



4831 West Lane, Preliminary Plan Amendment 12008005A / Site Plan Amendment 82008003A

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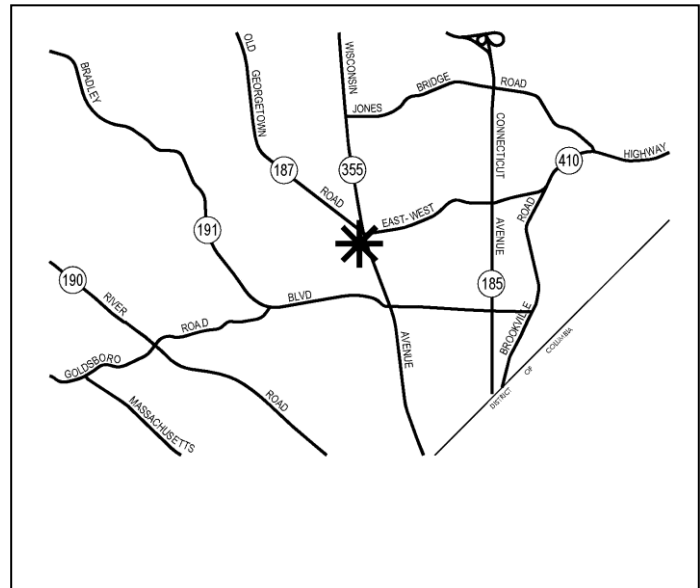
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Completed: 8/27/14

Description

- Applicant: 4831 West Lane, LLC
- Location: 4831 West Lane, Bethesda
- Gross Tract Size: 38,804 square feet
- Zone: TS-R
- Request: Preliminary and Site Plan Amendments to consolidate 4 lots into 1 lot to accommodate a 118,352 square foot seven-story building containing a maximum of 120 units, including 15% MPDUs.
- The previously approved Preliminary and Site Plans proposed a six-story building with 48 residential units, including 12.5% MPDUs.
- Sector Plan: Bethesda-Central Business District (CBD)
- Filing Date: January 24, 2014



Summary

- Staff recommends **approval** of Preliminary Plan Amendment 12008005A.
- Staff recommends **approval** of Site Plan Amendment 82008003A.
- The application includes Lots 24, 25, 26, and 27, within Block 13 of the Edgemoor Subdivision of Bethesda.
- Lot 26 and the previous right-of-way dedications attributable to Lots 24, 25, and 26 were previously approved for reclassification from the R-60 zone to the TS-R zone in Local Map Amendment G-954 on September 10, 2013.
- Proposed Amendments follow approval of Development Plan Amendment (DPA) 13-01, approved by the County Council on September 10, 2013.

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SECTION 1: CONDITIONS OF APPROVAL

PRELIMINARY PLAN AMENDMENT RECOMMENDATION AND CONDITIONS

Staff recommends approval of Preliminary Plan Amendment 12008005A, 4831 West Lane. All previous conditions of approval associated with application 120080050, Holladay at Edgemoor, are superseded by the following conditions:

- 1) All conditions imposed by the approval of Preliminary Plan No. 120080050 in Planning Board Resolution 08-79 dated July 21, 2008, are superseded by the conditions contained herein.
- 2) This Preliminary Plan is limited to a maximum of 118,352 square feet of multi-family residential uses, consisting of no more than 120 multi-family dwelling units (including a minimum of 15% MPDUs).
- 3) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated May 30, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the Amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 5) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated March 20, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the Amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District and must execute the TMAg prior to approval of the Certified Site Plan. The TMAg must include trip mitigation measures recommended by MCDOT.
- 7) The certified Preliminary Plan must contain the following note:
Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of Site Plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.
- 8) The record plat must show necessary easements.
- 9) The final number of MPDUs as per condition #2 above will be determined at the time of Site Plan approval.
- 10) The Planning Board has accepted the recommendations of the Montgomery County Department of Housing and Community Affairs (“MCDHCA”) in its letter dated June 2, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore,

the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDHCA provided that the Amendments do not conflict with other conditions of the Preliminary Plan approval.

- 11) No clearing, grading or recording of plats prior to certified Site Plan approval.
- 12) The Applicant must dedicate and show on the record plat(s) the following dedications:
 - a. Montgomery Lane: an additional 1.0 foot dedication along the Subject Property frontage to achieve an ultimate right-of-way of 26 feet from the existing right-of-way centerline;
 - b. West Lane: an additional 2.5 foot dedication along the Subject Property frontage to achieve an ultimate right-of-way of 25 feet from the existing right-of-way centerline.
- 13) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at Site Plan.
- 14) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 15) Prior to approval of the Certified Site Plan, an ISA certified arborist must prepare a revised tree save plan (subject to Staff approval) with detailed and specific tree save measures for any offsite tree that has disturbance to more than 1/3 of its critical root zone (CRZ).
- 16) The Applicant must offer affected adjacent property owner(s) that border the application site on the west and north to remove and replace offsite trees that cannot be adequately protected. Any replacement tree planting must have a minimum two year warranty.

SITE PLAN AMENDMENT RECOMMENDATION AND CONDITIONS

Staff recommends approval of Site Plan Amendment 82008003A, 4831 West Lane. All previous conditions of approval associated with application 820080030, Holladay at Edgemoor, are superseded by the following conditions:

Conformance with Previous Approvals

- 1) All conditions imposed by the approval of Site Plan No. 820080030 in Planning Board Resolution 08-74 dated July 22, 2008, are superseded by the conditions contained herein.
- 2) Development Plan Conformance
The proposed development must comply with the binding elements of the Development Plan DPA 13-01.
- 3) Preliminary Plan Conformance
The proposed development must comply with Preliminary Plan Amendment No. 12008005A, including any Amendments approved by the Planning Board.

Environment

- 4) Noise Attenuation
 - a. Prior to issuance of building permits for affected units, the Applicant must provide Staff with certification from an engineer that specializes in acoustical treatment that the building shell for residential units affected by exterior noise levels above 65 dBA, Ldn, will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA, Ldn, as identified in noise analysis reports.
 - b. Prior to issuance of Use and Occupancy Certificates for affected units, the Applicant must provide Staff with certification from the builder that noise-impacted units are constructed in accordance with recommendations of an engineer who specializes in acoustical treatment.

- 5) Stormwater Management
The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service (MCDPS) – Water Resources Section in its stormwater management concept letter dated March 20, 2014, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the Amendments do not conflict with other conditions of the Site Plan approval.

Parks, Open Space, and Recreation

- 6) Recreation Facilities
- a. The Applicant must meet the square footage requirements for all of the applicable recreational elements and demonstrate on the Certified Site Plan that each element is in conformance with the approved *Montgomery County Planning Board Recreation Guidelines*.
 - b. The Applicant must provide the following minimum recreation facilities for this phase:
 - i. 3 Picnic/Sitting Areas;
 - ii. Indoor Fitness Facility;
 - iii. Pedestrian System.
- 7) Maintenance
Maintenance of all on-site landscaping, lighting, hardscape, and site elements is the responsibility of the Applicant and subsequent owner(s).

Transportation

- 8) Pedestrian and Bicycle Facilities
The Applicant must install short term public bicycle parking for six bikes (inverted “U” racks) along the site frontage. Exact locations of the racks to be determined at the time of Certified Site Plan.

Density and Housing

- 9) Moderately Priced Dwelling Units (MPDUs)
- a. The Applicant must provide a minimum of 15 percent MPDUs in accordance with an Agreement-to-Build with the Department of Housing and Community Affairs (DHCA).
 - b. The Agreement-to-Build shall be executed prior to the release of any building permits.

Site Plan

- 10) Building Height
The maximum height for the multi-family building is 70 feet, as measured from....
- 11) Architecture
The final exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the submitted architectural drawings, dated May 7, 2014, as determined by Staff.
- 12) On-Site Lighting
The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.
- 13) Financial Security and Agreement
Prior to issuance of the first building permit, the Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of

General Counsel that outlines the responsibilities of the Applicant; the Applicant must provide a performance bond(s) or other form of financial surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.
- b. The amount of the bond or surety shall include plant material, on-site lighting, recreational facilities, site furniture and related landscape improvements.
- c. Bond/surety shall be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.

14) Certified Site Plan

Prior to approval of the Certified Site Plan, the Applicant must make the following revisions and/or provide information for Staff review and approval:

- a. Include the Recreation Calculations on the cover sheet;
- b. Include the Forest Conservation exemption, stormwater management concept approval, development program, inspection schedule, and the Planning Board Resolution approving this Site Plan after the cover sheet;
- c. Remove unnecessary sheets as identified by Staff;
- d. Make corrections and clarifications to details, calculations, recreation facilities, labeling, data tables, and schedules as needed and consistent with the Staff Report;
- e. Coordinate with Staff regarding necessary revisions to the Landscape Plans and Lighting Plans to address minor revisions to the notes, details and final locations of landscape elements. The minor changes must be approved by Staff and reflected on the Certified Site Plan.

SECTION 2: CONTEXT AND PROPOSAL

SITE DESCRIPTION

Vicinity

The application includes Lots 24, 25, 26, and 27 located at the northwest quadrant of the intersection of Montgomery Lane and West Lane, approximately 200 feet east of Arlington Road and approximately 400 feet west of Woodmont Avenue, in Downtown Bethesda. The site is zoned Transit Station Residential (TS-R). Presently, the site is developed with one-family detached homes used for commercial purposes.

The area surrounding Lots 24, 25, 26, and 27 includes a mix of primarily residential and some commercial uses. To the west along Montgomery Lane are one-and-a-half to two-story one-family homes, currently operating as offices, that were rezoned from R-60 to TS-R under applications G-779 and G-865 for the eventual construction of a 46-foot high multi-family residential building containing 11 dwelling units. Northwest of the site, along Arlington Road and Edgemoor Lane, is the Villages of Bethesda townhouse community, consisting of 21 dwelling units with a partially below-grade parking garage to serve the units. These units extend up to 42 feet in height. Directly to the north is a partially below-grade parking structure for the adjacent Chase multi-family residential building that also provides an outdoor recreation area on the top of the structure for residents of the Chase. The Chase is a 12-story, 120-foot, multi-family building in the TS-R zone northeast of the site with access from Woodmont Avenue.

Along West Lane there are two R-60-zoned properties improved with a one family detached dwelling unit. The property directly to the east across West Lane was recently rezoned from the R-60 zone to the TS-R zone. On July 11, 2013, the Planning Board approved Preliminary Plan #120130120 and Site Plan #820130150 for a 65-foot tall building (69 feet to the parapet) containing four residential units, a partial cellar, and eight garage parking spaces. This site is currently under construction.

Along Montgomery Lane to the east is property developed under the TS-R zone in accordance with LMA G-763 as a 10-story (100-foot height) multi-family building known as the Edgemoor. Across Montgomery Lane to the south is the City Homes townhouse development in the TS-R zone. City Homes consists of 29 dwelling units, developed in five rows that run perpendicular to Montgomery Lane. These units are approximately 48 feet in height.

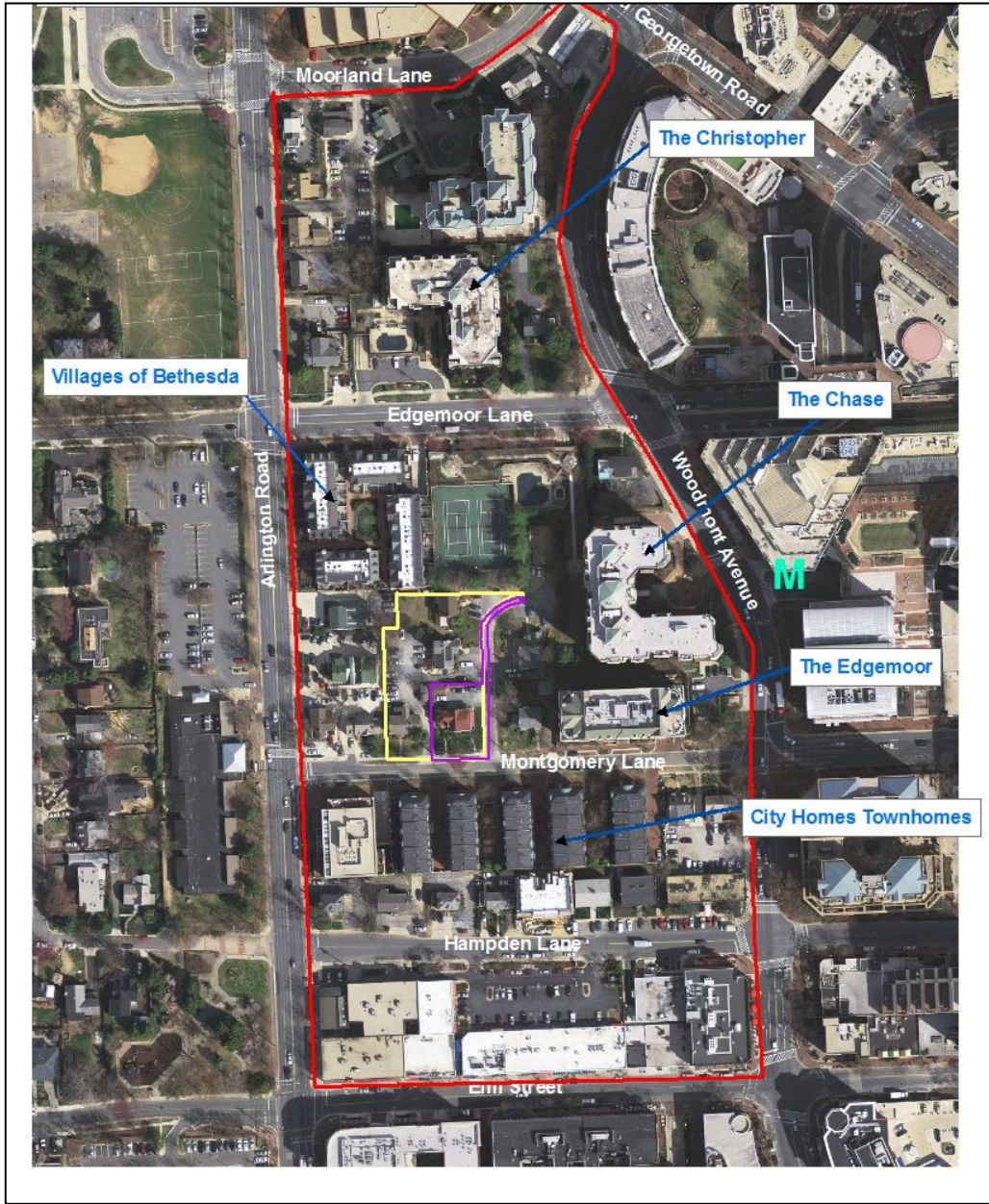


Figure 1: Vicinity Map



Figure 2: Zoning Map

Site Analysis

The overall site is generally flat, and has approximately 60 feet of frontage on Montgomery Lane and approximately 85 feet of frontage on West Lane. Montgomery Lane is a mixed street with a pavement width of 20 feet. West Lane is a tertiary residential street with a pavement width of 20 feet. The Subject Property is located approximately 950 feet walking distance from the Bethesda Metro Station. The land area is located at the southern end of the Transit Station Residential District as delineated by the Bethesda CBD Sector Plan.

PROJECT DESCRIPTION

Previous Approvals

Lots 24, 25, and 27 were first rezoned from the R-60 zone to the TS-R zone by Local Map Amendment G-843, which was approved by the District Council on July 10, 2007 (#16-246). G-843 rezoned these recorded lots but did not rezone previously dedicated right-of-way for West Lane from the R-60 zone to the TS-R zone. The G-843 Development Plan included an L-shaped building that wrapped the adjacent Lot 26 that was not included in the project. The Planning Board then approved a combined preliminary and Site Plan application (120080050 & 820080030) for the Holladay at Edgemoor Building on June 5, 2008. The project was subject to the Binding Elements of the Development Plan for Local Map Amendment G-843. This proposed development created one lot out of existing Lots 24, 25, and 27, Block 13, for a 6-story multi-family building with 48 units, including 6 MPDUs. Seventy-eight parking spaces were provided on the site below grade. A certified Site Plan was also approved following Planning Board approval; however, building permits were never issued for the building. In 2009, the current Applicant, 4831 West Lane, LLC, acquired lots 24, 25, and 27 as well as lot 26.

By filing a Local Map Amendment Application, the Applicant requested to rezone Lot 26 and previous right-of-way dedications attributable to Lots 24, 25, and 26, from the R-60 zone to the TS-R zone. This rezoning allowed for a contiguous gross tract area of 38,804 square feet available for redevelopment under the TS-R zoning requirements. The Development Plan Amendment application associated with the rezoning application, DPA 13-01, was filed concurrently to permit a larger building than was previously approved under the original development plan. Such a building is feasible with a larger, more rectangular site. The DPA application proposed to redesign the building to incorporate additional units and increase the overall density. The Montgomery County Planning Board recommended approval of the DPA to the Hearing Examiner on December 20, 2012, and again on March 7, 2013, after the Applicant submitted a revised proposal. The Montgomery County Council approved LMA and DPA 13-01 on September 10, 2013 with binding elements.

Proposal

The Applicant, 4831 West Lane LLC, submitted applications for a Preliminary Plan Amendment and Site Plan Amendment for the Property, increasing the scale of development from a six-story multifamily residential building with a maximum of 48 units to a seven-story multifamily residential building with a maximum of 120 units. Whereas the original approval included only the minimum 12.5% MPDUs (6 MPDUs), the proposed Amendments include 15% (18 MPDUs). The height of the building is proposed to be 70 feet rather than the previously approved 65 feet. Parking for the units is provided in garage spaces located on two levels below the building, accessed from West Lane. Loading will take place within a lay-by space along West Lane and a space inside the parking garage. The proposed building will

have its pedestrian entrance at the corner of West Lane and Montgomery Lane. Public pedestrian access will be provided via sidewalks along both Montgomery and West Lanes. The public use space provided includes landscaping along the West Lane and Montgomery Lane building façades as well as a circular landscape element framed by a seating bench located at the corner of the site. The seating area will act as an extension of the pedestrian realm from Montgomery Lane and West Lane.





3 Montgomery Ln view looking East
SCALE: 1/8" = 1'-0"

Figure 3: Renderings of currently proposed residential building



Figure 4: Montgomery Lane building facade



Figure 5: West Lane building facade

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. Staff was contacted by some community members regarding the Bethesda Downtown Plan, which is currently in progress as part of the M-NCPPC work program. These citizens expressed that future recommendations for the TS-R district, particularly development on West Lane and Montgomery Lane, should be closely examined to ensure that height and overall density in this area is consistent with existing low-rise development. Staff has not received any written correspondence on either of these applications as of the date of this report.

