



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

Item #
MCPB 4.10.08

MEMORANDUM

DATE: March 28, 2008
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief *IdyK*
Robert A. Kronenberg, Supervisor *2008-08*
Development Review Division
FROM: Elza Hisel-McCoy, Assoc. AIA, LEED-AP *ELM*
Development Review Division
elza.hisel-mccoy@mncppc-mc.org
(301) 495-2115



REVIEW TYPE: **Site Plan Review**
CASE #: **820070260**
PROJECT NAME: **The Rugby Condominium**
APPLYING FOR: Approval of 61 multi-family units including 8 MPDUs, 13.1% of the total units, on 0.47 acres
REVIEW BASIS: Div. 59-D-3 of 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: 2006 Woodmont Triangle Amendment to the 1994 Sector Plan for the Bethesda CBD
APPLICANT: 4851 Rugby Avenue, LLC
FILING DATE: June 13, 2007
HEARING DATE: April 10, 2008

STAFF RECOMMENDATION: Approval of 61 multi-family dwelling units, including 8 Moderately Priced Dwelling Units (MPDUs), on 0.47 acres. All site development elements as shown on the site and landscape plans stamped by the M-NCPPC on March 17, 2008, shall be required except as modified by the following conditions:

1. Project Plan Conformance
The proposed development shall comply with the conditions of approval for Project Plan 920070050 as listed in the Planning Board opinion dated September 20, 2007;
2. Preliminary Plan Conformance
The proposed development shall comply with the conditions of approval for Preliminary Plan 120060290 as listed in the Planning Board opinion dated September 21, 2007;

3. Public Use Space and Amenities

- a. The Applicant must provide at least 20 percent of the net site area as on-site public use space and at least 24 percent as off-site public amenity space, to include streetscaping, intersection improvements, and artist studios;
- 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 provide a minimum of 2,000 square feet of interior space for use as artist studios and exhibition space, as indicated on the Site Plan, subject to acceptance by the Bethesda Urban Partnership and the Bethesda Arts and Entertainment District. Sale of artworks in these spaces are prohibited. The façade treatment of the artist studio spaces shall conform substantially to the diagrammatic elevations included in the Certified Site Plan;
- d. Bethesda Urban Partnership and the Bethesda Arts and Entertainment District shall verify that the on-site artist studio spaces have been completed per the approved site plan drawings before use and occupancy permit;
- e. 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;

4. Streetscape

- a. Underground all utilities 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;

5. Lighting

- a. Provide lighting distribution diagrams for lighting fixtures and a photometric plan for the site;
- b. All private exterior area and down-light fixtures shall be full cut-off fixtures;
- c. Deflectors shall be installed on all private exterior up-light and accent light fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties;
- d. The height of the light poles, including the mounting base, shall not exceed the heights specified in the Certified Site Plan;

6. Facilities Plan for Battery Lane Urban Park

- a. Provide a complete Facilities Plan for Battery Lane Urban Park as described in the Scope of Work entitled "Battery Lane Urban Park Process", included as Attachment A of this report;
- b. The Applicant shall coordinate its effort on the plan with the Parks Development staff as described in the approved Scope of Work;
- c. For the completion of the Facilities Plan, the Applicant must obtain the services of an experienced and skilled design team. The team will be "designer-lead" by a landscape architect who can demonstrate a proven track record of innovative and sustainable design for public urban parks. The design team and project manager shall be pre-approved by the Park Development Division;
- d. The Applicant must complete the Facility Plan and obtain Planning Board approval of the Facilities Plan prior to Certified Site Plan;

7. LEED Certification

The proposed building shall achieve LEED (Leadership in Energy and Environmental Design) Certification, as defined by the U.S. Green Building Council (USGBC) under the LEED Standard for New Construction & Major Renovation (LEED-NC), or other Standard, as required by Montgomery County Department of Permitting Services;

8. Moderately Priced Dwelling Units (MPDUs)

The Applicant shall provide on site 13.1% of the total number of units, consistent with the requirements of Chapter 25A. The Applicant is receiving a 6% density bonus for providing MPDUs on the site;

