

Preliminary Plan Data Table and Checklist

Plan Name: Edgemoor				
Plan Number: 1-06015				
Zoning: R-90				
# of Lots: 1				
# of Outlots: 1				
Dev. Type: 1 one-family detached dwelling unit				
PLAN DATA	Required/Permitted	Provided	Verified	Date
Minimum Lot Area	9,000 sq.ft.	14,412 sq.ft. is minimum proposed		Dec. 28, 2005
Lot Width	75 ft.	Must meet minimum		Dec. 28, 2005
Lot Frontage	25 ft.	Must meet minimum		Dec. 28, 2005
Setbacks				
Front	30 ft. Min.	Must meet minimum		Dec. 28, 2005
Side	8 ft. Min./ 25 ft. total	Must meet minimum		Dec. 28, 2005
Rear	25 ft. Min.	Must meet minimum		Dec. 28, 2005
Height	35ft. Max.	May not exceed maximum		Dec. 28, 2005
Max Resid'l d.u. or Comm'l s.f. per Zoning	1 d.u.	1 d.u.		Dec. 28, 2005
MPDUs	N/A	N/A		Dec. 28, 2005
TDRs	N/A	N/A		Dec. 28, 2005
Site Plan Req'd?	No	No		Dec. 28, 2005
FINDINGS				
<i>SUBDIVISION</i>				
Lot frontage on Public Street	Yes	Yes		Dec. 28, 2005
Road dedication and frontage improvements	Dedication	Yes	DPWT	Dec. 29, 2005
Environmental Guidelines	Yes	Yes	Environmental Planning memo	Sept. 12, 2005
Forest Conservation	Yes	Yes		Sept. 12, 2005
Master Plan Compliance	Yes	Yes		Dec. 28, 2005
Other				
<i>ADEQUATE PUBLIC FACILITIES</i>				
Stormwater Management	Yes ¹	Yes	DPS memo	Sept. 8, 2005
Water and Sewer (WSSC)	Yes	Yes	WSSC memo	Sept. 12, 2005
Local Area Traffic Review	Not required	N/A		Dec. 28, 2005
Fire and Rescue	Yes	Yes	MCFRS	Nov. 7, 2005

¹ Stormwater Management is required but waived with this preliminary plan.

**AGENCY
CORRESPONDENCE**



Robert L. Ehrlich, Jr., Governor
Michael S. Steele, Lt. Governor

Robert L. Flanagan, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

September 8, 2005

Ms. Cathy Conlon
Supervisor, Development Review
Subdivision Division
Maryland National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760


Re: Montgomery County
MD 191 General
Edgemoor
File No. 1-06015

Dear Ms. Conlon:

The State Highway Administration (SHA) would like to thank you for the opportunity to review the preliminary plan application for the Edgemoor development. We have completed our review and have no comments at this time.

If additional information is required from SHA regarding this project, please do not hesitate to contact Mr. Gregory Cooke at 410-545-5602, Mr. John Borkowski at 410-545-5595, or by using our toll free number in Maryland only, 1-800-876-4742 (x-5602 for Greg, x-5595 for John). You may also E-mail Greg at gcooke@sha.state.md.us or John at jborkowski@sha.state.md.us. Thank you for your cooperation.

Very truly yours,


Steven D. Foster, Chief
Engineering Access Permits Division

SDF/jb

cc: Mr. Darrell Mobley (Via E-mail)
Mr. Augustine Rebish (Via E-mail)
Mr. Richard Weaver, M-NCPPC (Via E-mail)



DEPARTMENT OF PUBLIC WORKS
AND TRANSPORTATION

Douglas M. Duncan
County Executive

Arthur Holmes, Jr.
Director

December 29, 2005

Ms Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 1-06015
Edgemoor

Dear Ms. Conlon:

We are in receipt of a December 28, 2005 letter from Mr. Jeffrey A. Robertson, Project Manager with CAS Engineering, along with a revised preliminary plan for this proposed subdivision. The letter and the revised plan indicate the original drawing has been revised to "... depict a subdivision of one existing lot into one lot and one outlot for the purpose of conveying the outlot to the neighboring homeowner. . ." The letter goes on to say that "... no new construction / development is proposed as a result of the subdivision. We are simply attempting to legally convey a portion of property. . ." The revised plan also contains a note which states: "All improvements indicated hereon are currently under construction pursuant to Montgomery County issued building permits. No additional development is proposed under this subdivision."

