

Resolution No.: 17-599
Introduced: November 13, 2012
Adopted: November 13, 2012

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

By: District Council

SUBJECT: Approval of Development Plan Amendment (DPA) 12-02, 4901 Hampden Lane, Bethesda, Maryland

OPINION

On May 23, 2012, 4901 Hampden Lane Ventures LLC filed an application to amend a development plan approved on July 25, 2006 with Local Map Amendment (LMA) application G-819. LMA G-819 permitted a multi-family residential building with minimum of 50 and a maximum of 70 dwelling units. *Resolution 15-559* (Resolution). This DPA seeks to reduce the minimum number of dwelling units from 50 to 40 dwelling units and clarify that at least 15% of dwelling units will be MDPU's. The lower minimum number of dwelling units reduces the potential number of MDPU's from 8 to 6. The Applicant seeks the change to respond to the current real estate market for condominiums. T. 12.¹ There are no other amendments to the original development plan. A binding element from the original development plan continues to commit the Applicant to "work with the County in an attempt to devise a funding mechanism to help protect MPDU owners from rapid escalations in condominium fees." Exhibit 22. All amendments are to the textual binding elements of the development plan. These binding elements are attached hereto and incorporated herein as Exhibit A.

The property consists of approximately 30,819 square feet in the Transit Station—Residential (TS-R) Zone, and is located at the northwest quadrant of the intersection of Woodmont Avenue and Hampden Lane. Currently, the property is developed with two single-family structures used as offices and a 3-story multi-family building with some commercial uses.

Technical Staff of the Maryland-National Capital Park and Planning Commission recommended approval of the DPA with an expedited hearing process (i.e., without a public hearing before the Hearing Examiner). Exhibit 17. The Planning Board agreed with this recommendation and, no objections being filed, this case comes directly to the District Council

¹ All transcript citations are to the transcript of the September 27, 2012, public hearing before the Montgomery County Planning Board.

based on the record before the Planning Board. Exhibit 18; *Montgomery County Code*, §59-D-1.74(c)(3). After the Board's recommendation, the Applicant made technical corrections to the DPA. Exhibit 22. The Planning Board again recommended approval of the corrected DPA, finding that the technical corrections had no impact on the Board's initial recommendation. Exhibit 21.

Technical Staff concluded that the DPA complied with all of the standards for approval of a development plan amendment, all requirements of the TS-R Zone, and that it is in the public interest. Exhibit 17. As the Council as already found the development plan met all standards for rezoning in the original zoning case, only those standards affected by the amendment are discussed here.

The subject property is within the area covered by the *1994 Bethesda Central Business District Sector Plan* (Sector Plan or Plan). The Sector Plan designates the subject property as part of a "Transit Station Residential District" and recommends a density between 45 and 100 dwelling units. This DPA proposes densities between 56 to 99 dwelling units per acre. The Sector Plan recommends a floor area ratio of 2.5. While floor area of the DPA equals 3.05, the additional density is derived from the 22% bonus density for designating 15% of the units as MPDUs, and therefore remains consistent with the Sector Plan. The public and private open space, the urban design, and setbacks are unchanged from the original Development Plan. Exhibit 17.

Technical Staff also concluded that the application meets the requirements of TS-R Zone, set forth in §59-C-7.2 of the *Montgomery County Code*. One purpose of the TS-R Zone to "provide a range of densities that will afford planning choices to match the diverse characteristics of the several transit station development areas..." Technical Staff concluded that the reduced number of dwelling units proposed in this amendment continues to fulfill this purpose, as it is within the density recommended by the Sector Plan. Exhibit 17.

This DPA does not have an impact on public facilities. After the original development plan was approved, the Planning Board approved a preliminary plan for up to 64 multi-family units. Because this amendment reduces the minimum number of units to 40, this preliminary plan approval remains valid. For the same reason, school facilities remain adequate to serve the development.

At its regular scheduled meeting on September 27, 2012, the Planning Board voted 4-0 to recommend approval of DPA 12-02 as submitted. Exhibit 18. The Board stated that it "discussed with the applicant the importance of retaining the maximum number of MPDUs within a metro core area, but recognized the benefits of home ownership and the flexibility needed for the applicant to address market demands." *Id.* The Board found that the application "is consistent with the purpose clause and all applicable standards for the TS-R Zone and continues to be in accordance with the land use recommendations contained in the 1994 Bethesda CBD Sector Plan." *Id.* The Board also recommended approval of the corrected development plan (Exhibit 22) as it did not substantively change the application. Exhibits 22.