9. Transportation

- a. The Applicant shall 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. This improvement shall be completed before use and occupancy permit can be issued;
- b. The Applicant shall comply with the following conditions of approval from M-NCPPC-Transportation Planning in the memorandum dated March 28, 2008:
 - i. Limit the development to 61 high-rise residential units;
 - ii. Provide one inverted-U bike rack in front of the entrance and four bicycle lockers in the proposed structured parking garage;
 - iii. Reconfigure the intersection of Rugby Avenue and Auburn Avenue for improved pedestrian access and safety as indicated on the submitted site plan to be implemented prior to issuance of use and occupancy permit;

10. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated October 7, 2005, unless amended by the Montgomery County Department of Permitting Services;

11. Development Program

Applicant shall construct the proposed development in accordance with a Development Program. The Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the Certified Site Plan and shall stipulate, at a minimum:

- a. The Public Use Space and Amenities, including streetscaping, the artist studios, and seating areas and bike racks, shall be completed as construction of the building is completed;
- b. Street tree planting shall progress as streetscape and intersection improvements are completed, but no later than the next growing season after completion of the building and plaza;
- c. Landscaping associated with the building and public plaza shall be completed as construction is completed, but no later than the next growing season after completion of the building and public plaza;
- d. The on-site artist studios shall be completed per the approved site plan and accepted by Bethesda Urban Partnership and/or the Bethesda Arts and Entertainment District before issuance of the use and occupancy permit;

- e. Intersection improvements shall be completed before issuance of the use and occupancy permit;
- f. Clearing and grading shall minimize soil erosion;

12. Clearing and Grading

No clearing or grading prior to M-NCPPC approval of the certified site plan;

13. Certified Site Plan

Prior to approval of the certified site plan, the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Planning Board-approved Facilities Plan for Battery Lane Urban Park;
- b. Development program, inspection schedule, site plan index, and site plan resolution;
- c. Limits of disturbance.

PROJECT DESCRIPTION: Site 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 located within one block, including 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.



