



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**  
**Item #**  
**December 21, 2006**

**MEMORANDUM - As Amended**

**DATE:** November 28, 2006

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief, Development Review Division

**FROM:** Dan Janousek, AICP, Development Review Division  
(301-495-4564)

**REVIEW TYPE:** Development Plan Amendment  
**CASE NUMBER:** DPA-06-01  
**PROJECT NAME:** Woodmont View  
**APPLICANT:** Laurence Lipnick and Battery Lane, LLC

**LOCATION:** NW Corner of Woodmont Avenue and Battery Lane  
**ZONE:** PD-75  
**SECTOR PLAN:** Bethesda CBD Sector Plan

**FILING DATE:** June 30, 2005  
**PUBLIC HEARING:** January 21, 2007, Council Office Building  
Hearing Examiner: Grossman

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**RECOMMENDATION**

Revise the Planning Board's February 2, 2006 APPROVAL recommendation to the Hearing Examiner to reflect the Alternative Review Committee's (ARC) September 21, 2006 decision memorandum. The ARC finds that the provision of the required number of MPDU's on site is economically feasible only if the applicant's submitted request for additional height of 14 feet and 4 inches above the Sector Plan height recommendation is granted.

The staff makes note that there is no opposition to the Development Plan Amendment and recommends that the amendment be placed on the first available District Council agenda without the necessity of a public hearing by the Hearing Examiner.

## SUMMARY

The applicant, Laurence Lipnick and Battery Lane, LLC, seek to amend the Woodmont View development plan to construct an 8-story condominium. The purpose of the applicant's plan is to provide a mixed-use, transit-oriented project that will be within a short walking distance of both the Medical Center and Bethesda Metro Stations and that will be compatible with adjacent development. The amendment changes the number of units from 10 town houses to 46 medium high-rise condominium units, including 8 Moderately Priced Dwelling Units (MPDUs), one single-family house on the north end of the property and 1,408 sq. ft. of amenity use.

The Planning Board reviewed Development Plan Amendment DPA-06-01 at a regular meeting on February 2, 2006. By a vote of 5-to-0, the Board recommended that this Development Plan Amendment be **APPROVED** and sent directly to the District Council for their approval. There was no opposition to the Development Plan Amendment.

The applicant clarified at the February 2, 2006 meeting that the building height is proposed for 79 feet and 4 inches in height. This represents development of the site with a bonus density of 22% and a bonus height of 14 feet and 4 inches. The maximum height recommendation for the subject property is 65 feet, as specified in the Bethesda CBD Sector Plan, Approved and Adopted, July 1994. There is justification for the additional height. The applicant proposes 79 feet and 4 inches in height, and to achieve this, the applicant will provide 15% of the total residential units as Moderately Priced Dwelling Units, fulfilling the goals of the Sector Plan and implementing the County's housing policy. At the meeting, after a request by Technical Staff, the applicant agreed to provide the Moderately Priced Dwelling Units 'on site' as 'condominiums'.

The applicant agreed to the following binding elements at the February 2, 2006, Planning Board meeting:

### Binding Elements of the Development Plan DPA-06-01

1. The maximum number of dwelling units will be 47, including 15% MPDUs (or 8 MPDUs). The MPDUs will be condominiums provided on site.
2. The building height is proposed for 79 feet 4 inches measured from the adjoining curb grade along Woodmont Avenue to the highest point of the main roof slab (the roof area covering the major area of the building excluding mechanical, access, elevator penthouses, and decorative gables) with final height measurement subject to review and adjustment by the Planning Board at site plan approval.
3. The minimum setbacks will be 0 feet for the front yards on Woodmont Avenue and Battery Lane, 11.5 feet for the side yard to the west, and 40.5 feet for the rear yard from the existing building at the north property line.
4. The minimum green space will be 30% of the gross tract area.

5. All green areas (including the active/passive recreation rooftop green area) for the condominium building will be accessible to all residents of the condominium building.
6. The maximum building coverage will be 60% of the site area.
7. The minimum number of parking spaces for the residential units will be 54, and the number of parking spaces required for the commercial use will comply with the Zoning Ordinance.
8. This property is subject to a Common Driveway Agreement recorded at Liber 26425, Folio 122 among the Land Records of Montgomery County (the Common Driveway Agreement).

The Planning Board recommended that the development plan amendment application be APPROVED for the following reasons:

1. The application and development plan amendment conforms to the land use, zoning and transportation recommendations of the Sector Plan.
2. The application and development plan amendment are consistent with the purposes, standards and regulations of the PD-75 zone.
3. The plan is appropriate for the location and is compatible with the surrounding development.

## **CONCLUSION**

Because the Alternative Review Committee determined that the 22% bonus density, which requires 14 feet and 4 inches of additional height for its inclusion into the development plan, is necessary to make the project profitable, staff recommends that the Board agree to revise their recommendation to the Hearing Examiner to reflect the Alternative Review Committee recommendation of approval of additional height and density in return for providing 15% MPDUs on site. Staff concurs with the committee's recommendation and opinion that the proposal would not be financially feasible within the constraints of the applicable height limits of the Bethesda CBD Sector Plan and the applicable density limits of the requested zone. Staff recommends that any measures authorized by Chapter 59 or Chapter 50 should be approved to assure the construction of all required MPDUs on site.

## **ATTACHMENTS**

1. Alternative Review Committee decision memorandum dated September 21, 2006.
2. February 27, 2006 Planning Board Opinion
3. February 2, 2006 Staff Report



**Moderately Priced Dwelling Unit  
ALTERNATIVE REVIEW COMMITTEE**

**MEMORANDUM**

**September 21, 2006**

**TO:** Montgomery County Planning Board

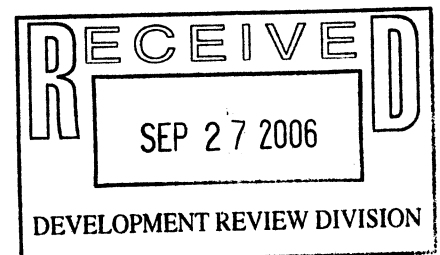
**FROM:** MPDU Alternative Review Committee (ARC)  
Elizabeth Davison, Director, DHCA  
Scott Minton, Executive Director, HOC  
Faroll Hamer, Acting Director, Dept. of Park and Planning, M-NCPPC

**SUBJECT:** Decision Memorandum – Development Plan Amendment DPA-06-01 – Economic Feasibility, Battery Lane LLC and Laurence Lipnick – Woodmont View, located at the Lot 31, located on the northwest quadrant of the intersection Woodmont Avenue and Battery Lane, Bethesda

**RECOMMENDATION**

In this case, the Alternative Review Committee (ARC) was asked by Battery Lane LLC and Laurence Lipnick (the “Applicants”) to consider four development options for the above project in regards to the economic feasibility of providing the required number of MPDUs on-site. In regards to Option #1, the ARC finds that provision of the required MPDUs is not economically feasible within the 65 feet height limit recommended in the sector plan. In regards to Option #2, the ARC finds that the provision of the required MPDUs is economically feasible. Given its finding of economic feasibility for Option #2, the ARC did not consider Options # 3 and # 4.

This recommendation is based solely on the financial conditions associated with the four alternative options for the property’s development presented by the property owner. The members of the ARC have not reviewed or formed any opinion about the compatibility of the project if the height and/or density is increased.



## **BACKGROUND**

Section 59.D.1.6(a) of the Zoning Ordinance allows a development plan to exceed, in proportion to the MPDUs to be built on site, including any bonus density units, any applicable residential density or building height limit established in a master plan or sector plan if a majority of an Alternative Review Committee (ARC) composed of the Director of the Department of Housing and Community Affairs (DHCA), the Executive Director of the Housing Opportunities Commission (HOC), and the Director of the Montgomery County Department of Park and Planning, or their respective designees, find that a development that includes all required MPDUs on site, including any bonus density units, would not be financially feasible within the constraints of any applicable density or height limit.

## **PROJECT DETAILS**

Based on the requirement of 59.D.1.6(a), the Applicants' request was considered by the ARC at a meeting held at DHCA on Monday, August 14, 2006. Members of the ARC who participated in the meeting were Elizabeth Davison, Director, DHCA; Scott Minton, Executive Director, HOC; and Sharon Suarez, Housing Planner, Department of Park and Planning (as the designee of Faroll Hamer, Acting Director, Department of Park and Planning). The ARC was assisted in its review of the financial information submitted by the applicant by Eric Smart, independent economic advisor employed by Bolan Smart and under contract for professional services to DHCA. The representatives of the Applicant who were present at the meeting were Larry Lipnick, Property Owner and Applicant, Erik Morrison, Morrison Architects, Robert W. Brown, R. W. Brown and Associates, and the Applicants' Attorneys, Steve Kaufman and Yum Yu Cheng of Linowes and Blocher, LLP. Also, attending the meeting was Chris Anderson, Manager, Single Family Program, DHCA and Andrew Bennett, DHCA Intern.

The applicant submitted to the ARC's consultant four development scenarios and a Financial Feasibility Analysis for each of the scenarios.

- Option #1 is the development of the site under a standard development scenario, subject to the maximum height of 65 feet that is recommended in the Master Plan for the Bethesda Central Business District, within which this property is located.
- Option #2 is the development of the site with a bonus density of 22% and a bonus height of 14 feet (this was the option recommended by the Planning Board).
- Option #3 is the development of the site with a bonus density of 22% and a bonus height of 29 feet.
- Option #4 is the development of the site with 19 units that requires no MPDUs.

In their request to the ARC dated June 12, 2006, the Applicants stated Option #3 was the only development scenario in which the provision of the full number of MPDUs was economically feasible. Members of the ARC would like to note that these options all include the applicants house remaining on the property. Another option could be that the

full site would be developed, eliminating the applicants house. According to the consultant for the ARC, this option may be financially feasible without the added height. This option has not been presented or analyzed in any depth. This issue is raised to highlight the fact that more options exist than were presented by the property owner. The property owner state that he plans to continue to reside in this property and does not want to redevelop this portion of the site.

