



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

Item # MCPB 5/3/07

MEMORANDUM

DATE: April 18, 2007
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief
Robert Kronenberg, Acting Supervisor
Development Review Division
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PROJECT NAME: The Rugby Condominium
CASE #: 9-20070050
REVIEW TYPE: Project Plan

ZONE: CBD-1
APPLYING FOR: Approval for 61 multi-family units including 8 MPDUs, 13.1% of the total units, on 0.47 acres
LOCATION: North Side of Rugby Avenue at the intersection of Auburn and Rugby Avenues, 300 feet east of Norfolk Avenue
MASTER PLAN: 2006 Woodmont Triangle Amendment to the 1994 Sector Plan for the Bethesda CBD
REVIEW BASIS: Division 59-D-2.11 of the Zoning Ordinance requires submission of a Project Plan as part of the application for the use of optional method of development for a CBD zoned property.

APPLICANT: 4851 Rugby Avenue, LLC
FILING DATE: September 26, 2006
ACCEPTED: February 2, 2007
HEARING DATE: May 3, 2007

Attached is the staff report for the proposed Rugby Avenue Condominium Project Plan. The Planning Board public hearing for this application is scheduled for May 3, 2007. The staff recommends Approval with conditions as delineated in the staff report.

TABLE OF CONTENTS

	Page
SUMMARY AND BACKGROUND.....	3
Issues	3
STAFF RECOMMENDATION	3
PROJECT DESCRIPTION	6
Surrounding Vicinity.....	6
Site Description.....	7
Project Description.....	9
Site Design, Public Use Space, Amenities.....	11
Facility Plan for Battery Lane Urban Park	12
PLANNING AND REGULATORY FRAMEWORK	14
Sector Plan	14
Prior Approvals	14
Preliminary Plan.....	14
BASIS FOR CONSIDERATION OF ISSUES	14
REQUIRED FINDINGS.....	15
Compliance with the intents and requirements of the Zone	15
Project Plan Data Table.....	18
Amenities and Facilities Summary	19
Conformance to the approved and adopted Sector Plan	20
Compatibility with the general neighborhood.....	20
Adequacy of existing or programmed public services	21
More desirable than the standard method of development	21
Provision of moderately priced dwelling units	21
Requirement for forest conservation.....	22
Requirements for water quality resource protection	22
APPENDICES	23

SUMMARY AND BACKGROUND

The Application was first brought before the Planning Board on March 30, 2006 and was deferred at the applicant's request to June 22, 2006. On June 22, at the Planning Board's request, the hearing was postponed again, to July 20, 2006. On July 20, in concurrence with staff recommendation, the Board denied the Project Plan application, based on the proposed building height and the amount and quality of public use space.

On February 2, 2007, the Applicant submitted a revised Project Plan application. The application proposes 61 multi-family dwelling units, including 8 moderately priced dwelling units (MPDUs), in a 9-story, 90-foot-high building. The project's proposed amenity component includes a 3,277- square-foot plaza located between the public right of way and the building front, approximately 1,850 square feet of artist studio space facing the plaza, 2,871 square feet of streetscape improvements in front of the property and across Rugby Avenue, and a facility plan for improvements to Battery Lane Urban Park.

ISSUES

1. Height

The denied Project Plan application proposed a height of 101 feet. The current Project Plan proposes a building height of 90 feet, as allowed in the CBD-1 zone with a specific finding of no adverse impacts on surrounding properties (59-C-6.23).

2. Public Use Space and Amenities

The applicant has revised the proposed Project Plan to provide the required 20 percent public open space on site. The proposed plaza, located along the front of the building, has the potential to be an exciting public space for the neighborhood. The four artist studios proposed to share the front building façade with the building entrance enable the space to be used for art displays and events, creating a unique community amenity.

STAFF RECOMMENDATION

Approval of Project Plan 920070050 for 61 multi-family units including 8 MPDUs, 13.1 percent of the total units, on 0.47 acres, with the following conditions:

1. Development Ceiling

The proposed development shall be limited to 61 multi-family units.

2. Building Height/Mass

The height of the proposed building shall not exceed the maximum permitted height of 90 feet.

3. Transportation Improvements

- a. The applicant shall dedicate an additional 54 square feet of right-of-way on the north side of Rugby Avenue to provide for a total of 60 feet of right of way.
- b. Improve the intersection of Rugby and Auburn Avenues in accordance with DPWT recommendations, including “bulb-out” of the curb and sidewalk in the southeast quadrant of the intersection, elimination of the existing bulb-out along the front of the subject site on the north side of Rugby Avenue, and provision of a crosswalk from the subject site across Rugby Avenue to the southeast corner of the intersection. Final details and locations to be coordinated during Site Plan review.

4. Moderately Priced Dwelling Units (MPDUs)

The applicant shall provide 13.1% or 8 MPDUs on-site, consistent with the requirements of Chapter 25A. The applicant is receiving a 6% density bonus for providing MPDUs on the site. The location and distribution of MPDUs will be determined at Site Plan.

5. Public Use Space

- a. The applicant shall provide at least 20 percent of the net site area as on-site public use space and at least 18 percent as off-site public amenity space. The final design and details will be determined at Site Plan.
- b. The proposed public use space must be easily and readily accessible to the general public and used for public enjoyment.
- c. The applicant will also provide a Facility Plan for the improvement of nearby Battery Lane park. The final scope of this plan will be determined at Site Plan.
- d. The applicant will provide a minimum of 1,850 square feet of interior space for use as artist studios and exhibition space, as indicated on the project plan, subject to acceptance by the Bethesda Urban Partnership and the Bethesda Arts and Entertainment District. Sale of artworks in these spaces would be prohibited. Final studio size to be determined at Site Plan.

6. Streetscape

- a. Relocate underground the overhead lines associated with the two existing utility poles along the front of the property.
- b. Provide the Bethesda streetscape standard along the property boundary on Rugby Avenue and across Rugby Avenue at the corner of Rugby Avenue and Auburn Avenue.

7. Staging of Amenity Features

- a. The proposed project shall be developed in one phase.

- b. Landscaping to be installed no later than the next growing season after completion of the building and public plaza.

8. Maintenance and Management Organization

Initially, the applicant, and subsequently, within 90 days of formation, the Multi-family Association shall become a member of and enter into an agreement with the Bethesda Urban Partnership for the purpose of maintaining public open spaces and participating in community events.

9. Coordination for Additional Approvals Required at Site Plan

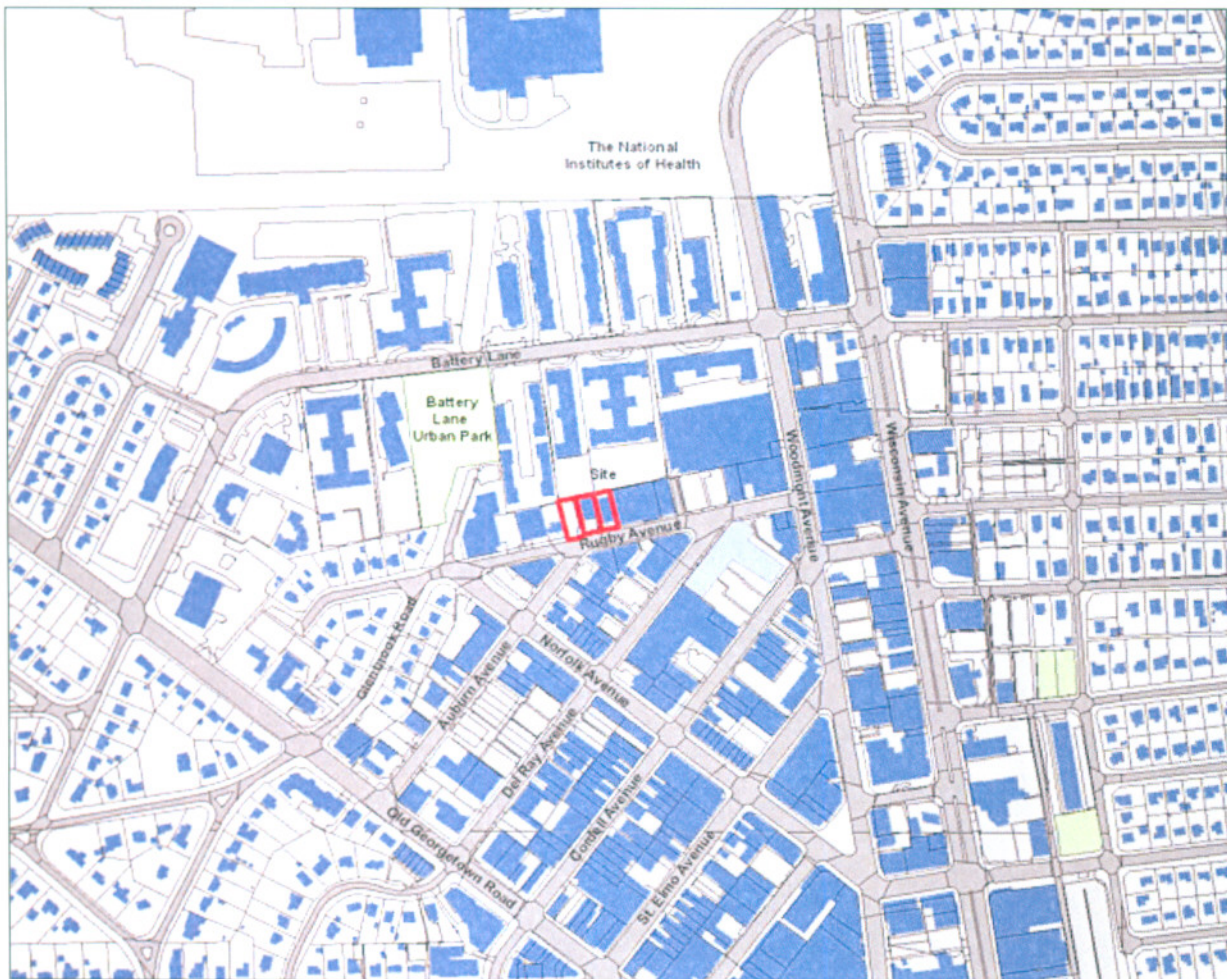
The applicant shall secure the following additional approvals during Site Plan Review:

- a. Secure a management and maintenance agreement with the Bethesda Urban Partnership and the Bethesda Arts and Entertainment District Board for the public use space and the proposed artist studios;
- b. Obtain written approval from the Montgomery Department of Public Works and Transportation (MCDPWT) regarding the final design and extent of non-standard elements as part of the proposed streetscape improvements;
- c. The applicant shall obtain a waiver for all non-standard elements and non-standard streetscape improvements as well as a maintenance and liability agreement with the MCDPWT;
- d. Finalize with Parks Department and Planning Department staff the scope of the Facility Plan for Battery Lane Urban Park.

PROJECT DESCRIPTION: Surrounding Vicinity

The proposed development is located on the north side of Rugby Avenue between Norfolk Avenue on the west and Woodmont Avenue on the East, near the intersection of Auburn Avenue and Rugby Avenue. Multi-family rental apartments of 3-5 stories fronting on Battery Lane are located to the north of the site in the R-10 zone. A paved parking lot for some of the apartments extends to the north edge of the Rugby site. Another apartment complex is 25 feet to the northwest of the property line. The Application is in the CBD-1 zone, as are the properties immediately to the west, east and south. An 8-story office building and parking deck is located to the east, and a variety of older, low-rise office and retail buildings are to the south. A plumbing company occupies a converted single family home to the west. Several small arts related businesses are on the south side of Rugby Avenue and on Auburn Avenue, such as Jerry's Music, the Washington School of Photography, the Little City Art Studio and the Gallery Neptune.

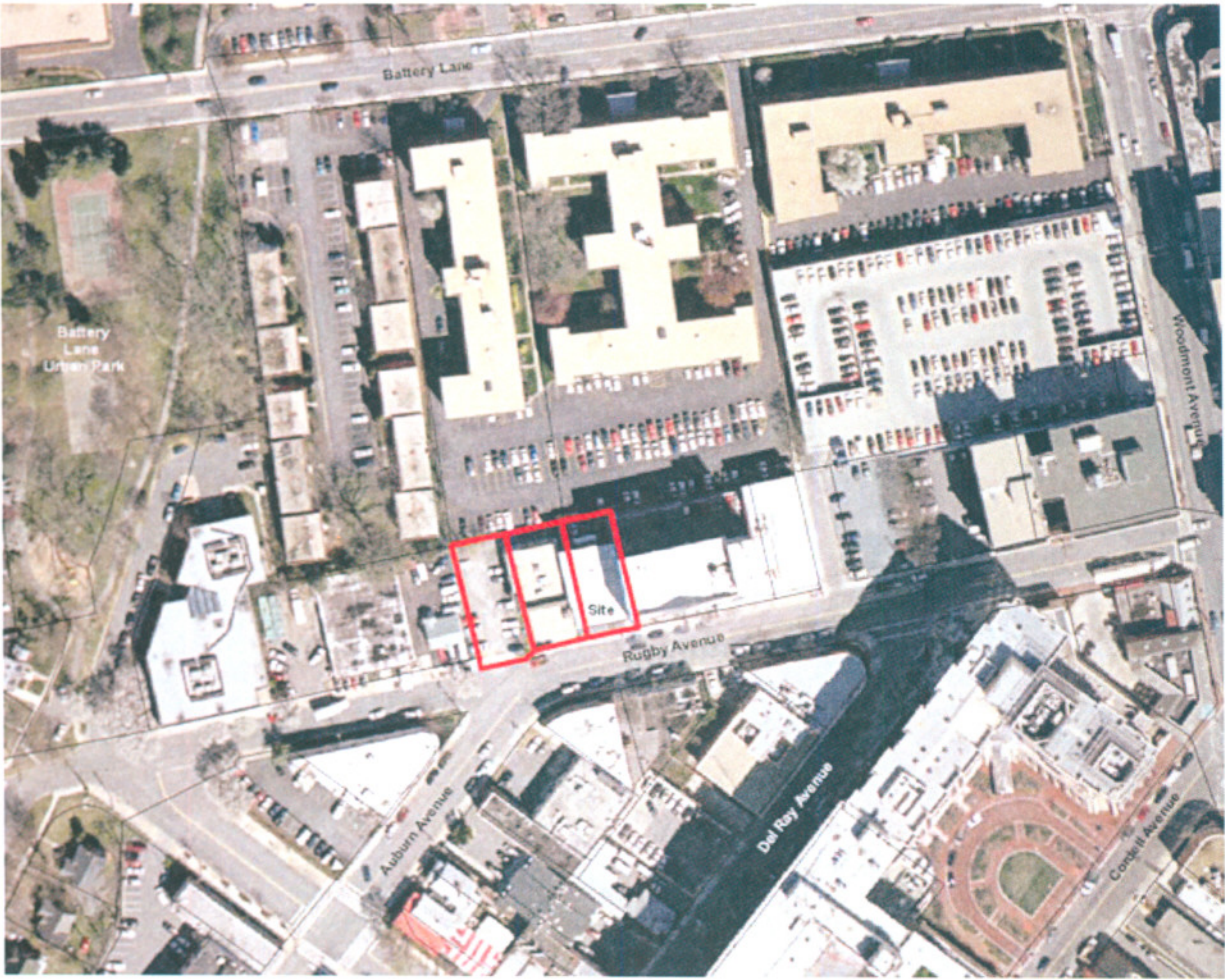
Battery Lane Urban Park is located 350 feet to the west of the site at the intersection of Norfolk and Rugby Avenues. The Application is located within the Woodmont Triangle Study Area within the Bethesda CBD.