In light of these new statements, we recommend approval of the preliminary plan, as revised. This Department accepts the information that the applicant's consultant has provided.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. Sam Farhadi at sam.farhadi@montgomerycountymd.gov or 240-777-6000.

Sincerely,

Gregory M. Leck, Manager
Traffic Safety, Investigations and Planning Team
Traffic Engineering and Operations Section

M:\subdivision\farhas01\preliminary plans\1-06015, Edgemoor, gml revs.doc

cc: Jeff Robertson; CAS Engineering
Mimi Kress; Sandy Spring Builders
Dolores Kinney; M-NCPPC DRD
Shahriar Etemadi; M-NCPPC TP
Joseph Y. Cheung; DPS RWPPR
Christina Contreras; DPS RWPPR



Division of Operations

101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878
240/777-6000, TTY 240/777-6013, FAX 240/777-6030

EP Recommendation to Dev Rev Div: XXX Approve

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
DEVELOPMENT REVIEW COMMITTEE RECOMMENDATIONS

TO: Cathy Conlon/Richard Weaver
Development Review Division

SUBJECT: Plan # 1-06015, Name Edgemoor
DRC date: Monday, September 12, 2005

The above-referenced plan has been reviewed to determine if it meets requirements of the Guidelines for Environmental Management of Development in Montgomery County, and other county regulations that may apply. The following recommendations are made for the DRC meeting:

SUBMITTAL ADEQUACY

XXX Plan is complete.

XXX Forest Conservation EXEMPT per approved NRI/FSD # 4-05345E (Small Property)

XXX SWM Concept: Waiver Approved 8/02/05

EP RECOMMENDATIONS:

XXX Approval.

NOTE: Applicant may seek reimbursement of overpaid exemption fee per NRI approval letter.

SIGNATURE: Steve Federline 301-495-4550
Steve Federline, Environmental Planning
Countywide Planning Division

DATE: 9/12/05

cc: engineer/applicant

**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
FOREST CONSERVATION RECOMMENDATIONS**

TO: Plan review staff, Environmental Planning Section

SUBJECT: Project Name Edgemoor, Lots 9 and 10, Block 21 Date Recd 6/1/05
NRI/FSD # 4-05345E

The above-referenced plan has been reviewed by the Environmental Planning Division to determine the requirements of Chapter 22A of the Montgomery County Code (Forest Conservation Law). A determination has been made that the plan qualifies for the following exemption:

EXEMPTION:

Small Property

Activity occurring on a tract less than or equal to 1.5 acre in size where there is no existing forest and afforestation requirements would be less than 10,000 square feet, and no specimen or champion trees will be disturbed;

Activity occurring on a tract less than or equal to 1 acre in size where activity will not result in the clearing of more than 30,000 square feet of existing forest, or any specimen or champion trees, and reforestation requirements would be less than 10,000 square feet.

Note: *Tree Save Plan, including preservation and/or replanting of individual trees is required in lieu of a FCP where trees are impacted. Forest within any priority area on-site must be preserved.*

NOTE: *Per section 22A-6(b) of the Forest Conservation Law, Tree Save Plans may be substituted for Forest Conservation Plans on properties where the proposed development is exempt from Forest Conservation except that it involves clearing of specimen or champion trees.*

This property is not subject to a Tree Save Plan. It is staff's understanding that no additional construction will be proposed as part of the preliminary subdivision plan.

This property is not within a Special Protection Area.