## **CONCLUSION**

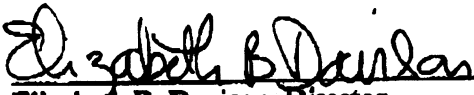
In evaluating the complete submission of the Applicant, the economic consultant and the ARC made the following findings of fact:

1. The majority of the basic development cost assumptions submitted by the applicant appear to be consistent with market norms as of the Summer 2006.
2. The financial feasibility analyses submitted by the applicant provide reasonable information and level of detail to permit basic understanding of the anticipated development costs.
3. The financial feasibility of the 22 percent bonus case is based on assumptions of relatively modest margins and profits by current standards in the Bethesda market.
4. Based on the analysis, the project without any bonus density could not reasonably be expected to secure the necessary financing to proceed, and therefore, the project is not financially feasible without additional density and/or height.
5. A bonus density, which requires additional height for its inclusion, is required in order for the project to be financially feasible and to secure the financing necessary to proceed.
6. The 14 feet of additional height recommended by the Planning Board in its February 6, 2006 recommendation and presented by the Applicants as Option # 2, after accounting for certain changes in the development and marketing cost assumptions to bring these assumptions more into accordance with market norms, appears sufficient for the project to be financially feasible and to secure the financing necessary to proceed.

This conclusion is related solely to the financial conditions associated with the property's development. The limit of the ARC's review is the financial feasibility of locating the MPDU's on the site of the project and whether that financial feasibility requires that additional bonus density and height be provided to the project. The members of the ARC have not reviewed or formed any opinion about the compatibility of the project if the height and/or density is increased.

**SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

**Signatures of the Alternative Review Committee Members**

  
Elizabeth B. Davison, Director  
Department of Housing and Community Affairs

8/17/06  
Date

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D. Scott Minton, Executive Director  
Housing Opportunities Commission

\_\_\_\_\_  
Date

\_\_\_\_\_  
Faroll Hamer, Acting Director  
Department of Park and Planning, M-NCPPC

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Date


EBD:cja:sns

cc: Steve Kaufman, Linowes and Blocher, LLP  
Yum Yu Cheng, Linowes and Blocher, LLP

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**Signatures of the Alternative Review Committee Members**

Elizabeth B. Davison, Director Department of Housing and Community Affairs	Date
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 D. Scott Minton, Executive Director Housing Opportunities Commission	8/17/06 Date
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Faroll Hamer, Acting Director Department of Park and Planning, M-NCPPC	Date
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EBD:cja:sns

cc: Steve Kaufman, Linowes and Blocher, LLP  
Yum Yu Cheng, Linowes and Blocher, LLP

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\_\_\_\_\_  
Date

Farrell Hamer  
Farrell Hamer, Acting Director  
Department of Park and Planning, M-NCPPC

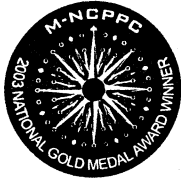
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Date

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cc: Steve Kaufman, Linowes and Blocher, LLP  
Yun Yu Cheng, Linowes and Blocher, LLP

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Post-It Fax Note	7671	Date	9/21/06	Page	1
To	Chris Anderson	From	Farrell Hamer		
Co./Dept.		Co.			
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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
Office of the Chairman, Montgomery County Planning Board

**RECEIVED**

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**MONTGOMERY COUNTY PLANNING BOARD**  
**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

February 27, 2006

TO: The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Planning Board Opinion

RE: Development Plan Amendment DPA -06-01

**BOARD RECOMMENDATION**

The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed Development Plan Amendment DPA -06-01 at a regular meeting on February 2, 2006. By a vote of 5-to-0, the Board recommended that this Development Plan Amendment be **APPROVED** and sent directly to the District Council for their approval for the reasons set forth in the technical staff report, as modified, which is hereby incorporated by reference in this recommendation. There was no opposition to the Development Plan Amendment.

After a discussion of building height during the regular meeting, Technical Staff was asked by the Board to clarify the specific height of the proposed building, which was referenced as both 79 feet, and 79 feet 4 inches in height in the technical memorandum. The applicant clarified at the meeting that the development plan is for 79 feet and 4 inches in height, and the applicant has proposed this height as a binding element. The Technical Staff report is hereby amended to reflect the applicant's proposal of 79 feet and 4 inches.

The maximum height recommendation for the subject property is 65 feet, as specified in the Bethesda CBD Sector Plan, Approved and Adopted, July 1994. There is justification for the additional height. The applicant proposes 79 feet and 4 inches in height, and to achieve this, the applicant will provide 15% of

**EXHIBIT NO.** (27)  
**REFERRAL NO.** DPA-06-1

the total residential units as Moderately Priced Dwelling Units, fulfilling the goals of the Sector Plan and implementing the County's housing Policy.

At the meeting, after a request by Technical Staff, the applicant agreed to provide the Moderately Priced Dwelling Units 'on site' as 'condominiums'.

The applicant agreed to the following binding elements at the meeting:

**Binding Elements DPA-06-01**

1. The maximum number of dwelling units will be 47, including 17% MPDUs (or 8 MPDUs). The MPDUs will be condominiums provided on site.
2. The building height is proposed for 79 feet 4 inches measured from the adjoining curb grade along Woodmont Avenue to the highest point of the main roof slab (the roof area covering the major area of the building excluding mechanical, access, elevator penthouses, and decorative gables) with final height measurement subject to review and adjustment by the Planning Board at site plan approval.
3. The minimum setbacks will be 0 feet for the front yards on Woodmont Avenue and Battery Lane, 11.5 feet for the side yard to the west, and 40.5 feet for the rear yard from the existing building at the north property line.
4. The minimum green space will be 30% of the gross tract area.
5. All green areas (including the active/passive recreation rooftop green area) for the condominium building will be accessible to all residents of the condominium building.
6. The maximum building coverage will be 60% of the site area.
7. The minimum number of parking spaces for the residential units will be 54, and the number of parking spaces required for the commercial use will comply with the Zoning Ordinance.
8. This property is subject to a Common Driveway Agreement recorded at Liber 26425, Folio 122 among the Land Records of Montgomery County. The Common Driveway Agreement sets forth the agreement between the

applicant and the adjacent property owner to share certain portions of their respective properties for mutual ingress and egress from Battery Lane in order to achieve more efficient, convenient, and safer access to both properties.

### CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission at its regular meeting held in Silver Spring, Maryland on Thursday, February 2, 2006, on a motion of Commissioner Bryant, seconded by Commissioner Perdue, and with Commissioners Wellington, Robinson and Chairman Berlage voting in favor of the motion, the Planning Board recommends that the local map amendment application be APPROVED for the following reasons:

1. The application and development plan conforms to the land use, zoning and transportation recommendations of the Sector Plan.
2. The application and development plan is consistent with the purposes, standards and regulations of the PD-75 zone.
3. The plan is appropriate for the location and is compatible with the surrounding development.

Sincerely,



Derick P. Berlage  
Chairman

M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org

**MCPB**  
**Item # 1**  
**February 2, 2005**

**MEMORANDUM**

**DATE:** January 25, 2006

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief, Development Review Division *Rd K*  
Carlton Gilbert, Zoning Supervisor, Development Review Division *AG*

**FROM:** Dan Janousek *DJ* Development Review Division (301-495-4564)

**REVIEW TYPE:** Development Plan Amendment

**CASE NUMBER:** DPA-06-01

**PROJECT NAME:** Woodmont View

**APPLICANT:** Laurence Lipnick and Battery Lane, LLC

**LOCATION:** NW Corner of Woodmont Avenue and Battery Lane

**ZONE:** PD-75

**SECTOR PLAN:** Bethesda CBD Sector Plan

**FILING DATE:** June 30, 2005

**PUBLIC HEARING:** February 14, 2006, 2<sup>nd</sup> Floor, Council Office Building  
Hearing Examiner: Grossman

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**STAFF RECOMMENDATION: APPROVAL of the Development Plan Amendment**

The staff makes note that there is no opposition to the Development Plan Amendment at this time and recommends that the amendment be placed on the first available District Council agenda without the necessity of a public hearing by the Hearing Examiner.

**SUMMARY**

The applicant, Laurence Lipnick and Battery Lane, LLC, seek to amend the Woodmont View development plan to construct an 8-story condominium. The purpose of the applicant's plan is to provide a mixed-use transit-oriented project within walking distance of both the Medical Center Metro and Bethesda Metro that will be compatible with adjacent development. The amendment changes the number of units from 10 town houses to 46 medium high-rise condominium units, including 8 Moderately Priced Dwelling Units (MPDUs), one single-family house on the north end of the property and 1,408 sq. ft. of restaurant commercial use.





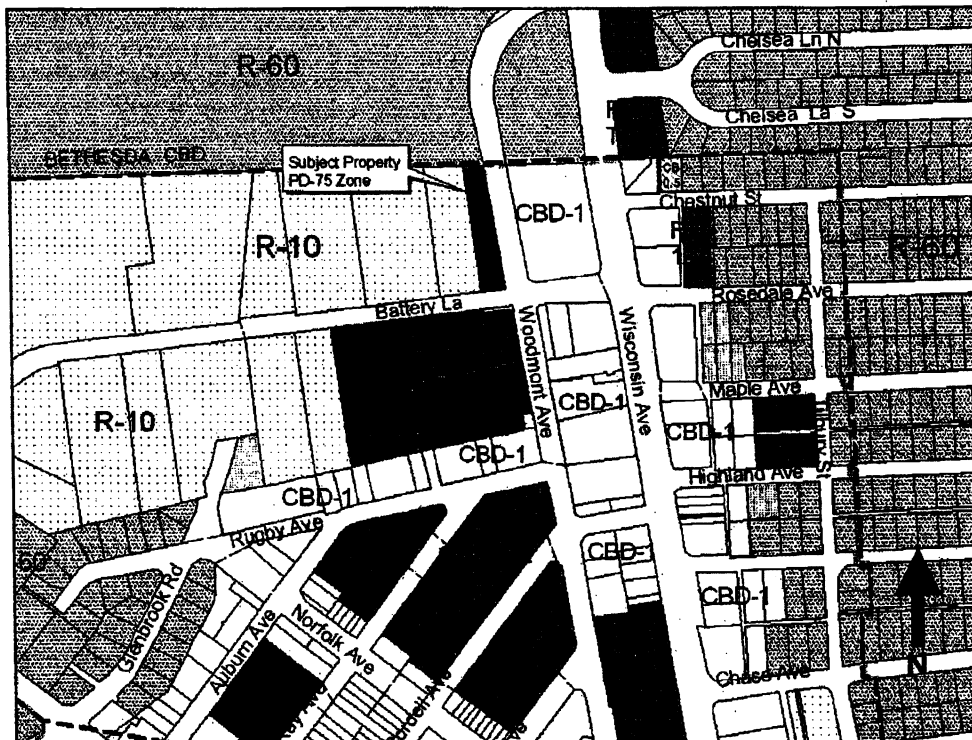
## Property Description

The subject property consists of approximately on-half acre in the Bethesda CBD Metro Station Policy Area described in the Bethesda CBD Sector Plan. The property is designated as the "Trunnell property". It is known as Part of Lot 48, Block 2, Northwest Park, Plat No. 134, and is bounded by Woodmont Avenue to the east, Battery Lane to the south, Lot 22, Block 2, to the west, and the National Institutes of Health (NIH) to the north. The property has approximately 340 feet of frontage along Woodmont Avenue and 60 feet of frontage on Battery Lane. At the north end of the property is a 3 story single-family home. At the south end of the property is a four-story office building, which the applicant plans to demolish. The property is substantially paved with a gradual slope downward from east to west and upward from north to south along Woodmont Avenue, and there are no natural resources, such as wetlands, streams, flood plains or forest on the property.