Site Vicinity

PROJECT DESCRIPTION: Site Description

The 4851 Rugby Avenue site is on the north side of Rugby Avenue and includes parts of Lots 443, 444, 447, 448 and 627, Northwest Park, totaling 15,835 net square feet. Approximately 4,423 square feet were previously dedicated for roadways, amounting to a gross tract area of 20,258 square feet. The site currently consists of a gravel parking lot with approximately 18 parking spaces, a two-story, 5,200 square foot retail and office building and a 3-story, 5,600 square foot office building. Overhead utility wires exist along both sides of Rugby Avenue. There are two utility poles in front of the property, which carry Pepco, Comcast, and Verizon cables. The nearest intersections of Rugby with Auburn and Norfolk Avenues are not signalized. The site topography is flat with approximately two feet of drop from the northwest to the southeast. There are no existing trees or other vegetation on the site. Access would be provided from Rugby Avenue.



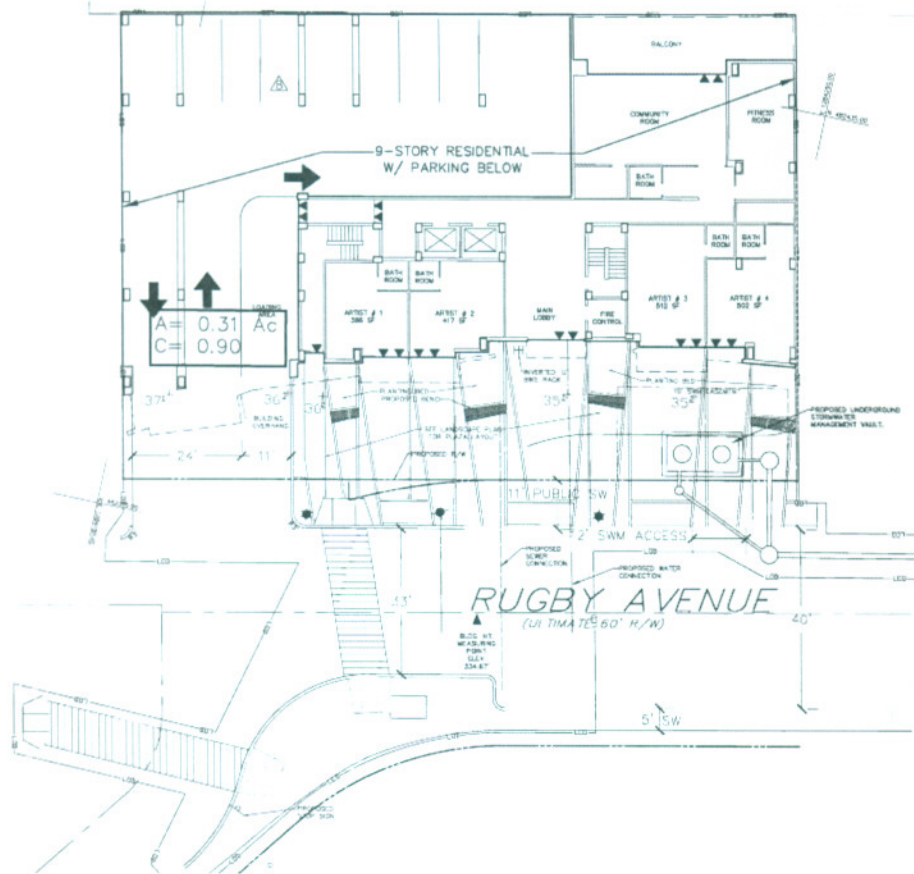
Site Aerial View



Site Aerial Oblique View

PROJECT DESCRIPTION: Proposal

The Applicant proposes 61 multi-family dwelling units in a 9-story, 90-foot building with 8 MPDUs on 0.47 acres.

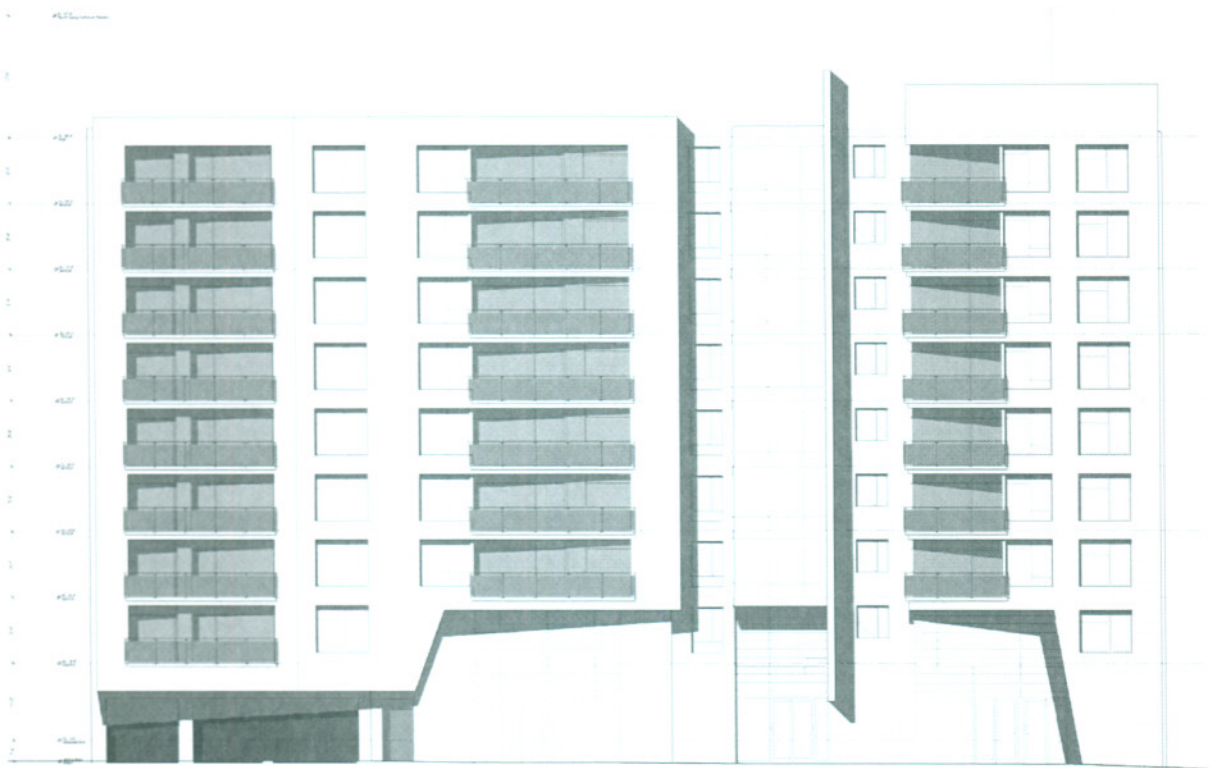


Site Plan

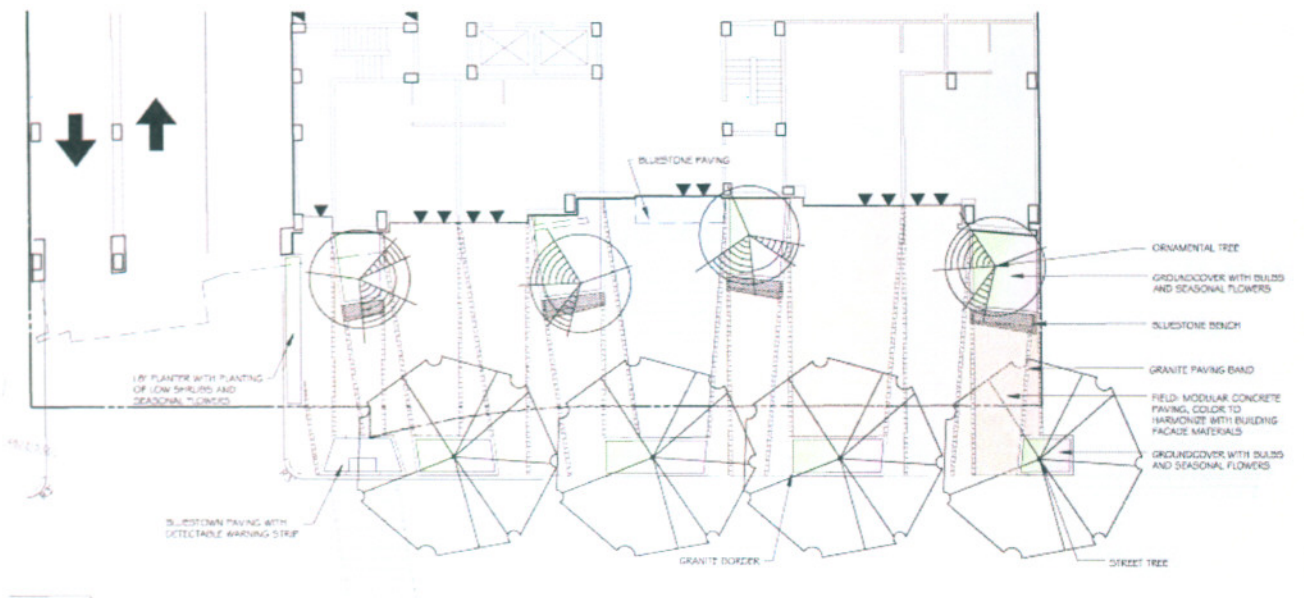
Building Design

The contemporary design of this 9-story masonry and steel building accommodates 61 multi-family units above ground-floor common areas, including meeting and fitness rooms and an outdoor balcony, as well as four artist studios. The artist studios, totaling about 1,850 square feet, are accessible only from the exterior and each has its own bathroom.

The front elevation of the building steps into the site, shaping the public plaza. The entrance to the building occurs in the middle of this plaza and is highlighted by the strong verticality of the architectural elements. Under the eaves of the projecting façade above, the artist galleries open directly on to the public plaza, providing opportunities for public arts events and general community interaction. The proposed landscape design concept reinforces these features.



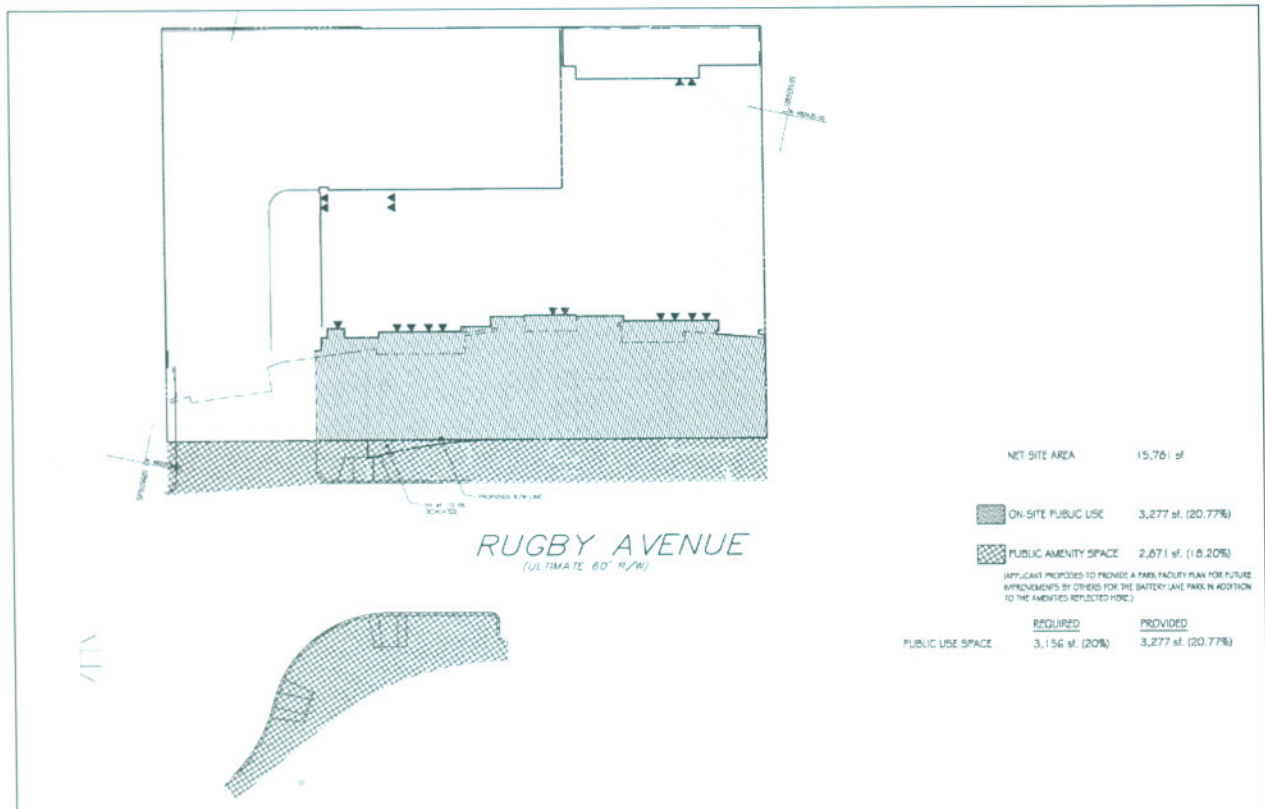
Proposed Front Elevation



Proposed Plaza Landscape Plan

Public Use Space and Amenities

The Applicant proposes to provide on site a public use space equivalent to the required 20 percent of the net tract area. This 3,277-square-foot plaza is located in front of the building and provides access to the residents entering the building, the artists renting the studios, and members of the public. In addition to the on-site public use open space, the applicant is providing intersection improvements to extend the curb on the south side of Rugby Avenue to provide a safer crosswalk and to bring the sidewalk along the north side of Rugby Avenue into line with the sidewalk to the east of the site. Each of the streetscape improvements will meet the Bethesda Streetscape Standard design.

