

Resolution No.: 20-616  
Introduced: September 24, 2024  
Adopted: September 24, 2024

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

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Lead Sponsor: District Council

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**SUBJECT:** APPLICATION NO. H-149 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Elizabeth Rogers, Esquire, and Steven A. Robins, Esquire, Attorneys for the Applicant, Glenmont Forest Investors, LP; OPINION AND RESOLUTION ON APPLICATION; Tax Account Nos. 13-00975447 and 13-00975436.

**Opinion**

Glenmont Forest Investors, LP (Applicant or Glenmont) filed its Local Map Amendment (LMA) Application No. H-149 on January 23, 2024. The application seeks to rezone approximately 34.87 acres of property from R-30 multi-family to CRF 1.75, C-0.25, R-1.5, H-75' (Commercial Residential Floating). Exhibit 1. The subject property is located at the southeast quadrant of the intersection of Randolph Road and Georgia Avenue, Silver Spring, Maryland as part of Parcel A, Plat No. 6337 and Parcel B, Plat No. 8065 in the "Americana Glenmont" subdivision, and the "Americana Glenmont Apartments" subdivision (Tax Account Nos. 13-00975447 and 13-00975436). *Id.*

Staff of the Montgomery County Planning Department (Planning Staff or Staff) transmitted its report and the Planning Board's written recommendation on June 4, 2024. Exhibit 46. Staff recommended approval of the application with three binding elements and required the Applicant to address additional issues at Sketch Plan, Preliminary Plan, and/or Site Plan approval. *Id.* The Planning Board recommended approval of the application and approved the associated Forest Conservation Plan (No. F20240450). *Id.* OZAH's public hearing proceeded as scheduled on June 14, 2024. The Applicant presented five witnesses, one representing a principal of Glenmont, and four expert witnesses. Six members of the community testified in opposition of the Application. The Hearing Examiner issued a Report and Recommendation (HE Report) recommending approval with the binding elements suggested by Staff, but also with a condition that the Applicant remove Erskine Avenue from the Floating Zone Plan as a vehicle through street.

**Subject Property**

The subject property contains approximately 34.87 acres of land and is bounded by Randolph Road to the north along with the County's 4<sup>th</sup> District Police Station and a parking lot

owned by the Maryland Department of Transportation State Highway Authority, Georgia Avenue to the west along with a church at the southwest corner, a two-story townhouse community to the south, a single-family neighborhood to the east, and a small private lot between it and Wheaton Regional Park. Exhibit 46, Attachment 1, p. 3. The Property contains 19 two-to-three story buildings operating a garden-style apartment complex known as the Americana Glenmont Forest Apartments constructed in 1962, with a total of 482 dwelling units. *Id.*

### **Surrounding Area**

The surrounding area is typically identified and characterized in a Floating Zone case. The boundaries are defined by those properties that will experience the direct impacts of the use. This area is then characterized to determine whether the Floating Zone Plan will be compatible with the impacted area

Staff identified the neighborhood boundaries as, “bordered by Glenallan Avenue to the north, Wheaton Regional Park to the east, Shorefield Road to the south, and Georgia Avenue to the west.” Exhibit 46 p. 3. Staff further identified the neighborhood zoning patterns as “varied” and the uses as “mixed-use in character with a variety of housing, commercial, and institutional uses” further noting the Glenmont Shopping Center and Glenmont Metro Station to be within the neighborhood boundaries. *Id.* at 4. The Hearing Examiner agreed with Staff that the uses and zones are varied but found the most intense uses were located across Randolph Road from the subject property. The Hearing Examiner also noted the subject property immediately abuts to the east without a road break a R-90 single family detached community consisting of approximately 20 single-family lots.