The record is now complete, and the matter can be considered directly by the District Council without the need for a hearing or recommendation by the Hearing Examiner.

The District Council has reviewed DPA 12-02 and concluded that the DPA meets the requirements of the Zoning Ordinance, and its approval would be in the public interest. Based on this record, the District Council takes the following action.

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, approves the following resolution.

DPA No. 12-02, which requests an amendment to the Development Plan approved July 25, 2006, in LMA G-819 to decrease the minimum number of dwelling units from 50 to 40 dwelling units and to clarify that a minimum of 15% of the units will be MPDUs located on-site, is hereby approved, **provided that** the DPA (Exhibit 22) is submitted to the Hearing Examiner for certification within 10 days of the District Council's action, pursuant to the provisions of Zoning Ordinance §59-D-1.64.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

2) Binding Elements

a) The development envelope will be governed by the height, setback and other on-site development constraints, as provided on the following tabulation.

Item	Description	Minimum Allowed/ Required Under the TS-R Zone	Proposed/Provided
1.	Zoning (Existing: R10, R60)	N/A	TS-R
2.	Areas to be rezoned and basis for the development density	18,000SF	30,891SF
3.	Net Lot Area	N/A	22,546SF
4.	Floor Area Ratio	No minimum. Maximum: 2.50 FAR	2.50 (Not to exceed)
5.	Bonus FAR for MPDU's	Up to 22%	0.55 (Not to exceed)
6.	Total	N/A	3.05 (Not to exceed)
7.	Number of dwelling units	150 maximum under Zoning; substantial compliance with Sector Plan: 45-100 units per acre.	Between 40-70 Units
8.	Gross Floor Area	N/A	No more than 94,218SF
9.	Public Use Space	10 % Net Lot Area 2,255SF	Not less than 10% Net Lot Area. 2,255SF
10.	Active/Passive Recreation Space	20% Net Lot Area 4,510SF	No less than 20 % Net Lot Area: 4,510SF. The area to be provided on the ground will be determined by the Planning Board.
11.	Building Coverage	No minimum or maximum required for the TS-R Zone	Maximum of 65%
12.	Building Height	No minimum or maximum required for the TS-R Zone	Not greater than 70 feet, with portions of the building limited to 60 feet (see section 3.e below).

3) Additional Binding Elements:

- a) The streetscape will be in substantial compliance with the Sector Plan guidelines.
- b) All residential parking will be located underground, with the possible exception of a small number of surface parking spaces for drop off and visitor parking located adjacent to Hampden Lane.
- c) No ancillary commercial uses and no restaurants will be included in the Development Plan.
- d) The proposed development will include all MPDUs on site. A minimum of 15 percent of the dwelling units will be MPDUs.
- e) Setbacks and height:
 - i. West side building setback: no less than 18 feet from the westerly property line.
 - ii. Other setbacks: in substantial compliance with the setbacks illustrated on this amended Development Plan, page A0.02, dated May 1, 2006.
 - iii. While the building's overall height will be a maximum of 70 feet (seven (7) stories plus an English Basement), as measured from elevation 326 (the elevations of the southwest and northwest corners of the site), provided that the northwest corner of the building shall be limited to a maximum of 60 feet, approximately in the area over the northwest unit as shown on this amended Development Plan, page A0.02, dated May 1, 2006, but in any event, not less than 1,390 square feet.
 - iv. The remainder of the building will be limited to a maximum of 70 feet in height. Any rooftop structures, including penthouse equipment and screen wall, shall be no more than 15 feet in height. All such structures will be set back from the Montgomery Lane building edge by no less than 25 feet and will cover no more than 50% of the rooftop. All reasonable efforts shall be made to reduce the maximum 15 foot height and the maximum 50% coverage as much as practicable.
- f) Both residential and service vehicular access will be from Hampden Lane.
- g) The building's construction materials and architectural design shall be consistent with the images depicted on this amended Development Plan, page A0.03, dated May 1, 2006. Specifically, the northeast and northwest corners of the building will be constructed from brick, metal floor spandrels, and windows. They will not include large expanses of glass curtain wall or other reflective surfaces.
- h) The Applicant will work with residents of the Edgemoor Condominium Association to devise a construction agreement to mitigate the impact of construction traffic, noise, employee parking, street closures and other relevant issues.
- i) The Applicant will work with the county in an attempt to devise a funding mechanism to help protect MPDU owners from rapid escalations in condominium fees.

Revision May 18, 2012

SITE / LAND USE PLAN
CONCEPTUAL PARKING LAYOUT
NOTATIONS & BINDING ELEMENTS

EXHIBIT A