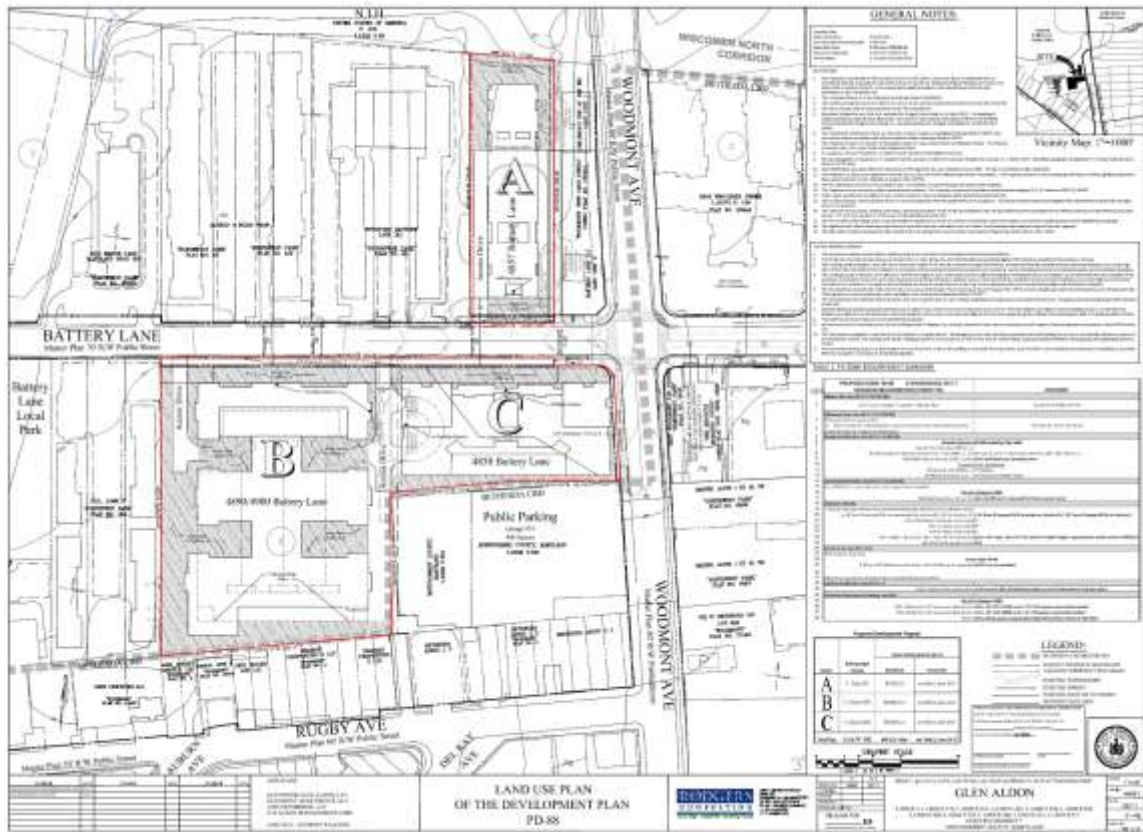
1. The maximum number of multi-family dwelling units to be contained in the Development shall not exceed 692 du.
2. Twenty (20) Transferable Development Rights (TDRs) must be acquired for the increase in density.
3. The building north of Battery Lane will have a maximum height of 79' (65' plus additional height for MPDUs), as measured from the centerline of the pavement of Battery Lane to the high point of the main roof slab or the midpoint of any gable roof (excluding mechanical equipment and screening, access, elevator penthouses and decorative gables and architectural features). The maximum height along Battery Lane will be no greater than 65 feet before stepping up to the maximum 79 foot height. The step back must be at least 15 feet in depth before increasing the height to 79 feet in order to maintain a pedestrian scale adjacent to the street.
4. The buildings south of Battery Lane will have a maximum height of 110', with respect to the building fronting on Woodmont Avenue and Battery Lane as measured from the centerline of the pavement of Woodmont Avenue, and with respect to the building fronting on Battery Lane as measured from the centerline of the pavement of Battery Lane to the high point of the main roof slab or the midpoint of any gable roof (excluding mechanical equipment and screening access, elevator penthouses and decorative gables and architectural features). Buildings B and C will be designed to step back from an

<sup>4</sup> The binding elements were provided by the applicant except for the underlined text, which was added by staff.

initial height of 65 feet closest to Battery Lane to an ultimate height of 110 feet toward the southern boundary. The initial step back must be at least 15 feet in depth before increasing the height up to 110 feet in order to maintain a pedestrian scale adjacent to the street.

5. The Development shall provide 15% of the final unit count as Moderately Priced Dwelling Units per Chapter 25A. MPDUs shall be distributed within the Development and off-site within the Planning Area as may be approved by the Department of Housing and Community Affairs (“DHCA”).
6. The Development shall provide 10 units as Voluntary Affordable Housing Units (“VAHUs”) with a control period of 20 years pursuant to a recorded covenant satisfactory to the Department of Housing and Community Affairs (“DHCA”), and income eligibility consistent with Chapter 25B, except as modified by DHCA. The VAHUs to be provided per the terms of the covenant are to be recorded before the first building permit is issued.
7. The Development shall provide 30% of the gross site area as green area on-site, variably distributed throughout the Development Plan area. Final green area per building site shall be finalized at site plan.
8. Required building setbacks along the Woodmont Avenue right-of-way shall be zero per the zoning ordinance, and 24 feet from the Battery Lane right-of-way for Buildings B and C and 26 feet from the Battery Lane right-of-way for Building A, sideyard setbacks shall be zero, and rear yard setbacks shall be zero except along the northern rear yard boundary with NIH where it shall be 10 feet.
9. Final parking counts and layouts to be determined at site plan.
10. At least one point of vehicular access for the building north of Battery Lane shall be provided by the common driveway per the Common Driveway Agreement recorded in Liber 26425 at folio 122.
11. The Development program is intended to be developed in multiple phases. Development of on-site amenities associated with each building site will occur concurrently with the occupancy of the residential units in such building and will be completed prior to the occupancy of 75% of the units in such building, subject to possible deferral of landscaping to the appropriate planting season.
12. Any structured parking that is not below grade must be lined with units so the parking is not visible from the street, and lined with units or architectural screening so the parking is not visible from the courtyards or adjacent residential properties. Details to be reviewed with the site plan for each building.

## Development Plan PD-88 Proposal



### PD-88 Zone Textual Binding Elements<sup>4</sup>:

1. The maximum number of multi-family dwelling units to be contained the Development shall not exceed 644 du.
2. For PD-88 with the 10% density bonus per Section 59-C-7.14 (e), thirty-one (31) Transferable Development Rights (TDRs) must be acquired for the increase in density.
3. The building north of Battery Lane will have a maximum height of 79' (65' plus additional height for MPDUs), as measured from the centerline of the pavement of Battery Lane to the high point of the main roof slab or the midpoint of any gable roof (excluding mechanical equipment and screening, access, elevator penthouses and decorative gables and architectural features). The maximum height along Battery Lane will be no greater than 65 feet before stepping up to the maximum 79 foot height. The step back must be at least 15 feet in depth before increasing the height up to 79 feet in order to maintain a pedestrian scale adjacent to the street.
4. The buildings south of Battery Lane will have a maximum height of 110', with respect to the building fronting on Woodmont Avenue and Battery Lane as measured from the centerline of the pavement of Woodmont Avenue, and with respect to the building fronting on Battery Lane as measured from the centerline of the pavement of Battery

<sup>4</sup> The binding elements were provided by the applicant except for the underlined text, which was added by staff.

Lane to the high point of the main roof slab or the midpoint of any gable roof (excluding mechanical equipment and screening access, elevator penthouses and decorative gables and architectural features). Buildings B and C will be designed to step back from an initial height of 65 feet closest to Battery Lane to an ultimate height of 110 feet toward the southern boundary. The initial step back must be at least 15 feet in depth before increasing the height up to 110 feet in order to maintain a pedestrian scale adjacent to the street.

5. The Development shall provide 15% of the final unit count as Moderately Priced Dwelling Units per Chapter 25A. MPDUs shall be distributed within the Development and off-site within the Planning Area as may be approved by the Department of Housing and Community Affairs (“DHCA”).
6. The Development shall provide 30% of the gross site area as green area on-site, variably distributed throughout the Development Plan area. Final green area per building site shall be finalized at site plan.
7. Required building setbacks along the Woodmont Avenue right-of-way shall be zero per the zoning ordinance, and 24 feet from the Battery Lane right-of-way for Buildings B and C and 26 feet from the Battery Lane right-of-way for Building A; sideyard setbacks shall be zero, and rear yard setbacks shall be zero except along the northern rear yard boundary with NIH where it shall be 10 feet.
8. Final parking counts and layouts to be determined at site plan.
9. At least one point of vehicular access for the building north of Battery Lane shall be provided by the common driveway per the Common Driveway Agreement recorded in Liber 26425 at folio 122.
10. The Development program is intended to be developed in multiple phases. Development of on-site amenities associated with each building site will occur concurrently with the occupancy of the residential units in such building and will be completed prior to the occupancy of 75% of the units in such building, subject to possible deferral of landscaping to the appropriate planting season.
13. Any structured parking that is not below grade must be lined with units so the parking is not visible from the street, and lined with units or architectural screening so the parking is not visible from the courtyards and adjacent residential properties. Details to be reviewed with the site plan for each building.



This architectural rendering provided by the applicant indicates the massing of the buildings on the three proposed sites. The rectangular mid-rise building (Building A) is shown to be 65-79 feet, while the larger mid-rise building (Building B) could be developed at a minimum 5-stories. The larger high-rise building is shown here to max out at 110 feet. The final design of the buildings could be quite different in height and number of units given the range of heights and the number of units proposed by the applicant for each site. The applicant is currently proposing to develop Building A first, followed by B, and then the higher density Building C last.

| <b>Proposed Development Program</b> |                                  |                                      |                   |
|-------------------------------------|----------------------------------|--------------------------------------|-------------------|
| <b>Section</b>                      | <b>Building Height (stories)</b> | <b>Gross Yield by Land Use (sq.)</b> |                   |
|                                     |                                  | <b>Residential</b>                   | <b>Commercial</b> |
| <b>A</b>                            | 5-7 (up to 79')                  | 90-100 D.U's                         | None provided     |
| <b>B</b>                            | 5-11 (up to 110')                | 250-350 D.U's                        | None provided     |
| <b>C</b>                            | 5-11 (up to 110')                | 250-350 D.U's                        | None provided     |

The proposed development program shown above is the range recommended by the applicant for each site. Staff is recommending modifications to the binding elements to provide clarification regarding heights along Battery Lane and the transition from 45 feet stepping up to 110 for the buildings on Sites B and C.