## Surrounding Area

Technical Staff typically describes the surrounding area as a basis of analysis of a development plan amendment. The surrounding area provides a transition into the Bethesda CBD. This specific area was described previously in the District Council's approval. The area contains a mix of zones and uses including residential, commercial and institutional. It extends out from the intersection of Battery Lane and Woodmont Avenue to the Battery Lane Urban Park to the west, Norfolk Avenue and Chase Avenue to the south, Wisconsin Avenue to the east and the *National Library of Medicine* on the *National Institutes of Health (NIH)* campus to the north. The area to the north is zoned R-60, including NIH. Surrounding the subject property are R-60, R-10, R-10/TDR, and CBD zoned properties.

Figure 1. Zoning





## Previously Approved Development Plan

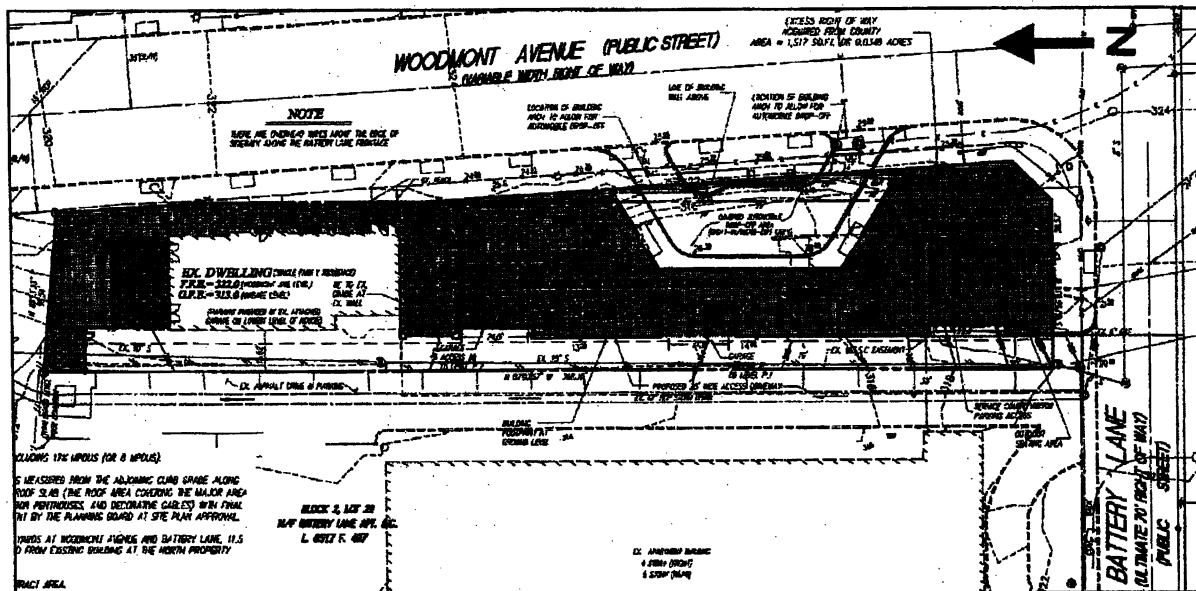
The previously approved development plan was certified in 2004 exclusively for 10 single-family town houses and the existing single family dwelling on the north end of the property. No commercial use was approved. The existing single-family house is permitted and is considered a nonconforming use, and the applicant dedicated 596 square feet of right of way along Battery Lane, which was a requirement.

## Proposed Development Pan Amendment

Since the previous approval, the applicant has acquired approximately 1,500 square feet of right of way along Woodmont Avenue from the County. The proposed development plan amendment for 46 medium high-rise condominiums includes 8 Moderately Priced Dwelling Units (MPDUs) units and 1,408 sq. ft. of restaurant use on the first floor. As before, the existing single-family house is retained and can be considered a nonconforming use, since all types of residential uses are permitted in the PD-75 Zone except detached, single-family houses. The condominium building will be oriented towards the intersection of Woodmont Avenue and Battery Lane. Walk-in entrances to the condominium building front on Woodmont Avenue from underneath a recessed, at-grade, vehicle drop-off area. There is another pedestrian entrance directly to Battery Lane.

The property is currently accessed by auto from Battery Lane. Residents and guests will have private garage access from this same location. Automobiles will enter a proposed driveway at the rear (east) side of the building and may drive down into two separate underground garage entrances. A separate service dock is provided. An existing common driveway agreement between the applicant and the adjacent property owner exists.

Figure 2. Amendment to Development Plan (excerpt)



Note: The proposed amendment is fully depicted on Attachment 1.

Green space, provided at the minimum required by the ordinance (30%), is on the upper floor of the building for the condominium, and at the ground level surrounding the single-family dwelling. The lot provides 25 feet of truncation at the corner of Woodmont Avenue and Battery Lane.

Table 1. Comparison of previously approved and proposed development plans

	<b>Previous Council Approval &amp; Certified Plan</b>	<b>Amendment Proposed for Approval</b>
<b>Gross Tract Area</b>	23,238 sq. ft.	<b>22,618 sq. ft.</b>
<b>Net Lot Area</b>	21,101 sq. ft	<b>21,101 sq. ft.</b>
<b>Green Area</b>	7,000 sq. ft (30.1%)	<b>7,146 sq. ft (31.6%)</b>
<b>Dwelling Units</b>	10 Town Houses 1 SF House	<b>38 Condominiums 1 SF House</b>
<b><u>MPDUs</u></b>	<b>0</b>	<b><u>8 MPDU Condominiums</u></b>
<b>Total</b>	11	<b>47</b>
<b>Commercial</b>	0	<b>1,408 sq. ft</b>

The development plan carries forward several binding elements from the previously approved development plan and binding elements contained in District Council Resolution #15-563. These binding elements were revised to reflect the amendment, including the provision of MPDUs. New binding elements were added which will help to achieve compatibility and compliance with the zone. One binding element was dropped regarding an easement on the north end of the property. Staff is satisfied that the easement is depicted on the development plan and will eventually be recorded by the applicant during the minor subdivision process. With District Council approval, binding element #2 would allow the Planning Board flexibility to approved revised building height at site plan review. Binding elements #5 and #8 are new.

**Binding Elements DPA-06-01**

1. The maximum number of dwelling units will be 47, including 17% MPDUs (or 8 MPDUs).
2. The building height is proposed for 79 feet 4 inches measured from the adjoining curb grade along Woodmont Avenue to the highest point of the main roof slab (the roof area

covering the major area of the building excluding mechanical, access, elevator penthouses, and decorative gables) with final height measurement subject to review and adjustment by the Planning Board at site plan approval.

3. The minimum setbacks will be 0 feet for the front yards on Woodmont Avenue and Battery Lane, 11.5 feet for the side yard to the west, and 40.5 feet for the rear yard from the existing building at the north property line.
4. The minimum green space will be 30% of the gross tract area.
5. All green areas (including the active/passive recreation rooftop green area) for the condominium building will be accessible to all residents of the condominium building.
6. The maximum building coverage will be 60% of the site area.
7. The minimum number of parking spaces for the residential units will be 54, and the number of parking spaces required for the commercial use will comply with the Zoning Ordinance.
8. This property is subject to a Common Driveway Agreement recorded at Liber 26425, Folio 122 among the Land Records of Montgomery County. The Common Driveway Agreement sets forth the agreement between the applicant and the adjacent property owner to share certain portions of their respective properties for mutual ingress and egress from Battery Lane in order to achieve more efficient, convenient, and safer access to both properties.

#### **ADDITIONAL REVIEW REQUIREMENTS**

If the District Council approves the amended development plan, the plan must be certified and filed as provided in section 59-D-1.64. Then, the applicant must comply with all applicable provisions specified in Chapter 50 of the County Code, including any exemptions allowed to platting specified in Chapter 50-9.

#### **COMMUNITY ISSUES**

There are no community issues specifically affecting this application. Staff recommends that the Hearing Examiner place the subject amendment on the first available District Council agenda without the necessity of a public hearing.

#### **ANALYSIS**

As stated in the Zoning Ordinance, this zone is in the nature of a special exception, and development plans shall be approved or disapproved upon findings that it is or is not proper for the comprehensive and systematic development of the county. Staff believes that the

development plan amendment application satisfies all of the requirements for a development plan in Section 59-D-1.61(a)-(e).

### **Conformance with Sector Plan**

The amendment conforms to many of the recommendations of the Bethesda CBD Sector Plan, approved and adopted in 1994. The Sector plan recommends the PD-75 Zone for the property. The amendment is consistent with the use and density indicated by the Sector Plan, and does not conflict with the General Plan, the County's capital improvements program or other applicable plans and policies. The Sector plan recommends the development of housing within the central business district to achieve a more balanced demand on the transportation network (page 28), and generally, the retention of affordable housing near the Metro. More specifically, the Sector Plan calls for "a northern gateway" to the Woodmont Triangle area with the redevelopment at the corner of Woodmont Avenue and Battery Lane (pg. 90). The residential use is consistent with existing and planned land use in the surrounding area. The commercial use is oriented towards the intersection of Woodmont Avenue and Battery Lane and fit into the fabric of the urban environment of the Bethesda CBD.

The proposal conforms to many of the urban design guidelines in the Sector Plan (Page 92). Off street parking is hidden underground, and the building is oriented towards Woodmont Avenue for the main entrance and along Battery Lane, both goals of the Sector Plan. The Sector Plan anticipated the assembly of the subject property and the adjacent property (Site 1), but it also includes specific guidelines for the subject property if assembly does not occur (page 94). The proposal is consistent with the specific guidelines in terms of streetscape development, building orientation, and vehicular access, but not with building height or front building setbacks along Battery Lane. However, the building height provided will be compatible with adjacent development and will integrate mutually compatible uses.