SECTION 3: PRELIMINARY PLAN AMENDMENT

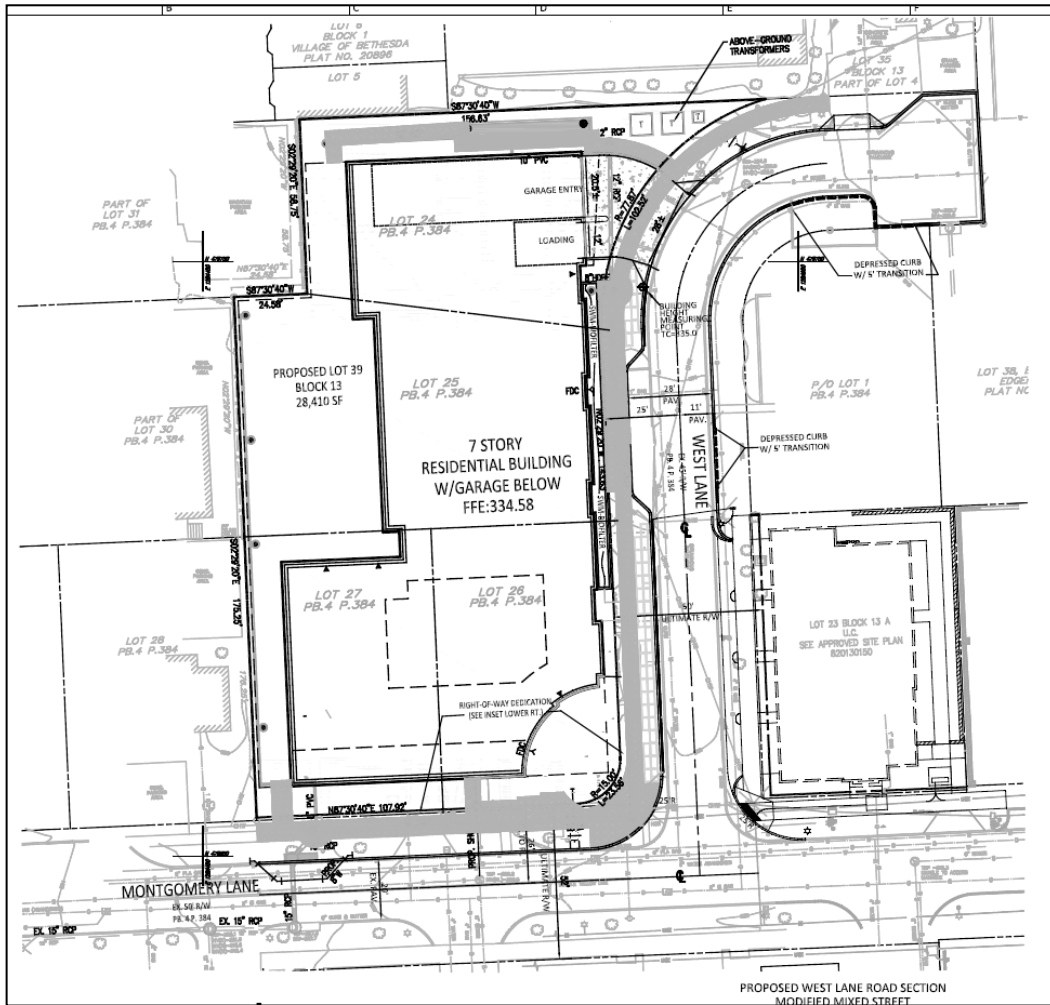


Figure 5: Preliminary Plan

ANALYSIS AND FINDINGS

Conformance to the Master Plan

The proposed subdivision substantially conforms to the recommendations adopted in the *Bethesda CBD Sector Plan*. The property is located in the Transit Station Residential (TS-R) District and the Plan recommends that development follow the recommendations and guidelines for that district, as well as the Sector Plan as a whole:

The Plan recommends a minimum of 45 dwelling units per acre everywhere except Arlington Road, where there would not be a minimum density in order to allow townhouse development at lower densities. The Plan anticipates that some projects will

incorporate higher densities, and the full 2.5 FAR densities (about 100 dwelling units per acre) would be allowed. (p. 82)

The original Preliminary and Site Plan applications included 48 multi-family dwelling units, which yielded 73 dwelling units per acre. This range was within the Plan recommendation of 45 to 100 dwelling units per acre. This Amendment seeks to increase the number of units to a maximum of 120 units. If approved for the construction of up to 120 units, the Amendments yield a density of 135 units per acre.

Section 59-D-1.61(a)(1)(A) of the Zoning Ordinance, however, permits a development plan to exceed the dwelling units per acre or FAR limit recommended in a master or sector plan “to permit the construction of all MPDUs under Chapter 25A, including any bonus density units, on-site in zones with a maximum permitted density of more than 39 dwelling units per acre or a residential FAR more than 0.9...” Subsection (a)(1) further concludes that “the additional FAR and height allowed by this subsection is limited to the FAR and height necessary to accommodate the number of MPDUs built on site plus the number of bonus density units.” This is the only scenario in which the Applicant could exceed the Sector Plan density recommendation.

The property is proposed to be developed at a FAR of 3.05. The Plan recommends a FAR of 2.5, however, under this application a minimum of 15% MPDUs will be constructed on site. In return for the additional MPDUs, the Applicant is receiving a 22% residential density bonus allowed in the Zoning Ordinance, which results in an additional FAR of 0.55. Therefore, the 3.05 FAR is allowable in this instance.

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

The preliminary and Site Plan Amendments include active and passive recreation space for residents in a rear garden, common ground-level outdoor amenity areas, roof top amenity space, and indoor community rooms. Thirty-two percent of the site area includes active and passive recreation areas. Ten percent of the net lot area of the site is proposed as public open space. With the inclusion of lighting, landscaping, sidewalks, and street furniture, such features will create a usable public open space on Montgomery and West Lanes where it does not presently exist.

The Sector Plan’s Urban Design guidelines applicable to this Amendment application are as follows:

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

The Preliminary Plan Amendment proposes a gross tract area of 38,804 square feet, which exceeds the minimum lot size required. In the original Preliminary Plan application, Lot 26 was left as an isolated parcel. By including Lot 26 in the application, more cohesive streetscape and building lines will be present along West and Montgomery Lanes. Additionally, a more functionally efficient building can be designed for the site.



Figure 6: Comparison of site design between the original and proposed plans

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

The original Holladay at Edgemoor mid-rise building was proposed to be 65 feet in height, and filled out the portions of the parcel included in the application. This Amendment now shows a building with a maximum height of 70 feet, which is an increase of 5 feet, or 7 percent.

The Sector Plan recommends building heights ranging from 35 feet to 200 feet, and recommends a height of 65 feet for the majority of the TS-R zone, while also recommending that the TS-R area include low-rise development. Since a building height of less than 5 stories is generally considered a low-rise building, and buildings greater than 10 stories are generally considered a high-rise building, a mid-rise building is generally considered to be 5 to 9 stories in height. As such, a mid-rise building remains suitable for this site, particularly since the additional height affords a greater percentage of MPDUs. To further promote compatibility, along Montgomery Lane the building steps down from the maximum height of 70 feet to 51 feet.

The 70 foot tall building has a more prominent building design than the design of the Holladay at Edgemoor building, due to the inclusion of Lot 26 at this time. The rectangular lot allows for a rectangular building that creates a defined edge along the street. The building has been designed to fill out most of the tract area while still providing adequate active and passive recreation space for future residents. The proposed design satisfies this objective of the Sector Plan.

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

The site fronts on neither Arlington Road nor Woodmont Avenue. However, the proposed 70 foot building height does fall within a range of building heights existing on the block that will create a transition from Woodmont Avenue to Arlington Road. At Woodmont Avenue, the Edgemoor is 100 feet

high, then the mid-rise building approved east of the Subject Property under G-908 will be 65 feet, followed by the subject building at 70 feet high, stepping down to the building fronting Arlington Road approved under G-865 at 46 feet in height.

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

The building does not front on Arlington Road. The Montgomery Lane façade will be set back 5 feet from the property line and 25 feet from the curb of the street. The proposed setback will be consistent with the setbacks of existing and approved but not-yet-built projects along Montgomery Lane. The proposed West Lane façade will be setback 4 feet from the property line and 18 feet from the curb.

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

While the building does not include pitched-roof elements as listed in the guideline, the design achieves the broader intent of this guideline by projecting a modern, residential image through various design features:

- the primary architectural building massing is red brick and of a scale which corresponds to the existing low-rise residential development to the west and south, as well as the existing high-rise development to the east and north;
- the sixth and seventh floors of the building will be constructed of lighter shade materials than the rest of the building and will be set back 12 feet from the street façade to break up the height of the building;
- a metal and glass corner element at Montgomery and West Lanes breaks up the width of the building, while at the same time highlighting the building's entrance and residential lobby;
- additional balconies on the first floor of the building which clearly indicate the residential character of the building while at the same time enlivening the fenestration.

Previously approved projects such as Edgemoor at Arlington North (LMA G-779) and 4825 Montgomery Lane project (LMA G-908) provide flat roofs much like the subject application. For these reasons, the provision of a "pitched roof line" or similar design feature is not essential to achieve the intent.

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

The previous Holladay at Edgemoor building included an entry to the building located off West Lane that was difficult to discern from the site's street frontages. The proposed Site Plan Amendment shows the building's primary entrance at the intersection of Montgomery and West Lanes. A lobby in this area will be provided for the comfort of residences and visitors. To establish a uniform building design, the Applicant has not elected to provide unit entrances along West or Montgomery Lanes, as was the case in the previous development plan. Such entrances would impact the outdoor amenity areas that are

intended for residents of the entire building and for the public along the street. The Applicant has, however, revised the design to include balconies along the first floor units which will achieve a more active street presence.

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

An underground parking garage with access from West Lane will service this project. Loading is provided within the building and along West Lane.

Public Facilities

Roads and Transportation Facilities

The site is currently comprised of four separate parcels with access points on Montgomery Lane and West Lane. Future vehicular access is proposed to occur at the northeast corner of the site, along West Lane. The proposed access point will consist of one 20.5-foot-wide driveway leading down to the parking garage below grade. Loading is provided on West Lane via one 12-foot-wide loading space, in a lay-by configuration along the West Lane site frontage. A secondary loading space is also located in the parking garage. Pedestrian and bicyclist access to the site will be provided along both Montgomery Lane and West Lane.

The immediate area is well served by transit that includes the Red Line Bethesda Metrorail Station (located approximately ¼ mile to the east of the site), Metrobus, RideOn, and the Bethesda Circulator. Future transit in the area includes a planned Purple Line station. Specific transit routes near the Site include:

1. RideOn Bus Routes 29, 30, 32, 34, 36, 47, 70
2. WMATA Metrobus Routes J2, J3, J4

Master Plan Roadways and Pedestrian/Bikeway Facilities

The 1994 *Bethesda CBD Sector Plan* and 2005 *Countywide Bikeways Functional Master Plan* identify Montgomery Lane, along the southern site frontage, as a Biker Friendly Area and Mixed Street with a minimum right-of-way width of 52 feet. Mixed Streets are described in the Sector Plan as streets that accommodate higher levels of pedestrian activity. West Lane, along the eastern site frontage, does not have a specifically recommended right-of-way width in the applicable Master Plans. The Applicant is dedicating two additional feet for a 50 foot right-of-way, which will serve as a mixed street much like Montgomery Lane.

Adequate Public Facilities Review

A traffic statement dated May 7, 2014, was submitted for the subject application per the *LATR/TPAR Guidelines*, since the proposed development was estimated to generate less than **30** 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. Trip generation, summarized in Table 1, shows that the proposed development will generate 26 new vehicular trips in both the morning and evening peak hours.

Local Area Transportation Review (LATR) & Transportation Policy Area Review (TPAR)

Since the proposed development will generate fewer than 30 peak hour trips, the project is not subject to LATR. Exemption from LATR was documented in the Applicant's traffic statement, dated June 17, 2013. No further analysis is necessary to satisfy LATR requirements.

The proposed development is within the Bethesda CBD Policy Area and is therefore exempt from the transit test, and is found to be adequate under the roadway test of TPAR. As a result, the proposed development satisfies *2012-2016 Subdivision Staging Policy* without making a TPAR payment.

The proposed development satisfies the LATR and TPAR requirements of the APF review and will provide safe, adequate, and efficient vehicular and pedestrian access.

**TABLE 1
SUMMARY OF SITE TRIP GENERATION
FOR THE 4831 WEST LANE PROJECT**

Trip Generation	Morning Peak-Hour			Evening Peak-Hour		
	In	Out	Total	In	Out	Total
Existing (Credit)						
Office (6,735 SF)	9	1	10	3	7	10
Proposed Development (CBD Rates)						
High Rise Apartments (120 DUs)	7	29	36	24	12	36
Net Increase/Decrease in Peak Hour Trips (Proposed – Existing)	(2)	28	26	21	5	26

Source: Wells and Associates, Inc. Traffic Statement dated May 7, 2014.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed 120 residential dwelling units. The building will be served by appropriately sized public water and sewer connections. Gas, electric, and telecommunications services are available to serve the site. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has adequate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. This Preliminary Plan Amendment is not within a school moratorium area and is not subject to a School Facilities Payment.

Environment

The Subject Property was granted a Forest Conservation exemption #42012159E on May 8, 2012. The exemption was granted because the proposed redevelopment will occur on a tract area that is less than one acre and the activity will not result in the clearing of more than 20,000 total square feet of existing forest, or any existing specimen or champion tree. There are no forested areas on the property, and the property does not contain any environmentally sensitive features.

However, Staff requested submittal of a tree save plan since there are sizable offsite trees that are immediately adjacent to the proposed development. Some of the nearby trees would be heavily impacted and likely require removal. The original preliminary plan included conditions of approval (5 & 6) which required detailed and specific tree save measures for any offsite tree that has disturbance to more than 1/3 of its critical root zone (CRZ). Furthermore the conditions included a provision that the Applicant shall offer the affected property owner the removal and replacement of the offsite trees that are not adequately protected. Similar conditions are currently recommended by Staff.

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on March 20, 2014, which will meet required stormwater management goals via Environmental Site Design and structural measures. A partial green roof, micro-biofilter-type planter boxes, and two Silva Cell facilities are proposed to provide treatment for the first inch of runoff from the consolidated lot and adjacent right-of-way improvements. The remainder of the stormwater volume to be managed will be treated by a volume-based stormfilter.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development contemplated.

The lot was reviewed for compliance with the dimensional requirements for the TS-R zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Truncation

Section 50-26(c)(3) of the Subdivision Regulations requires that the property lines of corner lots be truncated 25 feet from the intersection. This provides additional right-of-way area at intersections that ensures adequate sight distance is available and creates space for traffic channelization. But the regulation also allows the Planning Board to specify a greater or lesser truncation depending on the specific sight distance and channelization needs at the intersections adjacent to the Subject Property.

In this case, the applicant is proposing to provide an approximate 15-foot radial truncation at the intersection of West Lane and Montgomery Lane. Full truncation at this intersection is not necessary because adequate sight distance exists. Providing full truncation would negatively impact the design of the proposed Project and the provision of the required public use space. The Project is proposing to provide exactly the required amount of public use space. For these reasons, Staff recommends that the Planning Board find that the proposed truncation in this location is appropriate at this intersection. MCDOT supports the provision of less than full truncation, and affirms this in their letter dated May 30, 2014 (Appendix B).

Compliance with Prior Approvals

The application complies with all applicable binding elements of County Council Resolution No. 17-863 approving Local Map Amendment G-954 and Development Plan Amendment 13-01. A detailed analysis of such compliance is included in the Site Plan Amendment Section on page 22 of this report. All conditions of the original Preliminary Plan are superseded by the Preliminary Plan Amendment conditions above.

CONCLUSION

The proposed lot meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conforms to the recommendations of the *Bethesda CBD Sector Plan*. Access and public facilities will be adequate to serve the proposed lot, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the Preliminary Plan Amendment application with the conditions specified above is recommended.

SECTION 4: SITE PLAN AMENDMENT

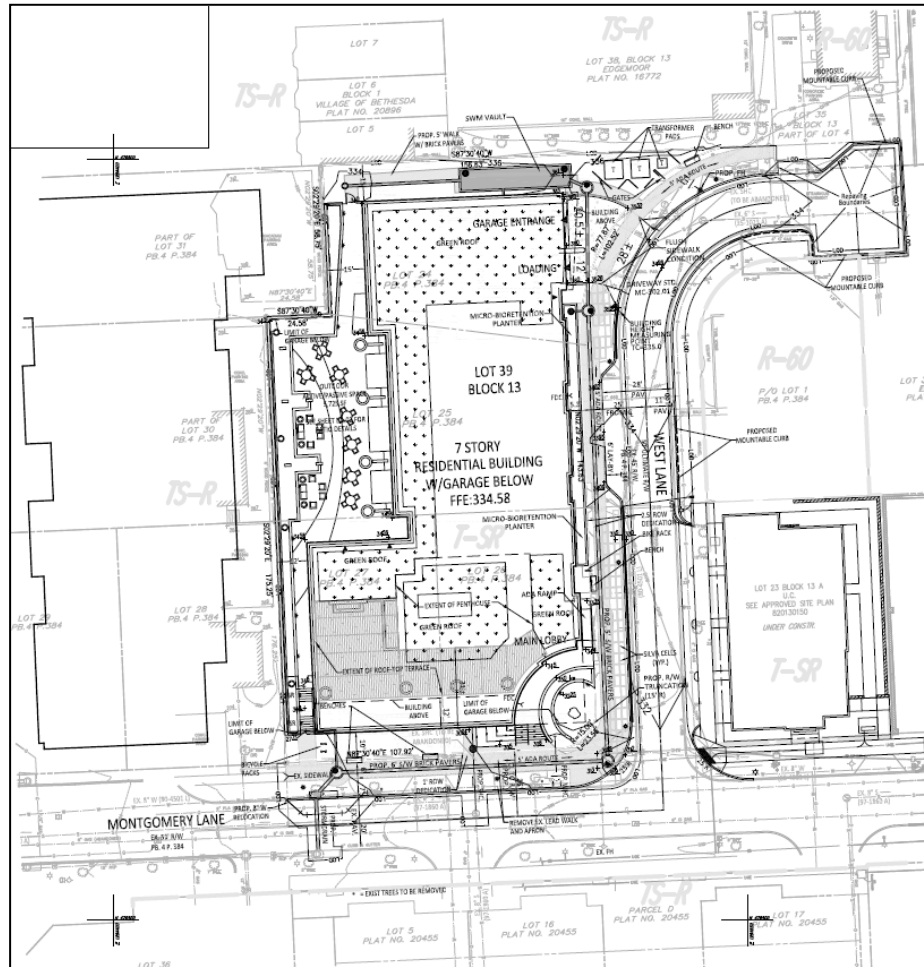


Figure 7: Site Plan

ANALYSIS AND FINDINGS – Sec 59 D 3.4 (c)

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

Due to the large number of binding elements associated with DPA 13-01, the binding elements and the Site Plan Amendment’s conformance are listed in the following table.