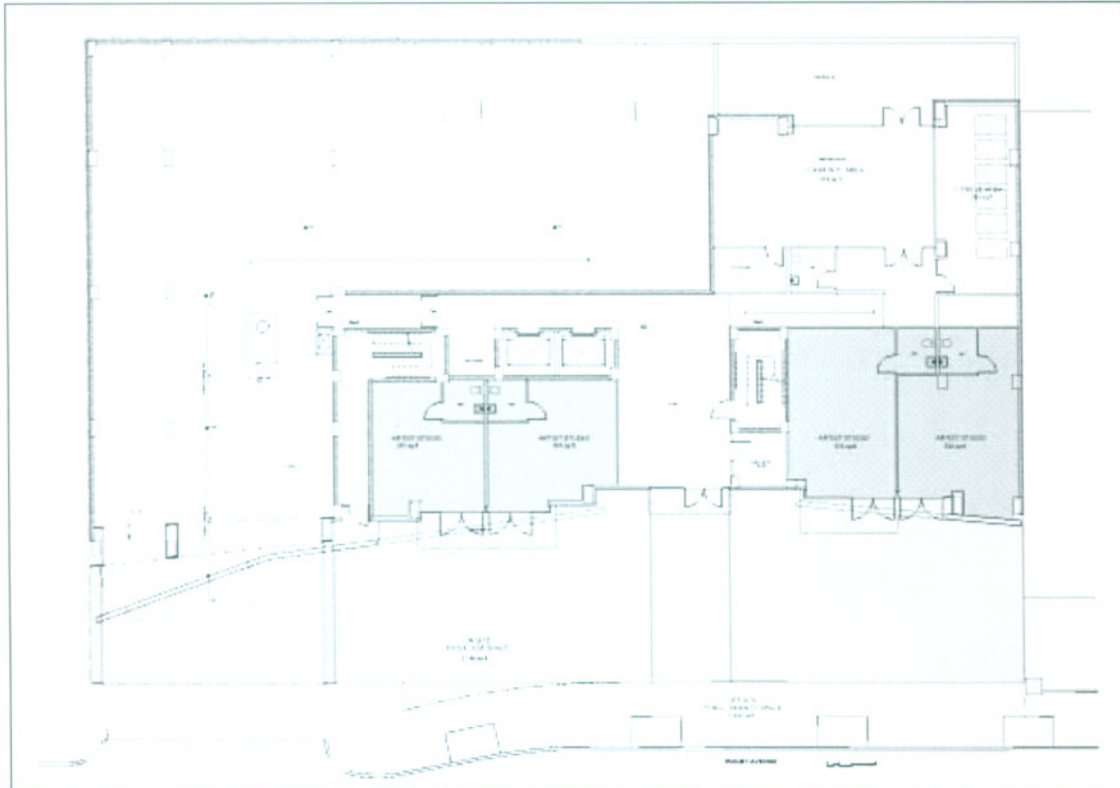


Public Use and Amenity Space

Artist Studios

The Applicant is proposing four artist studios, totaling about 1,850 square feet, located within the building on the ground floor. Each studio will provide work and exhibition space for community artists. It would be accessible only from the public plaza and will have its own bathroom. The Applicant will enter into a management agreement for these studios with the Bethesda Urban Partnership and/or the Bethesda Arts and Entertainment District. As this development is not being approved for retail uses, the artists will not be able to sell works from these studios. The final size and design of the spaces will be determined at Site Plan.

Each studio is designed architecturally to open onto the plaza, literally and figuratively, providing ready visual and pedestrian access to the studio spaces. To complement the studios, the public plaza in front of the building is designed to serve as an outdoor exhibition and reception area and could be programmed for smaller community events.



Artist Studios on the Ground Floor

Facility Plan for Battery Lane Urban Park

As an additional amenity for the optional-method density, the Applicant will provide a Facility Plan for Battery Lane Urban Park as part of the amenity package. A Facility Plan is a specific document with construction drawings at a 30% level of completion. Renovations to Battery Lane Urban Park are on the list of priority amenities in the recently approved Woodmont Triangle Amendment to the 1994 Sector Plan for the Bethesda Central Business District (CBD). The Applicant will work with Park Development staff to develop several concepts for the Facility Plan, present them to the community, make revisions, and present a plan to the Planning Board for review at site plan review.

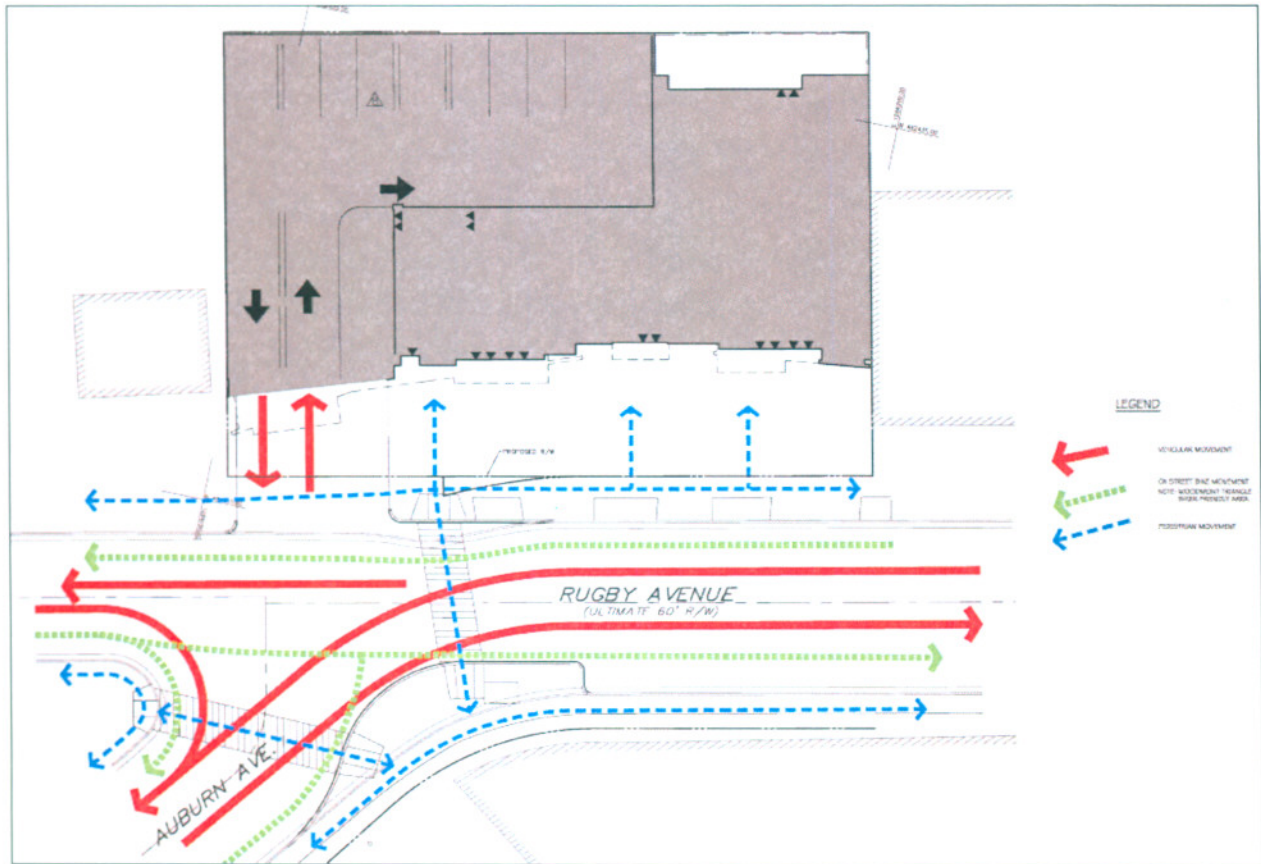
Pedestrian and Vehicular Access

The site is conveniently located for residents to walk to the Bethesda Metro Station, about 2,600 feet away, and the Medical Center Metro Station, approximately 2,800 feet away, or to a bus at

Woodmont and Rugby Avenues. The Bethesda trolley stops along Rugby Avenue across from the site. The many shops, restaurants and services in the Woodmont Triangle are all within walking distance.

Rugby Avenue has a continuous sidewalk on the north side of Rugby Avenue from Battery Lane Urban Park past the site to Woodmont Avenue on the east. The applicant will improve the frontage of the site with the Bethesda streetscape and will underground the utilities in front of the site.

Vehicular access to the loading area and underground parking will be provided from Rugby Road along western edge of the south façade. The 3-level parking garage under the building will provide 101 parking spaces, more than adequately serving the needs of the residents. It will include bicycle and motorcycle parking.



Circulation Plan

PLANNING AND REGULATORY FRAMEWORK:

Sector Plan

The Project Plan is in conformance with the Woodmont Triangle Amendment to the 1994 Bethesda CBD Sector Plan. A description of the themes and goals for the Woodmont Triangle and Bethesda CBD are outlined in the Sector Plan Conformance standards on page 19.

Prior Approvals

The proposed development is zoned CBD-1. The property is comprised of parts of Lots 443, 444, 447, 448 and 627, Northwest Park.

Preliminary Plan

A Preliminary Plan of subdivision (1-20060290) is being reviewed concurrently with this Plan.

BASIS FOR CONSIDERATION OF ISSUES

Per Sec. 59-D-2.43, in making its decision on an application for an Optional Method Project Plan, the Planning Board must consider:

- a. *The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement and design of structures, and its consistency with an urban renewal plan approved under chapter 56;*
- b. *Whether the open spaces, including developed open space, would serve as convenient areas for recreation, relaxation and social activities for the residents and patrons of the development and are planned, designed and situated to function as necessary physical and aesthetic open areas among and between individual structures and groups of structures, and whether the setbacks, yards and related walkways are located and of sufficient dimensions to provide for adequate light, air, pedestrian circulation and necessary vehicular access;*
- c. *Whether the vehicular circulation system, including access and off-street and loading, is designed to provide an efficient, safe and convenient transportation system;*
- d. *Whether the pedestrian circulation system is located, designed and of sufficient size to conveniently handle pedestrian traffic efficiently and without congestion; the extent to which the pedestrian circulation system is separated from vehicular roadways so as to be safe, pleasing and efficient for movement of pedestrians; and whether the pedestrian circulation system provides efficient, convenient and adequate linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities;*
- e. *The adequacy of landscaping, screening, parking and loading areas, service areas, lighting and signs, in relation to the type of use and neighborhood;*
- f. *The adequacy of provisions for construction of moderately priced dwelling units in accordance with Chapter 25A if that Chapter applies;*
- g. *The staging program and schedule of development;*
- h. *The adequacy of forest conservation measures proposed to meet any requirements under Chapter 22A;*
- i. *The adequacy of water resource protection measures proposed to meet any requirements under Chapter 19.*

FINDINGS for Project Plan Review:

Section 59-D-2.42 of the Zoning Ordinance sets forth the findings that must be made by the Planning Board and form the basis for the Board's consideration of approval. In accordance herewith, the staff recommends that the Planning Board make the following findings:

(a) *As conditioned, the proposal complies with all of the intents and requirements of the zone.*

The Montgomery County Zoning Ordinance states the purposes which the CBD zones are designed to accomplish. The following statements analyze how the proposed Project Plan conforms to these purposes:

- (1) *“to encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the site plan or combined urban renewal Project Plan is approved on review by the Planning Board.”*

The proposed Project Plan proposes to use the optional method of development and is in conformance with the Approved and Adopted 1994 Sector Plan for the Bethesda Central Business District as modified by the 2006 Woodmont Triangle Amendment.

The proposed development consists of a 90-foot high, 9-story residential multi-family building containing 61 dwelling units. Under the 1994 Plan, a maximum height of 50 feet was recommended at this location. In 2006, the Woodmont Triangle Amendment increased the recommended building height to the maximum allowed in the zone, which, as applied to this proposal, is 90 feet. To approve a height of 90 feet, the Planning Board must make a finding that the project does not adversely impact the surrounding properties. Staff recommends approval of the 90-foot height as it is line with the taller buildings on Rugby Avenue, including the 8-story office building next door, helps transition between the 4-story buildings to the north and the 14-story buildings to the south, and creates no significant impacts on the surrounding properties.

This Project Plan would accomplish several Sector Plan and Woodmont Triangle Amendment objectives by providing more housing, MPDUs on site, and a Facility Plan for the Battery Lane Urban Park.

- (2) *“to permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents.”*

The Project Plan responds to the need for a variety of housing, including affordable housing, near metro in the Bethesda CBD. Under the optional method, this project encourages the development of active urban streets by providing a dynamic public arts plaza and improving the quality of the surrounding streetscape, enhancing Rugby Avenue and encouraging future development.

- (3) *“to encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas.”*

The proposed project would begin a revitalization of Rugby Avenue east of Norfolk Avenue and contribute to the supply of residential choices in the Bethesda CBD. A proposed height of 90 feet would create a desirable transition between the 14-story buildings across Del Ray Avenue and the 4-story apartment buildings to the northwest.

- (4) *“to promote the effective use of transit facilities in the central business district and pedestrian access thereto.”*

The site is located approximately 2,600 feet from the Bethesda Metro Station and approximately 2,800 feet from the Medical Center Metro Station. Bus stops for six bus routes are located at Woodmont and Rugby Avenues, and the Bethesda Circulator stops across the street. Future residents would be able to walk to the numerous places of employment and restaurant, retail, service, and arts uses within the Woodmont Triangle and along Wisconsin Avenue. Additionally, the project includes significant intersection and streetscape improvements to pedestrian access to and through the site.

- (5) *“to improve pedestrian and vehicular circulation.”*

The project would provide an improved pedestrian sidewalk, replacing the existing 5-foot wide concrete sidewalk and a long expanse of driveway and head-in parking with a 10-foot wide sidewalk with the Bethesda brick pavers. Providing street trees and placing utilities underground would make walking along this site to the park or to Norfolk Avenue a more pleasant experience.

- (6) *“to assist in the development of adequate residential areas for people with a range of different incomes.”*

This project would provide on site 53 market rate units and 8 MPDUs (13.1 percent of the total unit count). One of the main goals of the Woodmont Triangle Amendment to the 1994 Bethesda Sector Plan is to provide housing near metro for a variety of income levels.

It should be noted that for the total number of units included in this building (61), 8 MPDUs would have to have been provided at the minimum requirement of 12.5% MPDUs, without a density bonus. The number of MPDUs required is calculated as a percentage of the total number of units and is always rounded up. Under those terms, for 61 units, 8 MPDUs satisfies the requirement for 12.5% through 13.1% MPDUs, yielding 6% density bonus for meeting, in essence, the minimum requirement.