**B. Master Plan Consistency**

The property is located within the geographic area covered by the *1994 Bethesda CBD Sector Plan and the 2006 Woodmont Triangle Amendment*. The Property is located within the Battery Lane district as identified in the Sector Plan. Both the Sector Plan and the Amendment recommend a residential use on the Property.

The 1994 Bethesda CBD Sector Plan provides objectives and urban design guidelines and makes specific recommendations for the subject property on pages 90 through 94.

The primary objectives of the Sector Plan are as follows (page 90):

1. Retain most of the existing affordable housing.
2. Allow redevelopment of certain sites to increase the amount of housing near Metro and further the goals of the County's agricultural preservation policy.
3. Provide a northern gateway to the Woodmont Triangle with redevelopment of the parcel on the corner of Woodmont Avenue and Battery Lane.

Both of the proposed rezoning applications generally satisfy the objectives of the Plan. The PD-100 zone application offers to acquire fewer TDRs but balances this by providing a higher number of affordable units including both MPDUs and VAHUs. The PD-88 zone application accommodates both policy initiatives by providing the full complement of TDRs and 15 percent MPDUs, without VAHUs. M-NCPPC staff does not view the VAHUs as a substitute for workforce housing units as currently proposed, given the shorter control period, and believes the PD-88 plan is more acceptable to accomplish the overall objectives of the Sector Plan. The proposed PD Zone application is intended to replace in its entirety the R-10 and TDR designated portion of the site, effectively negating the receiving area. The applicant is proposing to provide 15 percent of the total number of units as Moderately Priced Dwelling Units ("MPDUs"), which is in excess of the required 12.5 percent MPDUs on this site. Additionally, the applicant is providing 10 units as VAHUs. The current multiple family residential units on the site do not include "regulated" affordable housing units, but the units have been maintained by the family ownership at reasonable rental rates for the county and particularly for Bethesda for over 50 years. The acquisition of TDRs in a metro policy area furthers the overall objective of the county to provide for infill development with affordable housing units, while effectively promoting the preservation of the agricultural reserve at the same time. The goal of increasing density in areas with existing infrastructure, facilities and services while preserving land for agriculture is being achieved with both applications.

In pertinent part, the Plan states:

- *"Realize the vision of Bethesda as a diverse and lively downtown...Continue well-designed redevelopment within the Metro Core..."*

The development plan proposes PD-100 zoning, or alternatively PD-88 zoning, both of which and will increase density and encourage a more compact development.

- *"Encourage infill development that complements the underlying physical form of Bethesda... Enhance Bethesda's residential districts."*

Both development plans propose to maximize the density utilizing the bonus density provisions for providing 15 percent of the units as MPDUs. Under the PD-100 plan, 10 VAHUs are being offered, while the PD-88 plan is requesting a 10 percent density bonus for providing the full complement of TDRs, which is permitted under Section 59-C-7.14(e) of the zoning ordinance. Either application creates infill development that will increase the residential stock within the northernmost residential district in the CBD.

- *“Encourage and maintain a wide range of housing types and neighborhoods in and around Bethesda for people of all incomes, ages, lifestyle...Provide an adequate supply of housing, including affordable units to reinforce Bethesda as a place to live as well as work.”*

As stated in the previous sections, both applications for the PD Zone are providing additional market rate units in addition to providing affordable housing. The number of affordable units is greater by 17 units with the PD-100 zone application compared to the PD-88 zone due to the maximum number of units requested and the VAHUs that are being offered with the higher density plan. As a result, a greater range of rents will be available to suit people of all incomes, ages and lifestyles.

The CBD Sector Plan states the following objectives for the Battery Lane District:

- *“Retain most of the existing affordable housing.”*

Despite the fact that no regulated affordable housing exists on the property, the owners have maintained reasonably affordable rents for tenants in the existing 260 multi-family dwellings over the past 50 years. However, since the units are unregulated, they can be occupied by residents of all incomes. The PD-100 proposal is providing 15 percent of the units as MPDUs, available to residents earning 55-75 percent of the ami, along with 10 VAHUs, which has higher income eligibility income requirements This is a total of 114 affordable units, including the 10 VAHUs, which is approximately half of the total unit count of affordable but unregulated units that exist today. The PD-88 zoning application, which has a lower overall density and no VAHUs, would provide 97 MPDUs. The increase in market rate units over what exists today ranges from 287 to 318, respective of the applications.

- *“Allow redevelopment of certain sites to increase the amount of housing near Metro and further the goals of the County’s agricultural preservation policy.”*

The site is specifically recommended in the Bethesda CBD Master Plan for additional residential development while continuing the County’s agricultural policy for the acquisition of transferable development rights (“TDRs”). As submitted, the applicant is providing two options for the acquisition of TDRs relative to the PD-100 and alternative PD-88 application. Both of the options presented further the goals of the County’s agricultural preservation policy. Staff is recommending the PD-88 zone application which attains the full complement of TDRs while still increasing the density on the site and providing a significant number of MPDUs on the Property.

The calculations provided below account for the density that would be calculated for the Battery Lane development with TDRs, under the current R-10 and R-10/TDR zoning. R-10 permits 43.5 dwelling units per acre with a footnote that workforce housing could be provided to achieve a greater density.

Site A (north side of Battery Lane)

R-10 zone (43,560 sf or 1.0 ac.)

43.5 x 1 = 43.5 or **43** dwelling units

Master Plan Recommended PD-75

No TDRs required

75 x 1 = 75 dwelling units

Site B (south side of Battery Lane west of site C)

R-10 zone (Lot 8 = 43,560 sf or 1.0 ac.)

$43.5 \times 1 = 43.5$  or **43** dwelling units

No TDRs required

R-10/TDR (Lots 39-42 = 87,120 af. Or 2 ac.)

$2 \times 43.5 = 87$  [Base density]

$2 \times 100$  du's per ac. [TDR density] = **200**

$200$  [TDR density] –  $87$  [base density] =  $113 - 30$  [MPDUs @ 15%] =  $83$

$83/3$  [3:1 ratio for mf] =  $28$

$28 @ 2/3$  requirement =  $19$

**19 TDRs Required**

Site C (south side of Battery Lane adjacent to Woodmont Ave.)

R-10/TDR (Lots Pt. lots 5, 35-38 = 55,606 af. Or 1.28 ac.)

$43.5 \times 1.28 = 55.68$  dwelling units or  $55$  du's [base density]

$1.28 \times 100$  du's per ac. [TDR density] = **128**

$128$  [TDR density] –  $55$  [base density] =  $73 - 20$  [MPDUs @ 15%] =  $53$

$53/3$  [3:1 ratio for mf] =  $18$

$18 @ 2/3$  requirement =  $12$

**12 TDRs Required**

Total TDR Requirement:  $19 + 22 = 31$  TDRs at the maximum density

Total MPDU requirement @15% =  $63$  MPDUs

Total number of units achievable under current zoning

[without 15% MPDU density bonus, ROW or workforce housing] = 414

Total number of units at Sector Plan density

[without 15% MPDU density bonus, ROW or workforce housing] = 446

Total number of units at Sector Plan density

[without 22% MPDU density bonus but with ROW] = 480

Total number of units achievable under Sector Plan density

[with 22% density bonus for 15% MPDUs and ROW] =  $(480 \times 1.22)$  585

Total number of units achievable under Sector Plan density

[with 22% density bonus for 15% MPDUs, ROW and

10% bonus density for TDRs] =  $(585 \times 1.1)$  644

Total number of units achievable with the PD-88 application = 644

Total number of units achievable with the PD-100 application = 692

As provided by the applicant, there is limited market data indicating the cost of a single TDR. Estimates from Montgomery County Department of Economic Development's Agricultural Land Preservation Section is that a TDR will sell for a figure between \$20,000 and \$25,000. Below is an illustrative table indicating a range of values and potential total costs assuming that TDRs would be purchased:



| TDR Quantity | \$15,000 each | \$20,000 each | \$25,000 each | \$30,000 each |
|--------------|---------------|---------------|---------------|---------------|
| 20 TDRs      | \$ 300,000    | \$ 400,000    | \$500,000     | \$600,000     |
| 31 TDRs      | \$ 465,000    | \$ 620,000    | \$ 775,000    | \$930,000     |

In comparing the Sector Plan recommendations and the proposed development plans, the proposal is generally consistent with the goals and objectives of the Sector Plan's recommendations. The proposed rezoning from R-10/TDR to either the PD-100 or PD-88 is generally consistent with the 1994 Bethesda CBD *Master Plan*.<sup>5</sup>

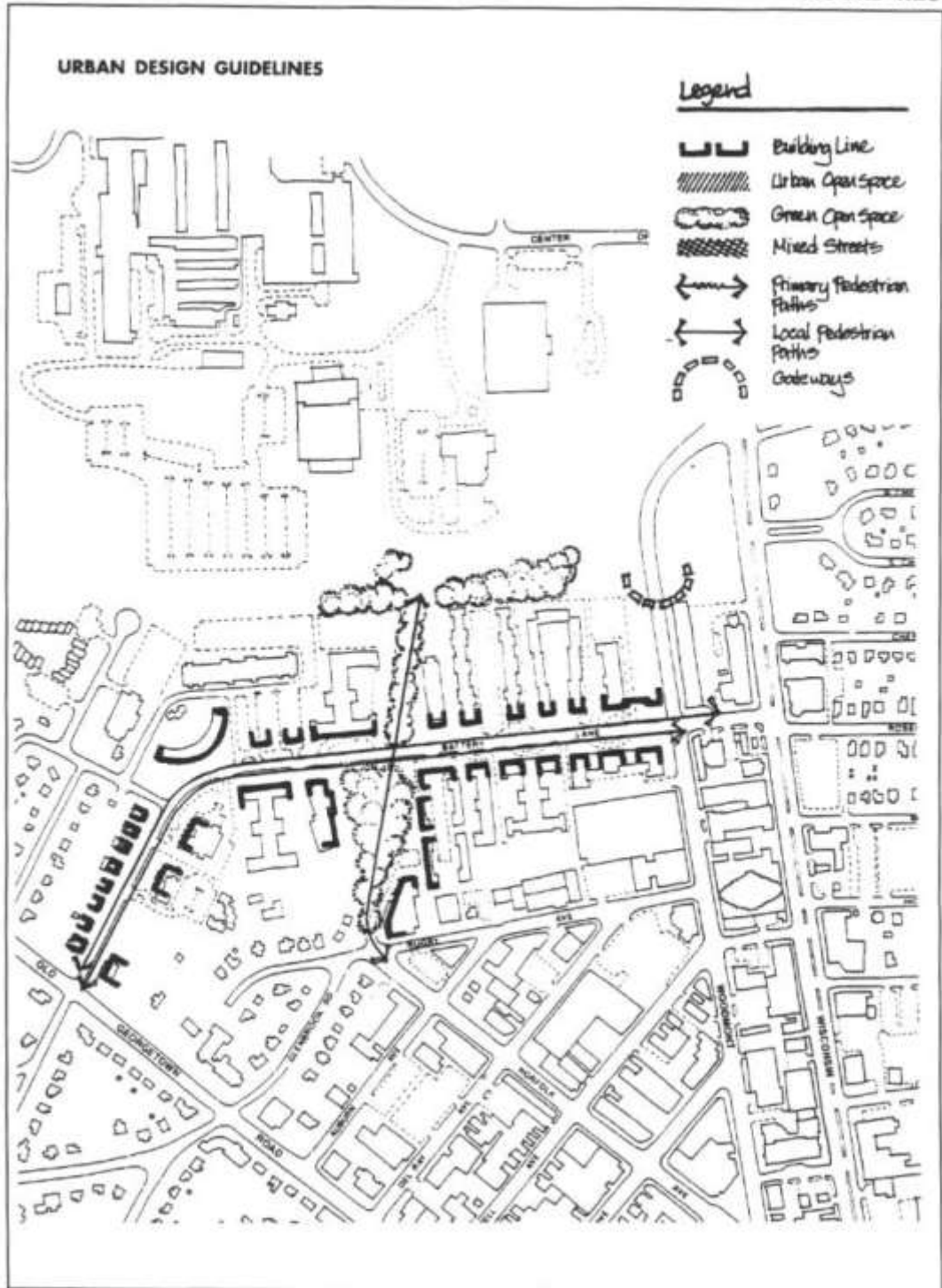
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<sup>5</sup> See Community-based Planning Interoffice Memorandum at attachment 2.