Required	Proposed
1. The building will have a maximum height of 70 feet, as measured from the building height measure point along the West Lane top of curb, whose elevation is 335.8, and as shown on the Site Plan.	The Site Plan Amendment proposes a 70 foot tall building.
2. The development will have a maximum density of 3.05 FAR.	The Site Plan Amendment proposes a FAR of 3.05 to accommodate a maximum of 120 units, including 15% MPDUs and bonus density units.
3. The development will provide 15 percent of the units ultimately permitted for construction as MPDUs, provided that the density of approved for construction is 3.05 FAR.	The Site Plan Amendment proposes a FAR of 3.05 to accommodate a maximum of 120 units, including 15% MPDUs and bonus density units.
4. The development will provide a minimum of 10 percent public use space.	The Site Plan Amendment proposes 10.2% public use space, as calculated over the net lot area.
5. The development will provide a minimum of 20 percent active/passive recreational space.	The Site Plan Amendment proposes 32% recreational space for use by residents of the building.
6. The western façade of the development will include a minimum of 20 percent windows.	The building design satisfies this requirement, as demonstrated in the diagram shown on page 28 of this report.
7. The Applicant will enter into a construction agreement with the Villages of Bethesda prior to the commencement of construction which shall include, but not be limited to underpinning provisions, crane swing provisions and an agreement to conduct pre and post construction evaluations of the garage and foundation of the Villages of Bethesda.	The Applicant understands this requirement. M-NCPPC does not review agreements between private parties.
8. Applicant will dedicate 2 ½ feet along the West Lane frontage of the property and subject to DOT, DPS and M-NCPPC requirements will provide 11' paving from center line to face of curb.	The Site Plan Amendment proposes this dedication and pavement width.
9. In connection with the development, Applicant shall pave and provide curb along West Lane in its entirety to 22 feet in width except for that portion of West Lane from the center line east, along the frontage of Lot 20. That portion of West Lane in excess of 22 feet at northeast terminus shall only be repaved to current paved boundaries as delineated on the plan. Paving of southern terminus of West Lane to exceed 22 feet in width in order to provide appropriate intersection with Montgomery Lane, as determined by DOT.	The Site Plan Amendment conforms to this requirement.

<p>10. Declarant and/or its successors will maintain on-site landscaping.</p>	<p>The Applicant understands this requirement and will reflect in building documents. Binding element is reflected in Site Plan condition of approval #7.</p>
<p>11. Development will comply with the Montgomery County Green Buildings Law and achieve a minimum certified level rating in the appropriate LEED rating system, or equivalent rating in another energy and environmental standard as verified by DPS.</p>	<p>The Applicant understands this binding element is county law and compliance is necessary to receive a certificate of occupancy.</p>
<p>12. The following features will form the basis for the final design to be determined at Site Plan;</p> <ul style="list-style-type: none"> • Predominately masonry façade, excluding accenting details, which may include, but not be limited to brick, stone, or manufactured stone, precast or ceramic tiles. • Landscaping to include street trees along West Lane and Montgomery Lane in conformance with the Bethesda Streetscape Standards, as amended; and landscaping provided on the plaza edges along the western property line. • Flat roofs • Vehicular access to be located in northeast corner of the property off West Lane. • On-site parking located below grade. 	<p>The building design in the submitted architectural plan sheets reflects a building with predominantly masonry façade with accenting details of metal and lighter shade materials. The landscaping plan includes details for streetscape improvements in accordance with the Bethesda Streetscape Standards. A flat roof is proposed. Vehicular access to a below grade parking garage is located in the northeast corner of the property off West Lane, as shown in both the preliminary and Site Plan Amendments.</p>
<p>13. The management entity of the building (whether rental or condominium) must require that all service deliveries occur through the service entry located on West Lane.</p>	<p>The Applicant understands this requirement and will reflect in building documents.</p>
<p>14. Applicant will screen the transformer units along the northern property line.</p>	<p>The landscape plan includes screening of the transformer units with metal posts connecting perforated screen panels as shown on Sheet L3.03.</p>
<p>15. Applicant will enter into a construction agreement with the property owner of 4828 West Lane prior to the commencement of construction to mitigate off-site impacts caused by construction activities.</p>	<p>The Applicant understands this requirement. M-NCPPC does not review agreements between private parties.</p>
<p>16. The above grade façade of the building shall be set back a minimum of 15 feet from the northern property line.</p>	<p>The Site Plan Amendment proposes a setback of 15 feet in this location.</p>
<p>17. The outdoor private amenity space, located on the western portion of the property, will be substantially in keeping in terms of size and dimensions with the development plan submitted in February, 2013.</p>	<p>The Site Plan Amendment includes outdoor amenity space in conformance with that shown on DPA 13-01.</p>
<p>18. The sixth and seventh floors of the building will incorporate a 12 foot step back from the face of the building for the portion of the building that runs parallel to Montgomery Lane.</p>	<p>A 12-foot stepback for the 6th and 7th floors is shown on the Site Plan Amendment.</p>
<p>19. Applicant will limit the height of the landscape lighting in the private outdoor amenity space to a maximum of 24”.</p>	<p>The lighting plan includes such details in conformance with this requirement.</p>

20. The public use space concept will substantially conform to the Development Plan Amendment drawing and rendering as shown on pages 4 and 5 of the technical Staff report dated February 25, 2013.	The public use space concept shown in the Site Plan Amendment substantially conforms to the February 25, 2013 Staff report.
21. The building will have a minimum of 100 dwelling units and a maximum of 120 dwelling units, provided that the approved density is 3.05 FAR and the maximum height is 70 feet.	The Site Plan Amendment proposes a FAR of 3.05 to accommodate a maximum of 120 units in a maximum building height of 70 feet.
22. The mechanical penthouse will be located a minimum of 25 feet north from the face of the building for the portion of the building that runs parallel to Montgomery Lane.	The penthouse is setback approximately 31 feet from the face of the building that runs parallel to Montgomery Lane.
23. The landscape plan, to be included in the Site Plan application, shall include proposed landscaping for the common areas on the rooftop.	The landscape plan includes details for the common rooftop areas on Sheets L1.04 and L5.03.
24. No lay-by will be requested along the Montgomery Lane frontage of the building.	A lay-by along Montgomery Lane was not requested as part of the Site Plan Amendment application.
25. The building will be setback a minimum of 36 feet from the existing center line of Montgomery Lane.	The Site Plan Amendment depicts a building setback of 36 feet from the center line of Montgomery Lane.
26. The façade materials for the 6 th and 7 th floors of the building will be lighter in color than the remaining façade treatment.	The façade materials for the 6 th and 7 th floors is proposed to be a lighter shade as depicted on Architectural Plan Sheet 1.03.

2. *The Site Plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The proposed development site is designated Transit Station Residential (TS-R), which was created to provide locations where multi-family residential development already exists or where such development is recommended by an approved and adopted master plan. The development standards are minimal within the TS-R Zone because these projects are subject to the provisions of a development plan approved by the District Council.

The purpose of the TS-R Zone includes: promoting effective use of transit stations and areas; providing residential and compatible uses within walking distance of transit stations; providing a range of residential densities and price ranges; and providing freedom in building design and site layout that will be harmonious with the surrounding context. The proposed development provides 120 multi-family units, including 15% MPDUs, within close proximity to mass transit facilities, including the Bethesda Metro Station. The building has been designed as a mid-rise apartment building that steps down as it approaches shorter buildings along Montgomery Lane. The site has been detailed and designed to create a comfortable, functional environment for daily life and allows the proposed use. As demonstrated in the Data Table, the Site Plan Amendment meets all the requirements of the TS-R Zone under the optional method of development.

Project Data Table for the TS-R Zone, Optional Method of Development

Development Standard	Permitted/ Required	Required per DPA 13-01	Proposed Site Plan Amendment (82008003A)	Approved Site Plan (820080030)
Min. Gross Tract Area (square feet)	18,000	n/a	38,804 ¹	28,537
Max. Building Height (feet)	n/a	70	70 ²	65
Min. MPDUs (dwelling units)	12.5%	15%	15%	12.5%
Max. Floor Area Ratio (FAR)	2.5	3.05	3.05 ³	2.5
Max. Dwelling Units	n/a	100-120	120	48
Min. Building Setbacks (feet)				
Montgomery Lane	n/a	36 from centerline	5, 36 from centerline	15
West Lane	n/a	n/a	4	0
North property line	n/a	15	15	22
Side (west property line)	n/a	n/a	10	6
Open Space (% of net lot)				
Public Open Space	10	10	10.2	10.1
Active/Passive Recreation Space	20	20	32	21.1
Total	30	30	42.2	31.2
Parking Spaces	123	n/a	123	77
Bicycle Spaces	6	n/a	6	13

The overall density, which is proposed at 3.05 FAR on the 38,804 square foot Site, is above the maximum density of 2.5 FAR. This is permissible pursuant to Section 59-D-1.61(a)(1)(A) of the Zoning Ordinance, which allows for the maximum FAR to be exceeded if it allows for the construction of all MPDUs under Chapter 25A including bonus density units. For this application, the maximum 15% MPDUs are provided, thus allowing an FAR of 3.05. The proposed Amendment meets the density requirements of the zone and recommendations in the *Bethesda CBD Sector Plan*.

The Amendment proposes to increase the maximum height of the building from 65 feet to 70 feet. The maximum building height allowed in the TS-R zone is not specified but generally

¹ Net lot area is 28,410 square feet after previous and proposed dedication.

² The maximum building height allowed in the TS-R zone is not specified but generally established through the associated development plan.

³ Section 59-D-1.61(a)(1)(A) of the Zoning Ordinance permits a development plan to exceed the dwelling units per acre or FAR limit recommended in a master or sector plan if it allows for the construction of all MPDUs under Chapter 25A including any bonus density units.

established through the associated development plan, which established 70 feet for DPA 13-01 which this Site Plan Amendment seeks to implement. The proposed height of 70 feet is suitable for a residential building in the Bethesda Central Business District within close proximity to transit, employment opportunities, and commercial services.

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

Buildings and Structures

The residential building is rectangular in shape to take advantage of the rectangular lot and the garage structure is situated entirely below the building, also utilizing a rectangular footprint. The sixth and seventh floors are set back 12 feet from the building edge to provide relief from the 70 foot height of the building while on the street.

The curved building façade at the southeast corner of the site provides welcome contrast to the abundant rectangular building and spaces located along the majority of Montgomery Lane. Pedestrians using both West Lane and Montgomery Lane will be able to use the resulting exterior space as a respite area, and its prominent location at the corner provides desired visibility. The building design along Montgomery Lane is appropriate to maintain a cohesive building edge along the street.

The locations of the buildings and structures to be adequate and efficient, while meeting the aesthetic concerns of the area, and do not pose any safety concerns on the site.



Figure 8: Rendering of building entrance and public use space areas

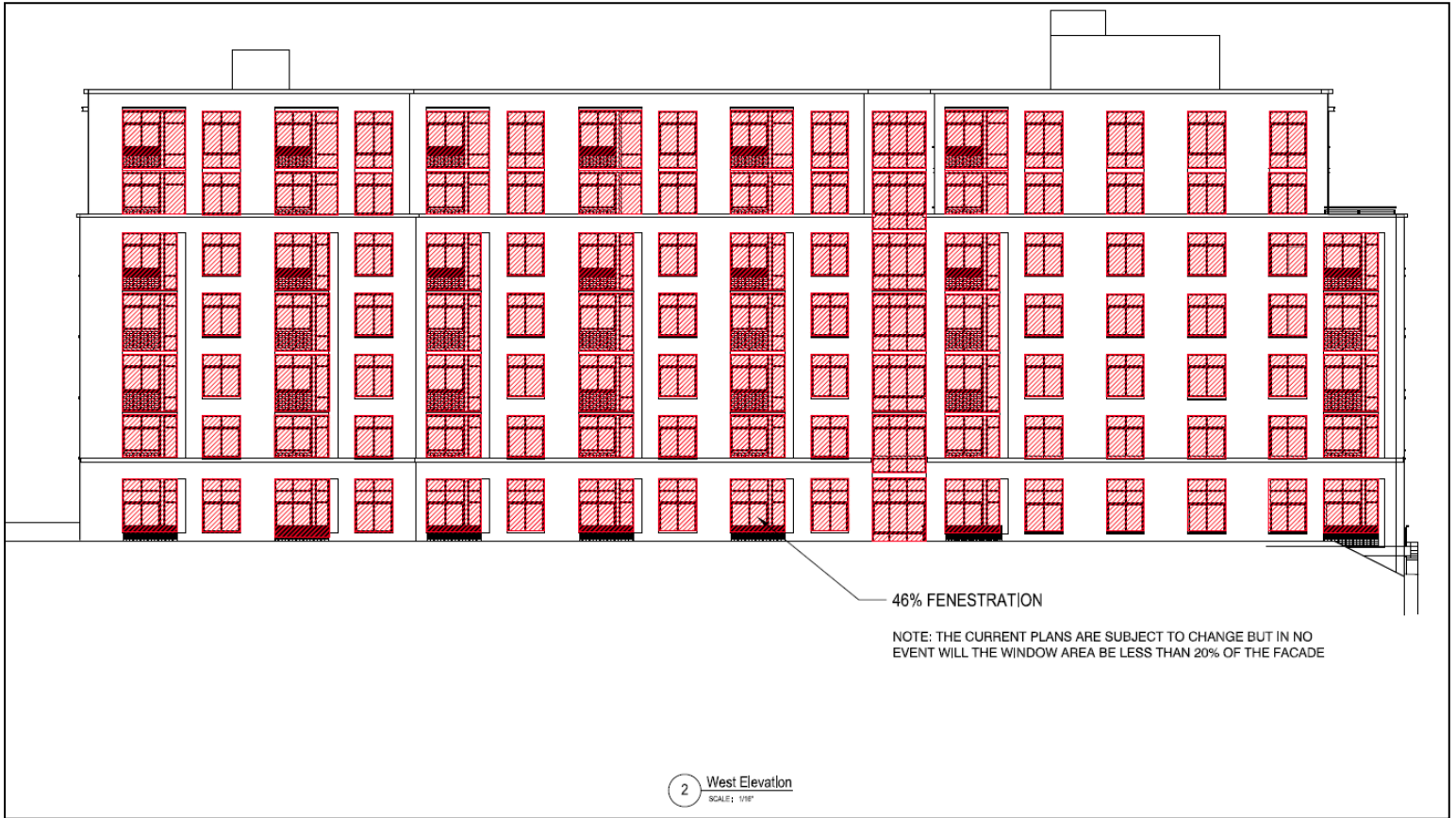


Figure 9: Building Fenestration

Pedestrian and Vehicular Circulation

Pedestrian circulation and access to and from the building adequately and efficiently integrate this site into the surrounding area. Safety is enhanced by several improvements including a sidewalk along West Lane where one is not present today, and a prominent building entrance for pedestrians to enter the lobby of the building located at the corner of Montgomery and West lanes. The location of the main door to the building in this location will adequately activate Montgomery Lane and address the comfort and safety needs of the pedestrians passing by and entering the site.

The vehicular circulation design efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation. Vehicular access provided to and from the building remains from West Lane with a 20.5 foot wide driveway into the parking garage below the building. Deliveries will also be required from West Lane, where a lay-by and secondary pedestrian building entrance are located. This scenario will reduce conflicts along Montgomery Lane where the traffic flow will be heavier than West Lane. The pedestrian and vehicular circulation systems are safe, adequate, and efficient.

Open Spaces

The open spaces provided are adequate, safe, and efficient. The proposed public open space at

the corner of the site has an appropriate form and function. The 10% public use space provided per the requirements of the TS-R zone will contain benches and landscaping along the West Lane and Montgomery Lane building façades. The largest component of the space will be a circular landscaped area framed by the curved building entry at the corner of Montgomery and West Lanes. This area is approximately 1,000 square feet in size, and will include a small seating area.

Private open spaces are also provided as part of the amenity package for residents of the building. A large picnic and sitting area is provided along the western façade of the building, as well as one on the roof deck. Indoor amenity space adjacent to these areas provides fluid circulation between indoor and outdoor amenities. The diversity of open spaces proposed is adequately dispersed throughout the development to provide safe and convenient access to all residents while efficiently providing relief from the density being proposed.

Landscaping and Lighting

As conditioned, the Landscape design submitted as part of the Site Plan is adequate, safe, and efficient. The Amendment revised the landscape and lighting plan in response to the new amenity layout and building configuration. The landscape proposed serves several purposes. It provides adequate canopy coverage and shade for public areas. It efficiently defines open spaces and amenity areas by creating an edge or boundary and adding visual interest. The rooftop landscaping is part of the stormwater management concept but will also beautify the experience for residents who visit the rooftop amenities. The revised lighting will effectively illuminate the entry points of the building and private amenity areas. The lighting is adequate, safe, and efficient.

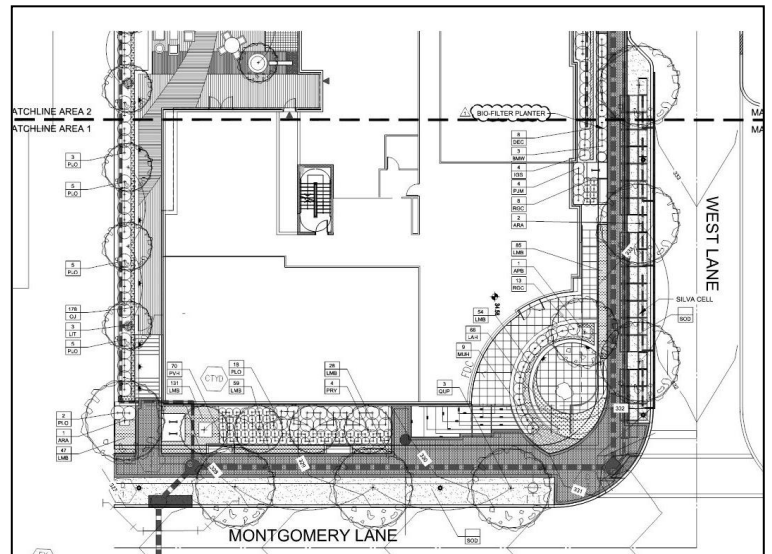
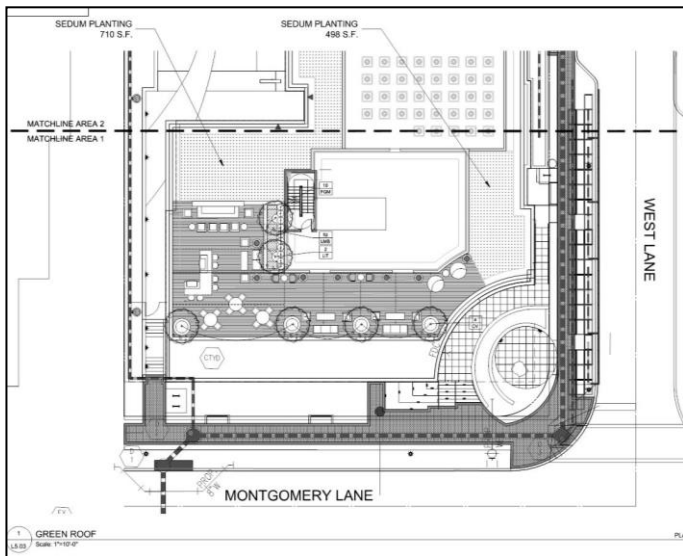


Figure 10: Ground Floor Landscaping

Recreation Facilities

The additional number of residential units necessitates additional amenities and recreation facilities, which help support the proposed increase in density in this optional method of development project. The recreation facilities provided within the building, which are included in the recreation calculations, include an indoor fitness facility, three picnic/sitting areas, and a pedestrian system. Because of the urban nature of the site, the Applicant has elected to gain credit from an off-site supply of amenities as well.