The Planned Development Zone contains no specific standards for building height in the PD-75 Zone. The Sector Plan does provide guidelines for building height. The building height for the condominiums is 79 feet, which is 18 feet, or 22% higher than the 65 feet maximum height recommendation in the Sector Plan. The 22% additional height is allowed by the zoning ordinance per Sec. 59-D-1.61 if it is provided with the commitment that the applicant will contribute 15% or more MPDUs. The applicant is providing 17% MPDUs on site. The proposal offers architectural features, including rooflines that are compatible with adjacent development and the existing dwelling on the property. The proposed height is higher than adjacent mid-rise residential development to the west, but it is lower than adjacent residential development at 8400 Wisconsin Avenue, which is 100 feet.

The Planned Development Zone contains no specific standards for building setbacks. In the Sector Plan, building setbacks are recommended to be the same as the existing setbacks along Battery Lane in order to retain green space while buffering the residential uses from the roadway. The proposal at the corner of Woodmont and Battery Lane, which is on a rather small site, makes the provision of a deep setback on Battery Lane difficult to achieve given the density sought by the applicant. The proposal will result in a distinctive visual character and identity called for in the purpose clause of the zone, and staff believes that the proposal will be compatible with adjacent development.

A small amount of commercial space is present in the application. Although commercial uses in this location are not recommended in the Sector Plan, the District Council may permit commercial uses in the PD-75 Zone. Staff believes that the small amount of commercial space in the proposal will not adversely affect the surrounding land uses and will be compatible with the proposal and surrounding development and encourage a maximum of social and community interaction and activity described in the purpose clause of the PD-75 zone.

#### **Other Issues**

##### ***Public Facilities***

The subject property is served by water and sewer public utilities, and these facilities have adequate capacity to serve the property. The existing public storm drain on the adjoining property, contiguous to the subject property, has adequate capacity to take storm water runoff away from the subject property. There is no evidence that problems for local fire, police, or health clinics will be generated because of the proposal.

##### ***Schools***

Montgomery County Public Schools finds capacity adequate in the Bethesda, Chevy Chase cluster (see attached). The development is expected to generate four (4) elementary, one (1) middle school and one (1) high school student.

##### ***Environment***

Analysis provided by Environmental Technical Staff indicates that there are no serious environmental issues associated with this application (see attached memorandum).

##### ***Transportation***

Analysis provided by Transportation Technical Staff indicates that there are no serious transportation issues associated with this application (see attached memorandum).

#### **CONCLUSION**

Upon review of the amendment staff concludes that it generally conforms to the recommendations of the Sector Plan, is consistent with the purpose clause for the PD-75 zone, and satisfies the development standards for the PD-75 Zone. The plan is appropriate for the location and is compatible with the surrounding development. For these reasons, staff recommends approval of DPA-06-01.

#### **Attachments:**

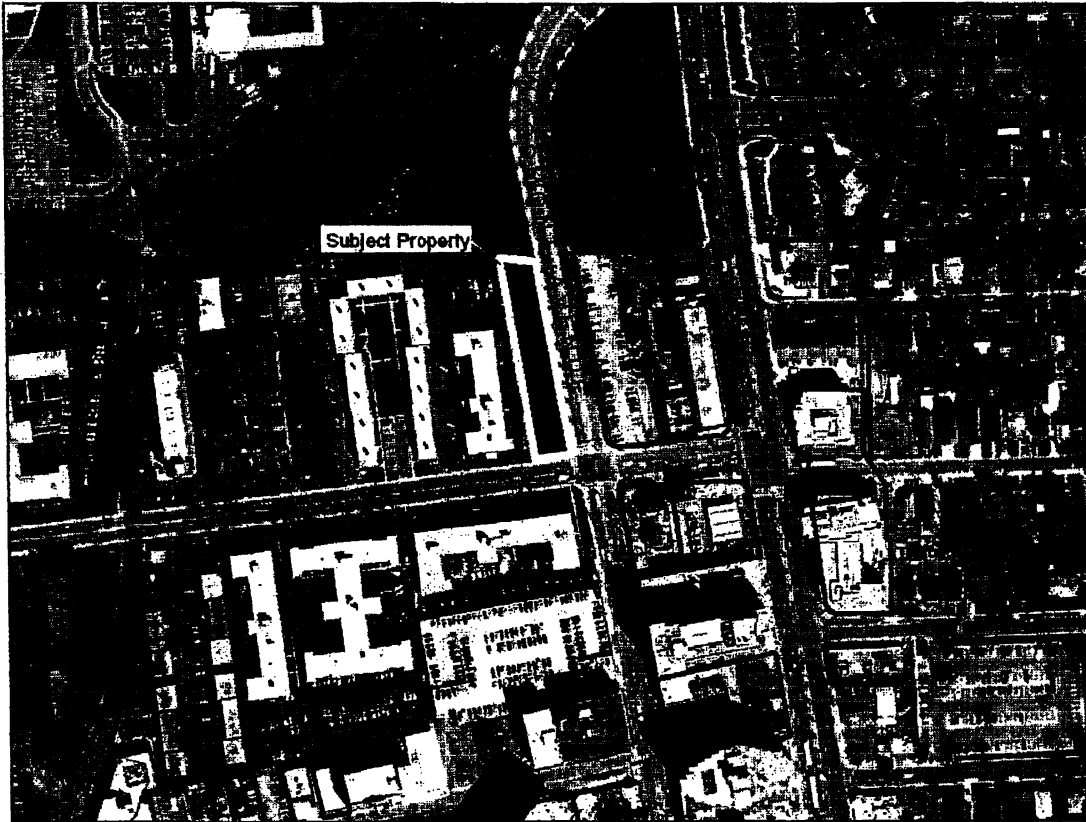
Location Map  
Site Plan  
Illustrative Elevations

Attachment 1  
Attachment 2  
Attachment 3

Community Based Planning Report  
Environmental Planning Report  
Transportation Planning Report  
MCPS Referral Letter

Attachment 4  
Attachment 5  
Attachment 6  
Attachment 7

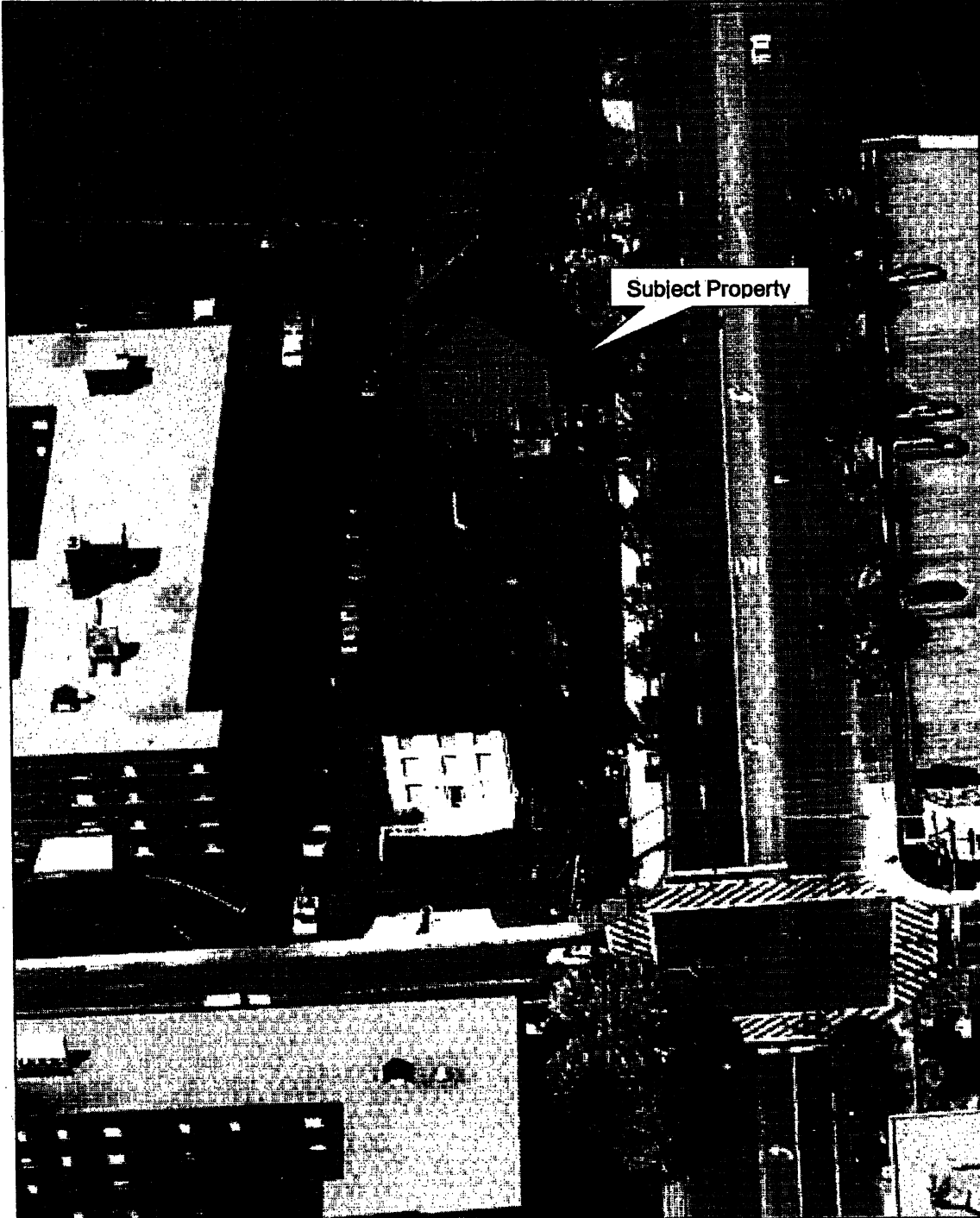
Overhead Aerial View of Subject Property (Preliminary Plans outlined)



Aerial View of Subject Property Location



Aerial View of Subject Property





map compiled on January 17, 2008 at 3:41 PM | data located on base sheet no - 21UNW06