Master Plan Comparison

BATTERY LANE DISTRICT

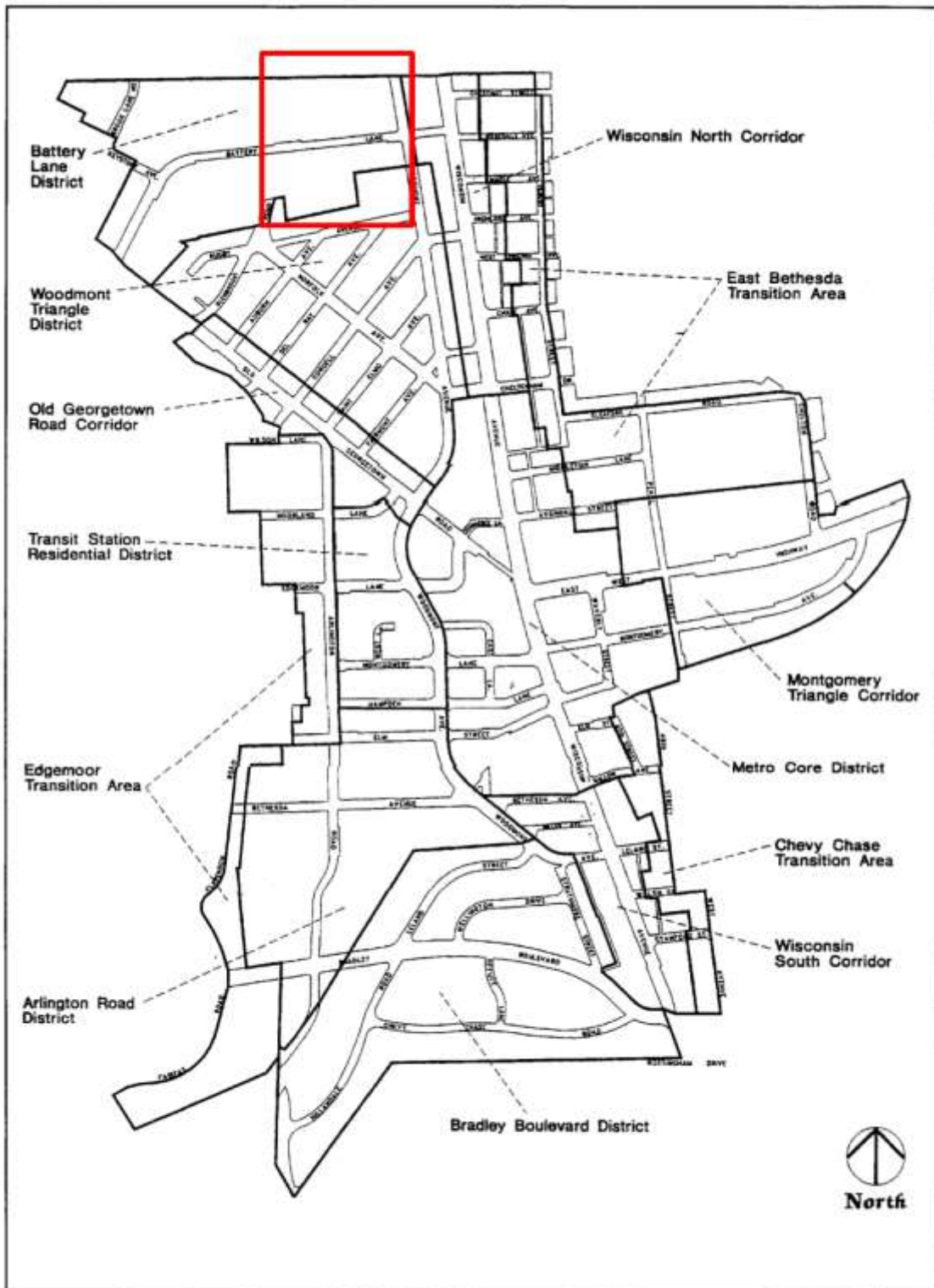
FIGURE 4.20



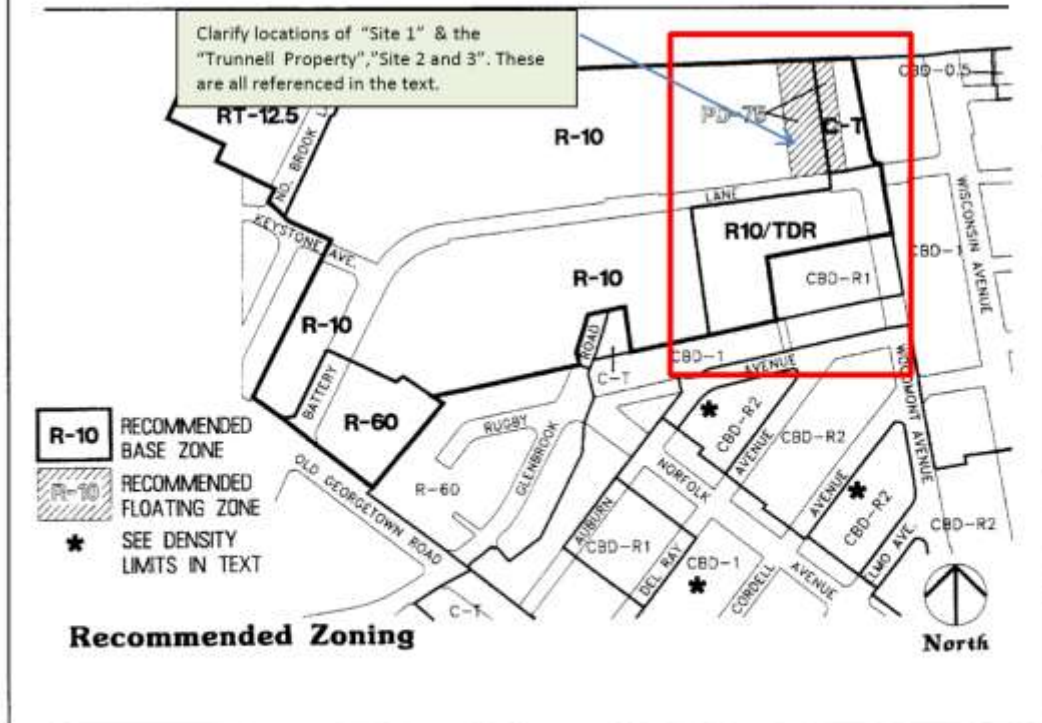
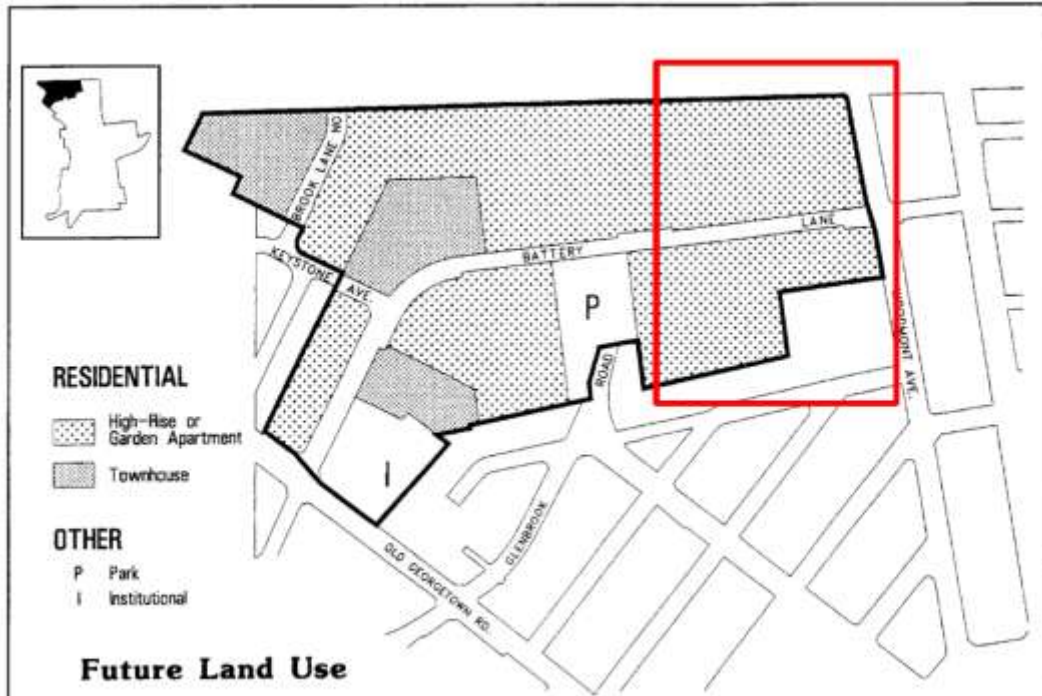
page  
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**DISTRICTS**

**FIGURE 4.4**



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### III. ZONING PROVISIONS

#### A. The Development Plan Findings

##### *§59-D-1.61 – Findings*

*Before approving an application for classification in any of these zones, the District Council must consider whether the application, including the development plan, fulfills the purposes and requirements set forth in article 59-C for the zone. In doing so, the district council must make the following specific findings in addition to any other findings which may be necessary and appropriate to the evaluation of the proposed reclassification:*

*(a) That the zone applied for is in substantial compliance with the use and density indicated by the Master Plan or Sector Plan, and that it does not conflict with the general plan, the county capital improvements program or other applicable county plans and policies;*

As indicated previously in Section IIB, both the PD-100 Zone and alternate PD-88 Zone are in compliance with the use and density recommendations of the Master Plan for this area.