As shown below, the recreation calculations for the overall development were updated to include the revised facilities, which satisfy the 1992 *M-NCPPC Recreation Guidelines* as proposed. These facilities adequately and efficiently meet the recreation requirements of this development on-site while also providing an adequate off-site supply. All facilities will be safe and accessible opportunities for recreation for various age groups.

Demand		D1	D2	D3	D4	D5
Housing Type	Number of Units	Tots 0 to 4	Children 5 to 11	Teens 12 to 17	Adults 18 to 64	Seniors 65+
Hi-Rise (5 or more)	120	4.2	4.8	4.8	92.2	55.2
		4.2	4.8	4.8	92.2	55.2
On-Site Supply		D1	D2	D3	D4	D5
Recreation Facility	Quantity Provided	Tots 0 to 4	Children 5 to 11	Teens 12 to 17	Adults 18 to 64	Seniors 65+
Picnic/Sitting	3	3	3	4.5	15	6
Pedestrian System	1	0.4	1	1	41.5	24.8
Indoor Fitness Facility	1	0.00	0.5	0.5	18.4	8.3
	total:	3.4	4.4	5.9	74.9	39.1
Off-Site Supply		D1	D2	D3	D4	D5
Recreation Facility	Quantity Provided	Tots 0 to 4	Children 5 to 11	Teens 12 to 17	Adults 18 to 64	Seniors 65+
Multi-Age Playground	1	0	9	3	4	1
Half MP Court 1	1	2	5	7	8	1
Open Play Area 1	1	6	9	12	30	2
Baseball - Junior	1	2	15	15	30	2
Pedestrian System	1	0.4	1	1	41.5	24.8
	total:	10.4	39	38	113.5	30.8
Adequacy of Facilities		D1	D2	D3	D4	D5
Total Supply ⁴		4.9	6.1	7.6	107.2	58.4
90% Demand		3.78	4.32	4.32	82.98	49.68
Adequate?		yes	yes	yes	yes	yes

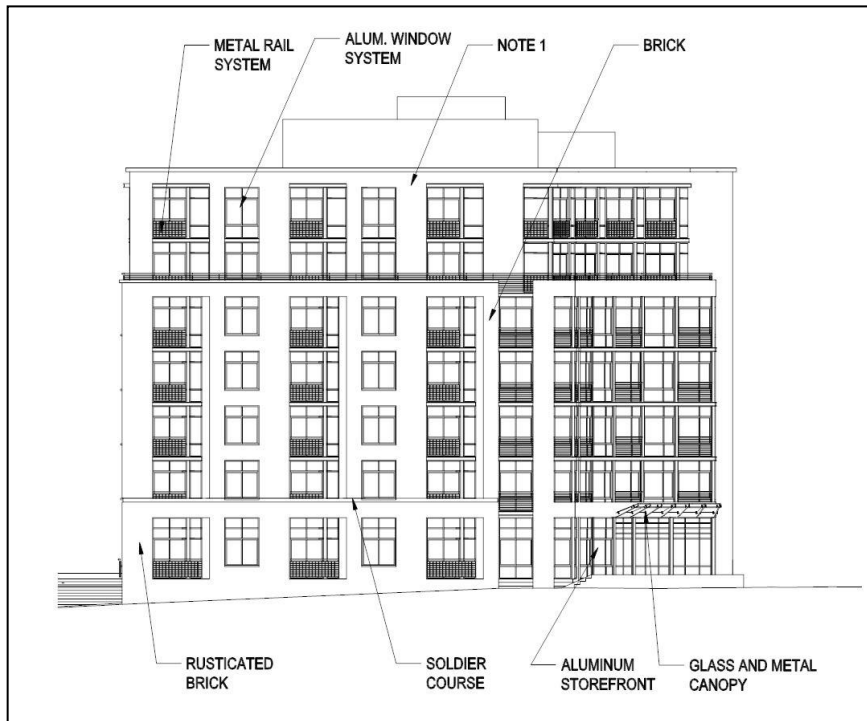
⁴ A maximum of 35% credit can be used from the off-site supply.

4. *Each structure and use is compatible with other uses and other Site Plans, and with existing and proposed adjacent development.*

The structure and uses proposed are compatible with other uses and Site Plans, and with existing and proposed adjacent development.

A 70 foot tall building is suitable for this site, since a building within this height range can ensure the inclusion of affordable housing units while at the same time adhering closely to the Sector Plan recommendations of building heights ranging from 35 feet to 200 feet, and a height of 65 feet for the majority of the TS-R zone. The proposed building reaches a height of 70 feet but the proposed design includes a building height of 51 feet along Montgomery Lane. The proposed 70 foot building height does fall within a range of building heights that will create a transition from Woodmont Avenue to Arlington Road. At Woodmont Avenue, the Edgemoor is 100 feet high, then the mid-rise building approved east of the Subject Property under G-908 will be 65 feet, followed by the subject building at 70 feet high, stepping down to the building fronting Arlington Road approved under G-865 at 46 feet in height.

The scale of the primary architectural massing corresponds to the existing low-rise residential development to the west and south, as well as the existing high-rise development to the east and north. The balconies on the first floor of the building, which clearly indicate the residential character of the building, are in line with the residential character of Montgomery Lane and West Lane. Finally, previously approved projects such as Edgemoor at Arlington North (LMA G-779) and 4825 Montgomery Lane project (LMA G-908) provide flat roofs much like the subject application.



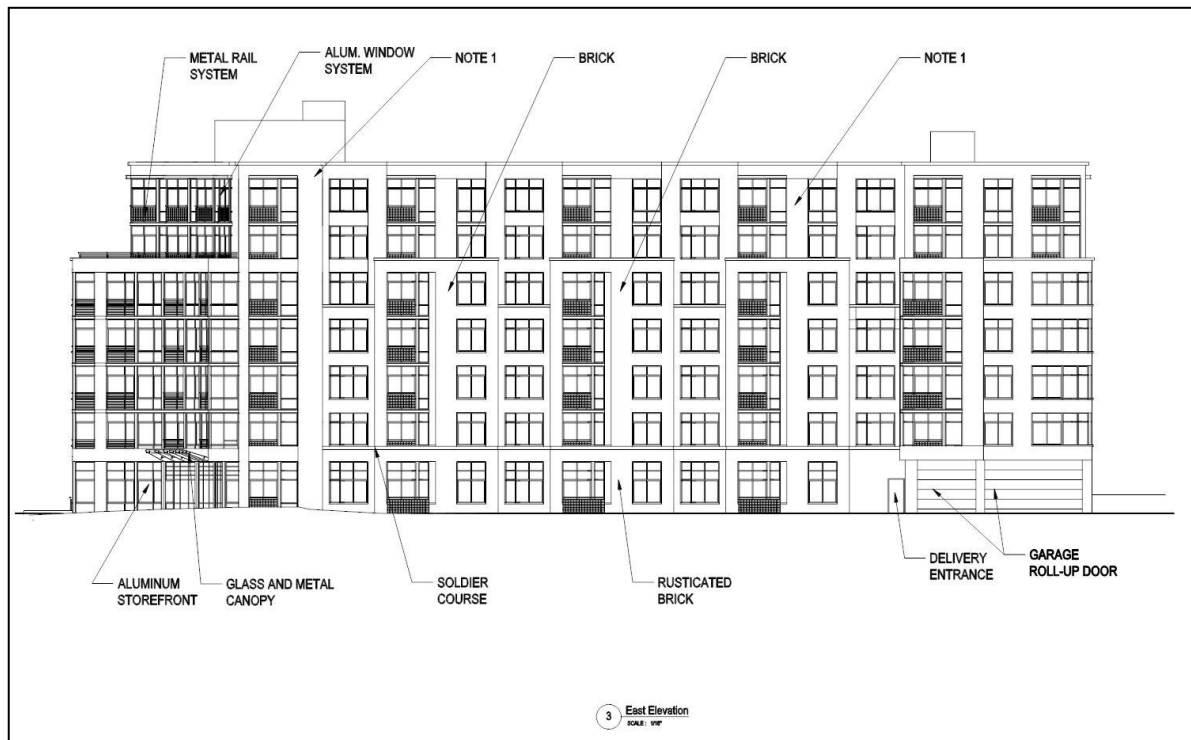


Figure 11: Building Materials

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable laws.*

Environmental Planning Staff reviewed the Site Plan Amendment for changes that would alter the Forest Conservation Plan exemption 42012159E granted on May 8, 2012. The Amendment does not change the exempted status of the Property. However, a tree save plan is required to address the impacts to offsite trees that are affected by the proposed development. This plan meets all requirements of Chapter 22A of the Forest Conservation Law.

The proposed stormwater management concept approved on March 20, 2014 includes a partial green roof, micro-biofilter-type planter boxes, and two Silva Cell facilities to provide treatment for the first one-inch of runoff from the site and adjacent right-of-way improvements. The remainder of the stormwater volume to be managed will be treated by a volume-based stormfilter.

CONCLUSION

Staff recommends approval of Site Plan Amendment 82008003A, 4831 West Lane, for a 118,352 square foot, seven story building containing a maximum of 120 units, including 15% MPDUs, with 10% of net lot area as on-site public use space, on 38,804 gross square feet of land. All site development elements shown on the site and landscape plans received by the M-NCPPC and dated August 5, 2014, in ProjectDox are required except as modified by the conditions of approval.

APPENDICES

- A. Previous Approvals
- B. Agency Letters



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

MCPB No. 08-79
Preliminary Plan No. 120080050
Holladay at Edgemoor
Date of Hearing: June 5, 2008

JUN 21 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

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

WHEREAS, on, the ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 1 lot on 22,769 square feet of land located on West Lane at the intersection with Montgomery Lane ("Property" or "Subject Property"), in the Bethesda CBD sector plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120080050, Holladay at Edgemoor ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated May 21, 2008, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board Staff ("Staff") and the staffs of other governmental agencies, on June 5, 2008, the Planning Board held a public hearing on the Application (the "Hearing"); and

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

WHEREAS, on June 5, 2008 the Planning Board approved the Application subject to conditions on the motion of Commissioner Robinson; seconded by Commissioner Cryor; with a vote of 4-0, Commissioners Bryant, Cryor, Hanson, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved

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

Approved as to
Legal Sufficiency:

7/8/08

8787 Georgia Avenue, Suite 100, Bethesda, MD 20814 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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

Preliminary Plan No. 120080050 to create 1 lot on 22,769 square feet of land located on West Lane at the intersection with Montgomery Lane ("Property" or "Subject Property"), in the Bethesda CBD sector plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 1 lot for 48 multi-family dwelling units. 12.5 percent of the dwelling units must be Moderately Priced Dwelling Units (MPDUs).
- 2) The Applicant must dedicate 2.5 feet of right-of-way along the West Lane property frontage for a total of 25 feet from the centerline.
- 3) The Applicant must dedicate 1 foot of right-of-way along the Montgomery Lane property frontage for a total of total of 26 feet from the centerline.
- 4) The Applicant must construct all road improvements within the rights-of-way as shown on the approved Preliminary Plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By _____" are excluded from this condition.
- 5) A more detailed Final Tree Save Plan, including critical root zones of affected trees on the adjacent property, must be submitted with the Certified Site Plan. If this plan shows disturbance to more than 1/3 of the critical root zone of these trees, an ISA-certified arborist must prepare and sign the plan, which must include detailed and specific tree protection measures.
- 6) If by issuance of the building use and occupancy permit the tree protection measures have not adequately protected the trees on the adjacent property, the Applicant shall offer the affected property owner the option of removal and replacement of those trees at the Applicant's expense, at a rate of one tree per every tree removed. The replacement trees shall be native canopy trees suitable for urban situations and be a minimum of 4" DBH.
- 7) The proposed development shall comply with the conditions of the Final Tree Save Plan prior to any demolition, clearing, or grading on the subject property.
- 8) The sediment control plan must reflect a limit of disturbance no closer to the trees to be protected than that illustrated on the Final Tree Save Plan.

- 9) The record plat must reflect a public use and access easement over all areas indicated as "Public Open Space" on the preliminary, site and landscape plans as approved by the Planning Board.
- 10) The record plat must reflect all areas under Homeowners Association ownership, if applicable, and specifically identify stormwater management parcels.
- 11) No clearing, grading or recordation of plat prior to Certified Site Plan approval.
- 12) Final location of the building, sidewalks, and amenities to be determined at Site Plan.
- 13) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated August 3, 2007, unless amended.
- 14) The Applicant must comply with the conditions of the Montgomery County Department of Public Works and Transportation (MCDPWT) letter dated May 23, 2008, unless otherwise amended.
- 15) The Applicant must satisfy provisions for access and improvements as required by MCDPWT prior to recordation of plat.
- 16) Before any building permit is issued, the applicable School Facilities Payment required by the 2007-2009 Growth Policy must be paid to MCDPS.
- 17) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board resolution.
- 18) All other necessary easements must be shown on the record plat.

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

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

The Planning Board finds the Preliminary Plan complies with the recommendations of the Bethesda CBD Sector Plan. The site was approved for rezoning to the TS-R Zone in the Bethesda Central Business District (CBD) as recommended in the 1994 Sector Plan. The purpose of the Transit Station Zone and the standard for public facilities and amenities clearly states that development within this zone is provided a large degree of flexibility regarding development standards but it "must comply substantially to the facilities and amenities recommended by the approved and adopted master or sector plan...provide safe and efficient circulation, adequate public open space and recreation, and insure [sic] compatibility of the development with the surrounding area". The Planning Board finds the structure conforms to the 1994 Bethesda CBD Sector Plan recommendation for "high-density low-rise" housing for this area. The Board further finds that the Preliminary Plan allows for safe and efficient circulation through proper dedication for West Lane and Montgomery Lane as required by the 1994 Sector Plan, landscaping at the building, a 5-foot wide sidewalk, and appropriate streetscape using the Bethesda streetscape standards.

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

Roads and Transportation Facilities

Vehicular access to the site is proposed via a garage driveway along the West Lane property frontage. Pedestrian access will be provided via the existing sidewalks along Montgomery Lane and West Lane fronting the property. Montgomery Lane is designated as a business district street with a recommended 52-foot right-of-way and West Lane is designated as a business district street but a right-of-way width is not specified. As set forth in the conditions, the Applicant must dedicate 1 foot of right-of-way along the Montgomery Lane property frontage for 26 feet from the centerline, and the Applicant must also dedicate an additional 2.5 feet along the West Lane property frontage for 25 feet from the centerline. As previously noted, space for loading is provided by a lay-by in the West Lane right-of-way. The existing sidewalks will be improved to meet the required sidewalk width and handicapped ramps will be added at the Montgomery Lane/West Lane intersection in accordance with the Montgomery County Road Code and the Bethesda streetscape standards. The Planning Board finds roads and pedestrian access will be safe and adequate with the proposed improvements.

The site is located approximately 950 feet from the Bethesda Metrorail Station. Ride-On route 33 operates along Montgomery Lane. There are no bus routes operating along West Lane. The site is located within the Bethesda

Transportation Management District. As a multi-family development with fewer than 25 employees, the Applicant is not required to enter into a Traffic Mitigation Agreement to participate in the Bethesda Transportation Management Organization. The proposed multi-family residential development is expected to generate 14 peak-hour trips within the weekday morning peak period (6:30 to 9:30 a.m.) and the evening peak period (4:00 to 7:00 p.m.). A traffic study is not required to satisfy LATR because the proposed multi-family development generates less than 30 total peak-hour trips during the weekday morning and evening peak periods.

Under the *FY 2007-2009 Growth Policy*, the PAMR test is required because the Preliminary Plan was filed after January 1, 2007, and the proposed multi-family development generates over 3 peak-hour trips within the weekday morning and evening peak periods. However, the trips generated by 48 mid-rise apartments are mitigated simply by the project being conveniently located near a Metrorail Station.

Other Public Facilities

The Planning Board finds other public facilities and services are available and will be adequate to serve the proposed dwelling units. Schools, police stations, firehouses and health services are operating within the standards set by the Growth Policy Resolution currently in effect. Elementary schools in this area are currently operating between 105% and 120% of program capacity and, therefore, the project is subject to a School Facilities Payment. Water and sewer were found to be existing at the site boundaries and adequate to serve the project. MCDPS approved a stormwater management concept on August 3, 2007 that will control runoff from the site. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles.

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

The Planning Board reviewed the lot for compliance with the dimensional requirements for the TS-R zone as specified in Chapter 59, the Montgomery County Zoning Ordinance, and the Planning Board finds the proposed lot complies with all applicable provisions. The Planning Board finds the Preliminary Plan meets all the dimensional requirements including, but not limited to, area, frontage, width, height, and setbacks in the TS-R Zone and complies with Chapter 50, the Montgomery County Subdivision Regulations.

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

According to the approved Natural Resources Inventory/Forest Stand Delineation Plan there are no forest stands, streams, floodplains, or environmental buffers on the site. There are, however, offsite trees along the property boundaries that should be protected. As noted previously, a Tree Save Plan was required for these trees. The Tree Save Plan must be finalized prior to any clearing or grading of the site and include specific protection measures. The Planning Board finds this project is exempt from the requirements of the Forest Conservation Law.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

MCDPS approved a stormwater management concept on August 3, 2007 that will control runoff from the site.

6. *The proposed Preliminary Plan complies with the binding elements included in Development Plan Amendment G-843.*

The Planning Board finds the Preliminary Plan complies with all applicable binding elements.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

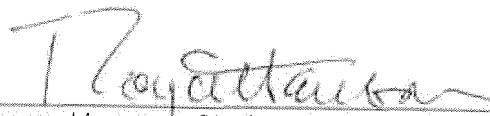
JUN 21 2008 BE IT FURTHER RESOLVED, that the date of this Resolution is _____ (which is the date that this Resolution is mailed to all parties of record); and

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

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Robinson, seconded by Commissioner Cryor, with Commissioners Robinson, Cryor, and Hanson voting in favor of the motion and with Commissioners Alfandre and Presley abstaining, at its regular meeting held on Thursday, July 10, 2008, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board

[EEG]



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

MCPB No. 08-74
 Site Plan No. 820080030
 Project Name: Holladay at Edgemoor
 Date of Hearing: June 5, 2008

JUL 22 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

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

WHEREAS, on August 7, 2007, Holladay Corporation ("Applicant"), filed an application for approval of a site plan for a 48-unit multi-family residential building, including 6 MPDUs, ("Site Plan" or "Plan") on 0.52 acres of TS-R-zoned land, located at the intersection of Montgomery Lane and West Lane on Lots 24, 25, and 27, Block 13, ("Property" or "Subject Property"); and

WHEREAS, Applicant's Site plan application was designated Site Plan No. 820080030, Holladay at Edgemoor (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated May 21, 2008, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on June 5, 2008, the Planning Board held a public hearing on the Application (the "Hearing"); and

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

WHEREAS, on June 5, 2008, the Planning Board approved the Application subject to conditions on the motion of Commissioner Robinson; seconded by Commissioner Cryor; with a vote of 3-0, Commissioners Cryor, Hanson, and Robinson voting in favor, with Commissioner Bryant being absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board

Approved as to
 Legal Sufficiency: DND 7/10/08

8787 Georgia Avenue, Suite 100, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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

APPROVES Site Plan No. 820080030 for a 48-unit multi-family residential building, including 6 MPDUs, on 0.52 gross acres in the TS-R zone, subject to the following conditions:

1. Preliminary Plan Conformance

The proposed development must comply with the conditions of the approved Resolution for preliminary plan 120080050.