### **Proposed Development**

Glenmont proposes to redevelop the property with a “mixed-use, predominately residential development” that will “include up to 5,000 square feet of neighborhood-serving commercial use and up to 2,275 multi-family living units” Exhibit 45, p. 5. The residential units will be primarily rental with the associated parking, open space, public benefits, and amenities. *Id.* In addition, the Applicant will evaluate a possible for sale option in the future. *Id.*

The Applicant intends to redevelop the property in phases. *Id.* at 27. The project places the multi-family buildings into smaller blocks connected by a series of internal private streets with the tallest buildings up to 75 feet to be located closer to Georgia Avenue and Randolph Road, while those buildings within 100 feet of the single-family detached neighborhood to the east will be no higher than 45 feet. Exhibit 46, p. 9.

The Floating Zone Plan (FZP) contains three binding elements with four additional issues for the Applicant to address at the time of sketch plan, preliminary plan, and/or site plan approval. These are listed on Appendix A and attached hereto and herein.

## Criteria for Approval

Every application for rezoning to a Floating Zone must be accompanied by an FZP that meets certain requirements. *Zoning Ordinance*, Section 59-7.2.1.B.2.g. The Applicant has filed an FZP (Exhibit 30 and related documents) which is described in the Hearing Examiner's Report. *HE Report* p. 13-15.

As stated, a Floating Zone application must meet the standards required by the Zoning Ordinance and State law. Generally, these standards fall into five categories: (1) conformity to the applicable Master Plan, (2) compatibility with adjacent uses and the surrounding area, (3) the adequacy of public services to support the proposed development, (4) technical requirements regarding whether the property is eligible to apply for a Floating Zone, and (5) whether the FZP meets the development standards of the zone requested.

## Conformance with the Master Plan<sup>1</sup>

The property is located in an area governed by the *2013 Glenmont Sector Plan* (Sector Plan). The Hearing Examiner and Staff concluded that the project substantially conforms to the *2013 Sector Plan* and *Thrive Montgomery 2050* (General Plan). Exhibit 46, p. 16. The Sector Plan offered specific guidance for the future of the property noting that "it may be suitable for future rezonings through a Local Map Amendment to a CR Zone or an equivalent zone to encourage a multifamily redevelopment of four-to-six story buildings." *Id.* The Sector Plan recommended the following should the property be rezoned.

- ♥Provide, as a priority, the CR Zone public benefits of Public Open Space to retain the open and green character of the site, and Affordable Housing to obtain more than the 12.5 percent required minimum MPDUs.
- ♥Encourage the achievement of greater than minimum required Public Use Space through compact footprint.
- ♥Protect and restore areas of environmental buffer and investigate options for stream restoration with redevelopment.
- ♥Preserve as much existing tree canopy as possible.
- ♥Connect new internal streets with Erskine and/or Wallace Avenues.
- ♥Construct a hiker/biker path between Randolph Road and the existing Wheaton Regional Park's hard surface trail network.

Staff and the Hearing Examiner found the proposal satisfied the objectives identified in the Sector Plan. Staff specifically referenced that the affordable housing proposal is greater than 12.5

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<sup>1</sup> Section 59-7.2.1.E.2.a. of the Zoning Ordinance requires the District Council to find that the FZP "substantially conforms with the recommendations of the applicable master plan, general plan, and other applicable County plans." Section 59-7.2.1.E.2.b requires the FZP to be "in the public interest", which includes a review of conformity with County plans and policies and whether the development will be consistent with the coordinated and systematic development in the Regional District under State law. Section 59-7.2.1.E.2.c requires the application to further the intent of Floating Zones. The intent of Floating Zones incorporates compliance with the applicable master plan. *Zoning Ordinance*, §59-5.1.2.A.1.

percent, maintains a compact footprint, maintains a 100-foot-wide buffer along the eastern property line, and seeks to connect Erskine with internal streets. In addition, the proposal conforms with the recommendations of the General Plan by increasing the number of income-restricted affordable housing units and offering a wide choice of housing types for all people close to public transportation. Based on this record the District Council finds that the LMA substantially conforms to the Master Plan.