*(b) That the proposed development would comply with the purposes, standards and regulations of the zone as set forth in article 59-C, would provide for the maximum safety, convenience, and amenity of the residents of the development and would be compatible with adjacent development.*

As further explained in Section II.B of this report, the proposed development complies with the purposes, standards, and regulations of the PD-100 Zone, and alternatively, the PD-88 Zone. As modified by Staff in the binding elements, the proposal achieves compatibility with the surrounding uses by continuing the building edge along Battery Lane, accommodating the transition from the higher density CBD-Zoned properties to the south and east and incorporating green area courtyards representative of the existing apartment buildings on Battery Lane. The proposal will provide maximum safety, convenience, and amenities to the residents of the development because features of the site have been designed in a safe and efficient manner.

*(c) That the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient;*

The internal vehicular and pedestrian circulation systems for the project have been designed to decrease the number of vehicular access points from Battery Lane and create a network of internal pedestrian connections between proposed Building B and C. Buildings B and C will share an access to the underground parking proposed for each site. Building A is similar to the existing conditions that provide for a single access to parking, however, the new proposal will include underground parking to maximize the efficiency of the building and provide for green area on all four sides. Pedestrian pathways and sidewalks are also provided that connect to features within the development and to adjacent amenities.

*(d) That by its design, by minimizing grading and by other means, the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features of the site. Any applicable requirements for forest conservation under Chapter 22A and for water resource protection under Chapter 19 also must be satisfied. The district council may require more detailed findings on these matters by the planning board at the time of site plan approval as provided in division 59-D-3;*

There are no significant natural features on the three building sites and the minimal green areas that currently exist have only a few mature shade trees situated near the entrances to the buildings and in the courtyards. In fact, the majority of the property is impervious, including both the existing building footprints and surface parking and drive aisles that wrap around the buildings. The shape of the buildings on the south side of Battery Lane provides for some green area as courtyards. The proposed development will provide more green area than currently exists and will provide water resource protection that currently is non-existent today. The stormwater management concept has been prepared but not approved for the County's Department of Permitting Services, and will need to comply with the principles of environmental site design ("ESD") to the maximum extent practicable. The applicant has indicated that stormwater management will be provided through ESD principles, including green roofs, micro-bioretenion areas, and infiltration planters.

*(e) That any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common of quasi-public purposes are adequate and sufficient.*

The applicant has provided a homeowners association declaration of covenants that describes the ownership and maintenance of common areas.

## **B. Requirements of the PD Zone**

*Purpose Clause.* The PD Zone purpose clause is reproduced in its entirety below, with relevant analysis and conclusions for each paragraph following.

It is the purpose of this zone to implement the general plan for the Maryland-Washington Regional District and the area master plans by permitting unified development consistent with densities proposed by master plans. It is intended that this zone provide a means of regulating development which can achieve flexibility of design, the integration of mutually compatible uses and optimum land planning with greater efficiency, convenience and amenity than the procedures and regulations under which it is permitted as a right under conventional zoning categories. In so doing, it is intended that the zoning category be utilized to implement the general plan, area master plans and other pertinent county policies in a manner and to a degree more closely compatible with said county plans and policies than may be possible under other zoning categories.

It is further the purpose of this zone that development be so designed and constructed as to facilitate and encourage a maximum of social and community interaction and activity among those who live and work within an area and to encourage the creation of a distinctive visual character and identity for each

development. It is intended that development in this zone produce a balance and coordinated mixture of residential and convenience commercial uses, as well as other commercial and industrial uses shown on the area master plan, and related public and private facilities.

It is furthermore the purpose of this zone to provide and encourage a broad range of housing types, comprising owner and rental occupancy units, and one-family, multiple-family and other structural types.

Additionally, it is the purpose of this zone to preserve and take the greatest possible aesthetic advantage of trees and, in order to do so, minimize the amount of grading necessary for construction of a development.

It is further the purpose of this zone to encourage and provide for open space not only for use as setbacks and yards surrounding structures and related walkways, but also conveniently located with respect to points of residential and commercial concentration so as to function for the general benefit of the community and public at large as places for relaxation, recreation and social activity; and, furthermore, open space should be so situated as part of the plan and design of each development as to achieve the physical and aesthetic integration of the uses and activities within each development.

It is also the purpose of this zone to encourage and provide for the development of comprehensive, pedestrian circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities, and thereby minimize reliance upon the automobile as a means of transportation.

Since many of the purposes of the zone can best be realized with developments of a large scale in terms of area of land and numbers of dwelling units which offer opportunities for a wider range of related residential and nonresidential uses, it is therefore the purpose of this zone to encourage development on such a scale.

It is further the purpose of this zone to achieve a maximum of safety, convenience and amenity for both the residents of each development and the residents of neighboring areas, and, furthermore, to assure compatibility and coordination of each development with existing and proposed surrounding land uses.

This zone is in the nature of a special exception, and shall be approved or disapproved upon findings that the application is or is not proper for the comprehensive and systematic development of the county, is or is not capable of accomplishing the purposes of this zone and is or is not in substantial compliance with the duly approved and adopted general plan and master plans. In order to enable the council to evaluate the accomplishment of the purposes set forth herein, a special set of plans is required for each planned

development, and the district council and the planning board are empowered to approve such plans if they find them to be capable of accomplishing the above purposes and in compliance with the requirements of this zone.

*First Paragraph: Master Plan Implementation.* A primary goal of the Master Plan for the subject property is to encourage infill development, enhance the residential district of Bethesda's neighborhood and to encourage and maintain a range of housing types. The Plan seeks to achieve this goal, in part, through the application of the PD-88 or PD-100 Zone to the property. The development plan provides additional housing with a variety of affordable housing types, within three multi-story buildings that complement the Battery Lane district. Further, the proposal provides for green spaces that currently don't exist or are inadequate.

*Second Paragraph: Social and Community Interaction, Distinctive Visual Character, and Balanced Mix of Uses.* The proposed development will provide several courtyard spaces integral to the design of the buildings to create gathering space and encourage social and community interaction. The green space along Battery Lane for all three buildings provides a visual connection to the Battery Lane Urban Park directly west of the overall development on Battery Lane. The northern property provides for green space around the entirety of the building offering a buffer to the NIH campus and complementing the repetitious layout of the existing building pattern along Battery Lane. While the expanded streetscape will provide a stronger pedestrian connection to the surrounding area, a network of pedestrian paths will connect the other buildings and possibly Rugby Road. The Master Plan encourages residential development in the Battery Lane district and does not envision commercial activity at these locations. The building orientation and location of the three buildings strengthens the current building patterns along Battery Lane, especially with the proposed setbacks being established. As proposed, the overall maximum heights up to 110 feet on the south side of Battery Lane and 79 feet on the north side of Battery Lane are acceptable, however, the plan does not address building step backs as depicted in the Sector Plan to maintain the street character of the Battery Lane district.

*Third Paragraph: Broad Range of Housing Types.* The proposed development will provide for a range of multi-family housing types to allow for varying housing choices. The application proposes 1 and 2-bedroom units within all three buildings. Both applications are proposing to provide 15 percent MPDUs within the three buildings, as well as VAHUs in the PD-100 application to offer a broader range of housing types with varying income levels. MPDUs are offered at an average median income ("ami") level of 65 percent, while the standard Workforce Housing Units would be offered at an ami of 70, 75 and 90 percent. The applicant is maintaining the income eligibility levels consistent with workforce housing, but is proposing a shorter control period of 20 years versus the 99 years currently required for rental units. To date, only two projects that were part of a general development agreement, one in Bethesda and one in Silver Spring, will be providing workforce housing units. Since the law changed the WFHUs from mandatory to voluntary, no development proposal has been reviewed or approved with workforce housing. DHCA is supportive of both applications but expresses a preference for the PD-100 proposal because it provides a higher number of regulated, affordable units.

*Fourth, Fifth, and Sixth Paragraphs: Trees, Grading, Open Space, and Pedestrian Networks.* The redevelopment of these sites will provide for a greater amount of green space than currently exists on the Property today. The development plan will incorporate more meaningful



courtyard areas for the residents with landscaping and lighting for a more enjoyable pedestrian experience. The PD zone requires 30 percent of the site to contain green area, which is met by providing streetscaping for Battery Lane, internal courtyards and buffer areas to adjacent uses. In addition to an improved Bethesda streetscape, a network of pedestrian paths is provided to encourage community activity.

*Seventh Paragraph: Scale.* The development plans include an assemblage of parcels to allow for a more comprehensive residential development, with differing housing types, at a scale that achieves the purpose of the zone. The proposal provides amenities and facilities primarily for the residents. The scale of the buildings will need to address the character of Battery Lane and the heights and any associated step backs to reach the maximum heights allowed toward the CBD boundary.

*Eighth Paragraph: Safety, Convenience, Amenity, and Compatibility.* The development plan maximizes safe connections between the proposed development and the surrounding area. A pedestrian connection between Building B and Parking Garage 55 should be explored to facilitate a mid-block connection from Battery Lane and Rugby Avenue. Internal sidewalks will connect the residences to open areas and amenities. The buffer areas around the perimeter of the site add to the compatibility with adjacent properties.

*Ninth Paragraph: Three Findings.* Both development plans are appropriate for the development of the County and in keeping with the purposes of the zone and in substantial compliance with the General Plan and Master Plan. By combining parcels and developing under the PD zone, the development plan is able to achieve the goals and policies of the Plans, particularly with the purchase of TDRs.

*Specific Findings for PD Zone.*

*§59-C-7.121. Master Plan Density.* Pursuant to this provision, “no land can be classified in the planned development zone unless such land is within an area for which there is an existing, duly adopted master plan which shows such land for a density of 2 dwelling units per acre or higher.” A portion of the property on the north side of Battery Lane is recommended for the PD-75 Zone in the 1994 Bethesda CBD Master Plan. The properties on the south side of Battery Lane are recommended for the R-10 Zone and R-10/TDR Zone, which allows a density of 43.5 dwelling units per acre, satisfying the requirements for density of 2 dwelling units per acre or higher.

*§59-C-7.122. Minimum Area.* This section specifies several criteria, any of which may be satisfied to qualify land for reclassification to the PD Zone. The subject application satisfies the first of these criteria, and in part the second criteria for the property on the north side of Battery Lane, which states the following:

That [the property] contains sufficient gross area to construct 50 or more dwelling units under the density category to be granted; and

That [the property] would be a logical extension of an existing planned development.