- (7) *“to encourage land assembly and the most desirable use of land in accordance with a sector plan.”*

The project would replace a gravel parking lot and two older retail and commercial buildings with a modern residential building and public open space. This is a more desirable use of the land, adding residents who will use the businesses and services of the area, helping revitalize

the Triangle, and providing pedestrian activity on the street in a part of the CBD that has been underutilized.

Section 59-C-6.213 states that it is further the intent in the CBD-1 Zone:

- (1) *“to foster and promote the orderly development of the fringes of the Central Business Districts of the county so that these areas will provide land uses at a density and intensity which will encourage small business enterprises and diverse living accommodations, while complementing the uses in the interior portions of these districts; and*

The Rugby Avenue Condominium project proposes additional residential units for the edge of the CBD, including much-needed affordable housing. The arts flavor of the public space and amenities package will provide a center for the surrounding blocks, encouraging public arts events to draw nearby residents together. It can also dovetail with the variety of arts-related businesses already located nearby. These amenities will help enliven this northern edge of the CBD as a smaller-scale arts and entertainment component of the larger arts and performance spaces closer to the center of the CBD, including the Imagination Stage and others.

- (2) *“to provide a density and intensity of development which will be compatible with adjacent land uses outside the Central Business Districts.”*

To promote compatibility with the adjacent land uses, existing 3-5 story multi-family apartments, 90 feet is the maximum recommended height at the edge of the CBD. The Application would provide a transition from rental and multi-family units to the north, northeast and northwest to the greater density of the central part of the CBD.

The height of the building will have a minimal solar impact, given the current arrangement of development. The apartment buildings to the north are separated from the site by a large parking lot and the commercial building to the east is approximately the same height, so the shadow impact is practically non-existent. The 1.5-story business to the west and the small apartment buildings to the northwest would experience some shading from the building, but the residential impact would be minimal.

The Application is exercising the right to file under the units per acre provision of Section 59-C-6.234 for 100 percent residential projects. Therefore, it is able to exceed the FAR limit that would be applied to a mixed-use project while meeting the 129 du/ac density limit required by zoning, as increased by the MPDU density bonus.

REQUIREMENTS OF THE CBD-1 ZONE

Section 59-C-6.23 sets forth the development standards for the CBD-1 zone. The following table summarizes the required and proposed project features:

PROJECT PLAN DATA TABLE

Zoning Ordinance Development Standard	Permitted/Required	Proposed
Minimum lot area (sf.)	18,000	20,258
Previously dedicated area		4,423
Proposed dedicated area		54
Net lot area		15,781
Density (maximum dwelling units/acre)	125	
w/ MPDU density bonus of 6% for providing 13.1% MPDUs on site		129
Total number of units (125 du/ac x 0.47 ac)	58	
w/ MPDU density bonus of 6% for providing 13.1% MPDUs on site		61
Market-rate units		53
MPDUs		8
MPDU provision (minimum percentage)	12.5	13.1
Public use space (minimum percent of net lot area)	20	20.77
On-site (sf.)	3,167	3,277
Off-site amenity space (sf.)		2,871
Total public use and amenity space (sf.)		6,148
As a percentage of net lot area (percent)		38.8
Maximum Building Height (ft.)	60	
With a Planning Board finding of no adverse impacts on surrounding properties	90	90*
Number of stories		9
*as measured from the level of approved street grade opposite the middle of the front of a building to the highest point of roof surface of a flat roof		
Minimum Building Setbacks (ft.)	Not Specified	
Front		15
Rear		0
Side		0
Parking	70	101
29 one-bedroom units @ 1.25 spaces each	36.25	
24 two-bedroom units @ 1.5 spaces each	36	
4 one-bedroom MPDUs @ 0.625 spaces each	2.5	
4 two-bedroom MPDUs @ 0.75 spaces each	3	
Ten percent reduction for multi-family use in CBD	-7.75	

Amenities and Facilities Summary

On-Site Improvements

Public Arts Plaza

- Brick-paved public plaza along majority of site frontage to complement streetscape improvements.
- Innovative paving design reaches into sidewalk to welcome visitors
- Landscaped tree beds complement the architecture, integrating the vertical and horizontal while differentiating between the private building entrance and the more public art studio entries.
- Provides a space for public outdoor interaction and activities.
- Provides ample area for community arts events, where the artists could not only open their studios to the public, but could also exhibit their work in the plaza itself.

Artist Studios

- Four artist studios, a minimum of 1,850 total square feet, located within the envelope of the building, accessible only from the plaza.
- Designed to take advantage of their southern solar orientation, the building façade uses glazing to maximize daylighting and encourage passers-by to investigate.

Off-Site Improvements

Street and Intersection Improvements

- Dedication of 54 square feet of the site to complete the existing 60-foot right of way for Rugby Avenue in front of the site.
- Reconfiguration of the curb and sidewalk on the north side of Rugby Avenue in front of the site to remove a “bump-out” and reconnect the sidewalk with the existing alignment to the east.
- Reconfiguration of the curb and sidewalk at the southwest quadrant of the intersection of Rugby and Auburn Avenues to provide a more squared-off intersection, improving safety for crossing Rugby Avenue and provide a new crosswalk.

Streetscape

- Provision of the Bethesda Streetscape standard details for the public sidewalk in front of the building and across the street on the intersection improvements.
- Undergrounding of utilities on the two poles in front of the site.

Facility Plan for Battery Lane Urban Park

- Preparation of a Facility Plan for improvements to Battery Lane Urban Park.
- Presentation of design concepts to community groups.
- Coordination of design with Park and Planning Departments’ staff.

- (b) *As conditioned, the proposal conforms to the approved and adopted Master or Sector Plan or an Urban Renewal Plan approved under Chapter 56.*

Zoning and Land Use Conformance:

The approved and Adopted 1994 Bethesda CBD Sector Plan recommends the CBD-1 zone for this site. The proposed Project Plan conforms to the uses permitted in the zone for this site. The development proposes 61 multi-family units, including 8 MPDUs on 0.47 acres.

The proposed development is using the optional method of development in the CBD-1 zone. The minimum required public use space for this project is 20 percent of the net lot area, or 3,167 square feet. The project proposes 3,277 square feet, or 20.77 percent. In addition the applicant is proposing 2,871 square feet of off-site amenity space in the form of streetscape and intersection improvements. The combined on- and off-site public use and amenity area is 6,148 square feet, or 38.8 percent of the net site area.

Conformance with the Purpose of the Woodmont Triangle Amendment:

The Woodmont Triangle Amendment builds on the goals of the 1994 Plan, seeks to spur the development of a variety of housing in the Woodmont Triangle and encourages mixed-use development proposals to foster the revitalization of the area. The project site is included in the Woodmont Triangle Study Area but was not discussed in the Amendment. At 9 stories, the project and its 8-story neighbor help transition the “stepping down” recommended by the Woodmont Triangle Amendment, mediating between 14 stories along Del Ray Avenue to 4-stories on Battery Lane to the northwest.

- (c) *As conditioned, because of its location, size, intensity, design, operational characteristics and staging, it would be compatible with and not detrimental to existing or potential development in the general neighborhood.*

The project is complementary to the architectural character of the larger Bethesda CBD and environs, presenting an attractive, contemporary design. The design and scale of the project, the pedestrian and vehicular circulation, and streetscape improvements enhance the edge of the CBD and provide a neighborhood amenity gathering space. The proposed development is compatible with the existing development occurring to the south and east in terms of design, scale, and use, and will encourage redevelopment of Rugby Avenue.

The surrounding properties are a mix of residential, office, and retail uses, ranging from a neighboring 2-story single-family house used by a plumbing company to 14-story multi-familys a block away. The project site is located between apartments and multi-familys on the north, single-family residences on the west, and older businesses to the east and south. The apartment building directly to the north is separated from the proposed building by 125 feet of surface parking lot. At 90 feet, the proposal would be compatible with that existing building, but it would cast a shadow on the three-story building 25 feet from the property line to the northwest. As mentioned above, at 9 stories the project helps transition the “stepping down” recommended by the Woodmont

Triangle Amendment, mediating between 14 stories along Del Ray Avenue to 4-stories on Battery Lane to the northwest.

- (d) *As conditioned, the proposal would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under chapter 24A, article H, is subject to a traffic mitigation agreement that meets the requirements of that article.*

The project will be built in one phase. As indicated in the Transportation Planning memo dated April 6, 2007, the residential project will not severely impact the adjacent intersections.

The project is located within the Bethesda Parking District, but the applicant is providing 101 parking spaces on site for the 61 dwelling units, 31 greater than required by the zoning ordinance. In addition, a public parking structure is only one block away, and public transit is available.

Regarding potential impacts on public schools, high-rise projects typically generate a low rate of students. Studies prepared for the Woodmont Triangle Amendment found that no additional school facilities would be required, even with an increase of 1,500 housing units over the next 10-15 years. Public utilities will be provided from Rugby Avenue.

- e) *The proposal will be more efficient and desirable than could be accomplished by the use of the standard method of development.*

The optional method of development permits a more efficient and desirable product than the standard method of development.

Under the standard method of development, the project could achieve approximately half the proposed dwelling units and would provide only 5 MPDUs. Under the optional method, this plan provides Eight MPDUs. The project also provides significant urban public open space, streetscape improvements, and a Facility Plan for the Battery Lane Park. Under the standard method of development, the project would yield half the public use space, a minimal amount of streetscape, and no amenity space.

- f) *The proposal will include moderately priced dwelling units in accordance with Chapter 25A of the Code, if the requirements of that chapter apply.*

The proposed development is providing 8 MPDUs on site, 13.1 percent of the total number of units, in accordance with the provision of Chapter 25A of the Montgomery County Zoning Ordinance. The project is not providing Workforce Housing units, as the application was submitted on September 26, 2006, prior to the December 1, 2006, effective date of the Workforce Housing legislation and regulations. Staff accepted the project plan on February 2, 2007.

- g) *As conditioned, the proposal satisfies any applicable requirements for forest Conservation under Chapter 22A.*

The Environmental Planning Division reviewed the proposed project and determined the plan to qualify for an exemption for small properties of less than 1.5 acres. This property is not subject to a Tree Save Plan nor is it within a Special Protection Area.

- h) *As conditioned, the proposal satisfies any applicable requirements for water quality resources protection under Chapter 19.*

A stormwater management concept plan proposes on-site management in an underground vault was approved on October 7, 2005.

APPENDIX

- A: Staff Report for the Denied Project Plan Submission (#920060050)
B: Reviewing Agency Approvals

Appendix A: Staff Report for the Denied Project Plan Submission (#920060050)



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

MCPB
 ITEM #
 July 20, 2006



MEMORANDUM

DATE: July 20, 2006
TO: Montgomery County Planning Board
 Rose Krasnow, Chief
VIA: Michael Ma, Supervisor
 Development Review Division
FROM: Marilyn Clemens, Planner/Coordinator/Urban Designer
 Community Based Planning Division
 (301) 495-4572
REVIEW TYPE: **Project Plan Review**
CASE #: **920060050**
PROJECT NAME: **The Rugby Condominium**
APPLYING FOR: Approval of 70 multiple-family dwelling units including
 11 MPDU's on .47 gross acres
REVIEW BASIS: Sec. 59-D-2, Montgomery County Zoning Ordinance
ZONE: CBD-1
LOCATION: North Side of Rugby Avenue at the intersection of
 Auburn and Rugby Avenues; 300 feet east of Norfolk Avenue
MASTER PLAN: 1994 Sector Plan for the Bethesda CBD
 2006 Woodmont Triangle Amendment to the
 1994 Sector Plan for the Bethesda CBD
APPLICANT: 4851 Rugby Avenue, LLC
FILING DATE: August 29, 2005
HEARING DATE: June 22, 2006
PREVIOUS HEARINGS: March 30, 2006, June 22, 2006

Attached is the staff report for the proposed Rugby Condominium Project Plan.
 The Planning Board public hearing for this application is scheduled for July 20, 2006.
 The Staff recommends **Denial** of the Application as described in the report.

TABLE OF CONTENTS

	Page
SUMMARY	3
STAFF RECOMMENDATION	5
PROJECT DESCRIPTION	
Surrounding Vicinity.....	6
Site Description.....	7
Project Description.....	8
Site Layout.....	9
Site Design, Public Use Space, Amenities.....	10
Facility Plan for Battery Lane Urban Park.....	10
PLANNING AND REGULATORY FRAMEWORK	11
Woodmont Triangle Amendment to the 1994 Sector	11
1994 Sector Plan for the Bethesda CBA.....	12
Prior Approvals.....	12
Preliminary Plan.....	12
BASIS FOR CONSIDERATION OF ISSUES	12
REQUIRED FINDINGS	13
Compliance with the intents and requirements of the Zone.....	13
Project Plan Data Table.....	17
Conformance to the approved and adopted Sector Plan.....	20
Conformance with the 2006 Woodmont Triangle Amendment to the 1994 Sector Plan.....	21
Compatibility with the general neighborhood.....	21
Adequacy of existing or programmed public services.....	21
More desirable than the standard method of development.....	22
Provision of moderately priced dwelling units.....	22
Requirement for forest conservation.....	22
Requirements for water quality resource protection.....	22
Community Outreach.....	23
APPENDIX	23
1. Page C6-19, Section 59-C-6.235(b) footnote 1, Montgomery County Zoning Ordinance	
2. District Council Resolution # 15-1316	
3. Revised conditions submitted March 30, 2006 and March 30, 2006 Staff Report to the Planning Board with attachments	
4. Block Map of the Woodmont Triangle Amendment	
5. July 5, 2006 letter from David Freishtat	
6. June 26, 2006 letter from Chair, Bethesda arts and Entertainment District	
7. Development Review Checklist for Project Plan Review	

SUMMARY AND BACKGROUND

The Application was brought before the Planning Board on March 30, 2006 (Appendix 3) and was deferred at the applicant's request to June 22, 2006. Late on June 21, 2006, the attorney for the Applicant submitted a document responding to the staff report. The staff and members of the Planning Board had no time to read this document and consider the validity of its arguments. Commission Robinson requested a postponement and the Planning Board agreed to hear the Application on July 20, 2006.

The Application proposes 104,644 gross square feet of residential development, consisting of 71 multi-family dwelling units, including 11 moderately priced dwelling units (MPDUs) in a 10-story, 101-foot-high building. The project's proposed amenity component would include approximately 1,250 square feet of artists' studio space, a small public open space in front of the building, streetscape in front of the property, and a facility plan for improvements to Battery Lane Urban Park.