NOTE: **The applicant paid a fee of \$350 for the forest conservation exemption application. The required fee is \$50. The applicant may request a refund for \$300 at the information counter in the M-NCPPC Development Review Division, 8787 Georgia Ave., Silver Spring, Md.**

Signature: Candy Bunnag ^{CB}
, Environmental Planning Date: 7/6/05

cc: Jeff Robertson, CAS Engineering (fax: 301-607-8045)

Post-It* Fax Note	7671	Date	7/6	# of pages	1
To	Jeff Robertson	From	Candy Bunnag		
Co./Dept	CAS Eng'g	Co.	MNCPPC		
Phone #		Phone #	301 495 4543		
Fax #	301 607 8045	Fax #			

fcpxemption.doc 01/03

MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES
255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850-4153

Date: September 8, 2005

MEMO TO: Catherine Conlon, Supervisor for
Development Review Committee, MNCPPC

FROM: William Campbell, Senior Permitting Services Specialist
Division of Land Development Services, MCDPS

SUBJECT: Stormwater Management Concept Plan/Floodplain Review
Preliminary Plan1-06015; Edgemoor
Subdivision Review Meeting September 12, 2005 SWM File # NA

The subject plan has been reviewed to determine if it meets the requirements of Executive Regulation 7-02AM for stormwater management and Executive Regulation 108-92 AM for Floodplain. The following summarizes our findings:

SM CONCEPT PLAN PROPOSED:

- On-site: CPv WQv Both
 CPv < 2cfs, not required
 Waiver: CPv WQv Both
 On-site/Joint Use Central (Regional): waived to
 Existing Concept: Approved Date,
 Other

Type Proposed:

- Infiltration Retention Surface Detention Wetland Sand Filter
 Separator Sand Filter Underground Detention Non Structural Practices Other

FLOODPLAIN STATUS: 100-Year Floodplain On-Site Yes No Possibly

- Provide the source of the 100-Year Floodplain Delineation for approval:
 Source of the 100-Year Floodplain is acceptable.
 Submit drainage area map to determine if a floodplain study (>or equal to 30 acres) is required.
 Dam Breach Analysis Approved Under Review
 100 yr. floodplain study Approved Under Review

SUBMISSION ADEQUACY COMMENTS:

- Downstream notification is required.
 The following additional information is required for review: _____

RECOMMENDATIONS:

- Approve as submitted with conditions (see approval letter).
 Incomplete; recommend not scheduling for Planning Board at this time.
 Hold for outcome of the SWM Concept review.
 Comments/Recommendations: Stormwater contributions previously paid.

cc: Steve Federline, Environmental Planning Division, MNCPPC

bll:DRC.3/03

WSSC Comments on Items for September 12, 2005, Development Review Committee Meeting

File Number	Project Name	Comments
1-06015	EDGEMOOR	Water and sewer lines abut property. Connections required.

Unless otherwise noted, all extensions require Requests for Hydraulic Planning Analysis and need to follow the System Expansion Permit (SEP) Process. Contact WSSC's Development Services Center (301-206-8650) or visit the Development Services on WSSC's web-site (www.wsscwater.com) for information on requesting a Hydraulic Planning Analysis and additional requirements for extensions. Contact WSSC's Permit Services (301-206-4003) for information on service connections and on-site system reviews.



Attachment F
COURT CASE

Citation/Title

372 Md. 172, 812 A.2d 312, Stansbury v. Jones, (Md. 2002)

*172 372 Md. 172

812 A.2d 312

Court of Appeals of Maryland.

Nancy R. STANSBURY,

v.

Randy Q. JONES, et al.

No. 15, Sept. Term, 2002.

Dec. 13, 2002.

Landowner sought review of decision of county board of appeals denying area variances with respect to parcel that landowner reserved to herself in the re-subdivision of a larger tract in accordance with county's antiquated lots law. The Circuit Court, Anne Arundel County, Pamela L. North, J., remanded. Objectors appealed. The Court of Special Appeals reversed. Landowner petitioned for review. The Court of Appeals, Cathell, J., held that claimed hardships were not self-created.

Judgment of Court of Special Appeals reversed and remanded with directions.

Wilner, J., dissented and filed opinion in which Raker, J., joined.