The combined properties are approximately 5.29 acres in size, more than large enough to construct 50 dwellings.

*§59-C-7.131. Residential Uses.* Pursuant to this section, all types of residential uses except one-family detached are permitted in the Urban High density category. There are no parameters established for the unit mix. The proposed Development Plan provides for up to 692 multi-family dwelling units in the PD-100 Zone application, and alternatively up to 644 multi-family dwelling units in the PD-88 Zone application, satisfying the requirement with one and two-bedroom units.

*§59-C-7.132. Commercial Uses.* Commercial uses are permitted but not required under the PD Zone. Parameters established for commercial uses are not applicable to the subject application, which is limited to residential uses. Furthermore, the Master Plan encourages continuation of residential uses in the Battery Lane district.

*§59-C-7.133. Other Uses.* Under this provision of the PD Zone, any nonresidential, noncommercial use is permitted at the discretion of the District Council on a finding that such use is compatible. No uses other than residential are provided with this application.

*§59-C-7.14. Density of Residential Development.* This provision, under subsections (b) and (e), provides the following directions for the District Council in considering a request for the PD Zone:

(b) The District Council must determine whether the density category applied for is appropriate, taking into consideration and being guided by the general plan, the area master or sector plan, the capital improvements program, the purposes of the planned development zone, the requirement to provide [MPDUs], and such other information as may be relevant.

(e) The District Council may approve a density bonus of up to 10 [percent] above the maximum density specified in the approved and adopted master plan for the provision of TDRs, if the use of TDRs is recommended for the site.

The applicant is applying for the PD-100 Zone at 100 units per acre plus an increase in the base density to accommodate MPDUs in the development. The maximum density permitted in the PD-100 Zone with the density bonus is 692 multi-family units. Alternatively, to be more consistent with the recommended density in the Master Plan, the applicant has submitted a plan for PD-88. This alternative application would yield 644 multi-family dwelling units with the same density bonuses for affordable housing, however, the applicant is applying a 10 percent density bonus pursuant to this section to accommodate the acquisition of 31 TDRs. The other density category applied for, PD-100, is the highest density available in the PD Zones, and is not specifically recommended in the Bethesda CBD Master Plan. The PD-88 zone application balances the recommendations in the Sector Plan by providing the maximum number of MPDUs and TDRs. In all, the applicant is applying for approximately 25-30 percent more density than is recommended in the Master Plan by applying the affordable housing component and TDRs to the density calculations. The effective density of using the affordable housing and TDRS on an approximate site of 5.29 acres is 121 dwelling units per acre in the PD-88 zone and 130 dwelling units per acre in the PD-100 zone.

*§59-C-7.15. Compatibility.* This section requires that a proposed development be compatible internally and with adjacent uses. It also establishes minimum parameters for setbacks and building height that are designed to promote compatibility. As modified with the binding elements, the proposal will be compatible both internally and with surrounding development. As previously indicated, the building locations and orientation are compatible

with the surrounding uses but need to better address the building heights along Battery Lane to incorporate a gradual increase in massing and height to the higher density CBD zones.

*§59-C-7.16. Green Area.* The PD-88 and PD-100 Zone require a minimum of 30 percent green area. The proposed development plan depicts green area at 30 percent of the property, which calculates to approximately 1.59 acres.

*§59-C-7.17. Dedication of Land for Public Use.* This section requires that land necessary for public streets, parks, schools and other public uses must be dedicated to public use, with such dedications shown on all required development plans and site plans. The development plan depicts 0.18 acres to be dedicated for street right-of-way on Battery Lane and Woodmont Avenue and an accounting of 0.38 acres of prior dedication from Battery Lane. The prior dedication is factored into the gross tract area to establish the maximum density permitted. The final dedication will be established at the time of Preliminary Plan.

*§59-C-7.18. Parking Facilities.* Off-street parking must be provided in accordance with the requirements of Article 59-E of the Zoning Ordinance. Even though the property is located within the parking lot district (“PLD”), in which the applicant would not need to provide the required number of spaces on site, the Development Plan provides the required number of spaces for each dwelling unit proposed. The final parking calculations will be determined during the Site Plan review based upon the number of units and bedroom mix. Further, the proposal provides for ample on-street parking throughout the development, and County Parking Garage #35 is located directly south and east of buildings “B” and “C”. Parking Garage #35 consists of 496 spaces in a 3-level above grade structure.

### **C. Compatibility**

As previously discussed, the proposed development is compatible both internally and with the surrounding area. Only residential uses are proposed on site, with areas of open space and green area distributed throughout the development. The amenities are connected to adjacent properties by a network of sidewalks, pathways, and roads, extending the existing pattern of the area. The building setbacks along Battery Lane emphasize the character of the existing buildings in the Battery Lane District and provide for a green corridor and enhanced streetscape. The recommended height in the Sector Plan is 65 feet for the buildings along Battery Lane with a stepping up of the buildings to 110 feet. Staff is recommending modifications to the binding elements of each PD zone application to emphasize the lower heights along Battery Lane with the gradual stepping of heights to the CBD zone. The articulation of heights would assist in maintaining the visual character of the proposed buildings with the existing massing of buildings in the Battery Lane district. As proposed, the buildings would range in height from 5-11 stories to accommodate a range of units through the development phasing process. Staff recommends that each building start the incremental step back at 65 feet along Battery Lane, but that the buildings on the south side of Battery Lane have a minimum height of 5 stories that gradually increase in height up to the permitted 110 feet.

### **D. The Public Interest**

The rezoning must bear sufficient relationship to the public interest to justify its approval. When evaluating the public interest, it is customary to consider master plan conformance and other public interest factors such as adverse impacts on public facilities or the environment, and in this case. The applications are supporting two separate public interest policies by providing an increase in the number of affordable housing units that would have

been required in the underlying zone and by providing TDRs. The PD-100 zone application attempts to balance both interests by providing the 15 percent MPDUs and offering 10 additional affordable housing units, with a modified control time period of 20 years rather than the typical 99 years with traditional workforce housing, while providing approximately 2/3's of the overall requirement of TDRs. The PD-88 zone application is providing the 15 percent MPDUs but is offering the full complement of 31 TDRs. While both applications support the policy objectives of the Sector Plan, staff supports the PD-88 zone application because more TDRs are being acquired and the 10 VAHUs, with only a twenty year control period, are not a big enough benefit to justify the increase in density.

#### IV. SECONDARY ISSUES

##### A. Adequate Public Facilities

*Water and Sewer.* The Property is currently improved and served by public water and sewer and is located within the Water and Sewer Category W-1/S-1. Washington Suburban Sanitary Commission (WSSC) will review the proposed development with the subsequent application for subdivision.

*Transportation and Roadways.* The proposed development will consist of two full movement access points from each side of Battery Lane. One access point for the site on the north side of Battery Lane will be a shared vehicular access with the adjacent property. Another shared access is proposed for two of the buildings on the south side of Battery Lane, consolidating the number of access points along Battery Lane. Below-grade parking that would not be visible from the streets or adjacent residential properties is proposed for each building with access from the internal shared drives. Montgomery County Department of Transportation (MCDOT) has provided comments in their letter dated December 6, 2011 for further evaluation during review of the subsequent Preliminary Plan.<sup>6</sup>

The proposed access points for each building are safe and adequate. The consolidation of the proposed access points allows a more efficient movement of traffic.

A traffic study (dated January 26, 2012) was submitted by the consultant for the applicant for the subject application per the *LATR/PAMR Guidelines* since the proposed development was estimated to generate **30** or more peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. The traffic study determined traffic-related impacts of the proposed development on nearby roadway intersections during weekday morning and evening peak periods.

- **Trip Generation**

The peak-hour trip generation estimate for the Property was based on trip generation rates included in the *LATR/PAMR Guidelines* for the maximum number of units proposed. A site trip generation summary is provided in Table 1, which shows that the development (after credit for the existing development and an allowed 18% trip reduction) would generate 86 “net” peak-

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<sup>6</sup> See MCDOT Memorandum at attachment 7.

hour trips during weekday morning peak period and 102 “net” peak-hour trips during the weekday evening peak period.

**TABLE 1**

**SUMMARY OF SITE TRIP GENERATION  
PROPOSED GLEN ALDON DEVELOPMENT**

| Trip Generation                           | Morning Peak-Hour |           |           | Evening Peak-Hour |           |            |
|-------------------------------------------|-------------------|-----------|-----------|-------------------|-----------|------------|
|                                           | In                | Out       | Total     | In                | Out       | Total      |
| Proposed: 692 high-rise dwelling units    | 44                | 130       | 174       | 124               | 79        | 203        |
| Existing: 260 multi-family dwelling units | -18               | -70       | -88       | -67               | -34       | -101       |
| <b>Net “New” Trips</b>                    | <b>26</b>         | <b>60</b> | <b>86</b> | <b>57</b>         | <b>45</b> | <b>102</b> |

Source: Kimley-Horn and Associates, Inc. Traffic Impact Study; Glen Aldon on Battery Lane, January 26, 2011.

Notes: Trip generation as above reflects an 18% reduction allowed in Metro Station Policy Areas over Countywide peak-hour trip generation for residential uses.

• **Local Area Transportation Review**

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis results for the study intersections for the weekday morning and evening peak-hours within the respective peak periods from the traffic study is presented in Table 2.

As shown in Table 2, under Total (Build) traffic conditions, CLV values for intersections included in the study were estimated to be below the Bethesda CBD Policy Area congestion standards (1,800 CLV). Based on the analysis presented in the traffic study, it is concluded that the subject application will satisfy the LATR requirements of the APF test.

**RECOMMENDATIONS**

The following transportation-related comments are recommended to be part of the Planning Board’s recommendations on the subject application, while noting that these recommendations may or may not satisfy APF requirements at the time of subdivision.

1. The Applicant must limit future development on the site to 692 new multi-family dwelling units.
2. At the time of subdivision application, the Applicant must satisfy Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR) requirements of the APF test that are in effect at the time of the filing of the application.

Master Plan Roadways and Pedestrian/Bikeway Facilities

The July 1994 Approved and Adopted *Bethesda CBD Sector Plan* has the following recommended transportation facilities:

1. Battery Lane, as a four-lane arterial (A-263) with a minimum right-of-way width of 80 feet.
2. Woodmont Avenue, as a four-lane arterial (A-76) with a minimum right-of-way width of 80 feet. The Purple Line light-rail line is proposed along Wayne Avenue.

The Sector Plan and the 2005 Approved and Adopted *Countywide Bikeways Functional Master Plan* also recommends bikeway facilities along Woodmont Avenue (Countywide signed shared roadway; SR-31), Pershing Drive (local signed shared roadway; PB-17), Spring Street (local bike lanes; PB-4), and Wayne Avenue (Countywide shared-use path; SP-10).