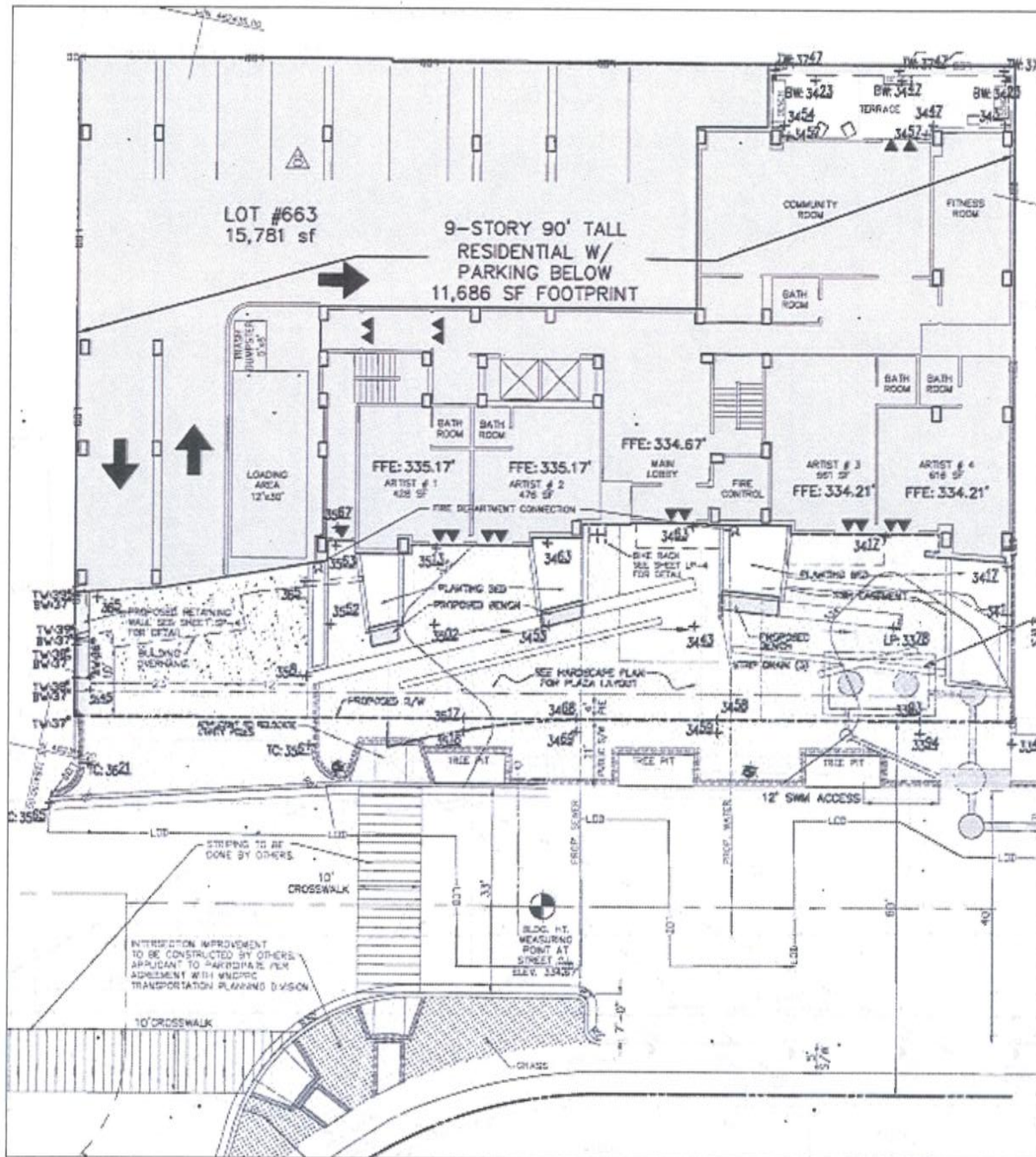
Site Aerial View



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.

