

EXPANDED AGENDA
SPECIAL SESSION – May 11, 2021

YouTube: <https://youtu.be/qauEAFC5cF8>

			Res #
12:00 p.m.	<u>SPECIAL SESSION MEETING</u>		
Page 3	I. <u>ITEMS REQUIRING DELIBERATION and/or ACTION</u> A. Holly Hall (Disposition of Land; Acquisition – Ground Lease): Approval of the Sale of Holly Hall to Duffie Companies, Inc., and Authorization for the Executive Director to Execute Ground Lease with Duffie Companies, Inc. of HOC’s Holly Hall Property (Post Sale)		21-49 (pg 11)
1:00 p.m.	<u>ADJOURN</u>		

NOTES:

1. This Agenda is subject to change without notice.
2. Public participation is permitted on Agenda items in the same manner as if the Commission was holding a legislative-type Public Hearing.
3. *Times are approximate and may vary depending on length of discussion.*

If you require any aids or services to fully participate in this meeting, please call (240) 627-9425 or email commissioners@hocmc.org.

Date Posted: May 7, 2021

Deliberation and/or Action

HOLLY HALL (DISPOSITION OF LAND; ACQUISITION – GROUND LEASE): APPROVAL OF THE SALE OF HOLLY HALL TO DUFFIE COMPANIES, INC., AND AUTHORIZATION FOR THE EXECUTIVE DIRECTOR TO EXECUTE GROUND LEASE WITH DUFFIE COMPANIES, INC. OF HOC'S HOLLY HALL PROPERTY (POST SALE)

OPTIMIZING DEAL STRUCTURE



Stacy L. Spann, Executive Director

Kayrine Brown
Zachary Marks

May 11, 2021

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Hillandale Gateway – Partnership Status

HOC and the Duffie Companies (“Duffie”) formed a development venture in 2015 to redevelop post-RAD, vacant Holly Hall Apartments as a new mixed-use, mixed-income property. HOC’s Holly Hall Apartments and Duffie’s Hillandale Shopping Center have faced each other across New Hampshire Avenue for more than 55 years. As a third-generation, Montgomery County-based, family-



owned real estate owner, developer, and asset manager; Duffie brought experience and credibility to a collaboration on two strategically important parcels within the Hillandale node of the White Oak Science Gateway Master Plan.

The venture recently marked a major milestone with the approval on February 18, 2021, of the site plan for Hillandale Gateway: 463 units in two buildings – one, a Net Zero, mixed-income, 155-unit senior building; the other, a Passive House, mixed-income, 308-unit multifamily building. Hillandale Gateway will be the first major multifamily investment in the East County in decades and will create its first destination mixed-use community. Construction is expected to begin in early 2022.

The current partnership framework for Hillandale Gateway puts HOC in position of majority ownership and makes HOC the managing partner. Holly Hall Apartments ultimately completed its exit from Public Housing in 2018 and, under the current operating agreement, will be contributed at the close of construction financing. Recently, Duffie offered to commit an increased amount of capital to the transaction by acquiring the entirety of Holly Hall and leasing it back to the Hillandale Gateway

development. Staff has evaluated the offer and determined that the ground lease structure would be economically beneficial to HOC. Proceeds from the sale of property could be reinvested in proximate efforts, reduce utilization of other HOC financing tools, or be invested in new opportunities to expand affordable housing in Montgomery County. Though having disposed of the property, the ground lease also allows HOC to raise increased senior debt proceeds for the Hillandale Gateway development.



Sale & Lease-back – Key Terms

HOC staff introduced the revised deal structure for Hillandale Gateway on February 3, 2021. Commissioners appeared to view positively the advantages of the new structure, particularly the increased commitment of capital from Duffie. Rather than mutual, proportional contributions by HOC and Duffie; Duffie would bear the total cost of acquiring the Holly Hall property on behalf of the venture while leaving invested prior equity contributions. The \$5,950,000 land value has already been established per the existing operating agreement. Nothing of Duffie’s development responsibilities would change.

The proposed length of the ground lease is 99 years, with rent commencing at the sale of Holly Hall but deferred until the start of construction. Rent for the initial five years of the ground lease would be discounted to reduce the burden on the property prior to achieving stabilized occupancy.