West Headnotes

[1] Zoning and Planning 605

414 ----

414X Judicial Review or Relief

414X(C) Scope of Review

414X(C)1 In General

414k605 Decisions of Boards or Officers in General.

Whether reasoning minds could reasonably reach a conclusion from facts in record is essential test for review of zoning board decision.

[2] Zoning and Planning 703

414 ----

414X Judicial Review or Relief

414X(C) Scope of Review

414X(C)4 Questions of Fact

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372 Md. 172, 812 A.2d 312, Stansbury v. Jones, (Md. 2002)

414k703 Substantial Evidence.

If zoning board's conclusion is sufficiently supported by the evidence, conclusion is based upon substantial evidence.

[3] Zoning and Planning 605

414 ----

414X Judicial Review or Relief

414X(C) Scope of Review

414X(C)1 In General

414k605 Decisions of Boards or Officers in General.

Standard for judicial review of zoning board's decision is generally the same whether board grants or denies relief.

[4] Zoning and Planning 503

414 ----

414IX Variances or Exceptions

414IX(A) In General

414k502 Particular Structures or Uses

414k503 Architectural or Structural Designs in General.

Claimed hardships with respect to parcel of property that landowner reserved to herself in the re-subdivision of a larger tract were not self-created, and thus, landowner could seek area variances to build residential structure on parcel, which was located in, or partially in, a critical area or critical area buffer zone, where re-subdivision was permitted and encouraged by county's antiquated lots law and pre-existing statute which placed lots in nonconformance prior to re-subdivision, landowner insured, through re-subdivision, that the only express condition attached to her ability to fully use the reserve parcel was governmental restriction with respect to percolation, and relief landowner sought via the variance process was of the same type, if not scope, of the relief she might have had to seek had she never re-subdivided the property in the first instance.

[5] Zoning and Planning 254

414 ----

414V Construction, Operation and Effect

414V(B) Architectural and Structural Designs

414k254 Area and Frontage Requirements.

Purpose of county's antiquated lots law is to induce owners of adjacent nonconforming undersized lots to combine them into lots that conform to present area requirements, or to combine them into lots that are less nonconforming than prior to combination, to develop the property.

372 Md. 172, 812 A.2d 312, *Stansbury v. Jones*, (Md. 2002)

Council, 264 Md. 78, 285 A.2d 620 (1972), for the proposition that problems created by a developer in creating a subdivision can be considered self-created. The facts in *Randolph Hills* were substantially different than the facts in the present case. The owners in *Randolph Hills* were not requesting a variance. In *Randolph Hills*, the owner was merely requesting a reclassification of its property under pre-existing law. Prior to the request for reclassification, the developer had voluntarily subdivided a large portion of the overall [812 A.2d 323] property under the provisions of the same ordinance, leaving a certain portion of the property it owned entirely outside of the subdivision. It was the property left outside the subdivision that was the subject of the zoning reclassification request, not, as in the present case, property within the subdivision for which variance relief was sought. Generally, reclassifications involving Euclidean zones, such as involved in *Randolph Hills*, are controlled by the "change/mistake rule," (FN6) a rule not applicable in variance cases. Nonetheless, the administrative body in *Randolph Hills*, perhaps as dicta, opined that the developer had created its own hardship by *191 leaving the subject tract outside the subdivision. In the case *sub judice*, the Reserved Parcel 2 is included within the re-subdivision that meets the requirements of current statutes and the only issues are whether the re-subdivision that combined sub-standard lots into the conforming "Reserved Parcel 2" was done in compliance with the applicable statutes. (FN7) As we have clearly indicated, the re-subdivision, i.e., the combination of substandard lots, is not only permitted and encouraged by the statute anytime adjacent non-conforming lots are under the same ownership, regardless of how the property became so titled, (FN8) it is, generally, permitted for substandard lots to be re-subdivided into standard or closer-to-standard lots. *