### **Compatibility with Adjacent Uses and the Surrounding Area<sup>2</sup>**

Multiple standards for approval require the District Council to find that the FZP be compatible with adjacent uses and the surrounding area. The District Council agrees with the Planning Staff that the project will be compatible with the surrounding area because it provides generous setbacks to the south and east and the buildings will stepdown in height approaching the detached residential neighborhood to the east. District Council disagrees with the Hearing Examiner that the FZP is not compatible with the area to the east, and rejects the Hearing Examiner's recommendation that Erskine not be connected as a vehicle through Street. The District Council finds that the interconnection of streets follows Council approved policy, allows for flexibility, creates connectivity, and maintains the compact development design and is compatible with all of the surrounding areas. The setbacks and height restrictions will be maintained through use of a binding element. *HE Report*, p. 23. The Applicant's expert testified that the FZP is conceptual and seeks to create a development framework establishing compatibility along the eastern margin by creating some combination of either multi-family or townhouse. T. 77. The FZP flexibility is established in the second binding element.

Staff note the proposed redevelopment provides modern residential housing at a prominent location within walking distance of the Glenmont Metro. The design of the project redevelopment seeks to grow up not out, thereby reducing the footprint of disturbance on the site. Staff further note the proposed eight buildings with the tallest buildings closer to Georgia Avenue and Randolph Road provide an appropriate transition from west to east along the site. Exhibit 46 p. 10. The Applicant's expert testified that a conservative approach was used to create the maximum setbacks to the east and south. T. 100-101. Further he opined that the setbacks, building heights, and maintenance of the existing forest achieves compatibility by going above and beyond requirements. T. 109.

The Planning Board approved the associated Forest Conservation Plan No. F20240450. The Applicant's expert opined that the connection of Erskine creates the contiguous characteristics of the valley buffer being proposed with the forest conservation preservations and planting. T. 92. Members of the community voiced concerns over the compatibility of the site access through the

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<sup>2</sup> The FZP must further the intent of the Floating Zones in general and the purpose of the CR Zone. *Zoning Ordinance* §§59-7.2.1.E.2.c; 59-5.1.2.C; 59-5.3.2. Floating zones are intended to (1) establish compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses, (2) provide development standards and general compatibility standards to protect the character of adjacent neighborhoods; and (3) allow design flexibility to mitigate any negative impacts found to be caused by the new use. *Id.*, §59-5.1.2.C. One purpose of the CR Zone is to "allow development of mixed-use centers and community at a range of densities and heights flexible enough to respond to various settings." *Id.*, §59-5.3.2.C. Similarly, Section 59-7.2.1.E.2.d of the Zoning Ordinance requires the Council to find that the FZP is "compatible with existing and approved adjacent development."

interconnection of Erskine as a through public street. The Applicant's experts described the connection of Erskine as a through street that further integrates development and creates a circulation network laying patterns and natural features. T. 92 From a traffic and safety perspective, the Applicant's experts opined that the right in/right out at Erskine meets the code requirements. T. 175. Further the Applicant's experts opined that the Erskine connection would more than likely not be signalized. T. 147. In addition, the Applicant's expert explained that the funds provided by the developer would be spent off site to improve roads, pedestrian, and bicycle access. T. 154 Further the Applicant's experts opined that the Erskine connection was important for traffic circulation and ultimately the decision on how the intersection is established would come during the preliminary plan phase and be a decision of the Department of Transportation. T. 256-257.

Based on the findings in the Staff Report and expert testimony provided from the Applicant's land planner, civil engineer, and transportation planning, the District Council finds the proposed development to be compatible with the adjacent uses and surrounding area. Specifically, the transition in building height from west to east and the binding element that limits the height of buildings along the eastern property line to 45 feet for a distance of 100 feet ensures compatibility with the adjacent residential developments. The District Council agrees with the Planning Staff and Board that the establishment of Erskine as a through street creates connectivity and follows the recommendations of the Sector and Master Plans. In addition, the final determination on the extension of or any connection of Erskine is made during the preliminary plan stage during which the community may comment and participate. *See* expert testimony at T. 174.

