

Resolution No.: 16-246
Introduced: July 10, 2007
Adopted: July 10, 2007

**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: APPLICATION NO. G-843 FOR AMENDMENT TO THE ZONING ORDINANCE MAP,
Patricia A. Harris, Esquire, Attorney for HOLLADAY WEST LANE, LLC, Applicant,
OPINION AND RESOLUTION ON APPLICATION**

Tax Account Nos. 07-00489478, 07-00487286 and 07-00487275

OPINION

Zoning Application No. G-843, filed on December 5, 2005, requests reclassification from the R-60 (Residential 6,000 square feet) Zone to the TS-R (Transit Station-Residential) Zone of 23,260 square feet of land known as Lots 24, 25 and 27, Block 13 of the Edgemoor Subdivision, and located at 4903 Montgomery Lane and 4831 and 4833 West Lane, Bethesda, Maryland, in the 7th Election District. As required under the TS-R Zone, the application was accompanied by a Development Plan with detailed specifications related to land use, density, development standards and staging. Pursuant to Code § 59-D-1.11, development under 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 Hearing Examiner recommends approval of the development plan on the basis that it conforms with all the requirements of 59-D-1.61 of the Zoning Ordinance. The Hearing Examiner

also recommends approval of the TS-R Zone at this location because the evidence of record establishes that it is a proper use for the comprehensive and systematic development of the County; that the proposed use is capable of accomplishing the purposes of the TS-R Zone; that the proposed development is in substantial compliance with the Sector Plan; and that the proposed development satisfies all the standards and requirements of the TS-R Zone. The Montgomery County Planning Board and its Technical Staff also recommend approval. The District Council agrees with the recommendation of the Technical Staff, the Planning Board and the Hearing Examiner and incorporates herein the Hearing Examiner's original report and recommendation dated February 26, 2007 and his supplemental report and recommendation dated June 21, 2007.

The subject property is located within the Bethesda Chevy-Chase Planning Area and more specifically within the Bethesda CBD Sector Plan area. The property is located 1,000 feet southwest of the Bethesda Metro Station, southwest of the intersection of Wisconsin Avenue with Old Georgetown Road and East-West Highway, and is located within the Bethesda Transit Station Residential District as described in the Bethesda CBD Sector Plan. The site is irregularly shaped and consists of three lots located on the north side of Montgomery Lane and the west side of West Lane in downtown Bethesda. The subject property contains a gross tract area of 28,537 square feet and is currently improved with single-family residential structures used for commercial purposes.

The property possesses about 233 feet in depth and 175 feet in width as measured at its deepest and widest points. The site rises to a high point at its northeast corner at 338 feet above sea level. From this point the property slopes downward in a southwest direction about 4 to 5% to a low point of 328 feet above sea level.

The 1954 Regional District Zoning applied the R-60 Zone to the site. The 1958 County-wide Comprehensive Zoning reaffirmed the R-60 Zone. The 1976 Bethesda CBD Sector Plan recommendations were applied by Section Map Amendment in 1977 and this action reconfirmed the

R-60 Zone for the site. The 1994 comprehensive amendments to the Bethesda CBD Sector Plan were applied by Sectional Map Amendment in 1994, again reconfirming the R-60 Zone.

The 1994 Sector Plan recommends the site for ultimate use under the TS-R Zone. The planning objectives for the area support higher density residential uses near both Metro and retail services. A maximum density of 150 dwelling units per acre and minimum density of 45 dwelling units per acre is the range recommended for the TS-R district in the Sector Plan, except for those lots facing Arlington Road where lower densities are recommended to allow for townhouses.

The District Council determines that the relevant surrounding area for the evaluation of this application include those properties within Bethesda Transit Station Residential District and properties or roads immediately adjacent to the district. This district is defined in the Sector Plan, was recommended by Technical Staff and is consistent with surrounding areas used in the evaluation of other TS-R Zoning applications for this area.

The land use and zoning pattern of this area reflects a predominately residential character, although high rise office uses are located in the eastern portion of the area and retail services are located at the southern edge. The area is composed of a number of multifamily and townhouse projects approved under the TS-R Zone after the adoption of the 1994 Sector Plan. Most of these projects have been developed. The remainder of the district is composed of older garden apartments and single-family structures either retained for residential use or converted to commercial uses by special exceptions.