The proposed development under the PD-100 Zone or the PD-88 Zone will not have an adverse impact on the surrounding roadway network.<sup>7</sup>

*Fire and Rescue.* Staff received comments<sup>8</sup> from the Montgomery County Fire Marshal regarding fire department access to the buildings and the adequacy of sufficient water supply to satisfy standards for fire and rescue. The office of the Fire Marshal has no objection to the rezoning and requests a Fire Department Access Plan when more detailed plans are ready for review.

*Schools.* Staff received comments from Montgomery County Public Schools (MCPS) regarding the proposal's potential impact on the school system. The site is located within the Bethesda-Chevy Chase (B-CC) Cluster, which includes Bethesda Elementary School, Westland Middle School, and Bethesda-Chevy Chase High School. Enrollment at the elementary school is currently within capacity and is projected to remain within capacity. At this time, the applicant would be required to pay a school facility payment for all three levels, unless student population decreases or additional capacity becomes available. The current growth policy school test (FY 2010) finds capacity adequate in the B-CC Cluster. The BCC cluster does not currently exceed the 120 percent threshold for a residential development moratorium.

## **B. Environmental Considerations**

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) was approved by M-NCPPC on July 12, 2010 and is valid until July 12, 2012. Approval of the preliminary forest conservation plan validates the NRI/FSD. Staff supports the approval of the preliminary forest conservation plan (PFCP). The PFCP shows no forest on site generating an afforestation requirement to be satisfied through on-site planting. The details necessary to bring this plan to final approval will be formalized during subsequent reviews before the Planning Board. The approval of the PFCP includes and is dependent upon the approval of a forest conservation variance for removal of certain trees.

Maryland recently passed legislation that identifies certain individual trees as a high priority for protection. If a forest conservation plan cannot be altered to protect these individual trees, the applicant is required to submit a variance for both the impact and/or removal of the trees. The variance provision applies to all trees 30 inches DBH and greater.

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<sup>7</sup> See Transportation Planning Interoffice Memorandum at attachment 4.

<sup>8</sup> See Fire Marshal Comments at attachment 6.

Since the applicant is proposing to remove 4 trees that are greater than 30 inches DBH, the applicant has requested a variance in their letter dated August 3, 2011.

Montgomery County Forest Conservation Law §22A-21(c) requires the Planning Board to refer a copy of each request to the County Arborist in the Montgomery County Department of Environmental Protection for a written recommendation prior to acting on the request. The County Arborist has reviewed the variance request and is recommending mitigation for the loss of specimen trees. Mitigation will be reviewed in more detail with the final forest conservation plan.

§22A-21(e) states that the Planning Board must make findings that the applicant has met all requirements of this section before granting a variance. Subsection (d) states that a variance must *not* be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

*(1) Will confer on the applicant a special privilege that would be denied to other applicants.* The requested variance will not confer on the applicant any special privileges that would be denied to other applicants. Three of trees requested to be removed are located at the entrance to the existing apartments along Battery Lane and one is located within an interior courtyard of an existing building. The trees range in size from 33 to 39 inches DBH but are not champion trees or 75 percent of the DBH of the state champion tree for that species. The loss of a tree(s) under the new legislation is quite common. Staff recommendations strive to be consistent, with outcomes that do not grant a special privilege that would be denied to other applicants.

*(2) Is based on conditions or circumstances which are the result of the actions by the applicant.* The requested variance is not based on conditions or circumstances which are the result of actions by the applicant. The majority of the site is impervious and void of tree cover. The requested variance is based on site layout and design for the development within the PD Zone. The layout does not provide any retention of trees on the site. An efficient site layout and design necessitates the removal of these trees within the development area.

*(3) Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.* The requested variance is a result of the proposal which promotes an efficient site design and layout for the subject property and not as a result of land or building use on a neighboring property.

*(4) Will violate State water quality standards or cause measurable degradation in water quality.* The requested variance will not violate State water quality standards nor cause measurable degradation in water quality. Under §22A-16(d), “[t]he Board or Director may treat any forest clearing in a stream buffer, wetland or special protection area as creating a rebuttable presumption that the clearing had an adverse impact on water quality.” In this case, the specimen trees proposed to be removed are not within a stream buffer, wetland or a special

protection area and as such it is presumed that the removal of these individual trees would not cause degradation to water quality.

As a result of the above findings, Staff recommends the Planning Board approve the applicant's request for a variance from Forest Conservation Law to remove specimen trees as shown on the proposed preliminary forest conservation plan.

This plan is in compliance with Environmental Guidelines. The proposal is consistent with the Master Plan's environmentally-based recommendations and Land Use and Design Guidelines. The applicant will be planting on site and paying a fee-in-lieu to a forest mitigation bank to satisfy the forest conservation requirements. Environmental planning staff is supportive of the zoning change and recommends approval of the associated Preliminary Forest Conservation Plan.<sup>9</sup>

### **C. Community Issues**

As of the date of this report, staff has received only one letter regarding the proposal from the Agricultural Advisory Committee.<sup>10</sup> This letter, dated January 17, 2012, recommends that the development meet the intent of the Master Plan and acquire the necessary TDR's allocated to the R-10/TDR receiving area. The committee states..."the removal of the TDR receiving zones represents a reduction in equity opportunities for RDT landowners. This letter was written prior to the applicant agreeing to acquire any TDRs. The application was amended to provide either 20 TDRs with the PD-100 plan or, alternatively, 31 TDRs with the PD-88 plan. The amended application generally supports the intent of the Master Plan to acquire TDRs, which facilitates additional affordable housing by increasing the density. Since the amended application was filed on March 1, 2012, no correspondence from the community has been received.

## **V. CONCLUSION**

Staff recommends that Local Map Amendment G-909 be approved.

## **VI. ATTACHMENTS**

1. Letter from DHCA dated March 30, 2012
2. Environmental Interoffice Memorandum
3. Master Plan Interoffice Memorandum
4. Transportation Interoffice Memorandum
5. Agricultural Advisory Committee Memorandum
6. Fire Marshall Memorandum
7. MCDOT Memorandum
8. SHA Memorandum

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<sup>9</sup> See Environmental Planning Interoffice Memorandum at attachment 2.

<sup>10</sup> Found at attachment 5.





DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett  
County Executive

Richard Y. Nelson, Jr.  
Director

March 30, 2012

Nancy P. Regelin, Esq.  
Shulman Rogers Gandal Pordy Ecker  
12505 Park Potomac Avenue, 6<sup>th</sup> floor  
Potomac, MD 20854

RE: Local Map Amendment G-909, Glen Aidon Property

Dear Ms. Regelin: *Nancy*

The Department of Housing and Community Affairs (DHCA) has received and reviewed your letter of March 26, 2012 and the revised plans for the above rezoning application. DHCA supports both the PD-100 and the PD-88 development plan for this application. DHCA prefers the PD-100 development plan, which allows 692 dwelling units and provides a total of 104 MPDUs (15%) and 10 Voluntary Affordable Housing Units (VAHUs), with income eligibility consistent with Chapter 25B except as modified by DHCA. The revised language that you have provided in the Textual Binding Elements concerning alternative locations for the MPDUs and the VAHUs is acceptable; however, please note that approval of any such alternative locations are discretionary on the part of DHCA.

If you have any questions or need anything further, please contact Lisa S. Schwartz, Senior Planning Specialist, at 240-777-3786.

Sincerely,

Richard Y. Nelson, Jr.  
Director

RYN:lss

cc: Robert Kronenberg, Area 1 Division, Montgomery County Planning Department  
Christopher J. Anderson, Manager, Single Family Housing Programs, DHCA

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Office of the Director

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montgomerycountymd.gov/311



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

**MEMORANDUM**

**TO:** Robert Kronenberg, Supervisor, Area 1

**FROM:** Tina Schneider, Senior Planner, Area 1

**DATE:** March 29, 2012

**REVIEW:** Preliminary Forest Conservation Plan: 420102090

**NAME:** Glen Aldon

**APPLICANT:** Anthony Falcone, Glenwood Glen Aldon, LLC

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The Glen Aldon Preliminary Forest Conservation Plan, G-909, for the 4 properties (524265, 524653, 524276, 524378) on Battery Lane Parkway was reviewed by the Planning staff to determine if it meets the requirements of Chapter 22A of the Montgomery County Code (Forest Conservation Law) and Section 109A of the Forest Conservation Regulations.

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD)(420102090) was approved by M-NCPPC staff on July 12, 2010 and is valid until July 12, 2012. A Preliminary Forest Conservation Plan (PFCP), G-909, for 4 properties (524265, 524653, 524276, 524378) was submitted on November 8<sup>th</sup>, 2012. Staff supports the approval of the preliminary forest conservation plan (PFCP). The PFCP shows no forest on site which would generate an on-site afforestation planting requirement. The details necessary to bring this plan to final approval will be formalized during subsequent reviews before the Planning Board. The approval of the PFCP includes and is dependent upon the approval of a forest conservation variance for removal of certain trees.

Maryland recently passed legislation that identifies certain individual trees as a high priority for protection. If a forest conservation plan cannot be altered to protect these individual trees, the applicant is required to submit a variance for both the impact and/or removal of the trees. The variance provision applies to all trees 30 inches DBH and greater. Since the applicant is proposing to remove 4 trees that are greater than 30 inches DBH, the applicant has requested a variance dated November 8, 2011.

Montgomery County Forest Conservation Law §22A-21(c) requires the Planning Board to refer a copy of each request to the County Arborist in the Montgomery County Department of Environmental Protection for a written recommendation prior to acting on the request. The County Arborist noted that the applicant qualifies for a variance upon meeting the mitigation requirements for tree loss.

§22A-21(e) states that the Planning Board must make findings that the applicant has met all requirements of this section before granting a variance. Subsection (d) states that a variance must *not* be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

*1. Will confer on the applicant a special privilege that would be denied to other applicants.* The requested variance will not confer on the applicant any special privileges that would be denied to other applicants. Three of trees requested to be removed are located at the entrance to the existing apartments along Battery Lane and one is located within an interior courtyard of an existing building. The trees range in size from 33 to 39 inches DBH but are not champion trees or 75 percent of the DBH of the state champion tree for that species. The loss of a tree(s) under the new legislation is quite common. Staff recommendations strive to be consistent, with outcomes that do not grant a special privilege that would be denied to other applicants.

*2. Is based on conditions or circumstances which are the result of the actions by the applicant.* The requested variance is not based on conditions or circumstances which are the result of actions by the applicant. The majority of the site is impervious and void of tree cover. The requested variance is based on site layout and design for the development within the PD Zone and does not provide any retention of trees on the site. An efficient site layout and design necessitates the removal of these trees within the development area.

*3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.* The requested variance is a result of the proposal which promotes an efficient site design and layout for the subject property and not as a result of land or building use on a neighboring property.