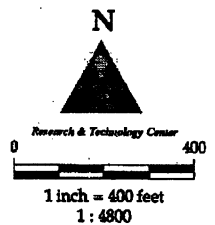
**NOTICE**

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

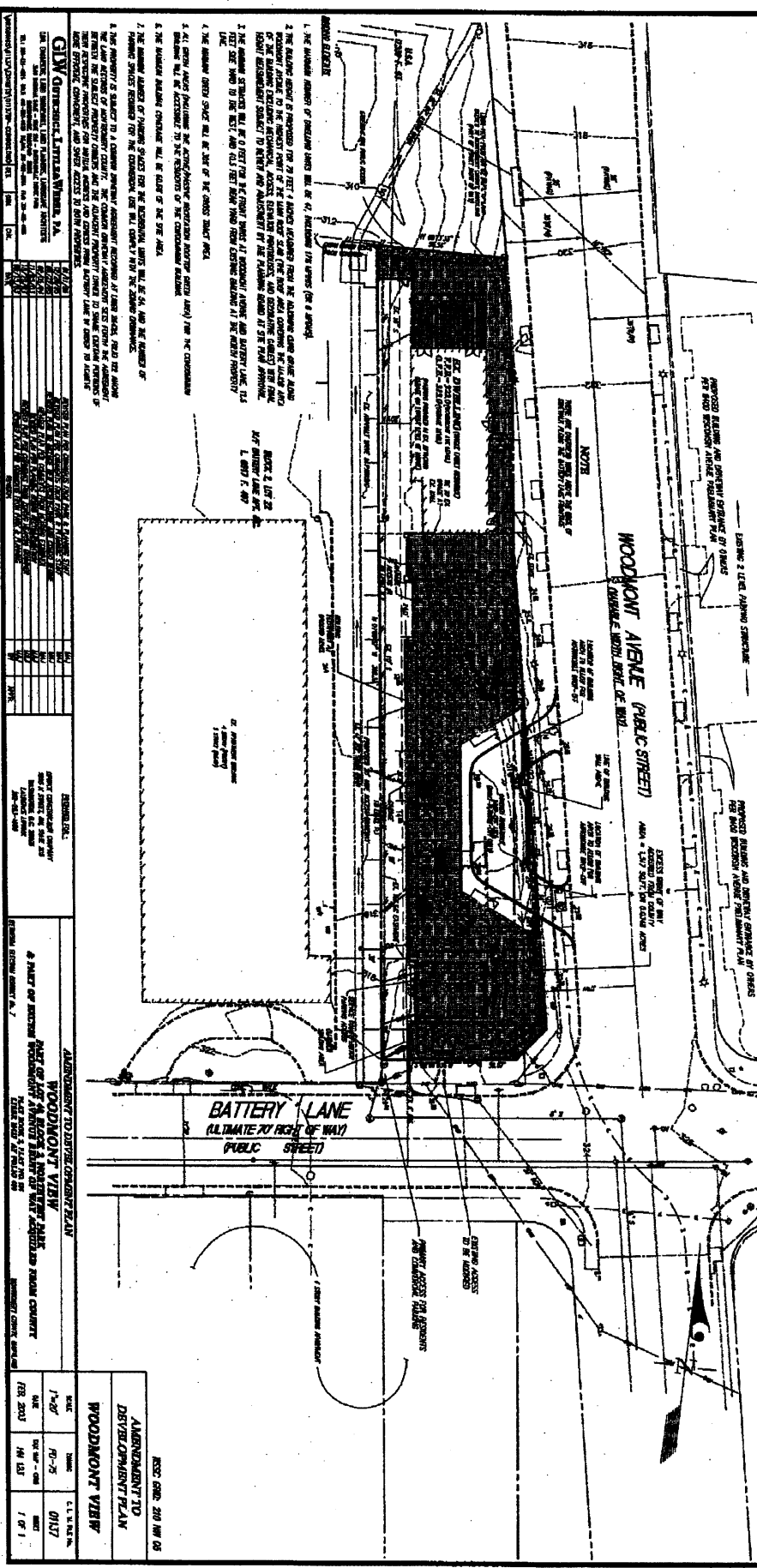
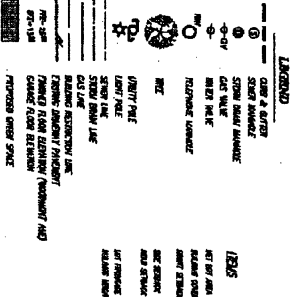
Key Map



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

GENERAL NOTES  
1. OWNER'S PROPERTY TO BE CONVEYED TO THE CITY OF WASHINGTON FOR THE PURPOSE OF PROVIDING ACCESS TO THE PUBLIC UTILITIES UNDER THE PROPOSED HOUSING DEVELOPMENT.  
2. THE HOUSING DEVELOPMENT TO BE CONVEYED TO THE CITY OF WASHINGTON FOR THE PURPOSE OF PROVIDING ACCESS TO THE PUBLIC UTILITIES UNDER THE PROPOSED HOUSING DEVELOPMENT.  
3. THE PROPOSED HOUSING DEVELOPMENT TO BE CONVEYED TO THE CITY OF WASHINGTON FOR THE PURPOSE OF PROVIDING ACCESS TO THE PUBLIC UTILITIES UNDER THE PROPOSED HOUSING DEVELOPMENT.  
4. THE PROPOSED HOUSING DEVELOPMENT TO BE CONVEYED TO THE CITY OF WASHINGTON FOR THE PURPOSE OF PROVIDING ACCESS TO THE PUBLIC UTILITIES UNDER THE PROPOSED HOUSING DEVELOPMENT.  
5. THE PROPOSED HOUSING DEVELOPMENT TO BE CONVEYED TO THE CITY OF WASHINGTON FOR THE PURPOSE OF PROVIDING ACCESS TO THE PUBLIC UTILITIES UNDER THE PROPOSED HOUSING DEVELOPMENT.

SETBACKS		SPACING		LAYOUT	
FRONT	5.00 FT	FRONT	25.00 FT	FRONT	25.00 FT
REAR	5.00 FT	REAR	25.00 FT	REAR	25.00 FT
SIDE	5.00 FT	SIDE	25.00 FT	SIDE	25.00 FT
ADJACENT	5.00 FT	ADJACENT	25.00 FT	ADJACENT	25.00 FT
CORNER	5.00 FT	CORNER	25.00 FT	CORNER	25.00 FT
STREET	5.00 FT	STREET	25.00 FT	STREET	25.00 FT



WOODMONT VIBR

DATE	BY	DESCRIPTION
1-18-07	[Signature]	PRELIMINARY
07-25-08	[Signature]	FINAL
11-13-11	[Signature]	REVISED

WOODMONT VIBR

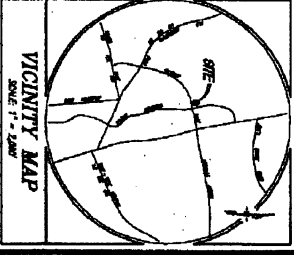
REVISIONS

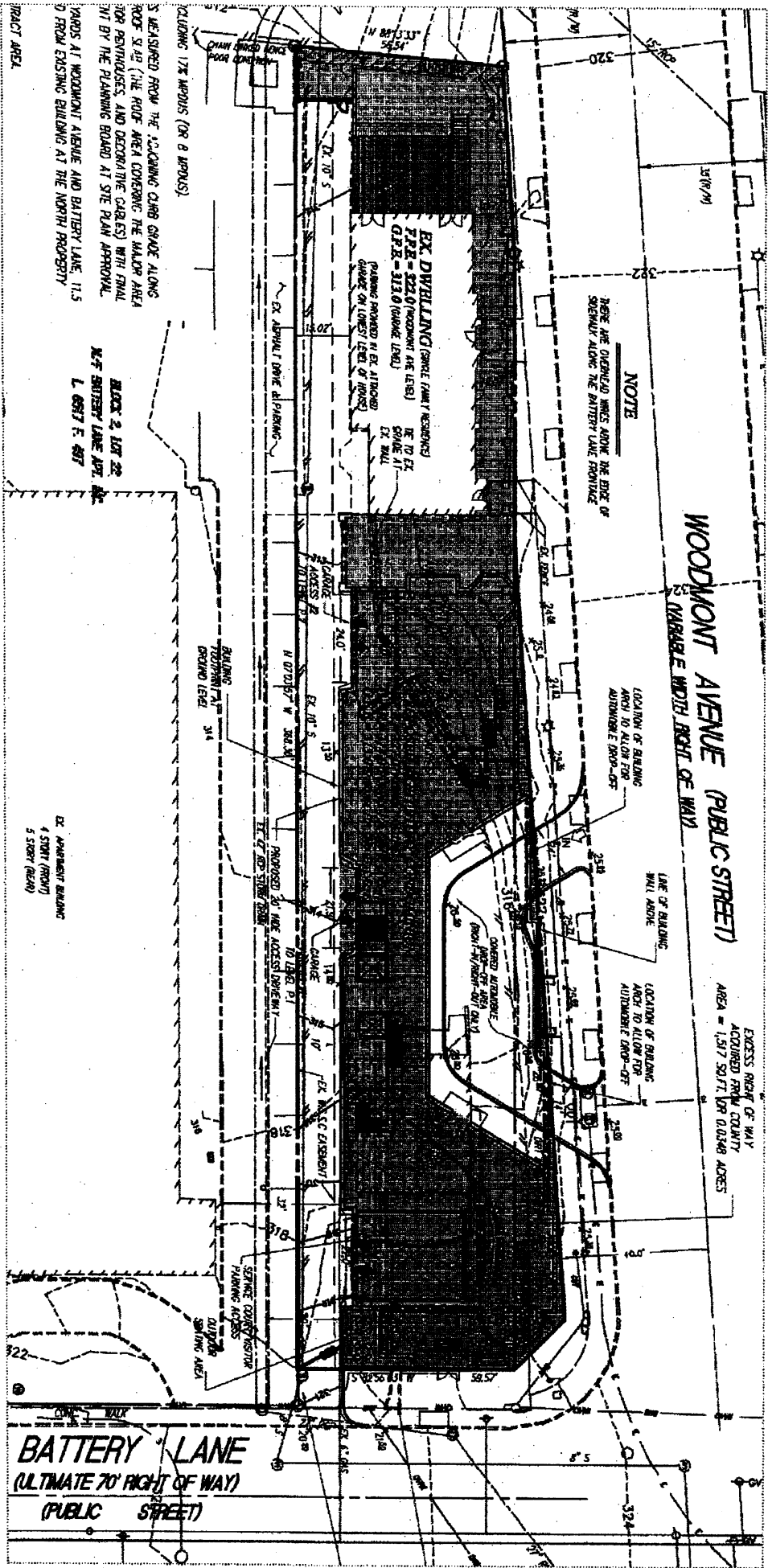
NO.	DATE	DESCRIPTION
1	1-18-07	ISSUED FOR PERMIT
2	07-25-08	FINAL DESIGN
3	11-13-11	REVISED DESIGN

WOODMONT VIBR

Call Toll Free 1-800-887-7777

Scale: 1" = 200'