Located northwest of the site are 22 townhouses built to a three-story height with below grade parking. This project was developed under the TS-R Zone as the Villages of Bethesda, approved under LMA G-720 on October 10, 1995. The Chase high rise is located east of the site along Woodmont Avenue and is developed under the TS-R Zone in two buildings, 90 and 120 feet in height, with a

density of 340 dwelling units. Located further north along Woodmont Avenue is another TS-R Zoning project known as the Christopher, which is developed to a height of 122 feet with 200 dwelling units.

Located to the south along Woodmont Avenue is a 100-foot tall multifamily building in the TS-R Zone known as the Edgemoor high rise. Located southeast of the site is an existing residential building at the corner of West and Montgomery Lanes used as a law office (Wolf, lot 26). Across West Lane from the site are three single-family buildings, one of which is still in residential use (Chipouras, Lot 22).

South of the site is the 29-unit City Homes townhouse project, approved for the TS-R Zone under LMA G-721. This project was approved on February 1, 2000 and is developed with five rows of townhouses perpendicular to Montgomery Lane, with a 55-foot height and three stories. Also on the south side of Montgomery Lane and the east side of Arlington Road is the Edgemoor at Arlington, another project approved under the TS-R Zone, with a 46-foot building height and underground parking.

The western edge of the site is bordered by three single-family structures currently in commercial use, located at the corner of Arlington Road and Montgomery Lane. However, this area was approved for the TS-R Zone on February 27, 2001 under LMA G-779. The future development was approved for 12 dwelling units, 9,100 square feet of office uses and 38 underground parking spaces. The approved building height is 33 feet along Arlington Road and 47 feet at the eastern edge where it abuts the subject property. Access to garage parking is expected to be by way of Montgomery Lane, adjacent to the subject property.

The Applicant proposes to build a multifamily residential building that will provide between 40 and 48 market rate dwelling units and up to six Moderately Priced Dwelling Units (MPDUs). The MPDUs are intended to provide housing for families below the median income. The density range is

proposed to fix the contours of the building so compatibility and other factors can be evaluated. The plan includes flexibility to reduce the number of dwelling units if future market conditions call for larger but fewer units. The overall building envelope will generally remain the same.

The proposed building will be composed of 4-story and 6-story wings. The 4-story wing will contain a pop up penthouse with a private terrace. The 6-story wing will contain a penthouse for mechanical equipment. The 4-story wing will extend along the southern and western portions of the site. The 6-story wing will extend along the northern end of the site. The site configuration is long and narrow and limits the scope of building design. The southern end of the site is only 40 feet wide and is bordered by Montgomery Lane. The building mass projects the 4-story height to Montgomery Lane and will be made up of townhouses. The building height is consistent with development across the street, which reflects townhouses and low-rise structures.

The building height along the northern portion of the site will be 65 feet. The Sector Plan recommends that a 65-foot height is appropriate for this area of Bethesda, with step down in building heights toward the Arlington Road corridor. Setbacks and other amenities will alleviate any compatibility problems with the neighbors.

West Lane will serve as the sole point of vehicular access. A two-level below grade parking garage will be located off West Lane at the northern edge of the site and will provide underground parking spaces. West Lane is a dead end street as it extends along the eastern perimeter of the site. The current paved width of West Lane is variable and reflects an 18 to 19 foot width. The Sector Plan does not specify the desired width of West Lane. Instead, the Technical Staff's Transportation Division recommended that the street have a 50-foot right of way. Its current right of way is 45 feet. The Applicant will dedicate 2 ½ feet and will pave the street to a full width of 22 feet.

The project contains a number of amenities. The building will use masonry materials that are characteristic of buildings in the area. Public use space will amount to 2,364 square feet or 10% of the site. Active and passive recreational space is proposed to occupy 4,600 square feet or 20 % of the site. Enhanced streetscape will be located along Montgomery Lane and West Lane. The streetscape along West Lane will have a 14-foot wide area with 5-foot wide sidewalks, street trees, and brick pavers. Testimony indicated that the southern end of the building will contain a townhouse type façade that will be compatible with development along Montgomery Lane. Montgomery Lane is the more prominent street and its sidewalk area is proposed to range from 7 to 10 feet. The streetscape at this location will also contain a strip of trees.