### **Adequacy of Public Facilities/Public Interest**

The District Council must also find that the public facilities will be adequate to serve the FZP. While a more detailed review will occur later in the public development process, a threshold analysis must be performed at the rezoning stage.<sup>3</sup>

The Applicant submitted a traffic study to determine multi-modal adequacy because the development will generate more than 50 new weekday peak hour trips. *Zoning Ordinance* §59.7.2.1.E.2.e and *LATR Guidelines*. *See* Exhibit 40. The Applicant was asked to analyze seven intersections within the Glenmont Policy area for informational purposes only.<sup>4</sup> In addition, the Applicant's expert notes that specific traffic analysis will be conducted again during preliminary plan. The Applicant's expert explained that the study considers not just vehicle trips, but also

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<sup>3</sup> Section 59.7.2.1.E.2.e requires that an Applicant demonstrate that traffic generated from the proposed development "does not exceed the critical lane volume or volume/capacity ratio standard as applicable under the Planning Board's LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts . . .". The adequacy of other facilities is part of the Council's determination that an application will be "in the public interest. . ." and that "it will be consistent with a coordinated and systematic development of the Regional District" under State law. *Zoning Ordinance*, §59-7.2.1.E.2.b; *Md. Land Use Art.*, §21-101(a) and (b). The intent of the Floating Zones is to "implement comprehensive planning objectives by...ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure..." *Zoning Ordinance*, §59-7.2.1.E.2.b; 59-5.1.2.A.2.

<sup>4</sup> Staff noted the property is within an "orange policy area" and is immediately adjacent to a "red policy area." Red policy areas do not require a vehicle analysis. Orange policy areas require "vehicle, pedestrian, bike, transit, vision zero." *See HE Report*, p. 38

pedestrian and bicycle trips. T. 151-152. The study concluded that the developer would be required to spend a maximum of \$9,988,160 on vehicle, pedestrian, and bicycle improvements. The Applicant's expert opined that none of the intersections studied would exceed the LATR standards in either the red or orange zones. *HE Report* p. 38.

Today no modern stormwater management facilities exist on site. An adjoining neighbor in opposition to the Application hired an engineer to review the submitted stormwater management concept plan due to his negative history with stormwater from the property. This neighbor also testified to his concerns. The Applicant's expert opined that modern stormwater management will capture, manage, and treat stormwater and that the finalization of the stormwater management plan for the property is a twostep process that will be completed during site plan and permitting. *HE Report* p. 39. Further the expert opined that the proposed plan will meet or exceed applicable county and state law.

The Hearing Examiner found the transportation study and testimony of the Applicant's traffic planning expert persuasive. The Hearing Examiner also found the expert testimony of Applicant's civil engineer regarding to stormwater management compelling, specifically the progress made under today's stormwater management law that will apply to the redevelopment compared to the current non-existent stormwater management on the property. Based on this record the District Council agrees with the Hearing Examiner and finds public facilities will be adequate to serve the proposed use and that the specific details of those public facilities will be determined with the opportunity for public comment as the development process proceeds.

Regarding the public interest, the Hearing Examiner agreed with Planning Staff that the location of 1,793 additional units including 15 percent MPDUs within a half a mile of the Glenmont Metro Station to be in the public interest. Further the Sector Plan specifically called for redevelopment of the property because of its location near transit. In addition, the Hearing Examiner and Planning Staff agreed that the design of the buildings with the structured parking and the development restored and enhanced the natural features of the property. *HE Report* p. 40. Based on the evidence presented the District Council finds the project to be in the public interest.

### **Intent of the Floating Zones (Section 59.5.1.2)**

The District Council must determine whether the FZP fulfills the intent of the Floating Zones. Several of these have already been addressed.<sup>5</sup> The remaining (from Section 59.5.1.2) are:

*Section 59-5.1.2.A.3. Implement comprehensive planning objectives by:*

3. *allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the property;*  
*and*

Planning Staff concluded that the project met this intent by capitalizing on the project's convenient and transit-accessible location to significantly increase the amount of housing in an

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<sup>5</sup> The intent of Floating Zones contained in Sections 59-5.1.2.A.1 and 2 and 59-5.1.2.C of the Zoning Ordinance has already been addressed in the Council's findings relating to the compatibility of the FZP with surrounding uses and the adequacy of public facilities. The balance of the Floating Zone intent clauses is discussed here.

area with the infrastructure to support it. Exhibit 46, p. 19-20. The Hearing Examiner agreed with Staff that the project design responded to the transit-oriented nature of the surrounding neighborhood with the structures placed for flow, promotion of open space, and that the bulk of the property's use will remain residential multi-family. *HE Report*, p. 42. The gradual elevation changes lessen the impact of the properties to the east. *HE Report*, p. 42. The District Council finds that the project meets this intent of the Floating Zones.