*4. Will violate State water quality standards or cause measurable degradation in water quality.* The requested variance will not violate State water quality standards nor cause measurable degradation in water quality. Under §22A-16(d), “[t]he Board or Director may treat any forest clearing in a stream buffer, wetland or special protection area as creating a rebuttable presumption that the clearing had an adverse impact on water quality.” In this case, the specimen trees proposed to be removed are not within a stream buffer, wetland or a special protection area and as such it is presumed that the removal of these individual trees would not cause degradation to water quality.

As a result of the above findings, Staff recommends the Planning Board approve the applicant’s request for a variance from Forest Conservation Law to remove specimen trees as shown on the proposed preliminary forest conservation plan.

This plan is in compliance with Environmental Guidelines. The proposal is consistent with the Master Plan's environmentally-based recommendations and Land Use and Design Guidelines. The applicant will be planting trees on-site and paying a fee-in-lieu to a forest mitigation bank to satisfy the forest conservation requirements. Environmental planning staff is supportive of the zoning change and recommends approval of the associated Preliminary Forest Conservation Plan.<sup>[1]</sup>



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

**Memorandum**

**TO:** Robert Kronenberg, Supervisor, Area 1  
**FROM:** Margaret K. Rifkin, Coordinator Area 1  
**RE:** Glen Aldon Rezoning Application G-909 – Proposal for PD-88

**DATE:** March 29, 2010

**RECOMMENDATION:** Approval with Conditions

The application is not consistent with all the Sector Plan recommendations. Each Sector Plan recommendation is in bold below with the analysis of the pertinent parts of the PD-88 Proposal following each. To achieve consistency:

1. For the north building, limit the height along the street to 65 feet, and then step the building back to accommodate any additional height required providing MPDUs.
2. For the south buildings, limit the height to 65 feet along Battery Lane. Show that the building heights transition to lower heights from south to north.
3. Revise Binding Element #6 from “Final green area per building site shall be finalized at site plan.” To read “the final **design** of the green area”.

**DISCUSSION**

*Sector Plan page 92:*

4. **Maintain a building setback along Battery Lane which is consistent with the setbacks of the existing buildings. (Fig 4.2)**

PROPOSED BINDING ELEMENT (#7) - The plan shows setbacks of 24 feet on the south side and 26 feet on the north side. These are sufficiently close to the 27.5 feet that would be a strict interpretation of the Sector Plan recommendation.

5. **Orient Building entrances, where feasible, toward Battery Lane to activate the street and increase public safety.**

The proposal is consistent with this Sector Plan urban design guidelines.

6. **Provide Parking in the rear or below grade to minimize the impact on the pedestrian environment.**

*New Binding Element #11 states: “Any structured parking that is not below grade, must be lined with units so the parking is not visible from the street, and lined with units or architectural screening so the parking is not visible from the courtyards and adjacent residential properties.” This is consistent with the Sector Plan.*

7. **Achieve a lushly landscaped, garden character along Battery Lane, consistent with the garden character already established in this residential neighborhood.**

The plan indicates “green area” in front of each building. This notation should be elaborated so that it is clear that this is not just to be a mowed lawn. There should be a commitment to providing canopy trees, understory and groundcover coordinated with the streetscape and street trees. Binding element #6 should say not just “Final green

area per building site shall be finalized at site plan.” BUT “the final **design** of the green area”.

Page 92 – regarding Site A on the north side of Battery Lane:

**3. Maintain building heights no greater than 65 feet as shown on Figure 3.2, Building Height Limits.**

**PROPOSED BINDING ELEMENT (#2)** The building north of Battery Lane will have a maximum height of 79 feet (65 feet plus additional height for MPDUs), as measured from the centerline of the pavement of Battery Lane, to the high point of the main roof slab or the midpoint of any gable roof (excluding mechanical equipment and screening, access, elevator penthouses and decorative gables and architectural features.” This proposal per the Binding Element is not consistent with the Sector Plan urban design guidelines regarding limiting height to 65 feet. However, if the height along the street is limited to 65 feet, and then steps back to accommodate any additional height required providing MPDUs, this would be generally consistent with the Sector Plan. Because the urban design guidelines are not specific requirements, this flexibility is appropriate.

Page 94 – regarding Sites B & C assembled and Page 12 Figure 3.2):

- 1. Maintain a human scale adjacent to the street by providing a height of not more than 65 feet along Battery Lane, with the building stepping up to a maximum of 110 feet toward the rear of the property to avoid a “canyon effect” along Battery Lane.**

**PROPOSED BINDING ELEMENT (#3):** “The buildings south of Battery Lane will have a maximum height of 110’, with respect to the building fronting on Woodmont Avenue and Battery Lane as measured from the centerline of the pavement of Woodmont Avenue to the high point of the main roof slab or the midpoint of any gable roof (excluding mechanical equipment and screening, access, elevator penthouses and decorative gables and architectural features).”

This proposed binding element **is not consistent** with the Sector Plan in that it does not address the height limit of 65 feet that is recommended for the portion of the buildings facing Battery Lane. It is consistent only concerning building height on the south side of each building closest to the Bethesda Metro Station. The proposed binding elements would result in buildings 79 feet in height on the north side of Battery Lane and 110 feet on the south side of Battery Lane. **This is not consistent with the Sector Plan recommended limit of 65 feet along Battery Lane. Therefore, the proposal should be revised.**

- 2. Reduce the building mass as seen from the street by locating the bulk of the building toward the rear of the site and providing landscaped courtyards between the building’s wings.**

The proposed plan and binding elements **do not ensure consistency** with this Sector Plan urban design guidelines. A notation on the plan clearly indicating the location of “landscaped courtyards” not “green area” would be appropriate. Note: A drawing, referenced in the Plan on page 92 “(See Battery Lane illustrative in Appendix B” page 10) clarifies what one way of addressing the urban design guidelines might look like.

Most importantly, this most recent submittal is not clear regarding any revisions that have been made to address the issues of building height and massing on Sites B & C. Assuming no revisions have been made, this proposal is not consistent with the intent of the Sector Plan to transition to lower heights from south to north. The Plan addresses the need for both housing and Transferable Development Right (TDR) receiving opportunities on this property and also raises concerns about the displacement of existing residents. The provision of both TDRs and additional housing is important to meeting the intent of the Sector Plan.

**MEMORANDUM**

March 8, 2012

TO: Robert Kronenberg, Supervisor  
Area 1 Team

FROM: Cherian Eapen, Planner/Coordinator  
Transportation Planning  
Area 1

SUBJECT: Local Map Amendment Application No. G-909  
Glen Aldon  
Aldon Management Corporation (“Applicant”)  
North and south sides of Battery Lane; west of Woodmont Avenue  
Bethesda CBD Policy Area

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This memorandum presents the Adequate Public Facilities (APF) review for the subject application to rezone 5.3 acres of land located along the north and south sides of Battery Lane between Woodmont Avenue and Wisconsin Avenue (MD 355) to the east and Old Georgetown Road (MD 187) to the west. The subject site is currently developed with four, 4-story garden apartment buildings totaling 260 multi-family dwelling units and associated surface parking lots. Driveway access to the site is currently from Battery Lane.

The purpose of the rezoning request by Aldon Management Corporation (“Applicant”) to the PD-100 zone is to obtain approval to construct up to 692 new high-rise dwelling units on the site (in three buildings, with two along the south side of Battery Lane and one along the north side of Battery Lane). Vehicular access to the proposed development will continue to be to Battery Lane and will consist of two full-movement driveways along the south side of Battery Lane and two full-movement driveways along the north side of Battery Lane. Parking for the residential units will be provided within garages located below each building.

**RECOMMENDATIONS**

The following transportation-related comments are recommended to be part of the Planning Board’s recommendations on the subject application, while noting that these recommendations may or may not satisfy APF requirements at the time of subdivision.

3. The Applicant must limit future development on the site to 692 new multi-family dwelling units.
4. At the time of subdivision application, the Applicant must satisfy Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR) requirements of the APF test that are in effect at the time of the filing of the application.



## DISCUSSION

### A.

#### Master Plan Roadways and Pedestrian/Bikeway Facilities

The July 1994 Approved and Adopted *Bethesda CBD Sector Plan* has the following recommended transportation facilities:

3. Battery Lane, as a two-lane primary residential street with a minimum right-of-way width of 70-80 feet between Old Georgetown Road and Woodmont Avenue and as a two-lane business street with the minimum right-of-way width of 70 feet between Woodmont Avenue and Wisconsin Avenue.
4. Woodmont Avenue, as a two-lane arterial (A-68) with a minimum right-of-way width of 80 feet for its entire length.
5. Wisconsin Avenue, as a six- to eight-lane major highway (M-6) with a minimum right-of-way width of 104-120 feet.
6. Old Georgetown Road, as a four- to six-lane divided major highway (M-4) in the vicinity of Battery Lane with a minimum right-of-way width of 100-120 feet.

The 2005 Approved and Adopted *Countywide Bikeways Functional Master Plan* also recommends bikeway facilities along Battery Lane (Countywide signed shared roadway SR-10 between Glenbrook Road and Woodmont Avenue), Woodmont Avenue (Countywide shared-use path SP-62 to the north of Battery Lane and Countywide bike lanes BL-6 to the south of Battery Lane), and the Battery Lane Urban Park Bike Path (Countywide shared-use path SP-3 between Battery Lane and NIH Campus).

#### Adequate Public Facilities Review

A traffic study (dated January 26, 2012) was submitted by the consultant for the Applicant for the subject application per the *LATR/PAMR Guidelines* since the proposed development was estimated to generate **30** or more peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. The traffic study determined traffic-related impacts of the proposed development on nearby roadway intersections during weekday morning and evening peak periods.

#### • **Trip Generation**

The peak-hour trip generation estimate for the proposed Glen Aldon development was based on trip generation rates included in the *LATR/PAMR Guidelines*. A site trip generation summary is provided in Table 1, which shows that the development (after credit for the existing development and an allowed 18% trip reduction when using Countywide trip generation rates) would generate 86 “net” peak-hour trips during weekday morning peak period and 102 “net” peak-hour trips during the weekday evening peak period.

**TABLE 1  
SUMMARY OF SITE TRIP GENERATION  
PROPOSED GLEN ALDON DEVELOPMENT**

| Trip<br>Generation                        | Morning Peak-Hour |           |           | Evening Peak-Hour |           |            |
|-------------------------------------------|-------------------|-----------|-----------|-------------------|-----------|------------|
|                                           | In                | Out       | Total     | In                | Out       | Total      |
| Proposed: 692 high-rise dwelling units    | 44                | 130       | 174       | 124               | 79        | 203        |
| Existing: 260 multi-family dwelling units | -18               | -70       | -88       | -67               | -34       | -101       |
| <b>Net "New" Trips</b>                    | <b>26</b>         | <b>60</b> | <b>86</b> | <b>57</b>         | <b>45</b> | <b>102</b> |

Source: Kimley-Horn and Associates, Inc. Traffic Impact Study; Glen Aldon on Battery Lane, January 26, 2011.