The proposed ground lease structure would modify the current Hillandale Gateway deal structure in some key ways:

Hillandale
Gateway



Current Structure

- Ownership: HOC 70%
- Duffie Contribution: \$1.8MM
- Land Control: Fee

Proposed Structure

- Ownership: HOC 90.82%
- Duffie Contribution: \$6.41MM*
- Land Control: Lease

*Contribution is in the form of land acquisition and prior equity contribution.

Under the new structure, at stabilization and the conversion to permanent financing, HOC would have an option to buy out Duffie fully from the venture. The option allows HOC maximum flexibility around long-term financing of Hillandale Gateway. Ground rent will be split pro rata between the senior building and multifamily building. As the senior building will be financed with LIHTC equity, Duffie will not be a participant in that transaction. Its ownership, as shown above, is for the multifamily building only.

Key Terms

HOC Receives Purchase Option as End-of-lease Recourse

Rent Begins at Sale but Deferred to Construction Start

HOC Holds Right of First Refusal Should Duffie Sell Land

HOC Maintains Unfettered Right to Renovate/Redevelop

Partnership Governing Documents

KEY TERMS & CHANGES

Purchase & Sale Agreement

- Disposition Price: \$5,950,000
- Deposit: \$100,000
- Closing Date: May 15, 2021
- Closing Prorations:
 - *Taxes* – By date.
 - *Insurance* – None. Seller to provide coverage.
 - *Transfer & Recordation* – 50-50.
- Brokerage: None.
- Multi-party Term Sheet: Exhibit that outlines collaboration (e.g., entitlements) and proration (e.g., common area maintenance) between Capital One site and Holly Hall site, as both are components of the Hillandale Gateway development application but are separately owned.

Ground Lease

- Term: 99 years.
- Payments: Monthly.
- Adjustments: CPI lookback every 10 years.
- Structure: Absolute triple net lease. Hillandale Gateway is responsible for all operating and maintenance, payment of landlord’s umbrella policy, and assessments.
- Right of First Refusal: Sale to any unaffiliated buyer.
- End-of-term Acquisition Option: In the event of no negotiated extension of the ground lease before 18 months prior to end of lease, Hillandale Gateway may purchase land by valuation mechanism.
- Prohibited Uses: Coffee shop.

Second Amended & Restated Operating Agreement

- Restated to memorialize sale by Hillandale Gateway of Capital One site.
- Restated to memorialize site plan approval for Hillandale Gateway.
- Restated to acknowledge the ground lease structure.
- Amended to replace previous future equity contributions and returns structure with new future equity contributions and returns structure.
- Amended to create HOC buyout provision at permanent conversion at fair market value.