*Section 5.1.2.B. Encourage the appropriate use of land by:*

- 1. providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive District or Sectional Map Amendments;*
- 2. allowing various uses, building types, and densities as determined by a property's size and base zone to serve a diverse and evolving population;*
- 3. ensuring that development satisfies basic sustainability requirements, including open space standards and environmental protection and mitigation; and*

Staff cited the Sector Plan recommending a floating Commercial/Residential Zone would be appropriate given the Property's proximity to transit and commercial services. Exhibit 46, p. 20. Staff concluded that FZP will allow the replacement of the aging garden apartments providing a significant amount of additional housing with modern amenities helping to alleviate the acute housing need. *Id.* In addition, Planning Staff determined the project satisfies basic sustainability principals though "infill redevelopment" well-served by existing infrastructure, public transportation, preservation of existing forest, afforestation and the establishment of stormwater management where none currently exists. *Id.* The Hearing Examiner agreed with Planning Staff that the project is an appropriate use of land because it is in conformance with the Sector Plan, redevelops an infill lot capitalizing on existing infrastructure, preserving forested area and will cause the construction of modern stormwater management. *HE Report* p. 43. The District Council Finds that the development project meets the intent of the Floating Zones.

### **Applicability of the Zone (Section 59.5.1.3)**

Section 59-5.1.3 B states if a Floating Zone is recommended in a master plan no prerequisites or locational criteria are required for a Local Map Amendment. The Sector Plan recommends the property for a "CRF-1.75, C-0.25, R-1.5, H-75 and CRNF-1.5, C-0.25, R-1.5, H-45 or other similar zones." Exhibit 46, p. 19. The District Council finds that the requirements of this section are met as did the Hearing Examiner. *HE Report*, p. 43.

### **The Purpose of Commercial/Residential Floating Zones, Permitted Uses, and Permitted Building Types (Sections 59.5.3.2 through 59.5.3.4)**

Zoning Ordinance Division 59-5.3 specifies the purposes of the Commercial/Residential Floating Zone, and establishes the allowed uses, building types, and development standards. The

FZP must fulfill the purposes of the Commercial/Residential Floating Zones and meet all technical standards.

Section 59.5.3.3 of the Zoning Ordinance limits the uses permitted in the CRF Zone to “only” those uses permitted in the CR Zone. Townhouse and multi-unit living are both permitted in a CR Zone<sup>6</sup>. In addition, certain commercial uses are also permitted in a CR Zone.

The District Council has already found that the FZP is compatible with adjacent development, one of the purposes of the Commercial/Residential Zones. *Zoning Ordinance*, Section 59.5.3.2.C. The remaining purposes are:

***Section 5.3.2. Purpose***

*The purpose of the Commercial/Residential Floating zones is to:*

- A. allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;*
- B. allow flexibility in uses for a site; and*
- C. provide mixed-use development that is compatible with adjacent development.*

The District Council has already found the FZP features the taller buildings closest to the Georgia Avenue and Randolph Road intersection and uses the maximum setbacks to the east and south as a binding element to accomplish compatibility with the adjacent residential uses. The FZP follows the Sector Plan’s recommendations for rezoning and development proposes maintaining a primarily residential use. The District Council finds this standard has been met.

**Development Standard of the Zone (Section 5.3.5)**

Planning Staff prepared a table comparing the development standards in the CRF Zone with those shown on the FZP. Exhibit 46, pp. 21-22. The table demonstrates that the proposed development may meet all the development standards of the required zone. The Approved Floating Zone Plan determines the setbacks from the Site Boundary. *Zoning Ordinance* Section 59.5.3.5.B.2. Remaining development standards may be finalized later during the site plan process unless so restricted by a binding element. The District Council agrees with the Hearing Examiner that the FZP meets all the development standards of the Zone.