Notes: Trip generation as above reflects an 18% reduction allowed in CBDs and Metro Station Policy Areas over Countywide peak-hour trip generation for residential uses.

- **Local Area Transportation Review**

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis results for the study intersections for the weekday morning and evening peak-hours within the respective peak periods from the traffic study is presented in Table 2.

As shown in Table 2, under Total (Build) traffic conditions, CLV values for intersections included in the study were estimated to be below the Bethesda CBD Policy Area congestion standard of 1,800 CLV. Based on the analysis presented in the traffic study, it is concluded that the subject application will satisfy the LATR requirements of the APF test.

**TABLE 2  
SUMMARY OF CAPACITY CALCULATIONS  
PROPOSED GLEN ALDON DEVELOPMENT**

| Intersection                       | Traffic Conditions |       |            |       |       |       |
|------------------------------------|--------------------|-------|------------|-------|-------|-------|
|                                    | Existing           |       | Background |       | Total |       |
|                                    | AM                 | PM    | AM         | PM    | AM    | PM    |
| Battery Ln/Old Georgetown Rd       | 1,073              | 1,120 | 1,147      | 1,271 | 1,147 | 1,286 |
| Woodmont Ave/Battery Ln            | 813                | 724   | 923        | 860   | 954   | 894   |
| Woodmont Ave/Rugby Ave             | 616                | 624   | 733        | 654   | 740   | 659   |
| Battery Ln/Bldg B/C West Site Drwy | --                 | --    | --         | --    | 219   | 236   |
| Battery Ln/Bldg B/C East Site Drwy | --                 | --    | --         | --    | 298   | 331   |
| Battery Ln/Bldg A West Site Drwy   | --                 | --    | --         | --    | 234   | 267   |
| Battery Ln/Bldg A East Site Drwy   | --                 | --    | --         | --    | 241   | 274   |

Source: Kimley-Horn and Associates, Inc. Traffic Impact Study; Glen Aldon on Battery Lane, January 26, 2011.

<sup>1</sup> Bethesda CBD Policy Area Congestion Standard: 1,800 CLV

- **Policy Area Mobility Review**

To satisfy the PAMR requirements of the APF test, a development located within the Bethesda CBD Policy Area is required to mitigate 25 percent (25%) of “new” peak-hour trips generated by the development.

The site trip generation summary presented in Table 1 shows that the development will generate 102 peak-hour trips during the weekday evening peak period (highest of the peak-hours). With the PAMR requirement to mitigate 25% of the “new” peak-hour trips, the mitigation requirement for the development therefore is 26 peak-hour trips.

The Applicant is proposing to satisfy the PAMR requirements of the APF test at the time of the subdivision approval through PAMR credits available for CBD developments, a one-time payment of \$11,700 per peak-hour trip, and/or other measures.



AGRICULTURAL ADVISORY COMMITTEE

January 17, 2012

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

Dear Madam Chair:

RE: Limited Map Amendment G-909

On behalf of the Montgomery County Agricultural Advisory Committee, AAC please accept this letter as our recommendations surrounding the Limited Map Amendment G-909 that is located at 4858, 4890, 4900 Battery Lane in Bethesda referred to as Site 2 & 3 all of which are designated Transferable Receiving Area Zones.

It is our understanding the County approved the 1994 Bethesda CBD Sector Plan that changed the zoning for Sites 2&3 to R-10/TDR zone with a recommended density of 100 dwelling units to the acre. The AAC is concerned regarding the request for rezoning that will remove the TDR receiving designation. The TDR program was created to provide opportunities to landowners in the Rural Density Transfer zone to sell their TDRs to developers that would use them in TDR receiving zones like these properties in Bethesda. The removal of the TDR receiving zones represents a reduction in equity opportunities for RDT landowners.

Even though the TDR program has now been in place for over 30 years, we continue to need additional TDR receiving capacity for the remaining TDRs in the RDT zone. The removals of these properties in Bethesda will further exacerbate the existing imbalance of TDRs.

The AAC encourages the Planning Board to not support this rezoning request in Bethesda that will remove the TDR receiving component.

Thank you for considering the views of the Montgomery County Agricultural Advisory Committee.

Sincerely,

A handwritten signature in cursive script that reads "David Weitzer".

David Weitzer, Chairman

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Department of Economic Development-Agricultural Services Division  
18410 Mancaster Road - Derwood, Maryland 20855 - 301/590-2823, FAX 301/590-2839



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**FIRE MARSHAL COMMENTS**

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**DATE:** Tuesday, January 17, 2012  
**TO:** Rodgers Consulting, Inc.  
Rodgers Consulting, Inc.  
**FROM:** Marie LaBaw  
**RE:** Glen Aldon Property  
G-909

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**NO COMMENT**

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**To The Applicant:**

When Fire Department Access plans are ready for approval from the Fire Marshals Office, please provide the reviewer listed above with four folded copies. The copies will be stamped and an Approval letter will be provided.

1) No objection to rezoning

2) Ensure that code distances to the building egress are met for fire department access

Distance from vehicular access to all point on the exterior of a building can be no more than 450 ft for sprinklered buildings and 150 ft for non-sprinklered buildings including open air parking garages

3) Ensure that fire department water supply is adequately placed to meet minimum spacing and fire department connection (FDC) distance requirements



DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

December 6, 2011

Arthur Holmes, Jr.  
Director

Mr. Damon Orobona, Senior Analyst  
Area 1 Planning Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Zoning Application G-909  
Glen Aldon

Dear Mr. Orobona:

We have completed our review of the above-referenced zoning application. Unfortunately, the attached plans (on 8.5" x 11" sheets) were too small to do any substantive review of the proposed development. The following comments are tentatively set forth for the subsequent submission of a preliminary plan:

1. Show all existing topographic details (paving, storm drainage, driveways adjacent and opposite the site, sidewalks and/or bikeways, utilities, rights of way and easements, etc.) on the preliminary plan.
2. Necessary dedication along Battery Lane and Woodmont Avenue in accordance with the master plan.
3. Necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
4. Storm drainage and/or flood plain studies, with computations. Analyze the capacity of the existing public storm drain system and the impact of the additional runoff. If the proposed subdivision is adjacent to a closed section street, include spread computations in the impact analysis.
5. Show the location of proposed driveways on the preliminary plan.
6. Submit a completed, executed MCDOT Sight Distances Evaluation certification form, for the proposed entrances and existing driveways proposed to remain, for our review and approval.
7. Recorded covenant for the operation and maintenance of private streets, storm drainage systems, and/or open space areas.
8. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
9. Payment of the MCDOT preliminary plan and Traffic Impact Study review fees in accordance with Executive Regulation No. 28-06AM and Montgomery County Council Resolution No. 16-405.

**Division of Traffic Engineering and Operations**

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878  
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080  
trafficops@montgomerycountymd.gov

montgomerycountymd.gov/311



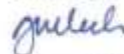
240-773-3556 TTY

Mr. Damon Orobona  
Zoning Application No. G-909  
December 6, 2011  
Page 2

10. Submit a Traffic Impact Study; coordinate with Mr. Gary Erenrich of our Director's Office regarding PAMR mitigation proposals in advance of that submission.
11. Coordinate with the MCDOT Division of Parking Management regarding impacts to the nearby public parking garage no. 35.
12. Coordinate with the MCDOT Division of Transit Services regarding site design to facilitate access to transit. Execution of Traffic Mitigation Agreement and participation in the Bethesda Transportation Management District may also be required.
11. Permit and bond will be required as a prerequisite to MCDPS approval of the record plat. The permit will include, but not necessarily be limited to the following improvements:
  - A. Improvements to the public right of way, if any are required, will be determined at the preliminary plan stage based on a review of the additional information requested earlier in this letter.
  - B. Bethesda CBD Streetscaping amenities within the public rights-of-way.
  - C. Enclosed storm drainage and/or engineered channel in all drainage easements.
  - D. Underground utility lines.

Thank you for the opportunity to review this zoning application plan. If you have any questions or comments regarding this letter, please contact Mr. David Adams, our Development Review Area Engineer for this vicinity at [david.adams@montgomerycountymd.gov](mailto:david.adams@montgomerycountymd.gov) or at (240) 777-2197.

Sincerely,



Gregory M. Leck, Manager  
Development Review Team

M:\subd\gml\docs\zoning\G-909\_Glen\_Aldan.doc

cc: Nancy Regelin; Shulman Rogers  
Jennifer Russel; Rodgers Consulting  
Ed Papazian; Kimley-Horn  
Cherian Eaper; M-NCPPC Area 1  
Cathy Conlon; M-NCPPC DARC  
Zoning Plan Folder

cc-e: Gary Erenrich; MCDOT DO  
Jeremy Souders; MCDOT DPM  
Stacy Coletta; MCDOT DTS  
Sande Brecher; MCDOT DTS  
David Adams; MCDOT DTEO



Beverly K. Swann-Staley, Secretary  
Melinda B. Peters, Administrator

January 13, 2012

Ms. Catherine Conlon, Chairwoman  
Development Review Committee (DRC)  
Maryland National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Montgomery County  
Near MD 355 @ Battery Lane  
Glen Aldon Property  
SHA Tracking No: 11-AP-MO-075-xx  
Mile Post: 2.26

Dear Ms. Conlon:

Thank you for the opportunity to review the Local Map Amendment Rezoning Application, received by this office on December 19, 2011, for the proposed Glen Aldon Property development in Montgomery County. The State Highway Administration (SHA) offers the following comments:

**Access Management Division Comments:**

1. Access to the site is proposed via Battery Lane which is a non-SHA maintained roadway.
2. No construction activity is proposed within SHA right-of-way.
3. The development plan calls for the construction for up to 692 multi-family dwelling units. Given the scale of the development and its close proximity to both MD 355 (Wisconsin Avenue) and MD 187 (Old Georgetown Road), SHA requests that the applicant submit six (6) copies of the Traffic Impact Study (TIS) for review.

Further review of this project will be withheld until the above comments have been addressed. Please submit six (6) copies of the traffic study directly to Mr. Steven Foster attention of Mr. Eric Waltman. Please reference the SHA tracking number on future submissions. Please keep in mind that you can view the reviewer and project status via SHA Access Management Division web page at (<http://www.marylandroads.com/page/amdaspx>). If you have any questions, or require additional information, please contact Mr. Eric Waltman at 410-545-5597, by using our toll free number in Maryland only at 1-800-876-4742 (x5597) or via email at [ewaltman@sha.state.md.us](mailto:ewaltman@sha.state.md.us)).

Sincerely,

Steven Foster, Chief  
Access Management Division