Testimony suggested that there will be common outdoor and public spaces, roof top terraces and interior community space, and a rear garden at the north end and near West Lane. Testimony also indicated that the top floors of the northern portion of the building will be set back so as to vary the building mass for the adjacent Villages of Bethesda residents. The building is proposed to have a green component that will be subject to a LEED (Leadership in Energy and Environmental Design) Certification process as a green building.

The District Council finds that the revised development plan satisfies the requirements of the § 59-D-1.61 of the Zoning Ordinance. The proposal is in substantial compliance with the use and density recommendations of the Sector Plan and promotes other county plans and policies, particularly the housing policy, which is furthered by the affordable housing component, and the Smart Growth transportation policy, which is furthered by locating higher density residential uses in proximity to metro. The development plan also complies with the requirements of the TS-R Zone and promotes residential enhancement and compatibility in terms of building mass, setbacks and an energy-efficient and environmentally friendly design. The proposed vehicular and pedestrian circulation systems will be safe, adequate and efficient due to the vehicular and pedestrian improvements. The development

also proposes a design that will minimize soil erosion and ensure appropriate natural features through plantings and landscape. The development plan is supported by documents that will adequately and sufficiently provide a method of assuring perpetual maintenance and care for recreational, common, and quasi-public areas through a condominium regime.

The District Council determines that the proposed development would be in conformance with the intent and purpose of the TS-R Zone as found in §§59-C-8.21 and 59-C-8.22. The proposed location is in a Transit Station Development Area, as defined in the Zoning Ordinance. It is also in an area where multiple-family residential development exists and is recommended by the Sector Plan. Moreover, the development's location and density will encourage effective use of Bethesda's transit station development area, will provide a residential use within walking distance of metro, will contribute to the range of densities in the area, will not have detrimental effects on the use or development of adjacent properties or the surrounding neighborhood, and will contribute to providing housing for persons of all economic levels.

The proposed zoning also meets the technical standards of the TS-R Zone. Section 59-C-8.21 prescribes a minimum lot size of 18,000 square feet and the subject property exceeds this minimum. The density is proposed at 2.5 FAR, which is the maximum standard. The proposed density is well below the maximum of 150 dwelling units per acre specified in the zone. The TS-R Zone also requires that 10% of the site be used for public open space and 20% of the site be used for active and passive recreational purposes, which is assured in this case by the textual binding elements.

The evidence of record indicates that the proposed development would have no adverse effects on traffic conditions, schools or public utilities, and would comply with forest conservation and stormwater management regulations.

Accordingly, having carefully weighed the totality of the evidence, the District Council concludes that approval of the requested zoning reclassification would be in the public interest. The

District Council further concludes that the TS-R Zone at the proposed location is proper for the comprehensive and systematic development of the County, is capable of accomplishing the purposes of the TS-R Zone, is in substantial compliance with the Sector Plan and satisfies all the requirements of the TS-R Zone.

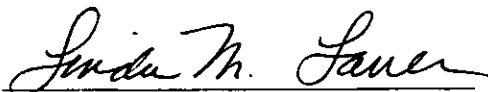
For these reasons and because to approve the instant zoning application will aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be approved in the manner set forth below.

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.

The revised development plan submitted as Ex. 85(a) is approved in its current form. Zoning Application No. G-843, requesting reclassification from the R-60 Zone to the TS-R Zone of 23,260 Square feet of land known as Lots 24, 25 and 27, Block 13 in the Edgemoor Subdivision and located at 4903 Montgomery Lane and 4831 and 4833 West Lane, Bethesda, Maryland, in the 7th Election District, is hereby *approved* in the amount requested subject to the specifications and requirements of the final Development Plan approved by the District Council, Exhibit 85(a); provided that, within 10 days of receipt of the District Council's approval resolution, the Applicant must submit to the Hearing Examiner for certification a reproducible original and three copies of the approved Development Plan, in accordance with §59-D-1.64.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council