**General Development Standards (Article 59.6)**

Article 59.6 of the Zoning Ordinance contains general development standards for most developments. These standards regulate the number and design of parking spaces, drive aisles, landscaping, lighting, and public and private open space. Based on the undisputed evidence at this stage the Applicant’s proposal will be able to meet these standards subject to review and modification of the specific requirements during site plan review.

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<sup>6</sup> See *Zoning Ordinance* Use Table 3.1.6.

**Conclusion**

Based on the foregoing analysis and after a thorough review of the entire record, including the Hearing Examiner's Report and Recommendation issued August 19, 2024, and oral arguments presented on September 24, 2024, the District Council concludes that the proposed reclassification and development will meet the standards set forth in the Zoning Ordinance, and that it will be consistent with the coordinated and systematic development of the Regional District under State law.

**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:

Local Map Amendment Application No. H-149, requesting reclassification from the existing R-30 Zone to CRF-1.75 C-0.25, R-1.5, H-75' (Commercial Residential Floating) for property located at 2300 Glenmont Circle, Silver Spring, Maryland as part of Parcel A, Plat No. 6337 and Parcel B, Plat No. 8065 in the "Americana Glenmont" subdivision and the "Americana Glenmont Apartments" subdivision (Tax Account Nos. 13-00975447 and 13-00975436), is hereby approved in the amount requested and subject to the specifications and requirements of the Floating Zone Plan, Exhibit 30. In addition, at the time of Preliminary Plan, the Montgomery County Department of Transportation and the Planning Board will further evaluate all access points for the project and the Planning Board will determine whether or not the vehicular connection to Erskine Avenue is needed to accommodate traffic flow. If a decision is made that the connection is not needed and existing right-in/right-out along Randolph Road is retained, the Erskine Avenue connection must be removed from the plan. Should the Erskine Avenue connection be removed, no improvements will be required along Erskine Avenue. The Applicant must file a final executed Declaration of Covenants reflecting the binding elements in the land records and submit to the Hearing Examiner for certification a true copy of the Floating Zone Plan approved by the District Council within 10 days of approval, in accordance with Section 59.7.2.1.H.1.a. and b. of the Zoning Ordinance.

This a correct copy of Council action.



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Sara R. Tenenbaum  
Clerk of the Council

**APPENDIX A**

**Binding Elements**

1. The maximum building height is limited to 45 feet, for a distance of 100 feet from the eastern Property boundary.
2. The use of the Property will be limited to multi-unit living, townhouse living and up to 5,000 square feet of non-residential use.
3. The development must provide a minimum of 15 percent (15%) Moderately Priced Dwelling Units (MPDUs) or Montgomery County Department of Housing and Community Affairs (MCDHCA)-approved equivalent consistent with the requirements of Chapter 25A.

The Applicant must address at the time of Sketch Plan, Preliminary Plan and/or Site Plan approval the following:

1. Update the LATR Transportation Study to include new vehicle counts and develop a list of LATR off-site mitigations and associated costs.
2. Coordinate with M-NCPPC and Montgomery County Department of Transportation (MCDOT) staff to determine:
  - a) if a right-in-right-out access proposed to the east of the Randolph Road/Glenmont Circle intersection is operationally feasible;
  - b) the appropriate road classification and right-of-way width for internal roadways;
  - c) if Street B will be a public or private road; and
  - d) the appropriate phasing of transportation infrastructure.
3. Ensure that public open space is usable, minimally encumbered by conservation areas or stormwater management facilities, and sufficient for the number of dwelling units proposed.
4. Strive to provide at least:
  - a) 273 two-bedroom units and 49 three-bedroom units; and
  - b) Ten (10) percent market-rate affordable units (for households earning 80% Area Median Income) under rental agreements, as approved by MCDHCA.