[8] In *Randolph Hills* the property outside of the subdivision ended up in the situation solely because the developer *192 desired it. In the present case the recombination of lots, and thus a re-subdivision, was permitted by statute. In the process of re-subdivision the tract at issue here ended up in a subdivision with a condition imposed by the county not imposed on the other lots. The parcel, to the extent it would reflect the old subdivision, would be a nonconforming parcel and its status [812 A.2d 324] would have resulted from the statute increasing dimension requirements, and, thus, any hardship resulting from the statute making the lots non-conforming, would not have been self-created. To the extent, if any, it reflects a status derived from the combination re-subdivision, its status would have resulted from the operation of the new "lot-combining" statute, and any hardship was not self-created. More important, subdividing property in accordance with all applicable statutes does not, generally, constitute a self-created hardship in respect to the property within the subdivision. *Randolph Hills* does not apply here.

Respondents next rely on the Court of Special Appeals decision in *Cromwell v. Ward*, 102 Md.App. 691, 651 A.2d 424 (1995). The facts of *Cromwell* are completely dissimilar to the facts in the present case. *Cromwell* involved an after the fact application for a variance to legalize an illegally constructed building. First, and primarily, there was no subsequent statute that permitted

ANALYSIS OF EXISTING LOT 9

Comparison of the Character of Proposed Lots to Existing

In performing the analysis, Staff applied the resubdivision criteria to the delineated neighborhood to include the existing Lot 9. Based on the analysis, Staff finds that the proposed resubdivision will be of the same character as the existing lots in the neighborhood. As set forth below, the attached tabular summary (Attachment D) and graphical documentation support this conclusion:

Frontage: In a neighborhood of 20 lots, lot frontages range from 57 feet to 197 feet and one lot has a frontage of 360 feet. The existing Lot 9 has a lot frontage of 60 feet. **Therefore, Staff finds that the proposed lot will be consistent in character with other lots in the neighborhood.**

Area: In a neighborhood of 20 lots, lot areas range from 2,664 square feet to 16,787 square feet and one lot has an area of 68,527 square feet. **The existing Lot 9 has an area of 6,439 square feet and will be consistent in character with the existing lots in the neighborhood with respect to area.**

Lot Size: The lot sizes in the delineated neighborhood range from 6,473 square feet to 30,000 square feet and one lot has a lot size of 97,264 square feet. The existing Lot 9 will have a lot size of 11,699 square feet. **Therefore, the lot size of Lot 9 lot will be of the same character as the existing lots in the neighborhood.**

Lot Width: The lot widths range from 52 feet to 196 feet and one lot has a width of 275. **The existing Lot 9 will have a lot width of 60 feet and have a high correlation to the other lots in the neighborhood.**

Shape: There are two (2) square lots, seven (7) irregular lots and 11 rectangular lots in the neighborhood. **The existing Lot 9 will be a rectangular lot and will be consistent in character with the overall pattern of differently shaped lots in the neighborhood.**

Alignment: There are eight (8) corner lots in the neighborhood and 12 perpendicular lots in the neighborhood. **The existing Lot 9 is also a perpendicular lot and will be of the same character as the other existing corner lots in the neighborhood.**

Residential Use: The existing lots and Lot 9 are residential in use.