Under the optional method of development, a density bonus of 22% can be achieved through the provision of 15% MPDUs on site. The Woodmont Triangle Amendment to the 1994 Sector Plan for the Bethesda CBD allows heights up to 110 feet in some circumstances for properties in the CBD-1 zone. Staff does not believe that this specific Application qualifies for height over 90 feet under the Montgomery County Zoning Ordinance, the Woodmont Triangle Amendment or the 1994 Sector Plan for the Bethesda Central Business District (CBD).

The Application does not provide sufficient public use space off or on-site and does not meet the requirements of the optional method of development.

ISSUES

1. Height

The Application is for a height of 101 feet in the CBD-1 zone under the optional method of development. The Zoning Ordinance normally allows a height of 60 feet in the CBD-1 zone and permits an increase to 90 feet under 59-C-6.23 with a specific finding of no adverse impacts on surrounding properties. Height over 90 feet, but not more than 143 feet, is allowed in the CBD-1 zone if the proposal involves more than one lot and five specific findings can be made. This is known as "the Barlow Amendment" or Section 59-C-6.2351 of the Zoning Ordinance.

In general, the Woodmont Triangle Amendment to the 1994 Sector Plan does allow heights up to 110 feet in the CBD-1 zone when 15% MPDU's are provided on site. Properties in the CBD-1 zone can even attain 143 feet under specific conditions defined in the Zoning Ordinance. Appendix 4 is the block map created by M-NCPPC staff. The Council Resolution notes specific permitted heights at 118 and 143 for CBD-1 properties in other blocks (Appendix 2, page 16). The Rugby property was not discussed during the County Council hearings. It was included in Block 15 by M-

NCPPC staff along with other CBD zoned properties for ease of reference and to separate them from the multi-family R-10 zoned properties immediately to the north in block 16. There was no intent to guarantee individual properties in block 15 the maximum height or to override the provisions of the Zoning Ordinance. Not all the CBD-1 properties in the Woodmont Triangle study area will attain 110 feet or 143 feet, because they will go through project plan or site plan review and must conform to the Zoning Ordinance. In addition, the Rugby property is located at the north end of the CBD where a step-down in height is called for in the 1994 Sector Plan and in the Woodmont Triangle Amendment to the Sector Plan.

The Applicant believes the Woodmont Triangle Amendment allows all properties in the CBD-1 zone to reach 110 feet if the proposal provides 15% MPDU's on site. Appendix 5 is a statement of the Applicant's position dated July 5, 2006. Staff will provide additional comments on this statement in this report.

2. PUBLIC USE SPACE AND AMENITIES

In the early stages of review, the Applicant stated that they could not provide 20% public use space on site and they would not or could not acquire it off site alone or with another developer. The Applicant believed the public use space requirement was eliminated through the Woodmont Triangle Amendment, but this was clarified through discussions with staff. The Applicant would not provide additional streetscape beyond what is proposed. To find a solution, staff proposed the Applicant provide a small sitting area in front of the project, public art studio space inside the first floor, and a facility plan for Battery Lane Urban Park. The Applicant agreed to this minimal amount of amenities and public use space.

In the process of finalizing the first public art studio space for the Woodmont Triangle, in the 8400 Wisconsin project, the Bethesda Urban Partnership (BUP) and the Bethesda Arts and Entertainment District Board determined that BUP cannot manage, maintain and staff a public art space smaller than 2,000 square feet. A Letter from the Chair of the Arts and Entertainment District Board is Appendix 6. Therefore, BUP cannot accept the management of the 1,250 square foot public art space proposed by the Rugby project. The Rugby Condominium project does not currently have the required minimum 20% per cent public use space on or off-site. This project must provide a combination of public use space and amenities on a level proffered by other optional method of development projects, i.e., between 40 and 60 per cent of their net lot area. This Application's current proposed public use space and amenity space combined is approximately 30% of the net lot area.

3. POSSIBLE SOLUTIONS

- a. The Applicant can resubmit a proposal at 90 feet with 20% public use space on or off-site, if it can be proven that 20% can not be provided on site while providing 15% MPDUs on site, and an amenity package representing between 40 and 60 per cent of their net lot area.
- b. The Applicant can wait until the Woodmont Triangle Amenity Fund is established with approved criteria for paying for public use space and amenities. The first Amenity fund meeting was held on June 30, 2006. By paying an appropriate amount for their public use space requirement into the amenity fund, the Applicant could use the entire site for a 90-foot residential building and provide additional public amenities off-site.
- c. The Applicant can seek a clarification or amendment to the Woodmont Triangle Amendment regarding their specific property location, as did the Plank, Trojiano and American Inn properties referenced on page 16 of Appendix 2. They must also request or propose a Zoning Text Amendment to 59C-6.235 and 59-C-6.2351.

STAFF RECOMMENDATION

The staff recommends **denial** of Project Plan 920060050 as proposed.

PROJECT DESCRIPTION: Surrounding Vicinity

The proposed development is located on the north side of Rugby Avenue between Norfolk Avenue on the west and Woodmont Avenue on the East. It is near the intersection of Auburn Avenue and Rugby Avenue. Multi-family rental apartments of 3-5 stories fronting on Battery Lane are located to the north of the site in the R-10 zone. A paved parking lot for some of the apartments extends to the north edge of the Rugby site. Another apartment complex is 25 feet to the northwest of the property line. The Application is in the CBD-1 zone, as are the properties immediately to the west, east and south. An 8-story office building and parking deck is located to the east, and a variety of older, low-rise office and retail buildings are to the south. A plumbing company occupies a converted single family home to the west. Several small arts related businesses are on the south side of Rugby Avenue and on Auburn Avenue, such as Jerry's Music, the Washington School of Photography, the Little City Art Studio and the Gallery Neptune.

THE RUGBY CONDOMINIUM (120060290)



Battery Lane Urban Park is located 350 feet to the west of the site at the intersection of Norfolk and Rugby Avenues. The Application is within the study area of the recently approved Woodmont Triangle Amendment to the 1994 Sector Plan for the Bethesda CBD.

PROJECT DESCRIPTION: Site Description

The 4851 Rugby Avenue site is on the north side of Rugby Avenue. The property is comprised of parts of Lots 443, 444, 447, 448 and 627, Northwest Park, totaling 15,835 net square feet. Approximately 4,423 square feet were previously dedicated for roadways, amounting to a gross tract area of 20,258 square feet.

The site currently consists of a gravel parking lot with approximately 18 parking spaces, a two-story, 5,200 square foot retail and office building and a 3-story, 5,600 square foot office building. Retail tenants on the ground floor of the 2-story building are Just Cakes and Just Lobsters.

Overhead utility wires exist along both sides of Rugby Avenue. There are two utility poles in front of the property, which carry Pepco, Comcast and Verizon cables. The nearest intersections of Rugby with Auburn and Norfolk Avenues are not signalized.

The site topography is flat with approximately two feet of drop from the northwest to the southeast. There are no existing trees or other vegetation on the site.



PROJECT DESCRIPTION: Proposal

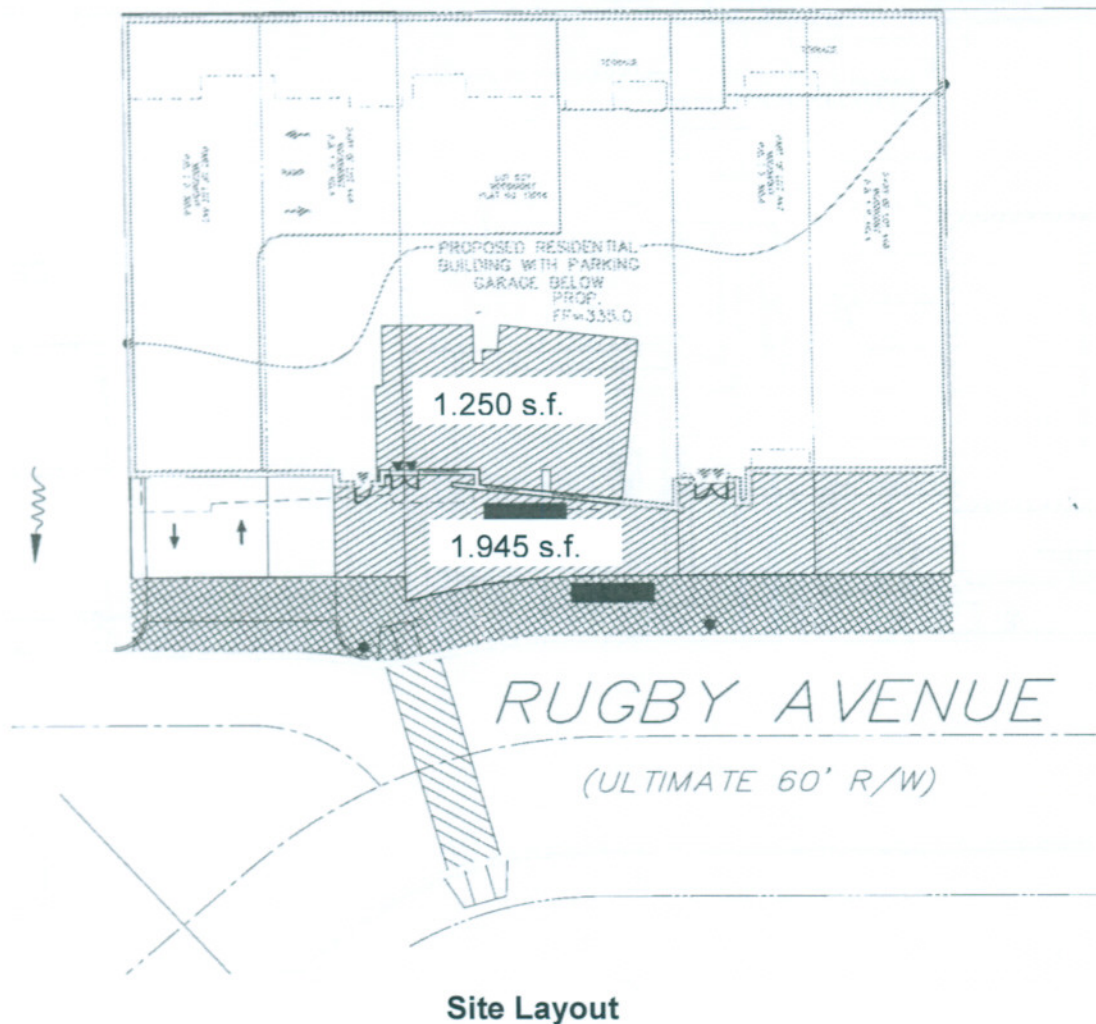
The Applicant, 4851 Rugby Avenue, LLC, proposes a 10-story, 101-foot condominium building with 15% percent MPDU's built on site. The maximum height allowed in the CBD-1 zone is 90 feet unless specific findings can be made. The Applicant proposes 1,250 square feet of art studio space open to the public within the condominium building. BUP is no longer able to accept management of this small space. The frontage of the site would be developed with a small green space and a gathering area near the arts space. The applicant would also provide a facility plan for Battery Lane Urban Park.

The proposed masonry and steel building features a stepped south-facing front façade with glass and metal balcony screen rails. The north-facing units also feature balconies, and the rear first floor units would have terraces. Entrances to the parking garage and the loading dock would be on the west side of the site frontage. A paved walk to the art studio space, green space, and the main entrance to the condominiums would occupy the remainder of the 150-foot frontage on Rugby Avenue. The building would have an indoor fitness center and a picnic area on the roof.

This would be the first residential building on Rugby Avenue east of Norfolk Avenue. The other buildings in this area are a mix of older office, retail and commercial buildings dating from the 50's and 60's.



Proposed 101 Foot Building – Front Facade



Site Layout

This plan view shows the distribution of uses on the site. The building occupies a major portion of the site with the driveway and loading area on the left. The proposed interior public use space is a 1,250 square foot artists' work space, and the exterior public use space is 1,945 square feet. The dark, double-hatched area represents the sidewalk in the public right-of-way to be improved with the Bethesda streetscape. The lighter, single-hatched area represents the public use space on site, divided between exterior and interior space, as described below. A crosswalk would be provided to the south side of Rugby Avenue.

Site Design

The architecture of the residential building is of a straightforward modern style. The south-facing units will have great solar exposure and a view out over the Woodmont Triangle while the north facing units will have the advantage of a greener view.

Public Use Space and Amenities

The Applicant no longer has an acceptable 20% public use space. Appendix 6 is a letter from BUP explaining why they must establish 2,000 square feet as minimum size for an indoor public art studio space. The Applicant must find another minimum 39% of its public use space requirement on or off-site.

1. Exterior Public Use Space

The applicant would provide a small public use space in front of the building to serve as both a gathering area and a sunny sitting area for residents and passersby. This outdoor space constitutes approximately 61%, or 1,945 square feet, of the applicant's public use space requirement

2. Interior Public Use Space

The Art Studio

The 1,250 square foot art studio space is no longer acceptable as fulfillment of part of the public use space requirement. Appendix 6 explains the reasons for 2,000 square feet being the minimum size BUP can manage, maintain, supply and staff. In the process of the Woodmont Triangle Amendment hearings, concern was expressed that the County could incur expenses for public facilities that are developer responsibilities. The 1,250 square foot studio space would only accommodate two artists, because space must be allotted for restrooms, common areas, handicap access and circulation. This means each artist would have a higher monthly fee, and the expenses for BUP would be increased. In the future, BUP will only consider larger art studio spaces and would prefer an entire floor in a mixed-use project or separate building.

FACILITY PLAN FOR BATTERY LANE URBAN PARK

The Applicant would provide a Facility Plan for Battery Lane Urban Park as part of the amenity package for the optional method density. Renovations to Battery Lane Urban Park are on the list of priority amenities in the recently approved Woodmont Triangle Amendment to the 1994 Sector Plan for the Bethesda Central Business District (CBD). The Applicant would work with Park Development staff to develop several concepts for the Facility Plan, present it to the community, make revisions, and present a plan to the Planning Board for review prior to or at the time of site plan review. Parks staff has participated in meetings with the Applicant. While a concept for renovations to the park has been submitted, Parks staff has not yet reviewed it. The Facility Plan process will

begin with alternative design concepts for the park. A Facility Plan is a specific document with construction drawings at a 30% level of completion. The Applicant acknowledges the responsibility to accomplish the Facility Plan in a letter dated March 3, 2006, (Attachment #3 of the March 30, 2006 Staff Report).

Pedestrian and Vehicular Access

The site is conveniently located for residents to walk to the Medical Center Metro Station, approximately 2,800 feet away, or to a bus at Woodmont and Rugby Avenues. The Bethesda trolley stops along Rugby Avenue across from the site. The many shops, restaurants and services in the Woodmont Triangle are all within walking distance.