2. Development Plan Conformance

The proposed development shall comply with the binding elements listed on the Development Plan for Local Map Amendment G-843.

3. Lighting

The Applicant must ensure that each of the following conditions is met:

- a. All private on-site downlighting fixtures shall be full cut-off fixtures;
- b. Deflectors shall be installed on all uplighting fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties;
- c. Illumination levels, excluding streetscape light fixtures, shall not exceed 0.5 footcandles (fc) at any property line abutting county roads or adjacent residential properties.

4. Loading

In accordance with the requirements of DPWT, by issuance of Use and Occupancy Permit, the Applicant shall incorporate into the condominium documents the following controls which shall govern the loading operations, unless amended by DPWT:

- a. Hours of operation are limited to two move-ins per day, permitted on weekdays and Saturdays, between 10:00 a.m. and 4:00 p.m. as determined by management; and
- b. Residents are required to provide the management company with three days' advance notice of move-ins in order that management may schedule accordingly. Further, Applicant shall require the management company to reserve the layby during the designated move-in times either by covering the meters, if meters are installed, or by providing the appropriate temporary signage.

5. Transportation improvements within the Right of Way

- a. Subject to DPWT approval, the Applicant must provide two DPWT-standard painted crosswalks, one across West Lane in line with the existing Montgomery Lane sidewalks, and a second across Montgomery Lane in extension of the sidewalk on the west side of West Lane. This improvement shall be completed with the streetscape improvements.

- b. Subject to DPWT approval, the Applicant must provide a DPWT-standard stop bar in the southbound side of West Lane.
- c. The Applicant will provide two ramps from the sidewalk to the street along Montgomery Lane and at the intersection of Montgomery and West Lanes:
 - i. across West Lane to connect the in-line sidewalk along the north side of Montgomery Lane;
 - ii. across Montgomery Lane to extend the sidewalk on the west side of West Lane to the south side of Montgomery Lane;
 - iii. by Certified Site Plan, the Applicant will remove from the Site Plan all other pedestrian ramps between the sidewalk and the street, unless specifically requested by DPWT or DPS to provide them;
 - iv. the Applicant shall remove the walkway stub between the sidewalk and the curb in front of Lot 26 as part of the streetscape improvements described in Condition 6;

6. Streetscape

- a. The Applicant must provide the Bethesda Streetscape Standard, as noted, for:
 - i. The west side of West Lane, from the intersection with Montgomery Lane to its terminus at the north end of the site;
 - ii. The North side of Montgomery Lane, from the intersection with West Lane to the western property boundary;
 - iii. The diagonal connecting walk in the northwest quadrant of the intersection of Montgomery Lane and Woodmont Avenue, as illustrated on the Site Plan;
 - iv. The Applicant must also relocate underground all utility lines along the property boundary;
- b. In addition to the streetlights provided as part of the Bethesda Standard streetscape described above, the Applicant shall replace the six existing non-standard street lights on the north side of Montgomery Lane, between West Lane and Woodmont Avenue.

7. Tree Planting

The Applicant shall replant trees of an equivalent number of caliper inches, not less than a total of 55 inches, within the Bethesda CBD, to replace two existing mature trees, a 29-inch pin oak and a 26-inch oak, being removed from the site to accommodate this building. The minimum caliper size of the replacement trees shall be 4 inches. The final location shall be approved by M-NCPPC staff prior to Certified Site Plan.

8. Moderately Priced Dwelling Units (MPDUs)

- a. The proposed development must provide 6 MPDUs (12.5%) on-site in accordance with Chapter 25A of the Montgomery County Code. The Applicant is not receiving a density bonus.
- b. The Applicant must obtain an agreement pertaining to the construction and staging of MPDUs from the Department of Housing and Community Affairs (DHCA) prior to the issuance of any building permits.

9. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated August 3, 2007, unless amended and approved by the Montgomery County Department of Permitting Services.

10. Development Program

The Applicant must construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the Certified Site Plan. The Development Program shall include a phasing schedule as follows:

- a. Street tree planting, and off-site mitigation tree planting described in site plan Condition 7, must be completed within six months of the issuance of any use and occupancy permits.
- b. Streetscape improvements, seating areas, indoor amenities, and the outdoor terrace, must be completed within six months of the issuance of any use and occupancy permits.
- c. All on-site landscaping and lighting must be completed within six months of the issuance of any use and occupancy permits.
- d. Phasing of pre-construction meetings, dedications, sediment/erosion control, or other features.
- e. Transportation-related improvements shall be completed as the building is completed.

11. Clearing and Grading

Applicant must ensure that there is no clearing or grading of the subject site prior to M-NCPPC approval of the Certified Site Plan.

12. Maintenance

The Applicant shall be responsible for the maintenance of on-site landscaping and recreation facilities.

13. Certified Site Plan

Prior to Certified Site Plan approval the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Minor corrections and clarifications to site details and labeling;
-

- b. Recreation Facilities Plan demonstrating the indoor recreation facilities' compliance with the M-NCPPC Recreation Guidelines;
- c. A Transportation Improvement Plan;
- d. Development Program, Inspection Schedule, Forest Conservation Exemption Letter, and Site Plan Resolution.

BE IT FURTHER RESOLVED that all site development elements as shown on Holladay at Edgemoor drawings stamped by the M-NCPPC on May 20, 2008, shall be required, except as modified by the above conditions of approval; and

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

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

The Site Plan conforms to all non-illustrative elements of the approved Development Plan for Local Map Amendment G-843, including building height and setbacks, development density, MPDUs, public use and recreation space, landscape, building design, dedications, and street improvements.

2. *The Site Plan meets all of the requirements of the TS-R zone and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the Transit Station – Residential (TS-R) zone as demonstrated in the project Data Table below. There are no height restrictions or setbacks in the TS-R Zone – these were established during the Development Plan and are being retained with this Site Plan application.

The Board finds, based on the following data table, and other uncontested evidence and testimony of record, that the Application meets all of the applicable requirements of the TS-R Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Data Table

Development Standards Approved by
the Planning Board and Binding on
the Applicant

Min. Gross Tract Area (square feet)	22,769
Max. Building Height (feet)	65
Max. Floor Area Ratio (FAR)	2.5
Max. Dwelling Units Per Acre	93
Max. Dwelling Units	48
Min. Building Setbacks (feet)	
Montgomery Lane	15
West Lane	0
North Property Line	22
West Property Line	6
Open Space (percent of net lot area)	10.1
Active/Passive Recreation Space (percent of net lot area)	21.1
Parking Spaces	78

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

a. Buildings and Structures

The proposed building provides an appropriate mid-density residential use on an optimal site for accessibility to mass transit and neighborhood facilities. The design and layout of the building are compatible with the surrounding buildings in terms of massing, detailing, and height. Both the use and the design elements of the architecture provide an adequate, safe, and efficient building on the subject site.

b. Open Spaces

The Plan proposes 10 percent on-site Public Open Space along the frontage of Montgomery Lane and through a walkway connecting the main entrance to Montgomery and West Lanes. This public open space is

complemented by an additional 20 percent on-site active and passive recreational space provided for residents, including meeting and fitness rooms and an outdoor terrace, as well as voluntary streetscape improvements along West and Montgomery Lanes, including replacing non-Streetscape-Standard streetlights, and providing streetscape for the existing diagonal path between Montgomery Lane and Woodmont Avenue. Each of these features contributes to an improved pedestrian experience that is adequate, safe, and efficient.

c. Landscaping and Lighting

The proposed landscaping on the site consists of traditional foundation plantings along the foundation and entry walks of the building and street trees along Montgomery and West Lanes. The street trees will be installed per the Bethesda Streetscape Plan details for trees within a lawn panel. The shade provided by these trees and the plantings along the pedestrian paths provides an adequate, safe, and efficient environment for residents and passers-by.

The lighting plan consists of a Bethesda streetscape-specified Washington Globe Luminaires on Montgomery and West Lanes. Other site lighting will be full cut-off and will provide adequate, safe, and efficient site illumination.

d. Recreation Facilities

The plan is providing ample recreation facilities through a combination of on-site exterior seating areas, interior fitness and meeting rooms, and an extensive community pedestrian network. The provided facilities are adequate, safe, and efficient.

e. Vehicular and Pedestrian Circulation

Sidewalks along Montgomery and West Lanes will be improved to conform to the Bethesda Streetscape Plan. These sidewalks will further integrate the development into the existing community and provide safe and efficient pedestrian access to the neighborhood circulation system. The pedestrian environment, as a whole, is adequate, safe, and efficient.

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

The building is compatible with the other existing and proposed town-house and multi-family residential buildings to the north, south, east, and west in terms of

massing, scale, detailing, and layout. The setbacks and stepped building height ensure compatibility with nearby townhomes, apartments and proposed site plans.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The subject site plan is exempt from forest conservation requirements.

The proposed storm water management concept consists of on-site water quality via green roof technology and a proprietary, flow-based, structural filter. On-site recharge is not required since this is redevelopment. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

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

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

BE IT FURTHER RESOLVED, that the date of this resolution is JUL 22 2008 (which is the date that this resolution is mailed to all parties of record); and

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

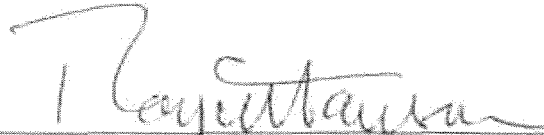
* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Robinson, seconded by Commissioner Cryor, with Commissioners Robinson, Cryor, and Hanson voting in favor

MCPB No. 08-74
Site Plan No. 820080030
Holladay at Edgemoor
Page 9

of the motion and with Commissioners Alfandre and Presley abstaining, at its regular meeting held on Thursday, July 10, 2008, in Silver Spring, Maryland.

A handwritten signature in cursive script, appearing to read "Royce Hanson", written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board

EH-M

Resolution No.: 17-863
Introduced: September 10, 2013
Adopted: September 10, 2013

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

By: District Council

SUBJECT: APPLICATION NO. G-954 FOR AMENDMENT TO THE ZONING ORDINANCE MAP AND DEVELOPMENT PLAN AMENDMENT 13-01, C. Pat Harris, Esquire, Attorney for Applicant, 4831 West Lane LLC, OPINION AND RESOLUTION ON APPLICATION. Tax Account Numbers 07-00490821 and 07-00487286

OPINION

Filed on November 15, 2012, by 4831 West Lane LLC, Local Map Amendment Application (LMA) G-954 requests reclassification of approximately 11,847 square feet of land from the R-60 to the TS-R Zone (Transit Station-Residential), consisting of Lot 26 of the Edgemoor subdivision and the rights-of-way for Lots 24 and 25 of the Edgemoor subdivision. In addition, Development Plan Amendment No. 13-01 seeks to amend a development plan approved as part of LMA G-843 to include Lot 26 and the right-of-way associated with Lots 24 and 25.¹ The gross tract area of the development plan amendment is 38,804 square feet.² Exhibit 2. The subject site is located in the northwest quadrant of the intersection of Montgomery Lane and West Lane in Bethesda, Maryland, in the 7th Election District.

The property subject to the development plan amendment is currently improved with single-family detached structures used for office and retail purposes.

Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC) recommended approval of both the rezoning application and the development plan amendment in a report dated December 7, 2012. The Montgomery County Planning Board (Planning Board) considered the application on December 20, 2012 and also recommended

¹ LMA G-843 rezoned Lots 24, 25 and 27 from the R-60 to the TS-R Zone, but did not rezone the right of way associated with Lots 24 and 25 nor did it include Lot 26. The Applicant previously filed a local map amendment application (G-912) to add Lot 26 to the TS-R Zone, but inadvertently failed to include the rights-of-way that had not been rezoned in G-843. The Council permitted the Applicant to withdraw G-912 without prejudice.

² All exhibit references are to the record of LMA G-954, rather than to DPA 13-01, unless otherwise noted.

approval, subject to the addition of several new binding elements and suggesting that the public use space located on the northern portion of the site be moved to Montgomery Lane. Exhibit 55.

The Applicant submitted a revised development plan amendment at the public hearing before the Hearing Examiner on January 11, 2013. The public hearing was continued to January 15, 2013, and the Hearing Examiner referred the amended plan to Technical Staff and the Planning Board. *See, Montgomery County Zoning Ordinance, §59-D-1.72.* In a supplement report dated February 25, 2013, Technical Staff again recommended approval, finding that the revised development plan increased the compatibility of the development with the surrounding area. Exhibit 105(a). The Planning Board also found that the revised building design increased the project's compatibility, although it still recommended additional binding elements. Exhibit 105.

The public hearing was reconvened on April 8, 2013, and was continued to April 9, April 15, April 16, April 17, April 19, April 29, 2013, and May 13, 2013. The record was left open to permit the Applicant to submit a revised development plan (Exhibit 127) changing one of the binding elements and for the Villages of Bethesda Homeowners Association to submit written testimony on the plan. These were received into the record, as well as responses from those opposing the application, and the record closed on May 30, 2013. Exhibits 126-129.

The applications were opposed by the City Homes of Edgemoor and Edgemoor Condominium Residences as well as individual residents of those associations; it was supported by the Villages of Bethesda Homeowners Association and the owners of Edgemoor at Arlington North and 4825 Montgomery Lane.

To avoid unnecessary detail in this Resolution, the Hearing Examiner's Report and Recommendation dated July 15, 2013, is incorporated herein by reference. Based on its review of the entire record, the District Council finds that the application meets the standards required for approval of the requested rezoning for the reasons set forth by the Hearing Examiner.

Surrounding Area

The surrounding area must be delineated in a floating zone case for the purpose of determining the compatibility of the proposed development. Technical Staff delineated the boundaries of the "surrounding area" as Moorland Lane to the north, Arlington Road to the west, Woodmont Avenue to the east, and Elm Street to the south. Exhibit 54. This includes the entire Transit Station Residential District designated in the Sector Plan and is shown on the following page. The parties agreed with Technical Staff's delineation, although those opposing the application argue that because of its unique designation as a "Mixed Street" in the Sector Plan, projects fronting Montgomery Lane should carry more weight when determining the compatibility of the proposed development. 4/17/13 T. 215.

There are several existing and approved (but un-built) residential buildings in the surrounding area. Of these, at least two were built prior to adoption of the 1994 Sector Plan. These include two high-rise multi-family buildings, the Chase and the Christopher, both of which are approximately 120 feet in height. Exhibits 54, p. 7; 101(f), p. 6. The below-grade

parking garage for the Chase is located directly to the north of the subject property and includes an outdoor recreation area on the surface for residents of the Chase. Exhibit 54, p. 7. A single-family home owned by Mr. and Mrs. Theodore Chipouras confronts the property across West Lane and remains within the R-60 Zone. Exhibit 38(nn).

Developments built after adoption of the Sector Plan include the Edgemoor Condominium (Edgemoor High-Rise), a 10-story multi-family building rising to a height of 100 feet. Exhibit 54, p. 7. At the time of zoning approval (G-763), the Edgemoor High-Rise intended to provide between 147 and 149 units, including 20 moderately priced dwelling units. Exhibit 102(f). While developed to its full height, the High-Rise now contains only 52 condominium units and no MPDUs. 4/9/13 T. 269-270. The Council found that the height substantially complied with the 65-foot height limit recommended by the Sector Plan and was compatible with the surrounding area. The Hearing Examiner justified the excess height by the property's location immediately south of the 120-foot Chase and confronting much higher buildings in the CBD Core. Because of its unique location, the Hearing Examiner found that the Edgemoor would not "create a precedent for deviation from the height limits" set in the Sector Plan. Exhibit 106(f), p. 14. The Hearing Examiner in that case also noted that the six-story development recommended by the Sector Plan had not materialized because market conditions made it uneconomical due to the need to provide structured parking. *Id.*

The rezoning of the High-Rise was considered in conjunction with a rezoning and development plan amendment for the City Homes of Edgemoor (City Homes), a development of 29 single-family attached townhouses (LMA G-769) and no MPDUs. At the time of the rezoning, City Homes was approved for development at 27 dwelling units per acre, well under the minimum of 45 dwelling units per acre recommended by the Sector Plan. The developer of the Edgemoor High-Rise sought to "transfer" the unused density from City Homes to the Edgemoor High-Rise.

The Edgemoor at Arlington, located in the southeast corner of the intersection of Montgomery Lane and Arlington Road, is 35-feet high along Arlington Road and steps up to 46 feet high proceeding to the east. It contains 12 multi-family condominium units and no MPDUs for a density of 27 units per acre. The Edgemoor at Arlington North contains 31 condominium units and has 4 MPDUs for a density of 35 dwelling units per acre. It also steps up in height from 35 feet along Arlington Road to 48 feet adjacent to the subject property. The Villages of Bethesda (VOB), northwest of the subject property, is located in the southeast quadrant of the intersection of Arlington Road and Edgemoor Lane. The VOB is a townhouse community consisting of 21 dwelling units with no MPDUs at a density of 23 dwelling units per acre. These units rise to a maximum height of 42 feet. Directly east of the subject property (between the High-Rise and West Lane) is 4825 Montgomery Lane, recently approved by the District Council for a maximum of 4 dwelling units (LMA G-908, approved December 4, 2012, in Resolution 17-626). The Council approved a maximum 65-foot height at the time of zoning; the record reflects that this has been reduced at site plan to 60 feet with a 4-foot parapet. Exhibits 54, 84.

The Council has also recently approved developments along Woodmont Avenue and Hampden Lane. These include 4901 Hampden Lane (LMA G-819, initially approved July 25, 2006), at the northwest corner of Hampden Lane and Woodmont Avenue. That development

originally proposed a density of between 50-70 dwelling units. Exhibit 102(d). In 2012, the minimum density was reduced to between 40 and 70 dwelling units per acre to permit the developer to respond to market demand for larger units. Council Resolution 17-559 (adopted November 11, 2012).³ Exhibit 102(k). Approved for a maximum height of 70 feet, an exhibit submitted by the Applicant indicates that this building will now contain 34 dwelling units at a density of 48 dwelling units per acre. Exhibit 84. This approval was accompanied by an increase from 12.5% to 15% of the MPDUs provided. Resolution 17-559.