GENERAL NOTES

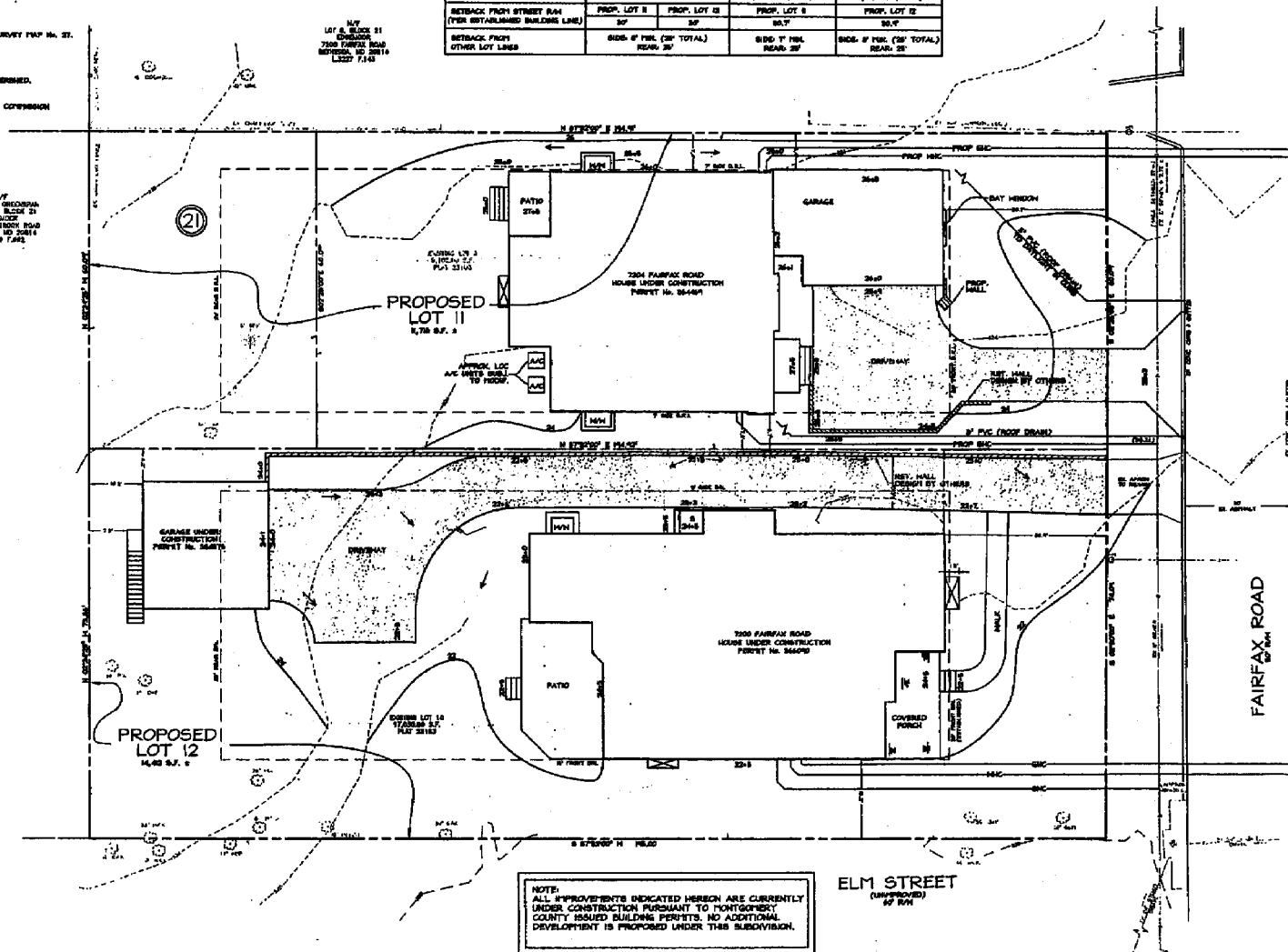
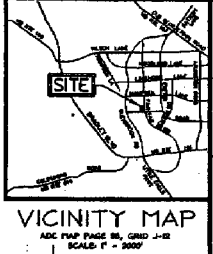
MATRIX CATEGORY - 1 OTHER CATEGORY - 1
 BOUNDARY INFORMATION BASED ON A SURVEY PERFORMED BY CAS ENGINEERING, DATED APRIL, 2004.
 1/40-FOOT CONTOURS BASED ON A SURVEY PERFORMED BY CAS ENGINEERING, DATED APRIL, 2004.
 TOTAL LOT AREA: LOT II = 4,726 S.F., 2' LOT I2 = 14,402 S.F., 2'
 CURRENT ZONING IS R-10.
 PROPERTY SHOWN ON TAX MAP IS 022.
 PROPERTY SHOWN ON H&A2 MAP SHEET 204 MM 46.
 PROPERTY SHOWN ON MONTGOMERY COUNTY SOLID SURVEY MAP No. 27, 5th TYPE(B) 2003.
 FLOOD ZONE 10' PER ALD. FROM MAPS, COUNTY PANEL No. 24004 876 C.
 SITE IS LOCATED IN THE LITTLE FALLS BRANCH WATERBENCH.
 LOCAL UTILITIES INCLUDE:
 WATER - SEWER - MONTGOMERY SUBURBAN SANITARY COMMISSION
 ELECTRIC - PEPCO
 TELEPHONE - VERIZON
 GAS - MONTGOMERY GAS