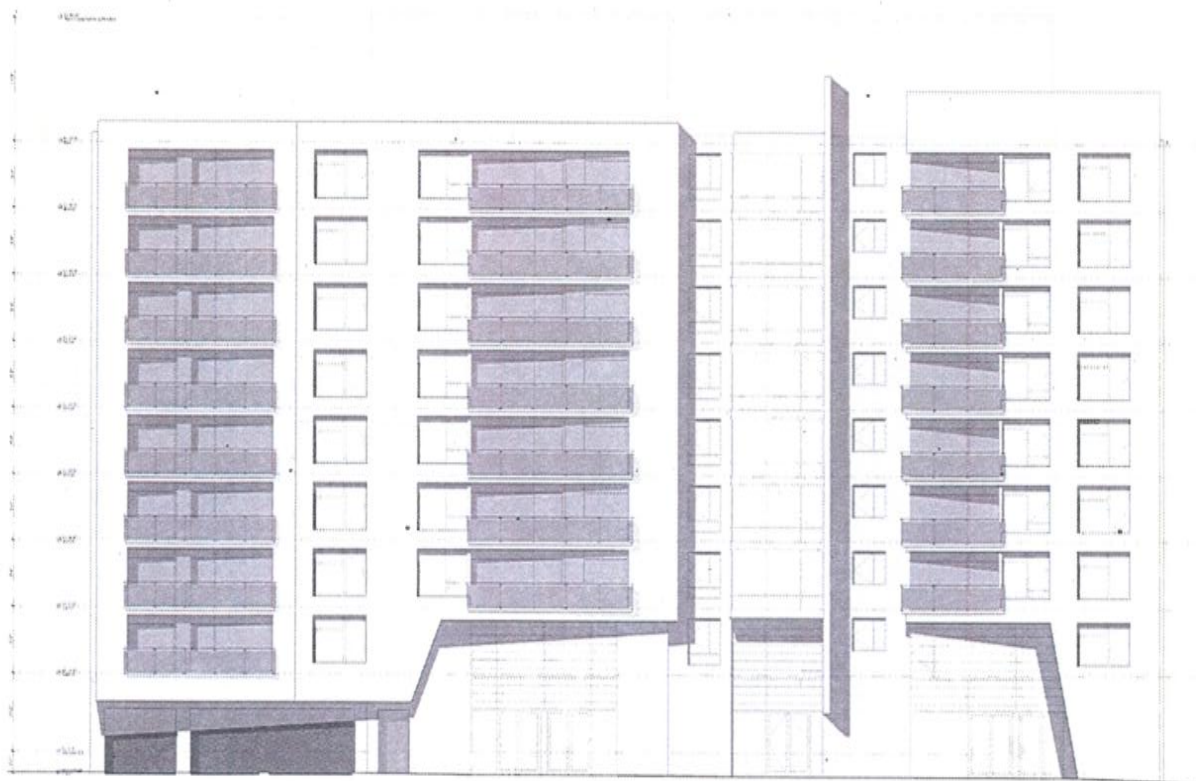


Site Plan

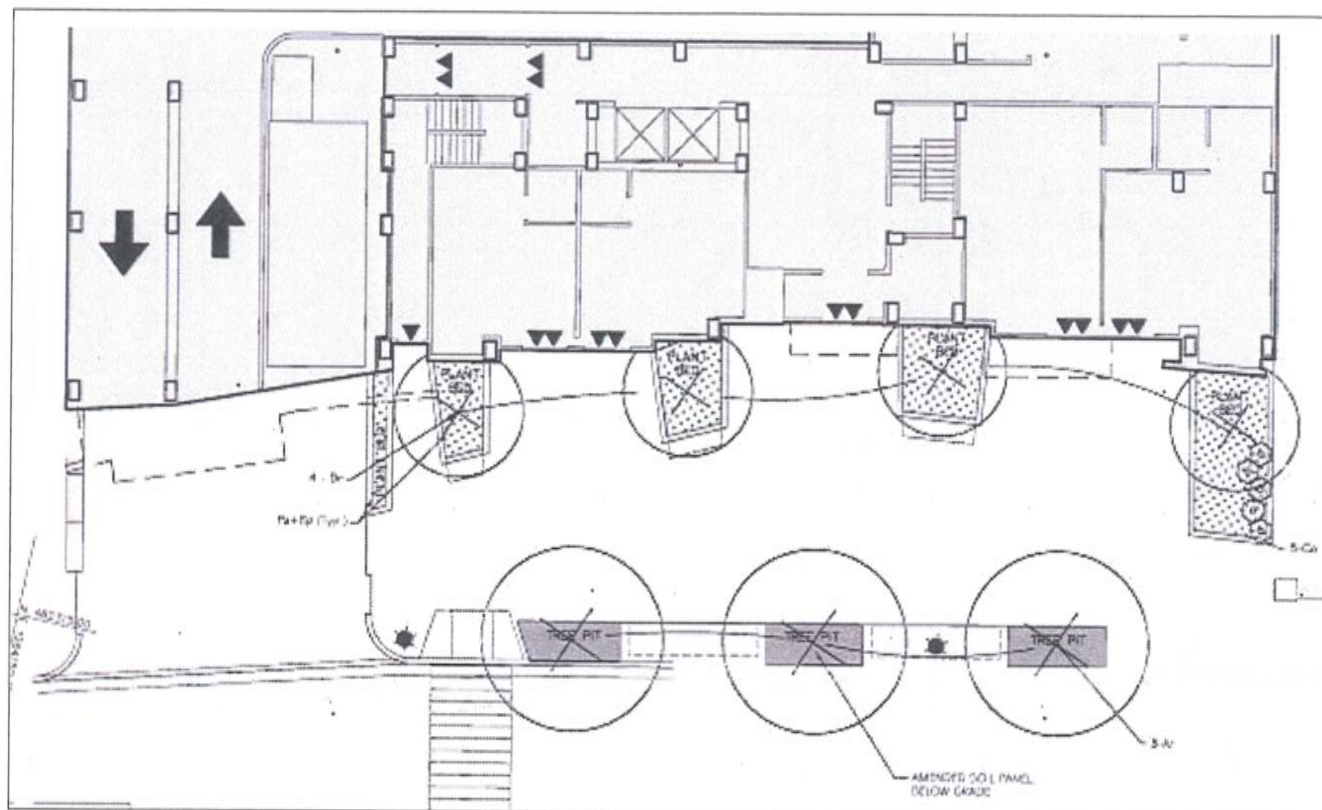
Building Design

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 terrace, as well as four artist studios. The artist studios, totaling about 2,000 square feet, are accessible only from the exterior and each has its own bathroom.