Rugby Avenue has a continuous sidewalk on the north side of Rugby Avenue from Battery Lane Urban Park past the site to Woodmont Avenue on the east. The applicant will improve the frontage of the site with the Bethesda streetscape and will underground the utilities in front of the site.

The 3-floor parking garage in the building will adequately serve the needs of the residents. It will include bicycle and motorcycle parking.

PLANNING AND REGULATORY FRAMEWORK:

Sector Plan

The Woodmont Triangle Amendment to the 1994 Sector Plan

In general, the Woodmont Triangle Amendment does allow heights up to 110 feet in the CBD-1 zone when 15% MPDU's are provided on site for mixed-use projects. This does not mean that all properties on the north side of Rugby Avenue can automatically achieve 110 feet or even 90 feet. Each Application still has to be reviewed by the Planning Board in accordance with the Zoning Ordinance, and a finding of no adverse impacts has to be made at site plan for heights over 90 feet.

For the County Council discussions on the Woodmont Triangle Amendment, M-NCPPC staff drew a block map, Appendix 4, for easy reference to groups of properties by zone and proximity to each other. The Applicant's property is in Block 15. Properties in Block 15 were not examined in any detail and were grouped together because of their CBD-1 or CBD-R2 zones and to separate them from Block 16, zoned R-10. An example of properties that were discussed in detail and are also zoned CBD-1 are the Plank, Troiano and American Inn properties located along Wisconsin Avenue in blocks 10 and 11 shown on Appendix 7. The County Council allowed additional height for these specific properties for circumstantial reasons, such as being adjacent to existing tall buildings or properties zoned for CBD-R2. Should they redevelop, these CBD-1 properties along Wisconsin Avenue would not impact existing residences with their additional height nor are they located at the north end of the CBD. Should these properties file plans for review before the Planning Board, they may still not achieve the

maximum heights allowed by the Woodmont Triangle Amendment for a variety of reasons, such as property size, configuration and compatibility.

Block 15 and the Applicant property were not discussed during the Council hearings. However, block 16 to the north, with its R-10 zoned multi-family residences along Battery Lane, was discussed in detail. It was considered so important to the retention of affordable housing in the Woodmont Triangle and the Bethesda area that it was taken out of the plan for special study. The Battery Lane area of blocks 16,17 and 18 (Appendix 7) will be the subject of an additional amendment to the Bethesda Sector Plan. The Woodmont Triangle Amendment, in allowing a maximum of 110 feet for CBD-1 properties in block 15, did not intend that all the properties along the north side of Rugby Avenue would be guaranteed that height, particularly given their relationship to block 16, the multi-family apartments just to the north.

The Woodmont Triangle Amendment does not specifically discuss the project site, retained its CBD-1 zoning, and removed the 1994 Sector Plan 50-foot height limit, generally permitting "properties within the study area (to) develop to heights permitted in the respective zones," Resolution at page 12. The Amendment encourages mixed-use projects.

The 1994 Sector Plan for the Bethesda CBD

The 1994 Sector Plan recommends housing for the northern part of the Woodmont Triangle. It limited the height of the Applicant's site to 50 feet and recommended a step-down in height at the edges of the CBD.

Prior Approvals

The proposed development is zoned CBD-1. The property is comprised of parts of Lots 443, 444, 447, 448 and 627, Northwest Park.

Preliminary Plan

A Preliminary Plan of subdivision (1-20060290) is being reviewed concurrently with the Project Plan.

BASIS FOR CONSIDERATION OF ISSUES

Per Sec. 59-D-2.43, in making its decision on an application for an Optional Method project plan, the Planning Board must consider:

- a. *The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement and design of structures, and its consistency with an urban renewal plan approved under chapter 56.*
- b. *Whether the open spaces, including developed open space, would serve as convenient areas for recreation, relaxation and social activities for the residents and patrons of the development and are planned, designed and situated to function as necessary physical and*

aesthetic open areas among and between individual structures and groups of structures, and whether the setbacks, yards and related walkways are located and of sufficient dimensions to provide for adequate light, air, pedestrian circulation and necessary vehicular access.

- c. Whether the vehicular circulation system, including access and off-street and loading, is designed to provide an efficient, safe and convenient transportation system.*
- d. Whether the pedestrian circulation system is located, designed and of sufficient size to conveniently handle pedestrian traffic efficiently and without congestion; the extent to which the pedestrian circulation system is separated from vehicular roadways so as to be safe, pleasing and efficient for movement of pedestrians; and whether the pedestrian circulation system provides efficient, convenient and adequate linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities.*
- e. The adequacy of landscaping, screening, parking and loading areas, service areas, lighting and signs, in relation to the type of use and neighborhood.*
- f. The adequacy of provisions for construction of moderately priced dwelling units in accordance with Chapter 25A if that Chapter applies.*
- g. The staging program and schedule of development.*
- h. The adequacy of forest conservation measures proposed to meet any requirements under Chapter 22A.*
- i. The adequacy of water resource protection measures proposed to meet any requirements under Chapter 19.*

FINDINGS for Project Plan Review:

Section 59-D-2.42 of the Zoning Ordinance sets forth the findings that must be made by the Planning Board and form the basis for the Board's consideration of approval. In accordance herewith, the staff recommends that the Planning Board make the following findings:

(a) As conditioned, the proposal complies with all of the intents and requirements of the zone.

DISCUSSION OF INTENT OF THE ZONE

The Montgomery County Zoning Ordinance states the purposes, which the CBD zones are designed to accomplish. The following statements analyze how the proposed Project Plan conforms to these purposes:

- (1) ***“to encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under chapter 56 by permitting an increase in density, height, and intensity where the***

increase conforms to the master or sector plan or urban renewal plan and the site plan or combined urban renewal project plan is approved on review by the Planning Board.”

The proposed Project Plan is **not** in accordance with the Approved and Adopted 1994 Sector Plan for the Bethesda Central Business District and the 2006 Wisconsin Triangle Amendment to the Sector Plan approved by the County Council and adopted by the full Park and Planning Commission on March 15, 2006. The 1994 Sector Plan and the Amendment call for a step down in height at the north end of the CBD.

The proposed development consists of a 101-foot high, 10-story residential condominium building containing 71 dwelling units. Under the 1994 Plan, a maximum height of 50 feet was recommended at this location. The 2006 Woodmont Triangle Amendment limits projects to the maximum height allowed in the zone, which, as applied to this proposal, is a maximum of 90 feet. To approve a height of 90 feet, the Planning Board must make a finding that the project does not adversely impact the surrounding properties. See Attachment #1, Section 59-C-6.235 (b) of the zoning ordinance.

This project plan would accomplish certain Sector Plan and Woodmont Triangle Amendment objectives by providing more housing, MPDUs on site, and a Facility Plan for the Battery Lane Urban Park. However, it cannot be approved at the proposed height, which exceeds the maximum height permitted under the zone.

*(2) “to permit a **flexible response of development to the market** as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents.”*

The project plan responds to the need for a variety of housing near metro in the Bethesda CBD.

*(3) “to encourage designs which produce a **desirable relationship between the individual buildings in the central business district**, between the buildings and the circulation system and between the central business district and adjacent areas.”*

The proposed project would begin a revitalization of Rugby Avenue east of Norfolk Avenue and contribute to the supply of residential choices in the Bethesda CBD. Height over 90 feet would not create a desirable relationship between the site and the R-10 existing multi-family apartments to the northwest.

*(4) “to promote the **effective use of transit facilities** in the central business district and pedestrian access thereto.”*

The site is located approximately 2,800 feet from the Medical Center Metro Station and approximately 2,000 feet from the Bethesda Metro Station. Bus stops for six bus routes are located at Woodmont and Rugby Avenues, and the Bethesda Circulator stops across the street. Future residents would be able to walk to the numerous places of employment and restaurant, retail, service, and arts uses within the Woodmont Triangle and along Wisconsin Avenue.

(5) *"to improve pedestrian and vehicular circulation."*

The project would provide an improved pedestrian sidewalk, replacing a 5-foot wide concrete sidewalk and a long expanse of driveway and head-in parking with a 10-foot wide sidewalk with the Bethesda brick pavers. Providing street trees and placing utilities underground would make walking along this site to the park or to Norfolk Avenue a more pleasant experience.

(6) *"to assist in the development of adequate residential areas for people with a range of different incomes."*

This project would provide 60 market rate units and 11 MPDUs on site. One of the main goals of the Woodmont Triangle Amendment to the 1994 Bethesda Sector Plan is to provide housing near metro for a variety of income levels.

(7) *"to encourage land assembly and the most desirable use of land in accordance with a sector plan."*

The project would replace a gravel parking lot and two older retail and commercial buildings with a modern residential building and public open space. This is a more desirable use of the land, adding residents who will use the businesses and services of the area, helping revitalize the Triangle, and providing pedestrian activity on the street in a part of the CBD that has been underutilized.

Section 59-C-6.213 states that it is further the intent in the CBD-1 Zone:

- (1) "to foster and promote the orderly development of the fringes of the Central Business Districts of the county so that these areas will provide land uses at a density and intensity which will encourage small business enterprises and diverse living accommodations, while complementing the uses in the interior portions of these districts; and
- (2) "to provide a density and intensity of development which will be compatible with adjacent land uses outside the Central Business Districts."

The 4851 Rugby Avenue project proposes additional residential units for the edge of the CBD. 90 feet is the maximum recommended height at the edge of the CBD for compatibility with the adjacent land uses, existing 3-5 story

multi-family apartments. The Application would provide a transition from rental and condominium units to the north, northeast and northwest to the greater density of the central part of the CBD.

The Application is exercising the right to file under the units per acre provision of Section 59-C-6.234 for 100 percent residential projects. Therefore, it is able to exceed the FAR limit that would be applied to a mixed-use project. This Application, if approved, would achieve the equivalent of 5 FAR, instead of the 3 FAR allowed in the CBD-1 zone.

REQUIREMENTS OF THE CBD-1 ZONE

Section 59-C-6.23 sets forth the development standards for the CBD-1 zone. The following table summarizes the required and proposed project features:

PROJECT PLAN DATA TABLE

Development Standard	Permitted/Required	Proposed for Approval
----------------------	--------------------	-----------------------

Gross Tract Area (s.f.): zoning ordinance min.18,000 s.f.*		20,258 s.f.**
Net Lot Area (s.f.):		15,835 s.f.
Gross Floor Area (s.f.): Residential		104,644 s.f.
Public arts space		1,250 s.f.

*The Woodmont Triangle Amendment removed the min. lot size in the OMD

**4,423 s.f. previously dedicated

Density

Dwelling Units (d.u./ acre)	125.	152(inc. 22% bonus)
No of units allowed = 58 PLUS 22% bonus		70
		(59 market rate, 11 MPDUs)

Public Use Space (% s.f.):

On-site: 20% min.net lot	3,167 s.f.	3,195 s.f.(20.17%)
outdoor public use space		1,945 s.f. (61%)
interior public art space		1,250 s.f. (39%)

As discussed, 39% of the public use space is no longer acceptable.

Off-Site Public Amenity Space

(in public r.o.w.)	-	1,790 s.f.
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Max. Building Height (ft.)

	90 feet	101 feet
(measured from center line of Rugby Avenue in front of the project)		

Parking Required:

	90***	95
Minus 10% or 9 spaces	81	
Residential Uses(Mkt. Rate)		
1 BR @ 1.25 sp/unit(32 x 1.25)	40	
2 BR @ 1.50 sp/unit (28 x 1.5)	42	
Residential Uses (MPDUs)		
1 BR @ 0.625 sp/unit (6 x 0.625)	4	
2 BR @ 0.75 sp/unit (5 x 0.75)	4	

***Note: The site is within the limits of the Bethesda Parking Lot District. The Planning Board may approve a 10 percent reduction in the standard parking requirement for multiple-family dwelling units in a central business district pursuant to Section 59-E-3.33 of the Montgomery County zoning ordinance. The Applicant would provide 5 more spaces than required for the convenience of residents.

Height

Zoning Ordinance

Under 59-C-6.235, 60 feet is the maximum height normally permitted for development under the optional method of development. The Planning Board may approve 90 feet on a finding that the development does not adversely affect surrounding properties. To achieve even greater height (up to 143 feet) in the CBD-1 zone, the proposal would have to involve more than one lot, and the Planning Board would have to make 5 additional findings. This project was not filed as more than one lot, and, therefore, height above 90 feet is not permitted. If, as the Applicant contents, the project involves more than one lot, the following findings listed in Appendix 1 must be made:

1. "The additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan;" The property fall into block 15 which was globally allowed 110 feet with no specific discussion of this property.
2. "The additional height is consistent with the criteria and guidelines for the property as contained in the applicable sector plan or urban renewal plan;" Block 15 as a whole was allowed a maximum of 110 feet with 15% MPDUs on site.
3. "Except as recommended in an urban renewal plan the portion of the property upon which the additional height is to be used is on all sides abutted by or adjacent to property recommended in the applicable sector plan or urban renewal plan for classification in the CBD-0.5, CBD-1, CBD-2, or CBD-3 zone. **The proposed project would abuts multi-family apartments in the R-10 zone to the north. It is therefore not abutted on all sides by CBD zones. This finding can not be made.**
4. "The proposed development is compatible with the surrounding development, considering but not limited to the relationship of the building or buildings to the surrounding uses, the need to preserve light and air for the residents of the development and residents of surrounding properties, and any other factors relevant to the height of the building;" The proposed development would not shade the apartment building directly to its north at 90 feet. It would, however, cast a shadow on the building to the northeast in the morning and

mid-day hours. The Applicant has not provided a sun/shade study, but height over 90 feet would not be compatible with some of the existing buildings.

5. "The proposed development will produce a substantial amount of consolidated public open space in excess of that which would be required if this process were not used. The public open space must be designated as public amenity space and be accessible to and usable by the public in accordance with the applicable sector or master plan, or urban renewal plan." **This Application is not providing a substantial amount of public open space.** This footnote to 59-C-6.2351 refers back to its origin as the "Barlow Amendment" where a project in Friendship Heights was built on three separate lots and provided a large public park on one lot in exchange for extra height on one lot along Wisconsin Avenue and away from residences. **This finding cannot be made for the proposed project.**

In addition, under Section 59-D-2.42(b), regarding MPDUs, the Zoning Ordinance permits an Application to "exceed ...any applicable ... building height limit established in a ...sector plan if a majority of (the) Alternative Review Committee find(s) that a development including all required MPDUs on site ... would not be financially feasible within the constraints of any applicable ...height limit." **The Application has not gone to the Alternative Review Committee.** The above-quoted language expressly allows a development to exceed a sector plan height limit but does not permit a proposed structure to exceed the maximum height permitted in the zone. To approve height in excess of the maximum height recommended in a sector plan, the Planning Board would be required to find that the project would "exceed an applicable height limit, lower than the maximum height in the zone, that is recommended in a ... sector plan(.)" (Emphasis added) The Woodmont Triangle Amendment "recommends using the standards of the existing zones to determine the building height." Resolution at p. 6. As discussed above, the CBD-1 zone, as applied to this property, permits a maximum height of 90 feet. Therefore, even though all MPDUs are proposed on-site, a height of 101 feet is not permitted, because it doesn't meet the requirement of the zone to exceed 90 feet.