ZONING DATA

1) ZONING: R-10
 NET LOT AREA = 4,000 SF
 LOT WIDTH AT R/W = 28 FT
 LOT WIDTH AT B.U.L. = 76 FT
 FRONT B.U.L. = 25.0 FT (ESTABLISHED)
 REAR B.U.L. = 28 FT
 SIDE B.U.L. = 9 FT MIN. EACH SIDE, 0' IF 28 FT MIN. TOTAL
 2) SINGLE LOT II IS ZONED R-10 AND HAS PREVIOUSLY DEEMED AS PART OF LOT I3 PRIOR TO THIS. THE NET BACHED AREA AS FOLLOWS: FRONT, 30 FEET; SIDES, 7 FEET AND 7 FEET; REAR, 30 FEET (PER DELVIN DANIELS, APRIL 28, 2004).

SITE / ZONING DATA

GROSS SITE AREA	24,822 S.F. 2		
PROPOSED DESIGNATION	NA		
NET TRACT AREA	24,822 S.F. 2		
ZONING: R-10	REQUIRED	PROVIDED	
PRIMARY LOT AREA	4,000 S.F.	PROP. LOT I1	PROP. LOT I2
PRIMARY LOT WIDTH AT B.U.L.	76'	1,718 S.F. A	14,402 S.F. C
BUILDING COVERAGE	80 PERCENT	3,424 SF (85%)	3,424 SF (23.8%)
SETBACK FROM STREET R/W (PER ESTABLISHED BUILDING LINE)	PROP. LOT I1	PROP. LOT I2	PROP. LOT I1
OTHER LOT LINES	30'	30'	30'
		SIDE 1' MIN. (20' TOTAL) REAR, 20'	SIDE 1' MIN. (20' TOTAL) REAR, 20'



DATE	JUL '05
PROJECT	04.069
DESIGNED BY	JAR
CHECKED BY	JAR
DATE	JAR

PROPOSED LOTS 11 & 12, BLOCK 21
EDGE MOOR
 BETHESDA (7TH) ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND

CAS ENGINEERING
 CIVIL - SURVEYING - LAND PLANNING
 A DIVISION OF CAS DEVELOPMENT, INC.
 100 West McGraw-Hill Building, Suite 101, Mount Airy, Maryland 21771

ENGINEER'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON HAS BEEN PREPARED IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS OF MONTGOMERY COUNTY, MD.
 DATE: 8/01/05
 C. J. A. Sch...
 CURT A. SCHREFFEL, PE
 MD REG. No. 1662



MISS UTILITY

FOR LOCATION OF UTILITIES, CALL "MISS UTILITY" AT 1-800-877-7777, OR LOG ON TO MISS-UTILITY. NETISTICS AS SOON AS ADVANCE OF ANY HOME IN THIS VICINITY. THE EXCAVATOR MUST NOTIFY ALL PUBLIC UTILITY COMPANIES WITHIN 48 HOURS OF THE START OF EXCAVATION. THE EXCAVATOR IS RESPONSIBLE FOR COMPLIANCE WITH REQUIREMENTS OF CHAPTER 36A OF THE MONTGOMERY COUNTY CODE.

CLIENT
 SANDY SPRING BUILDING
 ATTN: PAUL LEONOWITZ
 ONE EAST-WAY DRIVE
 BETHESDA, MD 20814
 (301) 983-8900 FAX
 (301) 983-8900 FAX

7204 & 7200 FAIRFAX ROAD
 PROPOSED LOTS 11 & 12, BLOCK 21
EDGE MOOR
 PRELIMINARY PLAN