Further to the west along Hampden Lane is a building (HOC Building) developed by the Montgomery County Housing Opportunities Commission (HOC). The HOC Building provides “transitional housing” for individuals with very low or no incomes who will move as their income increases, as opposed to those who intend to occupy the unit long term. 4/9/13 T. 289. Land for the HOC building was contributed by the developer of the Edgemoor High-Rise to meet its affordable housing requirement. Subsequently, the HOC swapped the land donated for a parcel owned by the developer of Hampden Lane so that the latter project would be developed cohesively. Exhibit 106(o). The HOC Building contains 12 dwelling units and testimony at the public hearing indicated that the building is approximately 48 feet high. Exhibit 54, 4/17/13 T. 211. Traveling west on Hampden Lane, the District Council approved a development located in the northwest corner of the intersection of Hampden Lane and Arlington Road (G-842, approved September 26, 2006 in Resolution 15-1617). Exhibit 106(o). This building steps back from lower heights along Arlington Road to a maximum of 71 feet in height proceeding east. Because there is no setback between this development and several rows of the City Homes townhouses, the Applicant included “cut-outs” to provide light to City Homes. 4/17/13 T. 242.

Technical Staff characterizes the area as primarily residential with limited commercial uses. Several of those opposing the application assert that Montgomery Lane has a unique character different than other streets within the TS-R District because of its design as a “Mixed Street” in the Sector Plan. They also argue that, unlike other streets in the neighborhood which front commercial uses, all approved and constructed development along Montgomery Lane is exclusively residential. 4/17/13 T. 213-215; 4/29/13 T. 33.

The area that will be most directly impacted by the use determines the “surrounding area” in a rezoning case. The area demarcated by Staff is a logical boundary defining the impact of this development, as the entire District is within walking distance of the property. Based on this criterion, the District Council finds that Staff’s delineation of the surrounding area is reasonable, as did the Hearing Examiner. The District Council characterizes the area as primarily residential with limited commercial uses, but finds that Montgomery Lane is unique in its design and will exclusively consist of single-family attached and multi-family residential uses.

Zoning History

The property rezoned in LMA G-843 included Lots 24, 25, and 27 of the Edgemoor Subdivision (Holladay Project). The development plan originally proposed up to 50 market rate units and 7 MPDUs, for a total density of 74 dwelling units per acre. Exhibit 101(c). Because of

³ Because only excerpts from the Council’s opinion in DPA 12-02 are in the record, the Hearing Examiner took official notice of the full text of Resolution 17-559. OZAH Rules of Procedure, Rule 4.8.

the L-shaped configuration of the site, the project consisted of two four- and six-story “wings.” The four-story wing fronted on Montgomery Lane and had a significant step back until rising to 65 feet nearer the northern end. The building had a 15-foot setback from the sidewalk along Montgomery Lane. Exhibit 101(d). While the Hearing Examiner in LMA G-843 concluded that the project technically met the recommendations of the Sector Plan, he found that the building’s massing was incompatible with the Villages of Bethesda, the single-family detached structures on Lot 26, and the single-family detached dwelling confronting the property on West Lane. The District Council agreed with the Hearing Examiner’s recommendation to remand the case to permit the Applicant to revise the development plan, in part, to address these issues. *Id.*

After remand, the Zoning Hearing Examiner recommended approval of a revised application requesting a minimum of 40 and maximum of 48 dwelling units (including six MPDUs), for a maximum density of 73 dwelling units per acre. *Hearing Examiner’s Supplemental Report and Recommendation*, LMA G-843, p. 3 (June 21, 2007).⁴ Exhibit 101(c). The Hearing Examiner found the changes to the building massing sufficient to address the Council’s compatibility concerns, as did the Council. Exhibit 101(c).

Development Plan Amendment

Unlike the former development plan, the development plan amendment before the Council now includes Lot 26, eliminating the need for the “winged” configuration of the Holladay Project. The Applicant proposes a building at a maximum height of 70 feet and a maximum FAR of 3.05. It also commits to a minimum number of 100 dwelling units and a maximum of 120 dwelling units *provided* that the 3.05 FAR is approved. Exhibit 127. The maximum density requested equates to 135 dwelling units per acre.

The Applicant testified that the addition of Lot 26 to the previous development plan permitted the Applicant to design a more efficient building and enables them to further the County goals to provide higher density, and diversity in housing types and affordable housing units. 1/15/13 T. 36-37. She testified that the existing neighborhood consists of larger condominium units averaging between 1,700 and 2,000 square feet. The Applicant proposes units that range between 585 square feet and 1,200 square feet because it believes this is more consistent with goals of the Bethesda Sector Plan. 1/11/13 T. 38. The average unit size of 860 square feet will diversify housing types within the Sector Plan area and create an opportunity to introduce rental units into the surrounding neighborhood. The binding elements do not require the development to be rental units and the Applicant desires flexibility in this regard. The Applicant believes that designating 15% of the units as MPDUs is also important because there are no existing MPDUs on Montgomery Lane itself, although the HOC Building on Hampden Lane does have affordable units. 1/11/13 T. 38-41.

In response to the Planning Board’s recommendations, the Applicant amended the development plan originally submitted to include a concave curve or scallop at the corner of Montgomery and West Lanes and designated it as public use space. The scalloped corner rises to the full height of the building, thus reducing the building’s frontage on Montgomery Lane

⁴ The Hearing Examiner took official notice of the Zoning Hearing Examiner’s Supplement Report and Recommendation dated June 21, 2007, and the District Council’s Order of Remand dated March 20, 2007.

from 120 feet to approximately 80 feet and mitigating its mass along the southern frontage. The Applicant's expert land planner opined that the public use would function as a pocket park and enhance the pedestrian environment.

The Applicant's expert architect testified that other features will reduce the mass of the building as well. These include a 12-foot step back of the roof beginning at 50 feet. According to him, this creates a compatible transition with the City Homes across Montgomery Lane, as these are of approximately the same height. The architect testified that the building's height of 70 feet blends with the height of the very large Edgemoor High-Rise to the east and the lower heights along Arlington Road to the west, creating a compatible east-west transition. The Applicant also incorporated undulations of approximately one foot in depth along the West Lane frontage so the façade will be reminiscent of townhomes. 5/13/13 T. 27-32.

Twenty-six percent of the site area will constitute private amenity area. The Applicant included a binding element limiting lighting in the western setback area to 24 inches in height to address the concerns of the owner of the Edgemoor at Arlington North. 5/13/13 T. 145. The roof top will include a green roof (which has not yet been designed). It also may include an additional private amenity area. 4/16/13 T. 97-101.

The Applicant's architect testified that the Applicant worked hard to mitigate the additional FAR needed to accommodate the MPDUs. According to the architect, the building could not make many more small adjustments, such as moving the setbacks further back. Residential buildings have a very precise program that must be followed. For instance, the units became "pinched" when they increased the step back from nine to twelve feet. Increasing the step back further could further constrain the units so that they do not meet current regulations or market demand. The Applicant tried to mitigate the building's height by reducing the typical spacing between slabs; the typical standard residential ceiling height of 10' 7" from slab to slab has been reduced to a nine-foot distance between slabs. He opined that the design is an optimal means of balancing these competing factors. 4/15/13 T. 19-21.

Binding Elements

Development in the TS-R Zone is permitted only in accordance with a development plan that is approved by the District Council when the property is reclassified to the TS-R Zone. The Development Plan consists of several components that are binding on the applicant except where particular elements are identified as illustrative or conceptual. Illustrative elements may be changed during site plan review by the Planning Board, but the binding elements cannot be changed without a separate application to the District Council for a development plan amendment. The binding elements incorporated into the development plan (Exhibit 127) are attached as an appendix to this Resolution.

The Applicant has included some, but not all, of the Planning Board's recommended binding elements. The Applicant has conditioned its commitment to provide 15% MPDUs only if the full amount of the FAR requested (i.e., 3.05 FAR) is approved (Binding Element 3). Similarly, the Applicant has committed to a minimum of 100 dwelling units, conditioned upon the approval of a 3.05 FAR (Binding Element 2). It has also removed a binding element

requiring access to the parking garage to be located below the grade. *Compare*, Exhibits 105 and 127. The development plan amendment does contain binding elements recommended by Planning Board, including a commitment that the public use space substantially conform to the representations included in the February 25, 2013, Technical Staff Report and to the 12-foot step back at the 5th floor (Binding Elements 20 and 18, respectively). In response to concerns raised at the public hearing regarding the location of the mechanical penthouse, the Applicant includes a binding element that the penthouse will be set back from the building face on Montgomery Lane by a minimum distance of 25 feet, as shown on the renderings submitted with the application (Binding Element 22). It also added a binding element that it will propose landscaped amenity areas on the roof at the time of site plan (Binding Element 23). In response to other concerns expressed at the hearing, the Applicant added Binding Element No. 24, prohibiting location of a lay-by along Montgomery Lane. Exhibit 127.

The Applicant is providing 123 spaces for the 120 units because the Zoning Ordinance requires only ½ a parking space for each MPDU unit. T. 325. If each unit is assigned one parking spot, they will have three spaces for visitors, assuming the project is developed to the maximum density.

Conformance with the Sector Plan

The property is within the area covered by the *1994 Bethesda Central Business District Sector Plan* (Plan or Sector Plan). Generally, the 1994 Plan called for greater heights at the CBD Core (near the Bethesda Metro Station) stepping down to the edges of the Sector Plan area (some outside the CBD), to “ensure compatible transitions to adjacent neighborhoods...” Exhibit 110, p. 12. The Plan recommends heights of 65 feet for most of the properties along Montgomery Lane, stepping down to 35 feet closer to Arlington Road. The subject property is within the area recommended for 65-foot heights. *Id.* at 39.

The subject property is located within the Transit Station Residential District of the Sector Plan. Exhibit 110, p. 80. The objectives for the district include:

1. Provide incentives for and remove barriers to achieving high-density housing in the TS-R District.
2. Increase flexibility in the TS-R Zone to allow the district to achieve a low-rise, high-density “urban village” pattern.
3. Retain residential scale along Arlington Road. *Id.*

The Plan recommends the property for residential (high-rise or garden apartment) land use and the TS-R (Transit Station-Residential) Zone. *Id.* at 81. The Plan characterized the achievement of high-density housing as “an important objective” for this District. *Id.* It recommended only limited commercial and retail uses. The Plan envisioned a “low-rise, high-density urban village” and recommended changes to the TS-R Zone to make concept more feasible. Changes recommended included (1) reducing the required amount of green space permit buildings to fill out a sight, and (2) to reduce heights in order to lower construction costs.

The Plan recommended that the buildings appear like townhouses, but actually be three to six story multi-family buildings. *Id.* at 82.

To achieve the high density desired, the Plan recommends a *minimum* density of 45 dwelling units per acre except for developments along Arlington Road. The Plan states:

The Plan anticipates that some projects will incorporate higher densities, and the full 2.5 FAR density (about 100 dwelling units per acre) would be allowed. *Id.* at 82.

The Plan recommended a closed block configuration to create more usable open space and identified building frontage along Montgomery Lane as a resource for publically oriented open space. Montgomery Lane was designated a “mixed street” with curb-side parking and special pavers. *Id.* Thus, the Plan calls for a paving width of only 20 feet within a 52-foot right of way. The goal of the mixed street designation was to provide pleasant pedestrian linkages between the public library and park on Arlington Road and a proposed urban green space along Woodmont Avenue. *Id.*

The Plan included seven urban design guidelines for the TS-R District, included in full in the Hearing Examiner’s Report and Recommendation (page 39). The transportation chapter of the Plan identifies Montgomery Lane as an important pedestrian link between the Core and the public library. *Id.* at 151. It also recommended that the one-way westbound restriction (to approximately West Lane) be retained to prevent eastbound traffic through movement from Arlington Road to Woodmont Avenue. Travel ways on one-way streets should accommodate emergency traffic and allow traffic to pass a stopped vehicle. *Id.* at 180. According to the Plan, mixed streets were to emphasize pedestrian circulation while permitting limited slow traffic flow.

STANDARD FOR REVIEW

Section 59-D-1.61 of the Zoning Ordinance requires the District Council, before it approves any application for reclassification to the TS-R Zone, to consider whether the application, including the development plan, fulfills the “purposes and requirements” set forth in Code Section 59-C for the new zone. In making this determination, the law expressly requires the District Council to make five specific findings, “in addition to any other findings which may be necessary and appropriate to the evaluation of the proposed reclassification.” The required findings are set forth in full in the Hearing Examiner’s Report and Recommendation and are not repeated here. Based on this review, the District Council concludes Applicant has met the criteria for approval of the rezoning application and the development plan amendment.

Compliance with County Plans and Policies (Section 59-D-1.61(a))

Compliance with the Sector Plan

The Council finds that the land use and density of the proposed development substantially complies with the Sector Plan, as did Technical Staff, the Planning Board and the

Hearing Examiner. The Sector Plan recommends the TS-R Zone for the area subject to the development plan and multi-family residential is a permitted use in the Zone. The density also substantially complies with the Sector Plan. One important goal for the District is to locate residential densities close to Metro. For that reason, the Plan recommends a minimum number of units (i.e., 45 dwelling units per acre) as well as a maximum number of units i.e., (“about” 100 dwelling units per acre) for development within the District. Technical Staff advises that residential densities envisioned by the Plan have not been achieved and concluded that this application will “help fulfill the overall density envisioned” by the Sector Plan. Exhibit 54, p. 20. The Applicant submitted evidence and expert testimony that the District is currently developed at a density of 46 dwelling units per acre, which will increase to between 53 and 56 dwelling units per acre with the project as proposed. Exhibit 84; 4/8/13 T. 50. Based on the evidence presented, the District Council finds that the development does further the Sector Plan’s goal to locate high-density housing close to transit, as did the Hearing Examiner.

The District Council disagrees with arguments from the opposition that the use of the term “full” 2.5 FAR and the phrase “about 100” dwelling units in the Sector Plan represents an absolute cap on development because the Sector Plan must be read together with language in the TS-R Zone. Section 59-C-8.42 provides:

(c) The density of development must not exceed the FAR or the dwelling units per acre allowed by the zone, except that the maximum density permitted may be increased to accommodate the construction of moderately priced dwelling units as required by Chapter 25A and the construction of workforce housing units under Section 59-A-6.18 and Chapter 25B. The maximum number of dwelling units or residential FAR may be increased as needed for any MPDU density bonus and any workforce housing units provided on-site. The provision of MPDUs or workforce housing units does not authorize a reduction in any public facility and amenity or active or passive recreation space recommended in a master plan or sector plan.

Section 59-D-1.61 of the Zoning Ordinance mirrors this language, permitting the Council to approve a development that exceeds the height and density recommended in a master plan when the MPDUs provided exceed the minimum required:

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

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

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

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

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

Were the Applicant *not* able to increase the height recommended in the Sector Plan to accommodate MPDUs, these provisions would essentially be “read out” of the ordinance. *WFS Fin., Inc. v. Mayor of Baltimore*, 402 Md. 1, 13-14 (2007). The evidence reflects that the bonus height and density permitted for providing 15% MPDUs was adopted by the Council *after* adoption of the Sector Plan.⁵ Because these provisions were adopted after the Sector Plan, the Hearing Examiner concluded that the Zoning Ordinance intended to permit Applicants to exceed the density recommended by 22%, with a concomitant increase in height. *Id.*, 402 Md. 13-14 (2007) (The legislative body is presumed to have had, and acted with respect to, full knowledge and information as to prior and existing law and legislation on the subject of the statute and the policy of the prior law.) The District Council agrees with that determination. Nor is an absolute cap on density supported by the explicit language of the Plan, which uses the phrase “about” 100 dwelling units per acre. *Id.* The Applicant’s expert architect explained how the bonus density was calculated and the need for an additional floor. He also pointed out that the Applicant attempted to minimize its impact on the height by reducing the height between slabs. As the density of 135 dwelling units per acre does not exceed the maximum of 150 dwelling units per acre permitted in the TS-R Zone, the District Council finds that the height and density substantially comply with the Sector Plan.

For similar reasons, the District Council concludes that the number of stories proposed substantially complies with the Sector Plan. Although the Plan recommends buildings between three and six stories, the Applicant presented expert testimony that the additional floor was necessary to accommodate the MPDUs. The District Council concludes that this recommendation must be read in light of the Zoning Ordinance provisions permitting deviations in height for MPDU bonuses. Without the flexibility to add a single additional story, the Council’s policy could be defeated. As a result, the Council finds that the 5-foot difference between the height proposed and that recommended, created by the 7th story, is not a substantial enough deviation from the Sector Plan to deny the application at the rezoning stage.⁶

⁵ Some testimony indicated that the exemptions to height and density set forth in the TS-R Zone §59-D-1.61 were adopted two years after the Sector Plan. Amendments to §59-D-1.61 of the Zoning Ordinance mirrored these provisions and were adopted in 2004. *See*, Montgomery County, Md., Ord. No. 15-36 (November 30, 2004). The Council amended this provision in 2008 without changing the allowances for bonus density and height. Montgomery County, Md., Ordinance No. 16-28 (October 21, 2008). The Hearing Examiner took official notice of these Council actions. *OZAH Rules of Procedure*, Rule 4.8.

⁶ The TS-R Zone requires the final height of the project to be determined during site plan review. Thus, the actual height of the building may be lower than the maximum height approved at the zoning stage, which is what occurred during site plan review of 4825 Montgomery Lane. *Montgomery County Zoning Ordinance*, §59-C-8.51.

The second height-related issue is whether the development conforms to the “tenting concept” adopted by the Sector Plan. The Plan employs one tenting concept that begins at the Metro Core and proceeds generally downward toward the edge of the CBD at Arlington Road. The Plan calls for a separate 65-foot height limit beginning at Woodmont Avenue transitioning westerly to 35 feet along Arlington Road. Nothing in the Plan, however, *mandates* that each succeeding building be lower than the one immediately to the east. While there is language in the Plan stating that 6-story heights are “preferred” closer to Woodmont Avenue, this is not mandated either by the height limits imposed or by the Plan’s explicit language.⁷ Even strict adherence to the height limits in the Plan permits heights of up to 65 feet for the majority of the length of Montgomery Lane, transitioning to 35 feet closer to Arlington Road. As the Plan is a guide only, and even these guidelines use the term “preferred,” the Council finds that the heights of buildings along Montgomery Lane need not decline in a perfectly straight downward angle from a 65-foot height limit along Woodmont Avenue to comply substantially with the Plan.

Based on the evidence, the District Council finds that the proposed development will achieve the Plan’s goal to transition heights gradually. There is nothing in the Hearing Examiner’s recommendation for the Edgemoor High-Rise that requires that building to be *ignored* when considering subsequent approvals. Rather, the precedential language used in the Hearing Examiner’s report on the Edgemoor High-Rise means only that its location at the time, combined with other factors, was unusual enough that other projects would not be able to justify similar deviations in height. The language does not convey a mandate that future tenting must be measured from an imaginary 65-foot height limit from Woodmont Avenue. The District Council may consider existing conditions in determining whether the goals of the Sector Plan will be achieved. The District Council obviously found that the 100-foot height limit of the Edgemoor High-Rise substantially conforms to the Sector Plan, as did the Hearing Examiner. It is difficult to interpret the Plan so that a building of 100 feet that has been found to substantially conform to the height limit must be completely ignored when determining whether as-built conditions will achieve the Sector Plan’s goals. When the Edgemoor High-Rise is considered in the east-west transition from Woodmont Avenue to Arlington Road, the skyline does show a gradual decline. The Applicant presented expert testimony that the planning concept of transitioning heights must be read in the context of the Sector Plan’s guidelines to create a varied skyline. It may vary up and down during the gradual decline to the edge of the District. 5/13/13 T. 17-18. Based on this evidence, the District Council agrees with the Hearing Examiner that the height of the proposed development substantially complies with the Sector Plan’s goal to transition heights gradually from Woodmont Avenue to Arlington Road.