**NOTE**

THESE ARE OVERHEAD LINES ABOVE THE EDGE OF SIDEWALK ALONG THE BATTERY LANE FRONTAGE

**WOODMONT AVENUE (PUBLIC STREET)**

**5' MARGINE WITH RIGHT OF WAY**

EXCESS RIGHT OF WAY  
ACQUIRED FROM COUNTY  
AREA = 1,577 SQ. FT. OR 0.0358 ACRES

EX DWELLING (FORMER PLAN 7 RECORDED)  
FIVE - 122.0 (WOODMONT AVENUE SIDE)  
ONE - 313.0 (BATTERY LANE SIDE)  
PARKING PROVIDED IN EX. ATTACHED GARAGE ON LOWER LEVEL OF HOUSE

COLLARING 1/2" WOODS (OR 8" WOODS)

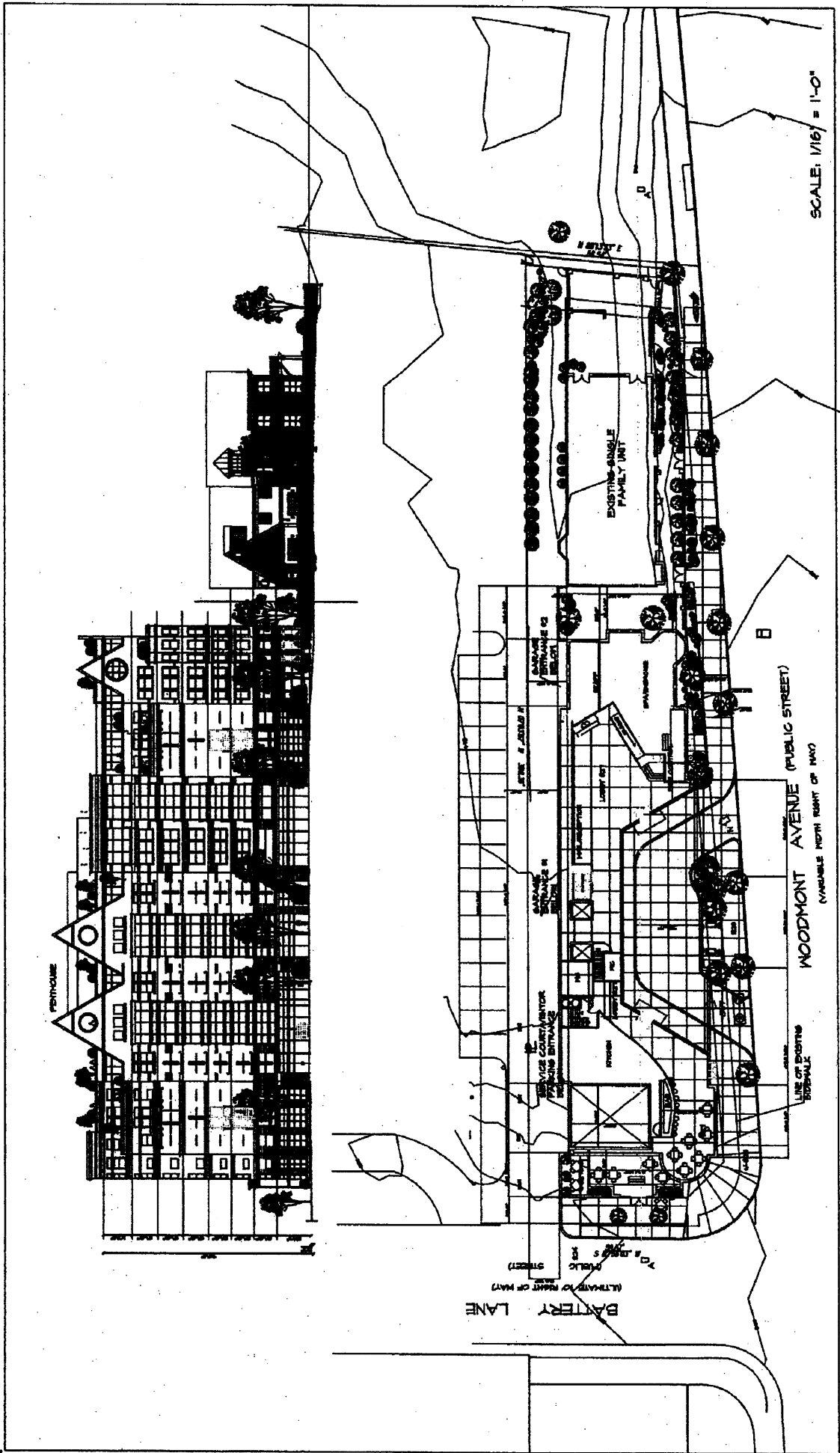
IS MEASURED FROM THE COLLARING CURB GRADE ALONG ROOF SLAB (THE ROOF AREA COVERING THE MAJOR AREA FOR PENHOUSES, AND DECORATIVE CHAIRS) WITH FINAL TYP BY THE PLANNING BOARD AT SITE PLAN APPROVAL

BLOCK 2, LOT 22  
N.E. BATTERY LANE DIV. AC.

L. 6937 E. 487

EX APARTMENT BUILDING  
4 STORY (REAR)  
5 STORY (FRONT)

**BATTERY LANE**  
(ULTIMATE 70' RIGHT OF WAY)  
(PUBLIC STREET)



SCALE: 1/16" = 1'-0"

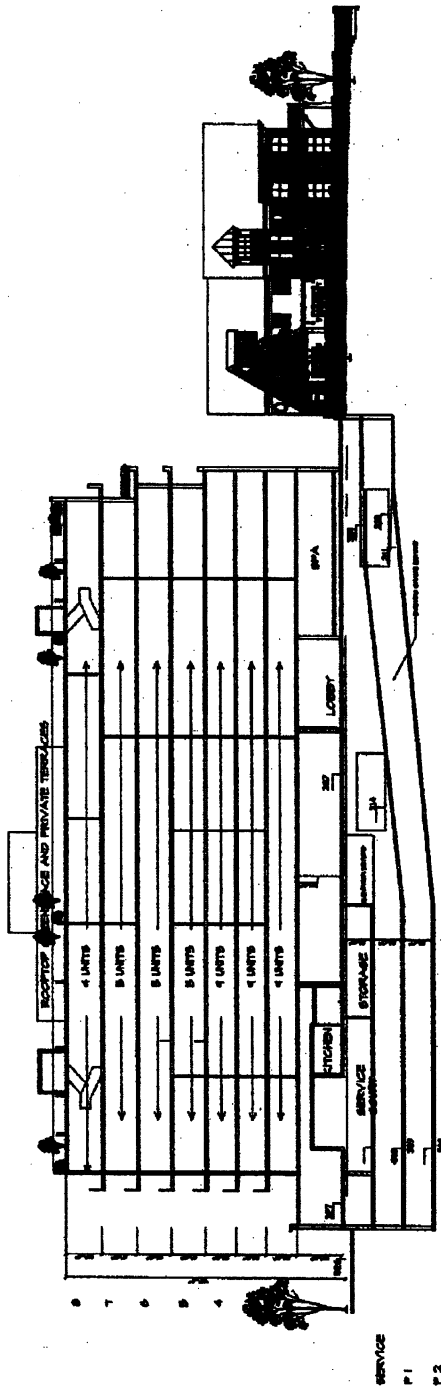
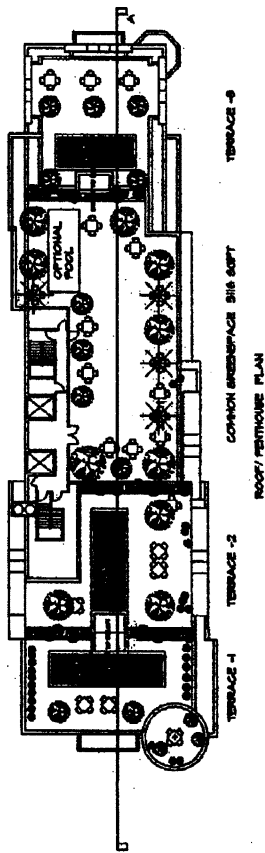
A.I.

MORRISON ARCHITECTS  
 1725 CONVENT AVENUE, SUITE 100, FARMINGTON CT, 06030  
 TEL: 860-634-1234 FAX: 860-634-1235  
 WWW.MORRISONARCHITECTS.COM

BATTERY LN & WOODMONT AVE  
 BETHESDA, MD

ILLUSTRATIVE GROUND FLOOR PLAN &  
 ILLUSTRATIVE WOODMONT AVENUE  
 ELEVATION

DATE	ISSUED
02-22-2008	
03/02/08	



SCALE: 1/16" = 1'-0"

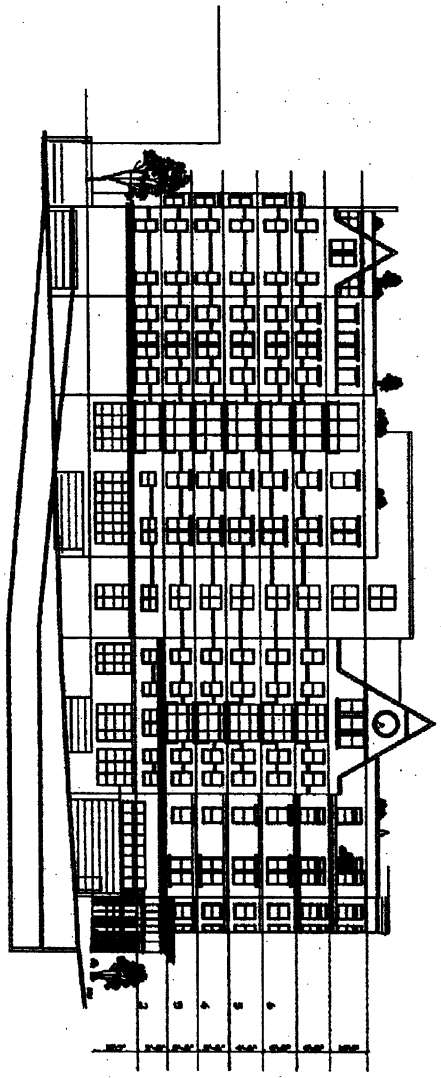
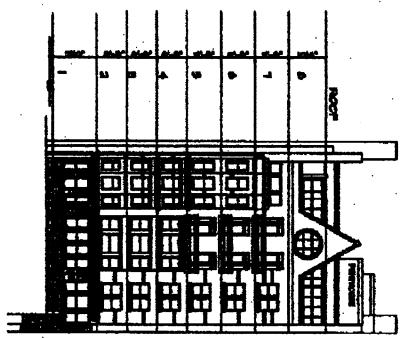
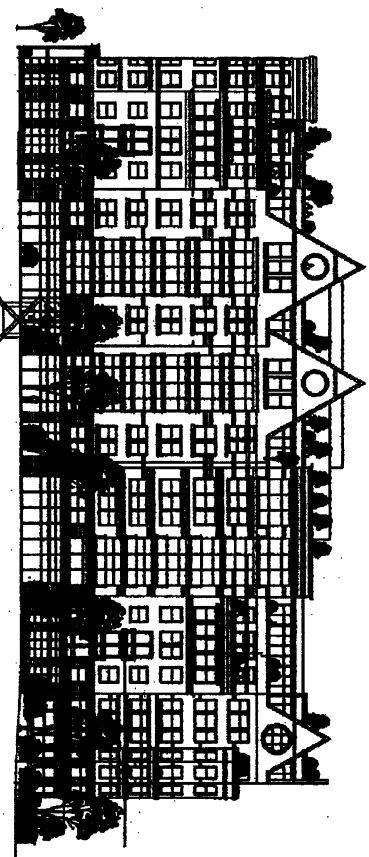
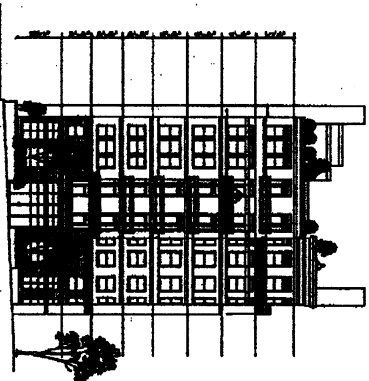
A.2