The 2006 Woodmont Triangle Amendment

The Amendment limits projects to the maximum height allowed in the zone. While 143 feet may be achieved for some CDB-1 mixed-use projects with 15% MPDUs on site, each property must be considered in its context. The Amendment did not intend to promote a 110 building wall on the north side of Rugby Avenue just south of existing apartments. The Amendment calls for a step-down in height at the north end of the CBD. For a project on one lot, for which the Planning Board makes a finding of no adverse impacts to surrounding properties, the maximum height allowed is 90 feet.

The staff concludes that there is no basis for approving height over 90 feet for this Application.

Amenities and Facilities Summary

On-Site Improvements

An on-site public open space of approximately 1,945 square feet would be provided. The Application is deficient a minimum of 39% of the public use space requirement for the optional method of development.

Off-Site Improvements

Streetscape

The Applicant proposes the Bethesda streetscape, including street trees, Washington Globe street lights, undergrounding of utilities, benches, and trash receptacles on the site frontage.

Facilities Plan for Battery Lane Urban Park

The applicant proposes a Facilities Plan for improvements to Battery Lane Urban Park. This Plan, representing 30% drawings, would be based on one of several concepts provided by the applicant. The concepts would be presented to community groups, revised, and brought before the Planning Commission for review. The Plan would include revised grading to correct drainage problems. A letter dated March 3, 2006 from David D. Freishtat, Attachment #3 to the March 30, 2006 Staff Report, describes the applicant's commitment to developing the Facility Plan.

The Rugby Avenue Right-of-Way (60 foot right-of-way).

Rugby Avenue is a two lane commercial street with parking on both sides. The full Bethesda CBD streetscape would be provided on the north side of Rugby Avenue along the extent of the property. The sidewalk would be improved with Bethesda pavers, the Washington Globe street lights would be installed at 60 feet on center, and Red Oak street trees would be planted at approximately 30 feet on center in improved tree pits. A Memorandum from Transportation Planning is Attachment #1 to the March 30, 2006 Staff Report.

(b) As conditioned, the proposal conforms to the approved and adopted Master or Sector Plan or an Urban Renewal Plan approved under Chapter 56.

Zoning, Land Use and Sector Plan Conformance:

The approved and Adopted 1994 Bethesda CBD Sector Plan recommends the CBD-1 zone for this site. The proposed project is in general conformance with the 1994 Plan although the Plan calls for a step-down in height at the edges of the CBD.

Conformance with the Purpose of the Woodmont Triangle Amendment:

The Woodmont Triangle Amendment builds on the goals of the 1994 Plan, seeks to spur the development of a variety of housing in the Woodmont Triangle and encourages mixed-use development proposals to foster the revitalization of the area. The project site is included in the Woodmont Triangle Amendment Study Area but was not discussed in the Amendment.

The project does not conform to the Woodmont Triangle Amendment, because it does not step-down in height at the edge of the CBD. Additional height is recommended by the Amendment for mixed-use projects. While the Application would add to the supply of affordable housing in the area, it does not provide any significant public amenities in exchange for what amounts to great density.

c) As conditioned, because of its location, size, intensity, design, operational characteristics and staging, it would be compatible with and not detrimental to existing or potential development in the general neighborhood.

Compatibility: The proposed residential project is located between apartments and condominiums on the north, single-family residences on the west, and older businesses on the east and south. The apartment building directly to the north is separated from the proposed building by 125 feet of surface parking lot. At 90 feet the proposal would be compatible with that existing building, but it would cast a shadow on the three-story building 25 feet from the property line to the northwest. Any additional height would negatively impact the apartments to the northwest. All the apartment buildings to the north and northwest are in the Battery Lane District, zoned R-10. While the R-10 zone has no height limit, it cannot be assumed that the existing affordable apartments will be replaced for new and higher buildings. The County Council removed the Battery Lane area from the Woodmont Triangle Amendment and requested a separate master plan Amendment to carefully study the area, to conserve as much affordable housing as possible, and to increase affordable housing in line with the reduction of green area approved for the R-10 zone, (Section 59-C-2.422).

(d) As conditioned, the proposal would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under chapter 24A, article H, is subject to a traffic mitigation agreement that meets the requirements of that article.

The project will be built in one phase.

A memorandum from Transportation Planning is attachment #1 to the March 30, 2006 Staff Report. The project will enter into a traffic mitigation agreement with the Planning Board as specified. The residential project will not severely impact the adjacent intersections. 95 parking spaces are provided within the project for

71 dwelling units. The Applicant is providing 5 more parking spaces than required. In addition, a public parking structure is located one block away, and public transit is available. The site is within the Bethesda Parking District.

Regarding potential impacts on public schools, high-rise projects typically generate a low rate of students. Studies prepared for the Woodmont Triangle Amendment found that no additional school facilities would be required, even with an increase of 1,500 housing units over the next 10-15 years.

e) The proposal will be more efficient and desirable than could be accomplished by the use of the standard method of development.

The optional method of development permits a more efficient and desirable product than the standard method of development.

Under the standard method of development, the project could achieve approximately half the proposed dwelling units and would provide only 5 MPDUs. 11 MPDUs are provided by this project as well as streetscape, a green space and a facility plan for the Battery Lane Park. Under the standard method of development, 10% public use space, a minimal amount of streetscape, and no amenity space would be achieved.

f) The proposal will include moderately priced dwelling units in accordance with Chapter 25A of the Code, if the requirements of that chapter apply.

The proposed development is providing 11 MPDU's on site, 15 percent of the total number of units, in accordance with the provision of Chapter 25A of the Montgomery County Zoning Ordinance.

g) As conditioned, the proposal satisfies any applicable requirements for forest Conservation under chapter 22A.

The Environmental Planning Division reviewed the proposed project. The Plan qualifies for an exemption for a small property, less than 1.5 acres in size. This property is not subject to a Tree Save Plan nor is it within a Special Protection Area. Please see attachment #2 to the March 30, 2006 Staff Report..

h) As conditioned, the proposal satisfies any applicable requirements for water quality resources protection under Chapter 19.

A stormwater management concept plan has been submitted for review to the Department of Permitting Services. The application proposes on-site management.

Community Outreach

On March 9, 2006 the Applicant send a letter to 3 individuals and 2 civic associations offering to meet and discuss the Application (Appendix 3, attachment #4). Staff has received no correspondence from the Battery Lane Residents or the Edgewood Glenwood Civic Associations or any adjacent property owners. The Battery Lane Residents Association has recently expressed concern about the height of the proposed project and about not having met with the Applicant.

APPENDIX

1. Page C6-19, Article 59-C-6.235 of the Montgomery Co. Zoning Ordinance
2. District Council Resolution No. 15-1316
3. Revised Project Plan Conditions presented to the Planning Board on March 30, 2006 and March 30, 2006 Staff Report on The Rugby Condominium w. Attachments
4. Block Map of the Woodmont Triangle Amendment
5. July 5, 2006 letter from David Freishtat
6. June 26, 2006 letter from Chair Carol Trawick of the Bethesda Arts and Entertainment District
7. Development Review Checklist for Project Plan Review

Appendix B: Reviewing Agency Approvals

**MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES
WATER RESOURCES SECTION**

255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850-4153

Date: March 6, 2007

MEMO TO: Robert Kronenberg, Acting Supervisor
Development Review Committee, MNCPPC

FROM: David Kuykendall
Senior Permitting Services Specialist
Water Resources Section, MCDPS

SUBJECT: Stormwater Management Concept Plan/100-Year Floodplain Review
Site Plan # _____
Project Plan # 920070040 _____, The Rugby Condominium
Preliminary Plan # _____, DPS File # 220291
Subdivision Review Meeting of March 12, 2007

The subject plan has been reviewed to determine if it meets the requirements of Executive Regulation 7-02AM for stormwater management and Executive Regulation 108-92 AM for a 100-year floodplain. The following summarizes our findings:

SM CONCEPT PLAN PROPOSED:

- On-site: CPv WQv Both
 CPv < 2cfs, not required
 On-site/Joint Use Central (Regional): waived to
 Existing Concept Approved October 7, 2005
 Waiver: CPv WQv Both
 Approved on _____
 Other _____

Type Proposed:

- Infiltration Retention Surface Detention Wetland Sand Filter
 Separator Sand Filter Non Structural Practices Other _____

FLOODPLAIN STATUS: 100 Year Floodplain On-Site Yes No Possibly

- Provide source of the 100Year Floodplain Delineation for DPS approval:
 Source of the 100-Year Floodplain is acceptable.
 Submit drainage area map to determine if a floodplain study (> or equal to 30 acres) is required.
 Dam Breach Analysis: Approved Under Review:
 100-Year Floodplain study: Approved Under Review:

SUBMISSION ADEQUACY COMMENTS:

- Provide verification of Downstream notification.

RECOMMENDATIONS:

- Approve as submitted with conditions (see approval letter)
 Incomplete; recommend not scheduling for Planning Board at this time.
 Hold for additional information. See below
 Comments/Recommendations: Access(12') and easement around stormwater management structure must be clear.

cc: Steve Federline, Environmental Planning Division, MNCPPC

bl DRC site plan.03/01



FIRE MARSHAL COMMENTS

DATE: 3/26/2007
TO: LOGAN ALOMAR - VIKA
FROM: TYLER MOSMAN
RE: RUGBY CONDO 9-20070050

PLAN APPROVED.

1. Review based only upon information contained on the plan submitted **3-16-07**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

cc: Department of Permitting Services
MNCPPC-MC

DHCA Comments for 3/12/07 DRC
Item 3 - 9200700050, The Rugby Condominium:

- 1) The plan complies with Chapter 25A, Section 5(b)(3) which states:

In multi-family dwelling unit subdivisions, the number of efficiency and one-bedroom MPDUs each must not exceed the ratio that market-rate efficiency and one-bedroom units respectively bear to the total number of market-rate units in the subdivision.

Fifty-three market-rate units and 8 MPDUs are proposed. Of the market-rate units, 29 (55%) would be one-bedroom and 24 (45%) would be two-bedroom. Applying a similar ratio for the MPDUs would yield 4 one-bedroom and 4 two bedroom MPDU units, which is what is proposed by the plan (see chart).

Rugby Condo

Total units	61
Market Rate	
Units	53
MPDUs	8

Bedroom Sizes

	<u>Market</u>	<u>%</u>	<u>MPDUs</u>
0	0	n/a	
1	29	54.72%	4
2+	24	45.28%	4

- 2) Prior to obtaining building permits, the applicant will need to execute an Agreement to Build with DHCA. This agreement “must include the number, type, location and plan for staging construction of all dwelling units and such other information as the Department requires to determine the applicant’s compliance with this chapter.” (Chapter 25A, Section 5(i))
- 3) The MPDUs should be distributed among the residential floors.

WSSC Comments

March 12, 2007 Development Review Committee Meeting

3. 9-20070050 THE RUGBY CONDOMINIUM

Water and sewer mainlines are available for the site.

The existing 6 inch water mainline may require replacement to a larger size main to accommodate this site. The Applicant/Engineer has the option to submit a hydraulic package to the Development Services Hydraulic Unit for review prior to the WSSC Onsite review process if desired.

Water and sewer service locations may require realignment through the WSSC Onsite review process. Recommend realigning sewer service pipeline outside of the landscape planter box to avoid possible future root problems and maintenance issues.

Follow WSSC Demolition procedures to abandon water and sewer connections and to obtain a County Raze permit.

Unless otherwise noted, all extensions require Requests for Hydraulic Planning Analysis and need to follow the System Expansion Permit (SEP) Process. Contact WSSC's Development Services Center (301-206-8650) or visit the Development Services on WSSC's web-site (www.wsscwater.com) for information on requesting a Hydraulic Planning Analysis and additional requirements for extensions. Contact WSSC's Permit Services (301-206-4003) for information on service connections and on-site system reviews.

**MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES
WATER RESOURCES SECTION**

255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850-4153

Date: March 6, 2007

MEMO TO: Robert Kronenberg, Acting Supervisor
Development Review Committee, MNCPPC

FROM: David Kuykendall
Senior Permitting Services Specialist
Water Resources Section, MCDPS

SUBJECT: Stormwater Management Concept Plan/100-Year Floodplain Review
Site Plan # _____,
Project Plan # 920070040 _____, The Rugby Condominium
Preliminary Plan # _____, DPS File # 220291
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- On-site:** CPv WQv Both
 CPv < 2cfs, not required
 On-site/Joint Use Central (Regional): waived to
 Existing Concept Approved October 7, 2005
 Waiver: CPv WQv Both
 Approved on _____
 Other

Type Proposed:

- Infiltration Retention Surface Detention Wetland Sand Filter
 Separator Sand Filter Non Structural Practices Other

FLOODPLAIN STATUS: 100 Year Floodplain On-Site Yes No Possibly

- Provide source of the 100Year Floodplain Delineation for DPS approval:
 Source of the 100-Year Floodplain is acceptable.
 Submit drainage area map to determine if a floodplain study (> or equal to 30 acres) is required.
 Dam Breach Analysis: Approved Under Review:
 100-Year Floodplain study: Approved Under Review:

SUBMISSION ADEQUACY COMMENTS:

- Provide verification of Downstream notification.

RECOMMENDATIONS:

- Approve as submitted with conditions (see approval letter)
 Incomplete; recommend not scheduling for Planning Board at this time.
 Hold for additional information. See below
 Comments/Recommendations: Access(12') and easement around stormwater management structure must be clear.

cc: Steve Federline, Environmental Planning Division, MNCPPC

bl DRC site plan.03/01



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

April 6, 2007

MEMORANDUM

TO: Elza Hisel-McCoy, Planner/Coordinator
Development Review Division

Dolores Kinney, Senior Planner
Development Review Division

VIA: Shahriar Etemadi, Supervisor
Transportation Planning

FROM: Ed Axler, Planner/Coordinator
Charles S. Kines, Planner/Coordinator
Transportation Planning

SUBJECT: Rugby Condominium
Preliminary Plan # 1-06029 and Project Plan # 9-06005
Bethesda Central Business District



This memorandum is Transportation Planning staff's Adequate Public Facilities (APF) review and approval of the subject preliminary and project plan application to construct 61 residential units in downtown Bethesda.