Those opposing the application also object to the development’s flat roof, contending that this violates the Sector Plan’s recommendation to enhance the residential character of the building by using hip roofs, gables, turrets and other types of pitched roof lines. *Plan*, p. 85. The Applicant’s architect testified that the guideline is obsolete because it doesn’t account for a green roof as well as roof top amenity areas. A green roof will be incorporated into this project and a roof top amenity area may be included. 4/15/13 T. 90-91. Technical Staff found roof top articulation unnecessary because there is sufficient articulation elsewhere in the building to

⁷ The Applicant presented evidence that other approved developments in the District vary from the heights recommended in the Sector Plan, although they use roof line step backs to create a compatible transition in height.

maintain the residential character intended by the Plan, as did the Hearing Examiner. Exhibit 54, p. 23. Based on this evidence, the District Council concludes that the residential articulation proposed is sufficient to meet the intent of this guideline.

The urban design guidelines recommended by the Sector Plan also suggest that unit entrances along the street be on the first floor to encourage street life. The Applicant has provided a single entrance on the first floor at the intersection of Montgomery Lane, but not individual unit entrances, an item requested by City Homes. 4/19 Tr. 256-257. City Homes requested the Application to include these ground floor entries along West Lane to ensure that deliveries occur there rather than on Montgomery Lane. *Id.*

The Applicant presented expert testimony that the purpose of the recommendation is to activate the street. The Applicant's architect testified that the design includes "French balconies" along the Montgomery Lane frontage that accomplish this. Technical Staff concluded that these balconies were sufficient to achieve an active street presence. Exhibit 54, p. 23.

The District Council finds that the proposed design substantially conforms to the intent of the Sector Plan. The Applicant presented expert testimony that the location of the public use space at the entrance will enhance and activate the pedestrian environment unlike other public use space in the area. Based on this evidence, the District Council finds that the combination of the location of the building's entrance along Montgomery Lane and its incorporation with the project's public use space will achieve the goal of the Sector Plan to activate the street.

The development plan does comply with other urban design guidelines recommended by the Plan. One of these is to incorporate individual parcels in the unified developments. The Council concludes that the development does this by incorporating Lot 26 into the former Holladay project.

The design guidelines also call for low-rise buildings to fill out a parcel. Technical Staff concluded that low-rise buildings are generally less than five stories, but found that the 7-story height substantially complied with the Sector Plan because it is necessary to provide MPDUs. Assuming that 7 stories is "mid-rise," the District Council finds that the development plan substantially complies with the Sector Plan because the 7th story has been "squeezed" so that the overall height is only 5 feet above the 65-foot limit recommended by the Plan. The 12-foot step back at 50 feet assists in mitigating this height and the building fulfills the Plan's recommendation to have buildings "fill out" the parcel.

The final urban design guideline calls for parking to be located either underground or in rear decks so that it may not be seen from public streets. Except for the loading areas on West Lane, all parking will be contained in an underground garage. As a result, the District Council finds that the development plan substantially conforms to this Sector Plan recommendation.

The General Plan and the County Capital Improvements Program

There is no evidence in this case that the proposed development conflicts with the County's General Plan or the Capital Improvements Program. The District Council finds that the project conforms to both plans and programs.

Other County Policies (Annual Growth Policy and Adequate Public Facilities Ordinance)

At the rezoning stage of development approvals, an applicant must demonstrate that there is a "reasonable probability that available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application is submitted." *Montgomery County Code*, §59-H-2.4(f).

Under the current 2012 – 2016 Subdivision Staging Policy (Staging Policy), "[t]he Planning Board and staff must consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence that a local area problem will be generated." Council Resolution 17-601, p. 21. There is no such evidence in this case. The remaining three public facilities: transportation, schools and water/sewer service are considered below.

Transportation:

Technical Staff found that transportation facilities would be adequate. Exhibit 54, p. 28-31. The Applicant presented expert testimony that transportation facilities will be adequate to serve the development under the current Subdivision Staging Policy. 4/15/13 T. 233-239. There is no evidence in the record to the contrary.

School Capacity:

Technical Staff advises that school capacity is adequate to serve the proposed use, as did the Hearing Examiner. Based upon this evidence, the District Council finds that school facilities are adequate to serve the proposed development.

Water and Sewer Service:

Under the Staging Policy, applications must be considered adequately served by water and sewerage if the subdivision is located in an area in which water and sewer service is presently available. Council Resolution No. 17-601, p. 20. The Applicant presented expert testimony that water and sewer systems are adjacent to the site, as are gas, storm drains and electrical utilities. The property is within the W-1/S-1 water and sewer category. The District Council finds these utilities adequate to serve the proposed development.

Housing Element of the General Plan:

The Housing Element of the General Plan encourages the provision of affordable housing, particularly in areas close to transit facilities. Approved in 2011, one of its major goals

is to provide more affordable housing close to employment and transit. *Approved and Adopted Housing Element of the General Plan* (May 18, 2011). The Housing Element also calls for new development to incorporate green and energy efficient standards. *Id.* at 16. The Applicant presented expert testimony that the development plan would further these goals by (1) adding new housing in mixed-use transit oriented areas near employment, (2) creating smaller, more energy efficient units, (3) creating the potential for rental units, and (4) fulfilling the neighborhood design identified in the Element.

Based on this evidence, the District Council finds that the proposed development will be consistent with applicable County plans and policies.

Compliance with Zone Purposes, Standards and Regulations (§59-D-1.61(b))

Compliance with the Purposes of the TS-R Zone

The TS-R Zone is a “floating zone,” intended to be used in transit station development areas designated on an approved and adopted master plan within walking distance to transit. *Id.*, §59-C-8.21. The Zone is intended to be used to “facilitate and encourage innovative and creative design and the development of the most compatible and desirable pattern of land uses” that take advantage of the flexible standards of the Zone. *Id.*, §59-C-8.21(d).

As indicated by uncontroverted evidence and testimony in this case, the subject property is within a Transit Station Development Area and District designated in the Sector Plan. Exhibit 54, p. 24; 1/11/13 T. 111. Technical Staff advises that the property is within walking distance to the Bethesda Metro station; it is located approximately 950 feet from that station. Exhibit 54, p. 24. The District Council finds that the proposed development plan amendment meets this intent of the TS-R Zone.

Technical Staff found that the development will use the flexibility provided by the TS-R Zone to achieve creative design and desirable land uses. They advise that the setbacks ensure that detrimental effects to adjacent residential properties will be minimized and the building will add to a cohesive building line along Montgomery Lane. Exhibit 54, p. 25. The Hearing Examiner further concluded that the location of the concave public use space will both increase setbacks along Montgomery Lane and mitigate the mass of the building. For these reasons, the District Council finds that the development plan meets this intent of the Zone.

The purposes of the TS-R Zone are set forth in Code §59-C-8.22. These include (1) promoting the effective use of transit station development areas, (2) locating residential uses within walking distance of a transit station, (3) providing a range of densities to afford planning choices matching the characteristics of the TS-R District, and (4) using the design flexibility of the zone to prevent detrimental impacts on the surrounding area and promote systematic development of the area.

Technical Staff and the Hearing Examiner found that the location of up to 120 multi-family units within walking distance of the transit station achieved this purpose of the TS-R Zone. *Id.* Technical Staff found that the increased density (above that of the Holladay Project)

will contribute to a greater diversity of housing choices, both with the addition of more MPDUs and because the unit sizes will be much smaller than the majority of those currently existing or approved in the area. *Id.* In addition, this development offers an opportunity to introduce rental units in the area, although this is not a binding element of the development plan. Based on this evidence, the District Council finds that the development plan will fulfill the purposes of the TS-R Zone.

Technical Staff initially found that the setbacks provided adequately protected adjacent residential properties. *Id.* Subsequently, the Applicant redesigned the project to move the public use space to Montgomery Lane, thereby increasing the Montgomery Lane setback for a portion building's façade, providing a viable public use space, and decreasing the building's mass. The District Council finds the development plan to be consistent with this requirement of the Zoning Ordinance.

Compliance with the Standards and Regulations of the TS-R Zone

The Applicant presented expert testimony that the proposed plan meets the development standards of the TS-R Zone. The property exceeds the minimum lot area of 18,000 square feet as the gross tract area of the property is 38,804 square feet. While the maximum base density in the zone is 2.5 FAR, the TS-R Zone permits a bonus density of up to 3.05 FAR to provide MPDUs. The FAR of the proposed building is the maximum 3.05 FAR because 15% of the units will be MPDUs.

The TS-R Zone permits a maximum base density of 150 dwelling units per acre. The development proposes a maximum of 120 dwelling units, the equivalent of 135 dwelling units per acre. A binding element commits the Applicant to a minimum of 100 dwelling units per acre provided that the full 3.05 FAR is approved.

The TS-R Zone requires a minimum of 10% of the gross tract area to be public use space. The development plan (Exhibit 127) confirms that the minimum has been provided. In addition, the total amount of open space, including active or passive recreational areas, must be 30%. The development plan shows that the open space exceeds the 30% minimum. The TS-R Zone requires 20% of the gross area to be active and passive recreational space; the proposed private amenity space is 26% of the site area. Exhibit 127; 4/15/13 T. 54-55. The District Council finds that the development standards of the TS-R Zone have been met.

Safety, Convenience and Amenity of Residents

The record includes a significant amount of evidence regarding the amenities to be provided. The Applicant proposes a substantial amount of open area with both hardscaping and landscaping within the setbacks, including the private amenity areas to the north and west and the public use space along Montgomery and West Lanes. In addition, the Applicant added a binding element (Binding Element 23) that it will propose an amenity area on a portion of the roof at site plan. 4/8/13 T. 274; Exhibit 127. Based on this evidence, the District Council finds that the development plan provides "maximum safety, convenience, and amenity of the residents," as required.

Compatibility with Adjacent Development

The District Council finds that the mass, scale, height and density of the proposed development is sufficiently compatible with the neighborhood to proceed beyond the zoning stage, as did the Hearing Examiner. The height of City Homes should be 48 feet when used to assess the compatibility of the proposed development with City Homes.

While those opposing the application make general allegations that differences in ground elevation will cause the project to loom above City Homes and other developments in the area, there is nothing in the record specifically quantifying or demonstrating this effect. The Applicant submitted expert testimony that the roof top step back and contrasting materials on the top two floors of the proposed development provided a compatible north-south transition between City Homes and the proposed development. The Planning Board and Technical Staff agreed with this assessment. Even assuming the 48-foot height of City Homes, the difference in the height of the step back and the height of City Homes is only 2 feet. Further, the difference in elevation between the City Homes and the proposed development, according to Ms. Susan Turnbull, is 3 feet. Exhibit 101(i). Those opposing the Application have provided no evidence that the combined 5-foot difference significantly alters the transition depicted and found compatible by the Planning Board and Technical Staff. There was testimony that the proposed development would block certain vistas which currently exist for residents of City Homes; however, the District Council has nothing before it requiring preservation of particular vistas based in the evidence presented here. The expert testimony indicates that this project will not impact the light available to City Homes or cast shadows on the townhouses.

The Applicant presented expert evidence that differences in elevation will be imperceptible from the ground because the pedestrian's perception changes with the elevation. While there are grade changes between the City Homes and Hampden Lane, the Applicant's expert architect testified that elevations could theoretically matter where there are not intervening buildings, but testified that the project would not be visible from Hampden Lane. Without more concrete evidence from the opposition that elevations will cause the development to be incompatible with the surrounding area, the District Council finds that the height of the building will be compatible with the City Homes. The Council also finds that the transition in heights between Woodmont Avenue and Arlington Road is compatible with the surrounding area because of the expert evidence that heights need not transition downward in a straight line.

There were also contentions that the height of the mechanical penthouse (i.e., approximately 10-12 feet) would exacerbate the building's mass from the street, although little expert testimony supported this. The Applicant added a binding element that the penthouse would be setback no *closer* to the street than shown on the existing exhibits. With this binding element, the District Council finds that there is sufficient evidence for approval of the rezoning application and development plan amendment.

The District Council concludes that the development's setbacks are compatible with the surrounding area. The Applicant provided expert testimony that included detailed measurements of the setbacks along the entire length of Montgomery Lane; the setbacks provided for the proposed development exceed or equal those in other developments along the street. While in

this instance, the setback is combined with a 70-foot height, the Applicant has incorporated revisions to the design to mitigate the building's mass, such as the 5th floor step back with contrasting colors on the top floor, the concave scallop running the full length of the building, and the undulating façade along West Lane. The curved frontage along Montgomery and West Lane acts to increase the setback from City Homes. While City Homes desires a 15-foot building setback, the Applicant presented expert testimony that the difference would have little impact on compatibility and impairs the important goal of providing a continuous street edge. 4/8/13 T. 69-74. Technical Staff also found creating a continuous building edge an important component of the development plan. Exhibit 54. The Applicant's experts testified the difference between the building face of City Homes and the proposed development is 73 feet, the largest on Montgomery Lane. While there was summary expert testimony to the contrary, the District Council finds that the evidence regarding the need to provide a solid building edge along the street and the large distance between building facades is more detailed and persuasive, as did the Hearing Examiner.

As to the building's mass, the Applicant responded to concerns raised by creating the scallop that runs the full height of the building, increasing the step back from 9 to 12 feet, including French balconies along the Montgomery Lane façade, and creating undulations along the West Lane façade, which it asserts are reminiscent of townhouses. The District Council concludes that the overall mass of the building has been sufficiently reduced for the purposes of rezoning.

Also at issue is whether the architecture sufficiently declares the building's residential character and compatibly relates to the surrounding area. The Applicant presented expert testimony regarding the architectural details designed to emanate a residential character. These included French balconies, a defined base, middle, and top, making the top two floors lighter and reflective of light changes, and the undulations on the West Lane Façade. Technical Staff found this articulation and fenestration sufficient to be compatible with the existing residential character of the surrounding area, as did the Planning Board. Those opposing the application did present some expert testimony that the use of glass around the scallop emphasized the building's mass, but the expert did not provide a detailed explanation of why this would be the case. Considering the well-thought out rationale submitted by the Applicant's architect and the recommendations of Technical Staff, the Planning Board, and the Hearing Examiner, the District Council finds that the Applicant has successfully met its burden of proof that the proposed development is compatible with the surrounding area.

Internal Vehicular and Pedestrian Circulation Systems and Site Access (Section 59-D-1.61(c))

Whether the application can satisfy this finding has been the source of much of the controversy in this case. After carefully reviewing the testimony and evidence submitted, the District Council finds that the weight of the evidence falls in favor of the Applicant because its evidence is more objective, quantifiable and systematic.

In order to determine congestion levels on Montgomery Lane, the Applicant's expert transportation engineer performed field observations of the existing queues, which are only one

to two vehicles long. He also performed a delay/queuing analysis using the protocols of the Highway Capacity Manual. This projected that queues would remain essentially the same after development of the project. Because the existing volumes on the street are already quite low, he opined that the project's impact on traffic will be "imperceptible." 4/15/13 T. 246.

The Applicant's transportation planner opined that vehicular access will be safe, adequate and efficient because West Lane (after the Applicant's dedication) will have a sufficient paved area to accommodate traffic. He pointed out that moving the development's access to the northern end of West Lane will minimize conflicts along Montgomery Lane. The addition of two loading bays above the required minimum, all of which will be accessed from West Lane, will eliminate the need for service vehicles to stop on Montgomery Lane. He also testified that parking is adequate to serve the use. Census data indicates that 36% of renters in the area do not have cars. Even if, however, the property is developed as condominiums, he opined that parking opportunities are available in nearby public garages.

While those opposing the application expressed skepticism that service vehicles will actually use the West Lane loading areas because they are less convenient, their testimony amounted to no more than skepticism. Similarly, while residents presented pictures of congestion problems that have occurred on Montgomery Lane due to service and other vehicles parking illegally on Montgomery Lane, there was no evidence that the proposed development, which will utilize West Lane for deliveries and have three loading areas, will exacerbate this problem. While existing residents suggest that large tractor trailers will not be able to access the property, they did not present evidence that moves would be handled by these larger vehicles. The same is true as to the proposition that the one-to-one ratio between parking spaces and dwelling units is insufficient. While those opposing the application expressed skepticism that people would not use parking garages, there is little in the way of quantifiable evidence to this effect.

In contrast, the Applicant presented expert testimony that those vehicles large enough to move furniture for the size of the units proposed will be able to unload and load in at least one of the loading bays or the lay-by (located on West Lane). The Applicant also took videos recording traffic volumes and vehicle deliveries occurring on sequential days. These videos did not record any congestion occurring on the street; the time attributable to vehicle deliveries averaged three minutes and there were an average of 4.67 deliveries per day.

Based on this evidence, the District Council finds that site access and circulation will be safe, adequate and efficient.

Preventing Erosion, Preserving Vegetation, Forest Conservation and Water Resources
(Section 59-D-1.61(d))

The District Council finds that the development will not cause erosion or adversely impact vegetation, forest or water resources. Expert testimony demonstrates that there are no significant natural features on the existing site except for one specimen tree. In addition, the development may impact the Critical Root Zone of a specimen tree on 4825 Montgomery Lane. In the opinion of the Applicant's expert in civil engineering, the Applicant will be able to obtain a variance from the requirements of the Forest Conservation Law for removal of the tree on the

subject property if necessary. The Applicant also presented evidence that the proposed development plan has received an exemption from other requirements of the County's Forest Conservation Law. *See, Montgomery County Code, Chapter 22A.* The Applicant's civil engineer testified at length as to how sediment and erosion control would be controlled on the site.

Ownership and Perpetual Maintenance (Section 59-D-1.61(e))

The Applicant has submitted a deed and record of the Maryland State Department of Assessments and Taxation evidencing the Applicant's ownership of the site. Exhibit 7. It has also submitted a statement describing how the common areas and privately owned public use space will be maintained. Exhibit 18.

Having no evidence to the contrary, the District Council finds that the applicant has sufficiently demonstrated both ownership of the property and its commitment to perpetual maintenance of all recreational and other common or quasi-public areas.

The Public Interest

When evaluating the public interest, the District Council normally considers master plan conformity, the recommendations of the Planning Board and Technical Staff, any adverse impact on public facilities, the environment, and public benefits such as the provision of affordable housing and the location of residences near a Metro station.

The issue of Sector Plan conformance and adequacy of public facilities have already been discussed in this Report and the Planning Board, Technical Staff and the Hearing Examiner have recommended approval of this application.

For the above reasons, the District Council concludes that the proposed development would be in the public interest.