MORRISON ARCHITECTS  
 1235 CONNECTICUT AVENUE NW SUITE 800 WASHINGTON D.C. 20004  
 TELEPHONE: 202.336.8402 FAX: 202.336.8404  
 E-MAIL: JELCO@MORRISON-ARCHITECTS.COM

BATTERY LN & WOODMONT AVE  
 BETHESDA, MD

ILLUSTRATIVE SECTION AND ROOF  
 PLAN

date issued  
 12-20-06



WEST ELEVATION

NORTH ELEVATION

SCALE: 1/8" = 1'-0"

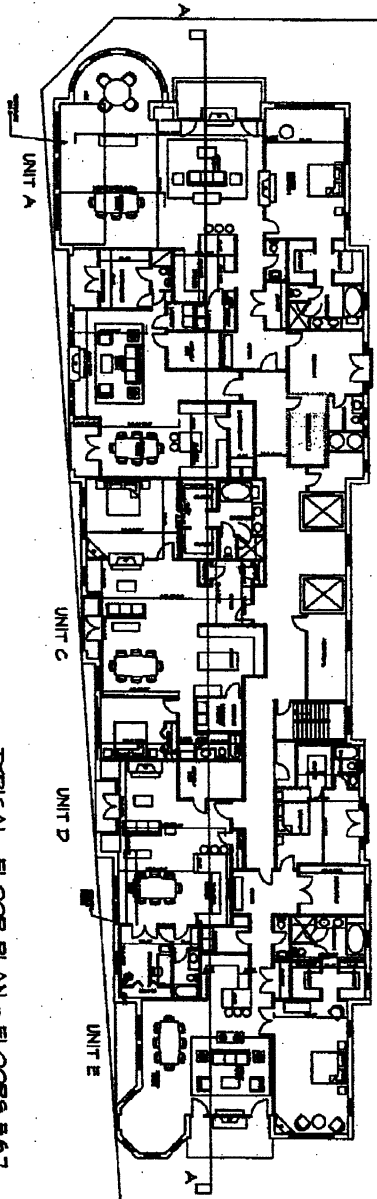
Date: \_\_\_\_\_  
 12-22-2005  
 Drawn: \_\_\_\_\_

ILLUSTRATIVE ELEVATIONS

BATTERY LN & WOODMONT AVE  
 BETHESDA, MD

MORRISON ARCHITECTS  
 1700 CONVENTOR AVENUE, SUITE 600, WASHINGTON, DC 20004  
 TELEPHONE: 202.381.8182 FAX: 202.381.8184  
 E-MAIL: MORRISONARCHITECTS@AOL.COM

A.3



TYPICAL FLOOR PLAN - FLOORS 5,6,7

SCALE: 3/32" = 1'-0"

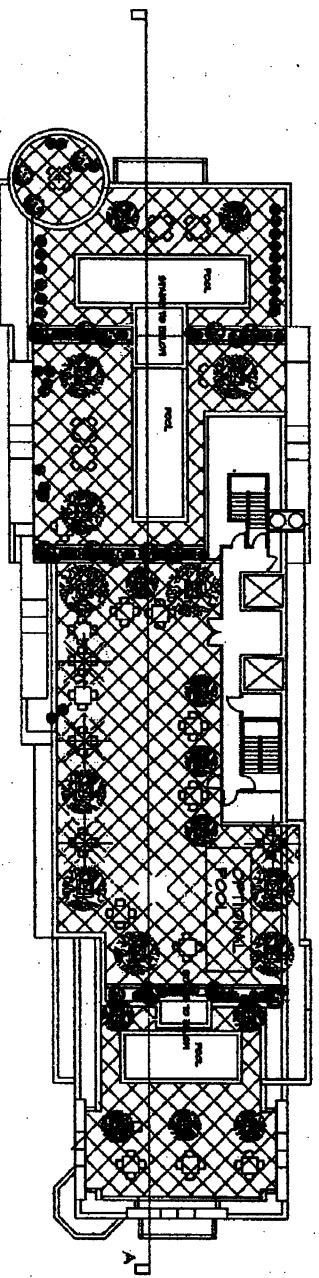
DATE: 12-23-2008  
 DRAWN BY: [unintelligible]

ILLUSTRATIVE FLOOR PLAN

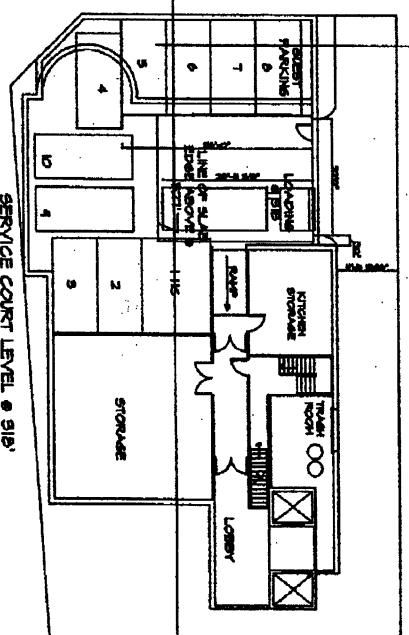
BATTERY LN & WOODMONT AVE  
 BETHESDA, MD

MORRISON ARCHITECTS  
 775 CONVENTORY AVENUE, SUITE 800, WASHINGTON, D.C. 20009  
 TELEPHONE: 202.261.8122 FAX: 202.261.8124  
 WWW.MORRISONARCHITECTS.COM

A.4



TERRACE -1 TERRACE -2  
COMMON GREENSPACE 3116 SQFT TERRACE -3  
ROOF/PENTHOUSE PLAN



SERVICE COURT LEVEL @ 318'

SCALE: 3/8" = 1'-0"

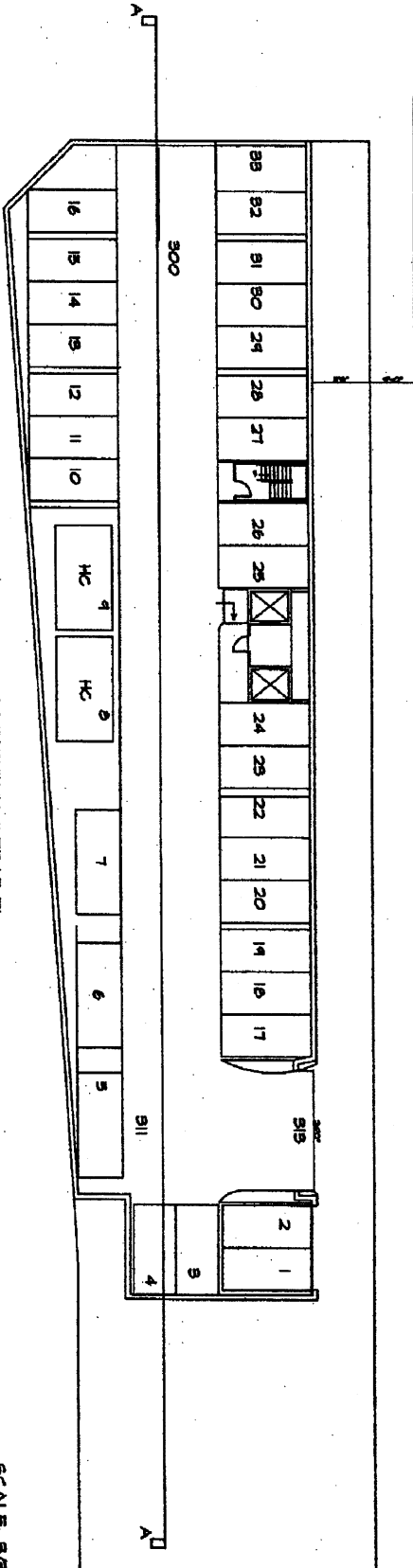
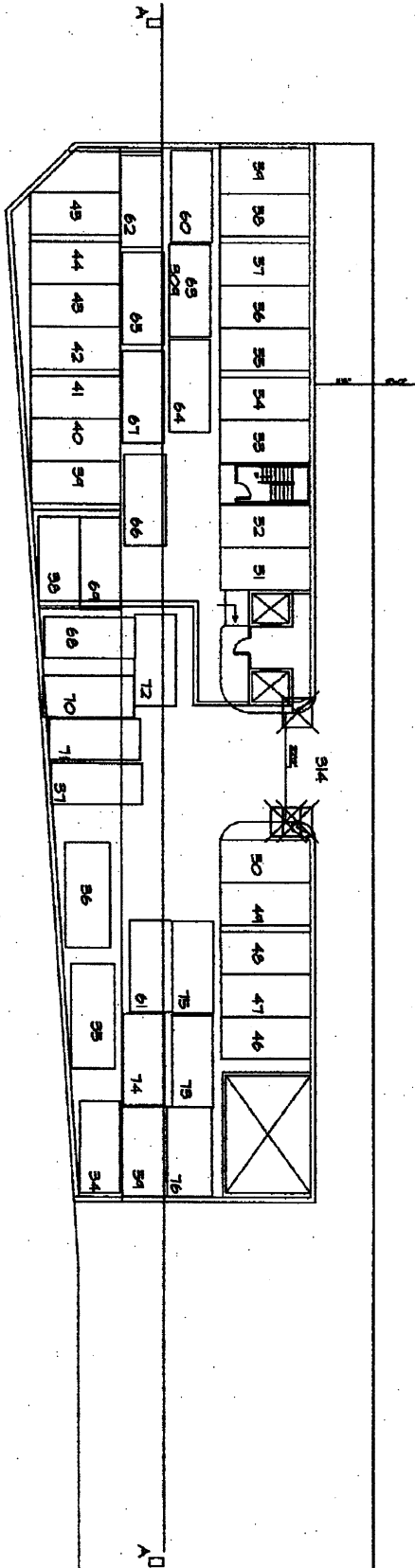
Date: \_\_\_\_\_  
 Project: \_\_\_\_\_  
 Name: \_\_\_\_\_