RECOMMENDATION

We recommend approval of the above referenced preliminary and project plans with the following conditions as part of the APF test for transportation requirements related to the Local Area Transportation Review (LATR):

1. Limit the development to 61 high-rise residential units.
2. Provide one bike rack in front of the entrance and four bicycle lockers in the proposed structured parking garage.

3. Participate with others, including Park and Planning and the Department of Public Works and Transportation, to reconfigure the intersection of Rugby Avenue at Auburn Avenue for improved pedestrian access and safety.

DISCUSSION

Site Location, Access, Circulation, and Parking

The subject property is located at the corner of Rugby Avenue and Auburn Avenue in Bethesda, between Woodmont Avenue and Glenbrook Road in the Bethesda Central Business District (CBD). The proposed development occupies the northern side of Rugby Avenue, opposite the terminus of Auburn Avenue. The development proposes to construct up to 61 residential units within a 10-story building, with direct vehicular access from Rugby Avenue. The proposed access driveway is aligned with Auburn Avenue within the Auburn Avenue/Rugby Avenue intersection. Future roadway improvements to this intersection may involve a geometric modification that will improve pedestrian access across the intersection.

Local Area Transportation Review

The proposed development of 61 residential units is anticipated to generate 18 morning peak hour trips and 18 evening peak hour trips during a regular weekday. As such, the development does not require a traffic impact study (per the LATR Guidelines). However, a detailed traffic impact statement was provided to discuss the likely impact to the adjacent transportation infrastructure.

The traffic impact statement concluded that no significant impact or increase in congestion is anticipated. All nearby intersections currently operate within the established Bethesda CBD Critical Lane Volume (CLV) threshold of 1,800 vehicles.

Master Plan Roadways and Bikeways

Rugby Avenue is a residential street of Bethesda's Central Business District with an ultimate right-of-way of 60 feet east of Auburn Avenue. Auburn Avenue is a Business Street of sixty feet ultimate right-of-way. As the proposed development occupies the northern side of Rugby Avenue (east of its intersection with Auburn Avenue), the applicant will dedicate land to equal thirty feet, as measured from the centerline in accordance with the Bethesda CBD Sector Plan.

According to the *Countywide Bikeways Functional Master Plan*, an alternative shared-use path (SR - 7 & SR - 10) is proposed to access the National Institute of Health property north of the site via the Glenbrook Road alignment. No proposed or existing bicycle facilities are located within the proposed development.

Pedestrian Access

The northern side of Rugby Avenue does not have a marked pedestrian crosswalk at the intersection of Auburn Avenue. There are long-term plans for more efficient traffic (vehicular and pedestrian) circulation through this intersection by means of realigning the approach lanes on Auburn Avenue and shortening the north-south pedestrian crossing distance. At this time, the applicant will participate on a pro rata basis (using daily trips generated) with other parties to implement this improvement. The project proposes to tie into the existing network of pedestrian facilities within the Bethesda CBD.

EA:mj

mmo to Hisel-McCoy re Rugby Condos



DEPARTMENT OF PUBLIC WORKS
AND TRANSPORTATION

Douglas M. Duncan
County Executive

Arthur Holmes, Jr.
Director

March 9, 2006

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #1-06029
The Rugby Condominium

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated 8/22/05. This plan was reviewed by the Development Review Committee at its meeting on 02/06/06. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Show all existing planimetric and topographic details specifically storm drainage, driveways adjacent and opposite the site, sidewalks and/or bikeways, complete limit of disturbance as well as existing rights of way and easements on the preliminary plan.
2. Necessary dedication for Rugby Ave in accordance with the master plan.
3. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
4. We did not receive complete analyses of the capacity of the downstream public storm system(s) and the impact of the post-development runoff on the system(s). As a result, we are unable to offer comments on the need for possible improvements to the system(s) by this applicant. Prior to approval of the record plat by the Department of Permitting Services (DPS), the applicant's consultant will need to submit this study, with computations, for review and approval by DPS. Analyze the capacity of the existing downstream public storm drain system and the impact of the post-development ten (10) year storm runoff on same. If the proposed subdivision drains to an existing closed section street, include spread and inlet efficiency computations in the impact analysis.



Division of Operations

101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878
240/777-6000, TTY 240/777-6013, FAX 240/777-6030

14

Ms. Catherine Conlon
Preliminary Plan No. 1-06029
Date March 9, 2006
Page 2

5. The sight distances study has **not** been accepted. Prior to approval of the record plat by DPS, the applicant's engineer will need to submit a revised sight distances certification. The revised form will need to reflect the minimum of two hundred (200) feet of sight distance in each direction of Rugby Ave.
6. In accordance with Section 49-35(e) of the Montgomery County Code, sidewalks are required to serve the proposed subdivision.
7. The parking layout plan will be reviewed by the Department of Permitting Services at the site plan or building permit stage, whichever comes first. To facilitate their review, that plan should delineate and dimension the proposed on-site travel lanes, parking spaces, curb radii, handicap parking spaces and access facilities, and sidewalks. The applicant may wish to contact Ms. Sarah Navid of that Department at (240) 777-6320 to discuss the parking lot design.
8. Curb radii for intersection type driveways should be sufficient to accommodate the turning movements of the largest vehicle expected to frequent the site.
9. In order to ensure adequate driveway capacity, particularly egress volume, provide a minimum fifty (50) foot tangent section before encountering cross traffic on-site, for all driveways.
10. The parking lot travel lanes are to be designed to allow a WB-50 truck to circulate without crossing the centerline nor the curbline.
11. The applicant needs to submit a truck circulation plan for review by the M-NCPPC and MCDPS. This plan should delineate the proposed movements on-site between the anticipated access locations, the proposed truck loading spaces, and the proposed dumpsters. The truck circulation pattern and loading position should be designed for counter-clockwise entry and for a left-side backing maneuver. Passenger vehicle travel ways should be separated from the expected truck patterns and storage areas. The applicant may also need to provide documentation of their proposed delivery schedules.
12. Truck loading space requirements to be determined in accordance with the DPWT "Off-Street Loading Space" policy.
13. On the site plan, delineate the location and dimensions of the proposed truck loading and/or dumpster spaces.
14. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans With Disabilities Act.
15. For any parking facility containing more than fifty (50) parking spaces, the applicant needs to furnish bicycle parking facilities as required Section 59 E-2.3 of the Montgomery County Code. Accordingly, the applicant should provide either bike lockers or inverted "U" type bike racks.
16. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.

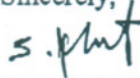
Ms. Catherine Conlon
Preliminary Plan No. 1-06029
Date March 9, 2006
Page 3

17. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
18. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Fred Lccs of our Traffic Control and Lighting Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
19. Trees in the County rights of way - species and spacing to be in accordance with the applicable DPWT standards. A tree planting permit is required from the Maryland Department of Natural Resources, State Forester's Office [(301) 854-6060], to plant trees within the public right of way.
20. Please coordinate with DPWT division of Transit Services about their requirements and project impacts on their network.
21. Please coordinate with Department of Fire and Rescue about their requirements for access.
22. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
 - A. Construct five (5) foot wide concrete sidewalk along the site frontage.
 - B. Improvements to the existing public storm drainage system, if necessitated by the previously mentioned outstanding storm drain study. If the improvements are to be maintained by Montgomery County, they will need to be designed and constructed in accordance with the DPWT Storm Drain Design Criteria.
 - C. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
 - D. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
 - E. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Traffic Engineering and Operations Section.

Ms. Catherine Conlon
Preliminary Plan No. 1-06029
Date March 9, 2006
Page 4

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at sam.farhadi@montgomerycountymd.gov or (240) 777-6000.

Sincerely,



Sam Farhadi, P.E., Senior Planning Specialist
Traffic Safety Investigations and Planning Team
Traffic Engineering and Operations Section

m:/subdivision/farhas01/preliminary plans/1-06029, The Rugby Condominium.doc

Enclosures 0

cc: James Alexander, Rugby Ave LLC
Kathleen Kulenguski, Vika
Dave Freishtat, Shulman, Rogers, Gandal, Pordy & Ecker, P.A.
Joseph Y. Cheung; DPS RWPPR
Christina Contreras; DPS RWPPR
Sarah Navid; DPS RWPPR
Shahriar Etemadi; M-NCPPC TP
Gregory Leck, DPWT TEOS

EPD Recommendation to Dev Rev Div: X Approve w/conditions as noted below

**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
DEVELOPMENT REVIEW COMMITTEE RECOMMENDATIONS**

TO: Elza Hisel-McCoy
Development Review Division

SUBJECT: Plan # 9-07005 , Name The Rugby Condominium
DRC date: Monday, March 12, 2007

The above-referenced plan has been reviewed to determine if it meets requirements of the Guidelines for Environmental Management of Development in Montgomery County, and other county regulations that may apply. The following recommendations are made for the DRC meeting:

SUBMITTAL ADEQUACY

X Plan is complete. (see recommendations below)

EPD COMMENTS:

1. This plan is exempt from Forest Conservation Law as per 4-06002E, Small Property (7/26/2005). No Tree Save Plan is required for this property.
2. This project may need to comply with County Council Bill 17-06, Montgomery County Green Buildings Law, depending on the building permit filing date. The applicant should develop a comprehensive plan now in order to achieve this. LEED points can be achieved using such diverse measures as green roofs, green building materials, energy saving measures, and waste reduction plans. Regardless of applicability, the applicant is encouraged to investigate green technologies and design to minimize energy use and mitigate environmental impacts of development.

SIGNATURE: _____
Amy Lindsey (301)495-2189
Environmental Planning Division

DATE: 03/13/2007

Reminder: Address your submissions/revisions to the Reviewer who completed the Comments sheet.
Put the Plan numbers on your cover/transmittal sheets.

**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
FOREST CONSERVATION RECOMMENDATIONS**

TO: Plan review staff, Environmental Planning Section

SUBJECT: Project Name Woodmont Triangle/Rugby Ave. Date Recd 7/15/05
NRI/FSD # 4-06002E

The above-referenced plan has been reviewed by the Environmental Planning Division to determine the requirements of Chapter 22A of the Montgomery County Code (Forest Conservation Law). A determination has been made that the plan qualifies for the following exemption:

EXEMPTION:

Small Property

Activity occurring on a tract less than or equal to 1.5 acre in size where there is no existing forest and afforestation requirements would be less than 10,000 square feet, and no specimen or champion trees will be disturbed;

Activity occurring on a tract less than or equal to 1 acre in size where activity will not result in the clearing of more than 30,000 square feet of existing forest, or any specimen or champion trees, and reforestation requirements would be less than 10,000 square feet.

Note: *Tree Save Plan, including preservation and/or replanting of individual trees is required in lieu of a FCP where trees are impacted. Forest within any priority area on-site must be preserved.*

NOTE: *Per section 22A-6(b) of the Forest Conservation Law, Tree Save Plans may be substituted for Forest Conservation Plans on properties where the proposed development is exempt from Forest Conservation except that it involves clearing of specimen or champion trees.*

This property is not subject to a Tree Save Plan.

This property is not within a Special Protection Area.

Signature: Candy Bunnag ^{OB} Date: 7/26/05
, Environmental Planning

cc: Elliot Schnitzer, Hampden Lane Associates (fax: 301-657-8339)

fcpxemption.doc r01/03

Post-It* Fax Note	7671	Date	7/26	# of pages	1
To	Elliot Schnitzer	From	Candy Bunnag		
Co./Dept	Hampden Lane Assoc.	Co.	MNCPPC		
Phone #		Phone #	301 495 4543		
Fax #	301 657 8339	Fax #			

Appendix C: Commitment to Facility Plan for Battery Lane Urban Park



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

April 19, 2007

MEMORANDUM

TO: Elza Hisel-McCoy, Development Review Division

VIA: Judy Daniel, Team Leader, Bethesda-Chevy Chase Team
Community-Based Planning Division *JD*

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

SUBJECT: The Rugby Condominium
920070050
CBD-1 Zone, 61 DU including 8 MPDUs

RECOMMENDATION: Community-Based Planning recommends approval of the project as revised. The proposed project is in conformance with the Woodmont Triangle Amendment to the 1994 Sector Plan for the Bethesda Central Business District.

BACKGROUND

Community-Based Planning staff took a previous version of the Rugby Condominium project plan proposal before the Planning Board in July 2006 with a recommendation of denial. The Planning Board denied the project, because it did not comply with the Zoning Ordinance or the Woodmont Triangle Amendment.

The Applicant has revised the proposal to comply with the Zoning Ordinance limit of 90 feet maximum height, to provide sufficient and usable public use space on site and an acceptable amenity package.

DISCUSSION OF PUBLIC USE SPACE AND AMENITIES

The public use space meets the minimum requirement for public use space on site. In addition, the proposal addresses several criteria listed in the Woodmont Triangle Amendment by providing a facilities plan to improve Battery Lane Urban Park, by providing studio space for emerging artists, and by adding to the diversity in the network of public spaces in the Woodmont Triangle.

The Woodmont Triangle Amendment contains a list of amenities desired by the greater Woodmont Community on page 16 of the Amendment. Art studio space where "emerging" artists can work and exhibit is on that list. Members of the Board of the

Bethesda Arts and Entertainment District, the Montgomery County Arts and Humanities Council and Park and Planning staff will review the art space proposed in the Rugby project. Before the site plan can be approved, the Applicant will develop a contract for the management of the amenity art space with the Bethesda Urban Partnership (BUP). The contract will be modeled on the contract signed between the Patrinely Group/Trillium (approved as 8400 Wisconsin Avenue, site plan #8200603600, July 6, 2006) and Montgomery County for BUP.

The four artists studios are on the first floor and are provided with doors opening out on to the plaza. Art activities and exhibits can use the plaza in good weather and help animate this public space, which is somewhat removed from Woodmont Triangle's center of activity. BUP and the Arts and Entertainment District organize tours of studios and cultural venues in the Woodmont Triangle, and Rugby Avenue is on that tour, with a photography studio and music school across the street. The proposed studio space for emerging arts will add to the cluster of public art events in the north end of the Woodmont Triangle District.

The proposed public plaza has an interesting paving pattern incorporating elements of the Bethesda streetscape and the materials of the architecture. Four stone benches are integrated in the modern design of the plaza. During art events, movable chairs should be provided so the public can arrange seating as needed.

The applicant will provide several concepts for improvements to Battery Lane Urban Park. Working with the Parks Department, the Applicant will present the concepts to the community, and a preferred alternative will be presented to the Parks commission prior to site plan approval.

Community-Based Planning recommends approval of this improved proposal for the Rugby Condominium.

MC:tv: G:/Clemens/Rugby2007