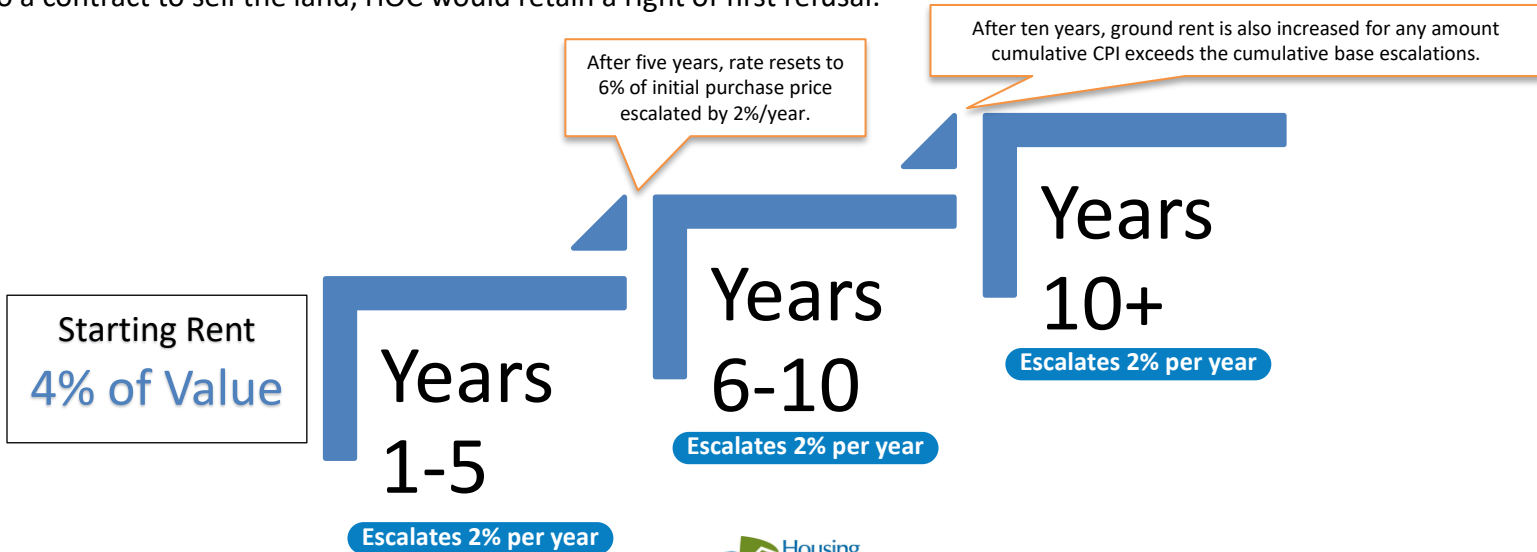
Proposed Ground Lease Structure

As proposed by Duffie in a recent letter of intent, HOC would sell Holly Hall to Duffie and Duffie would retain a substantially reduced interest in Hillandale Gateway through stabilization. Hillandale Gateway would then enter into a ground lease with Duffie. Nothing of Duffie’s development responsibilities would change. The Duffie proposal offers many benefits to HOC:

- Removes land cost from development basis
- Makes HOC larger owner at inception, potentially full owner after stabilization
- Increases total Duffie capital commitment to Hillandale Gateway
- Accesses additional Duffie capital at low cost of 4%

The proposed length of the ground lease is 99 years, with rent commencing commencing at the sale of Holly Hall (projected for the end of May) but deferred until the start of construction (projected for April of 2022). To account for the lack of revenue during the construction and lease-up period, the lease payment starts at a reduced rate of 4% of the \$5,950,000 land value (\$238,000 per year). The \$5,950,000 land value has already been established per the existing operating agreement.

Duffie has agreed to negotiate an end-of-lease mechanism that would prevent the improvements from reverting to Duffie in Year 100. HOC would also be given the unilateral right to renovate and redevelop during the life of the lease. If Duffie were to enter into a contract to sell the land, HOC would retain a right of first refusal.



Summary and Recommendations

ISSUES FOR CONSIDERATION

Does the Commission authorize:

1. The Executive Director to execute a purchase and sale agreement in the amount of \$5,950,000 with the Duffie Companies for the sale of HOC's Holly Hall property?
2. Staff to carry out the sale of HOC's Holly Hall property in accordance with the terms of the purchase and sale agreement?
3. The Executive Director to execute a 99-year ground lease as detailed herein on behalf of Hillandale Gateway, LLC with the Duffie Companies?
4. The Executive Director to execute the Second Amended & Restated Operating Agreement for Hillandale Gateway, LLC?

BUDGET/FISCAL IMPACT

There is no adverse impact on the Commission's FY2021 Operating Budget.

TIME FRAME

For formal action in open meeting at the May 11, 2021, special session of the Commission.

Summary and Recommendations

STAFF RECOMMENDATION AND COMMISSION ACTION NEEDED

As this ground lease structure would give HOC a greater ownership of Hillandale Gateway, allow for a greater range of financing options, and would do so with greater investment from a strong partner; staff is recommending to the Commission that it authorize:

1. The Executive Director to execute a purchase and sale agreement in the amount of \$5,950,000 with the Duffie Companies for the sale of HOC's Holly Hall property.
2. Staff to carry out the sale of HOC's Holly Hall property in accordance with the terms of the purchase and sale agreement.
3. The Executive Director to execute a 99-year ground lease as detailed herein on behalf of Hillandale Gateway, LLC with the Duffie Companies.
4. The Executive Director to execute the Second Amended & Restated Operating Agreement for Hillandale Gateway, LLC.