Action

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

Zoning Application No. G-954, requesting reclassification approximately 11,847 square feet of land from the R-60 to the TS-R Zone (Transit Station-Residential), consisting of Lot 26 of the Edgemoor subdivision and the rights-of-way for Lots 24 and 25 of the Edgemoor subdivision, and Development Plan Amendment No. 13-01, consisting of 38,804 square feet and including Lots 24-27 of the Edgemoor Subdivision, are hereby ***approved*** in the amount requested and subject to the specifications and requirements of the final Development Plan, Exhibit 127, provided that the Applicant submits to the Hearing Examiner for certification a reproducible

original and three copies of the Development Plan approved by the District Council within 10 days of approval, in accordance with §59-D-1.64 of the Zoning Ordinance.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council



FIRE MARSHAL COMMENTS

DATE: 02-Jun-14
TO: Bill Landfair - landfair@vika.com
VIKA, Inc
FROM: Marie LaBaw
RE: West Lane
12008005A

PLAN APPROVED

1. Review based only upon information contained on the plan submitted 02-Jun-14 .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

***** Performance based design review *****



May 23, 2014

Via Hand Delivery and Email
Marie.LaBaw@montgomerycountymd.gov

S. Marie LaBaw, PhD, PE
Office of the Fire Marshal
Montgomery County Fire and Rescue Services
100 Edison Drive, 2nd Floor
Gaithersburg, MD 20850

Re: West Lane
Preliminary Plan No. 12008005A
VIKA #VM1789B

Dear Marie:

On behalf of our client, SKG Properties (the Applicant), we are responding to your request for a written statement regarding the provision of fire access to the proposed development. The property is located at the northwestern corner of the intersection of West Lane and Montgomery Lane in the Transit Station Residential District of the Bethesda CBD Sector Plan area. Consistent with the TS-R Zoning of the property and the recommendations of the applicable Sector Plan, the Applicant proposes redevelopment of the property with a seven-story building containing up to 120 multi-family residential units and structured parking.

At the DRC, we received comments from the Fire Marshal Office related to the following: 1) provision of draft parking restrictions or traffic order for public roads; 2) clarification of location of all main side hinge door access points to all ground floor occupancies; and 3) maintenance of a 15 foot clear and walkable grade around the building. The required traffic order has been obtained from the Montgomery County Department of Transportation and is attached with this letter. We have also updated the Fire Access Plan to reflect the first floor of the building clarifying the location of all main side hinge door access points as discussed at the recent meeting with our staff.

With respect to the issue of a clear and walkable grade, 15 feet is provided around most of the north, east, and south perimeters of the building. A substantial portion of the west side of the building will also maintain 15 feet free and clear. However, one segment of the west side of the building, measuring 75 feet in length, maintains a minimum setback of 12 feet, as measured from building face to property line. Within this setback is a raised planting bed, 6 feet in depth and 3 1/2 feet high, required per the certified Development Plan for the subject property. It's understood that raised planting beds can be utilized operationally for access as long as they do not exceed 18 inches in height. In this case, because of its limited length, we believe that from a performance based perspective the remaining 6 feet free and clear will be sufficient for access. This is the same width approved on the Fire Access Plan for the original development plans for the property and exceeds the 5 feet recently approved for a neighboring project in the same zone (4825 Montgomery Lane). In addition, while the adjacent property to the west is not under our control, there is an approved development plan for that site providing a driveway along the common property line that could facilitate access in the event of an emergency.

We hope that this letter, the revised Fire Access Plan, and related exhibits are responsive to your comments and request that you indicate your recommended approval of the application to the M-NCPPC staff.

Please contact me with any questions or if you need additional information.

Fire Department Access Review

Sincerely,
VIKA Maryland, LLC

John W. Clapsaddle, P.E.
Project Engineer

JWC/kc

Enclosures

Review based only upon information contained on this plan. Does not cover unsatisfactory layout resulting from omissions, errors, or failure to clearly indicate conditions on this plan. Correction of such unsatisfactory layout to afford required access will be required if found upon inspection after installation.

JWC 43 6/2/14

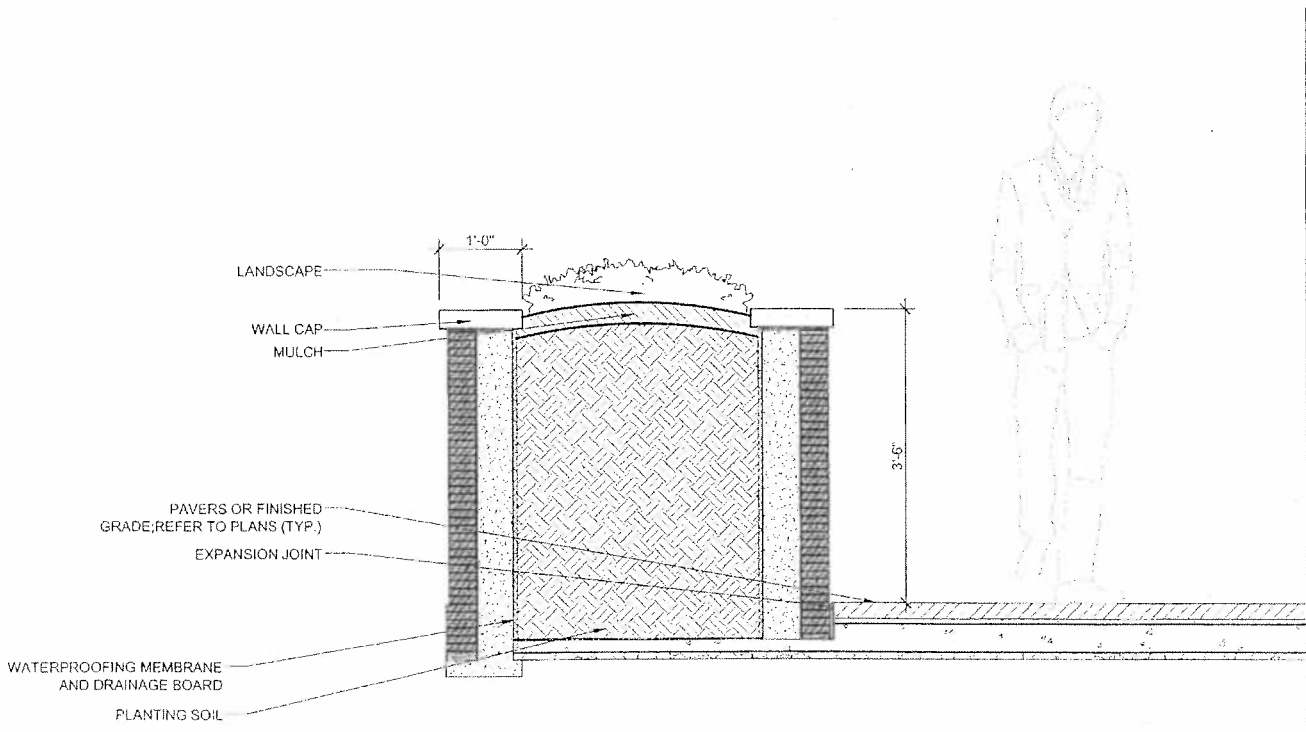
K:\1501-2000\1789\documents\1789B\planning\preliminary plans\West Lane Design in Compliance with Intent Letter.05.23.14.docx

VIKA Maryland, LLC

20251 Century Boulevard, Suite 400 * Germantown, Maryland 20874 * 301.916.4100 Fax 301.916.2262

Tysons Corner, VA * Germantown, MD * Washington, DC

www.vika.com



2
L3.02

PLAZA SECTION

Scale: 3/4" = 1'-0"

SECTION



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

March 20, 2014

Mr. John Clapsaddle
VIKA Maryland, LLC
20251 Century Boulevard, Suite 400
Germantown, Maryland 20874

Re: Stormwater Management **CONCEPT** Request
for West Lane Revision
Preliminary Plan #: 12008005A
SM File #: 243950
Tract Size/Zone: 0.67 Acre / CBD-2
Total Concept Area: 0.86 Acres
Lots/Block: 39/13
Parcel(s):
Watershed: Little Falls Branch

Dear Mr. Clapsaddle:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept revision for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via Environmental Site design and structural measures. A partial green roof, micro-biofilter type planter boxes and two Siva Cell facilities are proposed to provide treatment for the first one inch of run-off from Lot 39 and adjacent right-of-way improvements. The remainder of the stormwater volume to be managed will be treated by a volume based stormfilter.

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

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. Landscaping shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.

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

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY
www.montgomerycountymd.gov

Mr. John Clapsaddle
March 20, 2014
Page 2

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

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Ellen Rader at 240-777-6336.

Sincerely,

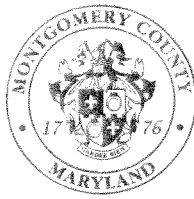


Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: jb CN.243950.WestLane4Revision.EBR

cc: C. Conlon
SM File # 243950

ESD Acres:	0.85
STRUCTURAL Acres:	0.85
WAIVED Acres:	0



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

May 30, 2014

RECEIVED
M-NCPPC

Arthur Holmes, Jr.
Director

JUN 13 2014

Montgomery County
Planning Department

Ms. Erin Banks, Senior Planner
Area 1 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 12008005A
West Lane (Holladay at Edgemoor)

Dear Ms. Erin Banks:

We have completed our review of the amended preliminary plan dated May 29, 2014. This plan was reviewed by the Development Review Committee at its meeting on April 14, 2014. We recommend approval of the plan subject to the previous comments in our approval letter dated May 23, 2008 and the following additional comments:

- All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.
1. Submitted storm drain study has been approved as the analysis shows that there is no major impact on the capacity of the existing downstream public storm drain system.
 2. The updated sight distance study has been accepted. A copy of the accepted Sight Distance Evaluation certification form is enclosed for your information and reference.
 3. We recommend that along the Montgomery Lane frontage there should not be any vertical structures (planters, benches, etc.) encroaching within the public right-of-way due to a high volume of pedestrians and cyclists expected along this street.
 4. On-street parking will not be allowed along West Lane in consideration of the narrow pavement width.
 5. Building should be setback 2 feet from right-of-way line on West Lane.

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

6. We have reviewed your design exception request dated February 3, 2014 and offer the following recommendations:
 - a. West Lane should be classified as a “Mixed Street” which would require the road to have a 52 feet right-of-way similar to Montgomery Lane.
 - b. We will accept a modified “Mixed Street” section for West Lane. Therefore, the right-of-way width for West Lane will be 50 feet with 11 feet travel lane from centerline to face of curb, a 6.5 feet landscape strip, a 5’ sidewalk, and 2.5 feet of dedication from the back of sidewalk to the right-of-way line. This should be reflected on the plans for the Modified “Mixed Street” road section.
 - c. We will accept the proposed layby based on our previous approval at 6 feet wide and 57 feet long. It should be posted for No Parking Any Time.
 - d. The standard sidewalk requirement is an ADA-compliant 5 feet continuous width that is free and clear of any obstructions. Any proposed sidewalks of a larger width must meet the Bethesda streetscape Guidelines as well as the minimum standard identified above.
 - e. The proposed driveway location although less than 100 feet from the adjacent existing driveway does not pose a significant traffic issue or sight distance conflict given the current usage of the existing driveway and that the road (West Lane) dead ends a few feet after the driveways.
 - f. We will waive the right-way truncation for this property as it should not create any traffic safety issues and it is consistent with our prior approval of the property opposite this site at the northeast corner of West Lane and Montgomery Lane.
 - g. We will accept the reduction in curb radii from the standard 30 feet radius to 25 feet radius as it will accommodate the types of vehicles expected to use this road.
 - h. The proposed trench drains along the gutter pan in the right-of-way are not accepted. Inlets which are an acceptable practice are capable of draining to the Silva Cells should be used instead.
 - i. For the CBD areas, utilities are acceptable in the right-of-way. However, an ADA-compliant 5 feet wide free and clear sidewalk must be provided without obstructions such as a manhole. At this time, the sidewalk requirement stands and will not be waived for the dry utilities.

Ms. Erin Banks
Preliminary Plan No. 12008005A
May 30, 2014
Page 3

7. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans with Disabilities Act.
8. For any parking facility containing more than fifty (50) parking spaces, the applicant needs to furnish bicycle parking facilities as required Section 59 E-2.3 of the Montgomery County Code. Accordingly, the applicant should provide either bike lockers or inverted "U" type bike racks.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Monet L. Lea, our Development Review Area Engineer for this project at monet.lea@montgomerycountymd.gov or (240) 777-2197.

Sincerely,

Monet L. Lea FOR
Gregory M. Leck, Manager
Development Review Team

m:/subd/MonetL/MCDOT plan review ltr_West Lane

Enclosure

cc: Ashley Wiltshire, SJG Properties
Rob Cohen, Vika
Bill Landfair, Vika
Patricia Harris, Lerch, Early & Brewer
Preliminary Plan folder
Preliminary Plan letters notebook

cc-e: Catherine Conlon, M-NCPPC DARC
Matthew Folden, M-NCPPC Area 3
Atiq Panjshiri, MCDPS RWPR
Sam Farhadi, MCDPS RWPR
Kyle Liang, MCDOT DTEO
Monet L. Lea, MCDOT DTEO



MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
 DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: West Lane Preliminary Plan Number: 1-2008005A

Street Name: West Lane Master Plan Road Classification: Mixed Street
~~Tertiary~~

Posted Speed Limit: Not posted mph

Street/Driveway #1 (Garage entrance) Street/Driveway #2 (_____)

Sight Distance (feet)	OK?	Sight Distance (feet)	OK?
Right <u>225'</u>	yes <input checked="" type="checkbox"/> <i>MP</i>	Right _____	_____
Left <u>120'</u>	yes <input checked="" type="checkbox"/> <i>MP</i>	Left _____	_____

Comments: Sight distance to the right is to the intersection of Montgomery Lane.
Sight distance to left is to the end of the street.

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*	Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)
Tertiary - 25 mph	150'	
Secondary - 30	200'	
Business - 30	200'	
Primary - 35	250'	
Arterial - 40	325'	
(45)	400'	
Major - 50	475'	
(55)	550'	

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

[Signature]
 Signature John W. Clapsaddle
 16956

12/18/13

Date



Montgomery County Review:

Approved

Disapproved:

By: *[Signature]*

Date: 5/30/2014

PLS/P.E. MD Reg. No.

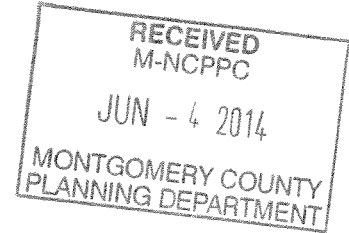


DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

June 2, 2014



Ms. Erin Banks
Area 1 Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: West Lane (aka Holladay at Edgemoor)
Preliminary Plan Amendment No. 12008005A
Site Plan Amendment No. 82008003A

Dear Ms. Banks:

The Montgomery County Department of Housing and Community Affairs (DHCA) has reviewed the above referenced Preliminary Plan and Site Plan Amendments. DHCA recommends Approval of the plans, with the following instructions to the applicant:

- As soon as they are available, but no later than certified site plan, provide DHCA with schematic floor plans of the proposed residential building showing locations of MPDUs and market rate units on each floor, with a summary chart of location and bedroom composition of MPDUs and market rate units, as well as unit layouts (including dimensions and square footage) for each MPDU unit type.
- The MPDUs should be distributed among the residential floors, and no more than 40 percent (40%) of the total units on any floor should be MPDUs.
- Please note that the minimum sizes of MPDUs in multi-family buildings that are high rises should be as follows: 0 BR = 550 sq. ft.; 1 BR = 575 sq. ft.; 2 BR = 725 sq. ft.; 3 BR = 825 sq. ft. At the discretion of the Department, the minimum size of any type of unit, by bedroom size, may be reduced to the minimum size of comparable market rate units of the same bedroom size.
- DHCA reviews units for livability. Bedrooms in MPDUs are expected to have closets, walls and doors, and the living/dining space is expected to be adequate to accommodate a dining room set and a sofa set appropriate to the number of occupants of the unit.
- Prior to obtaining building permits, the applicant will need to execute an Agreement with DHCA that satisfies the requirements of Chapter 25A.

Division of Housing

Moderately Priced
Dwelling Unit
FAX 240-777-3709

Housing Development
& Loan Programs
FAX 240-777-3691

Landlord-Tenant Affairs
FAX 240-777-3691

Licensing & Registration Unit
240-777-3666
FAX 240-777-3699

100 Maryland Avenue, 4th Floor • Rockville, Maryland 20850 • 240-777-3600 • www.montgomerycountymd.gov/dhca

Ms. Erin Banks
June 2, 2014
Page 2 of 2

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa S. Schwartz". The signature is fluid and cursive, with the first name "Lisa" being the most prominent.

Lisa S. Schwartz
Senior Planning Specialist

cc: Rob Cohen, VIK A Maryland LLC

S:\Files\FY2014\Housing\MPDU\Lisa Schwartz\West Lane DHCA Letter 6-2-2014.doc



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



May 8, 2012

Ashley Gerstenfeld Wiltshire
SJG Properties
805 Fifteenth Street, NW, Suite 230
Washington, D.C. 20005

Re: Forest Conservation Exemption # 42012159E;
Existing Conditions plan, West Lane, Lots 24, 25, 26, 27; Block 13

Dear Madam or Sir:

This letter is to inform you that your request for an exemption from submitting a forest conservation plan 42012159E, Existing Conditions plan, West Lane, Lots 24, 25, 26, 27; Block 13, is **confirmed**. This plan submitted on May 1, 2012 is in compliance with Chapter 22A-5 (s)(1) of the Forest Conservation Law. This exemption covers an activity conducted on a tract less than 1 acre that will not result in the clearing of more than a total of 20,000 square feet of existing forest, or any existing specimen or champion tree, and reforestation requirements would not exceed 10,000 square feet. Forest in any priority area on-site must be preserved.

An on-site pre-construction meeting is required after the limits of disturbance have been staked and flagged, but before any clearing or grading begins. The property owner should contact the Montgomery County Planning Department inspection staff before construction to verify the limits of disturbance. The property owner, construction superintendent, forest conservation inspector, and Department of Permitting Services (DPS) sediment control inspector should attend this pre-construction meeting.

Any changes from the approved exemption request may constitute grounds to rescind or amend any approval actions taken and to take appropriate enforcement actions. If there are any subsequent modifications planned to the approved plan, a separate amendment must be submitted to M-NCPPC for review and approval prior to those activities occurring.

If you have any questions regarding these actions, please feel free to contact me at (301) 495-4581 or at david.wigglesworth@montgomeryplanning.org.

Sincerely,

David Wigglesworth
Development Applications & Regulatory Coordination Division

CC: 42012159E
Cindy Todd (Vika)

DPS-ROW CONDITIONS OF APPROVAL

August 18, 2014

82008003A West Lane

Contact: Sam Farhadi at 240 777-6333

File 07-SITE-82008003A.pdf V5 now addresses our DRC comments. The followings to be conditions of approval for the certified site plan:

1. Coordinate with the County bikeway coordinator Patricia Shepherd (240 777-7231) on the design of the proposed bike racks.
2. The followings need to be conditions of the certified site plan to be done prior to ROW permit stage:
 - o Road improvements per MCDOT.