ILLUSTRATIVE  
 ROOFTOP GARDEN LEVEL AND  
 SERVICE COURT

BATTERY LN & WOODMONT AVE  
 BETHESDA, MD

MORRISON ARCHITECTS  
 754 CONVENTORY AVENUE, SUITE 500, WASHINGTON DC, 20004  
 TELEPHONE: 302.336.8254 FAX: 302.336.4484  
 WWW: WWW.MORRISONARCHITECTS.COM





SCALE: 3/32" = 1'-0"

Date: \_\_\_\_\_  
 Issued: \_\_\_\_\_

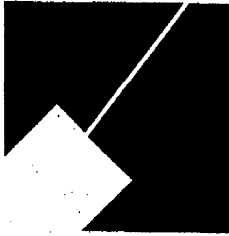
ILLUSTRATIVE  
 PARKING PLANS

BATTERY LN & WOODMONT AVE  
 BETHESDA, MD

MORRISON ARCHITECTS  
 725 CONNECTICUT AVENUE, N.W. SUITE 300, WASHINGTON D.C. 20004  
 TELEPHONE: 202-338-6400 FAX: 202-338-6404  
 WWW.MORRISONARCHITECTS.COM

A.6

M-NCPPC



## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org

January 17, 2006

## MEMORANDUM

TO: Dan Janousek, Zoning Analyst  
Development Review Division

FROM: Marilyn Clemens, Planner Coordinator, Bethesda-Chevy Chase Team  
Community-Based Planning Division *MC*

SUBJECT: Woodmont View, DPA-06-01

The Community-Based Planning Division finds the PD-75 Zone and the Development Plan are consistent with the 1994 Sector Plan for the Bethesda CBD and the pending Woodmont Triangle Amendment.

**Compliance with the 1994 Sector Plan for the Bethesda Central Business District.**

The site was described as the Trunnel property in the 1994 Sector Plan and was zoned C-T. In a previous application, the developer obtained PD-75 zoning for the site. The current proposal meets several of the objections and recommendations of the 1994 Sector Plan in that it increases the amount of housing near Metro and helps provide a northern gateway to the Woodmont Triangle. Together with the proposed development across Woodmont Avenue, the 8400 Wisconsin project, two high-rise residential developments would frame the northern entrance to Bethesda along Woodmont Avenue. The proposal provides eight moderately priced dwelling units on site, adding to the 25 proffered by the 8400 Wisconsin Avenue project, and furthering one of the main goals of the Woodmont Triangle Amendment to the 1994 Sector Plan.

**Urban Design Guidelines**

The 1994 Sector Plan limited the height on the site to 65 feet. Under 25A MPDU provisions, the height may be increased proportionally with the amount of MPDUs provided on site. The applicant is providing 22 percent MPDUs and is entitled to the proposed 79 feet of height.

The 1994 Plan, on page 92, also called for maintaining consistent building setbacks along Battery Lane in line with the lushly landscaped garden character perceived at the time. Most of the nearby apartment buildings are set back 40 feet from Battery Lane. This is not consistent with the urban character developing in the Woodmont Triangle or

the PD-75 zoning of this small site. The applicant will provide landscaping on the site but cannot set the proposed building back 40 feet. The building will be arranged to provide a gateway along Woodmont Avenue. The north entrance to the Woodmont Triangle begins with the sweep of the National Institutes of Health's green space along Woodmont Avenue and will be framed by the two new residential projects and new streetscape. This will be a significant improvement over the current entrance marked by an old parking structure, one large single-family home and a three-story office building with head-in parking. The sidewalks on both sides of Woodmont Avenue will be developed with the Bethesda streetscape.

In the review of the Woodmont Triangle Amendment, the County Council voted to delay recommendations on the Battery Lane District of the Triangle. This decision does not have a negative bearing on this property. The County Council's main concern was the retention of affordable housing in the area and planning for additional affordable housing for the future. This project does not remove affordable housing and is in accord with that intent.

One adverse impact to be noted is the loss of sunlight to the applicant's own single-family home which he may sell one day. This is balanced by the fact that the new building would partially block vehicle noise from Battery Lane and provide an improvement to the visual character of the site.

Additional traffic and circulation impacts on the neighborhood are discussed in the memorandum from Transportation Planning.

MC:ha: j:\cbp1\Clemens\dpa-06-01

M-NCPPC



## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org**MEMORANDUM**

DATE: January 10, 2006

TO: Dan Janousek, Development Review Division

VIA: Mary Dolan, Countywide Planning Division, Environmental Planning M

FROM: Marion Clark, Countywide Planning Division, Environmental Planning m

SUBJECT: Development Plan Amendment 06-1  
Woodmont View

**Recommendation**

Environmental Planning staff recommends **approval** of this application.

**Discussion**

This Development Plan Amendment must meet specific findings of Section 59-D-1.61 of the Zoning Ordinance. The required finding for environmental issues states,

*"That by its design, by minimizing grading, and by other means, the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features of the site. Any applicable requirements for forest conservation under Chapter 22A and for water resource protection under Chapter 19 must also be satisfied. The District Council may require more detailed findings on these matters by the Planning Board at the time of site plan approval as provided in division 59-D-3."*

This site was previously severely graded to construct the existing building and gravel lot. Moving north from the intersection of Battery Lane and Woodmont Avenue, the long narrow site gradually lowers from street level grade to approximately eight feet below street level, creating a rectangular bowl. This plan proposes to fill the site with a condominium building, making use of the change in grade to create garages underneath the residential units. The site will be almost entirely impervious after construction of the structure. Stormwater management will likely consist of water quality control measures. There are no forests, specimen trees or natural features existing on the site.

**Environmental Guidelines**

This site is not located within a Special Protection Area or inside a 100-year floodplain boundary. There are no streams or stream valley buffers required.

**Forest Conservation**

A Natural Resource Inventory Forest Stand Delineation (NRI/FSD) is approved for the subject site (#4-02206E). A Forest Conservation Plan (FCP) exemption has been granted because this is a small property with an activity occurring on a tract less than or equal to 1.5 acres in

size where there is no existing forest. Afforestation requirements will be less than 10,000 square feet, and no specimen or champion trees will be disturbed. A Tree Save Plan is not required.

#### **Stormwater Management**

The Department of Permitting Services has approved a Stormwater Management Concept for the previously approved development plan, however since the development plan is changing, a revised stormwater management concept is required. The revised concept must conform with the new stormwater management law and Executive Regulation No. 7-02AM.

#### **Water Quality**

This site is located in the Little Mainstem Bethesda subwatershed of the Rock Creek watershed. The *Countywide Stream Protection Strategy (CSPS)* assesses the Little Mainstem Bethesda subwatershed as having poor stream conditions and fair habitat conditions, labeling it as a Watershed Restoration Area. The Department of Environmental Protection has a plan approved and is in the process of obtaining permits for a new regional stormwater management pond on the south campus of the National Institutes of Health, a short distance downstream of this site.

#### **Noise**

This application is unaffected by standards set forth in the *Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development*. Furthermore, it poses no concerns for compliance with Montgomery County Code Chapter 31B Noise Control.

M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org

January 19, 2006

**MEMORANDUM**

TO: Dan Janousek, Coordinator  
Development Review

VIA: Shahriar Etemadi, Supervisor  
Transportation Planning

FROM: Scott James, Planner/Coordinator  
Transportation Planning

SUBJECT: DPA - 06 - 01  
Development Plan Amendment  
Woodmont View Development  
Zone R-90  
Bethesda Policy Area

---

This memorandum is Transportation Planning staff's review of the subject development plan amendment to replace a proposed townhome development with high-rise residential condominiums.

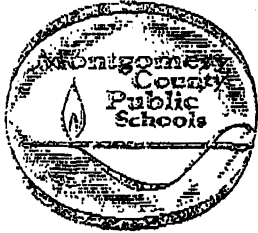
**RECOMMENDATION**

Transportation staff supports approval of this application with the following conditions:

1. Limit the development to 47 high-rise residential units.
2. Address all relevant transportation related comments received from MNCPPC, DPW&T and SHA in anticipation of the subsequent preliminary plan application.

The Transportation Planning staff finds that the proposed development plan amendment will facilitate future review of the Local Area Transportation Review test for the proposed 47 high-rise residential units.

SAJ:gw



850 Hungerford Drive • Rockville, Maryland • 20850-1747  
Telephone (301)

279-3333

September 29, 2005

Mr. Dan Janousek  
Community-Based Planning Division  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

Dear Mr. Janousek:

This letter is sent in response to Development Plan Amendment DPA-06-01, known as "Woodmont View," located at the northwest corner of Woodmont Avenue and Battery Lane, in Bethesda, Maryland. This plan amendment would result in a mixed-use project that would include 46 multi-family units. Based on average yield factors derived from the Maryland National Capital Park and Planning Commission 2003 Census Update Survey, the impact of this project is estimated to be approximately four (4) elementary, one (1) middle school and one (1) high school students.

This property is located within the Bethesda Elementary School, Westland Middle School and Bethesda-Chevy Chase High School service areas. Enrollment at Bethesda Elementary School currently is within capacity but is projected to slightly exceed capacity in the future. Enrollment at Westland Middle School is currently within capacity and is projected to stay within capacity, factoring in a six-room addition that is scheduled to open in August 2008. Enrollment at Bethesda-Chevy Chase High School currently exceeds capacity and is projected to continue to exceed capacity, even factoring in a five-room addition that is scheduled to open in August 2009. See enclosed pages from the FY2006 Educational Facilities Master Plan and the Amended FY 2005-2010 Capital Improvements Program.

The current Annual Growth Policy (AGP) schools test finds capacity adequate in the Bethesda-Chevy Chase cluster.

Sincerely,

Bruce H. Crispell, Director  
Division of Long-range Planning

BHC:llw

Enclosures

Copy to:  
Mr. Bowers  
Mr. Hawes  
Ms. Turpin