RESOLUTION No.: 21-49

RE: Approval to Sell Holly Hall Apartments Property to Hillandale Pad II, LLC and Authorization to Enter into a Ground Lease with Hillandale Pad II, LLC

WHEREAS, the Housing Opportunities Commission of Montgomery County (“HOC” or the “Commission”), is the owner of a vacated, to-be-demolished, 96-unit rental property in Hillandale known as Holly Hall Apartments located on approximately 4.35 acres of land at 10110 New Hampshire Avenue, Silver Spring, MD 20903 (“Holly Hall”); and

WHEREAS, HOC is the sole member of HOC at Hillandale Gateway, LLC (“HOC’s JV Member”), which is a member of Hillandale Gateway, LLC, the entity that will redevelop the Holly Hall site; and

WHEREAS, the Holly Hall property was approved for an increase in development density via a Sectional Map Amendment, which presents a unique opportunity for HOC to expand its housing presence in the East County, which has seen decades of disinvestment in housing; and

WHEREAS, the Duffie Companies and HOC formed a venture to redevelop Holly Hall where HOC contributes Holly Hall and the Duffie Companies contributes cash, both purchasing respective ownership interests in Hillandale Gateway, LLC; and

WHEREAS, on November 4, 2020, the Commission approved and funded the demolition of Holly Hall, which includes pre-demolition work, the demolition contract, and contingency; and

WHEREAS, on February 18, 2021, the Holly Hall site received site plan approval from the Montgomery County Planning Board for 463 units in two buildings—a 155-unit senior building and a 308-unit multifamily building (“Hillandale Gateway”); and

WHEREAS, on December 4, 2020, the Duffie Companies submitted to HOC an unsolicited offer to commit an increased amount of capital to the transaction by acquiring the Holly Hall property and leasing it back to Hillandale Gateway, LLC (“Sale-leaseback”); and

WHEREAS, the proposed terms of the ground lease component of the Sale-leaseback include a term of ninety-nine years with an option for HOC to purchase the land beginning 18 months prior to the end of the ninety-nine year term and a guaranty by HOC of payment and performance, which guaranty will terminate upon receipt of certificates of occupancy for the improvements and will have a liability cap of ten years of rent payment (the “Guaranty”); and

WHEREAS, the proposed terms of the property acquisition component of the Sale-leaseback include a purchase price of \$5,950,000, which is the value of the land as already established per the existing operating agreement for Hillandale Gateway, LLC between HOC and the Duffie Companies; and

WHEREAS, the Duffie Companies has formed Hillandale Pad II, LLC to take ownership of Holly Hall; and

WHEREAS, the Sale-leaseback structure will afford HOC greater ownership of Hillandale Gateway as well as increased flexibility in financing Hillandale Gateway.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery

County that it authorizes the Executive Director to execute a purchase and sale agreement in the amount of \$5,950,000 for the sale of the Holly Hall property to Hillandale Pad II and approves the sale of Holly Hall to Hillandale Pad II expected to occur on or about May 31, 2021.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of HOC at Hillandale Gateway, LLC, acting for itself and on behalf of Hillandale Gateway, LLC, that it authorizes the Executive Director to execute a (i) ground lease of the Holly Hall property that begins at the sale of Holly Hall, for which rent is deferred until the start of construction, at annual rent of 4% of sales price for the first five years of the lease, and at annual rent of 6% of sales price thereafter and (ii) the Guaranty; and otherwise substantially on the terms and conditions identified to the Commission and acceptable to the Executive Director and as advised by counsel.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that the Executive Director is authorized, without any further action on its part, to take any and all other actions necessary and proper to carry out the transactions and actions contemplated herein, including the execution of any documents related thereto and the amendment and restatement of the existing operating agreement for Hillandale Gateway, LLC.

I HEREBY CERTIFY that the foregoing resolution was approved by the Housing Opportunities Commission of Montgomery County at an Open Session on May 11, 2021.

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Patrice M. Birdsong
Special Assistant to the Commission