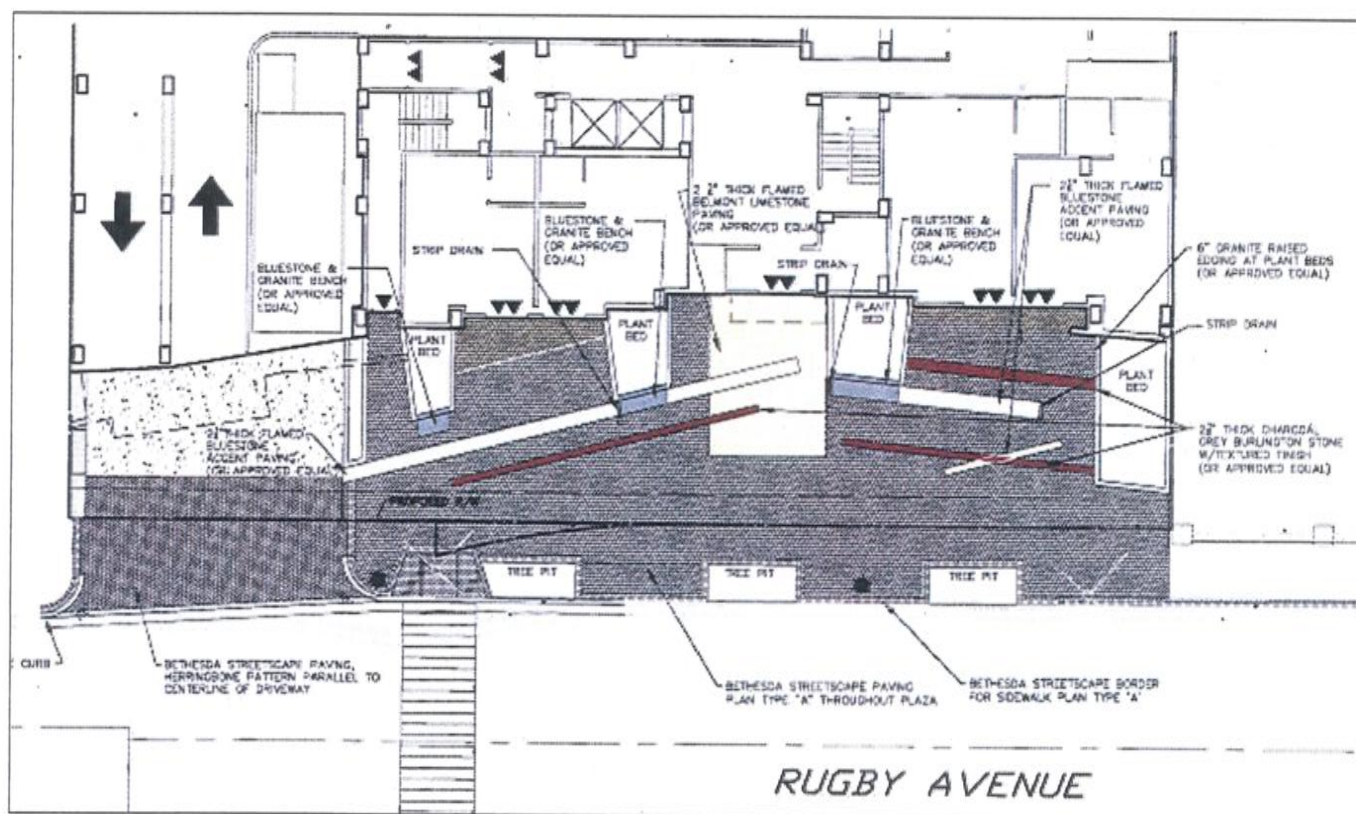
The front elevation of the building steps into the site, shaping the public plaza. The entrance to the building occurs in the middle of this plaza and is highlighted by the strong verticality of the architectural elements. Under the eaves of the projecting façade above, the artist galleries open directly 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



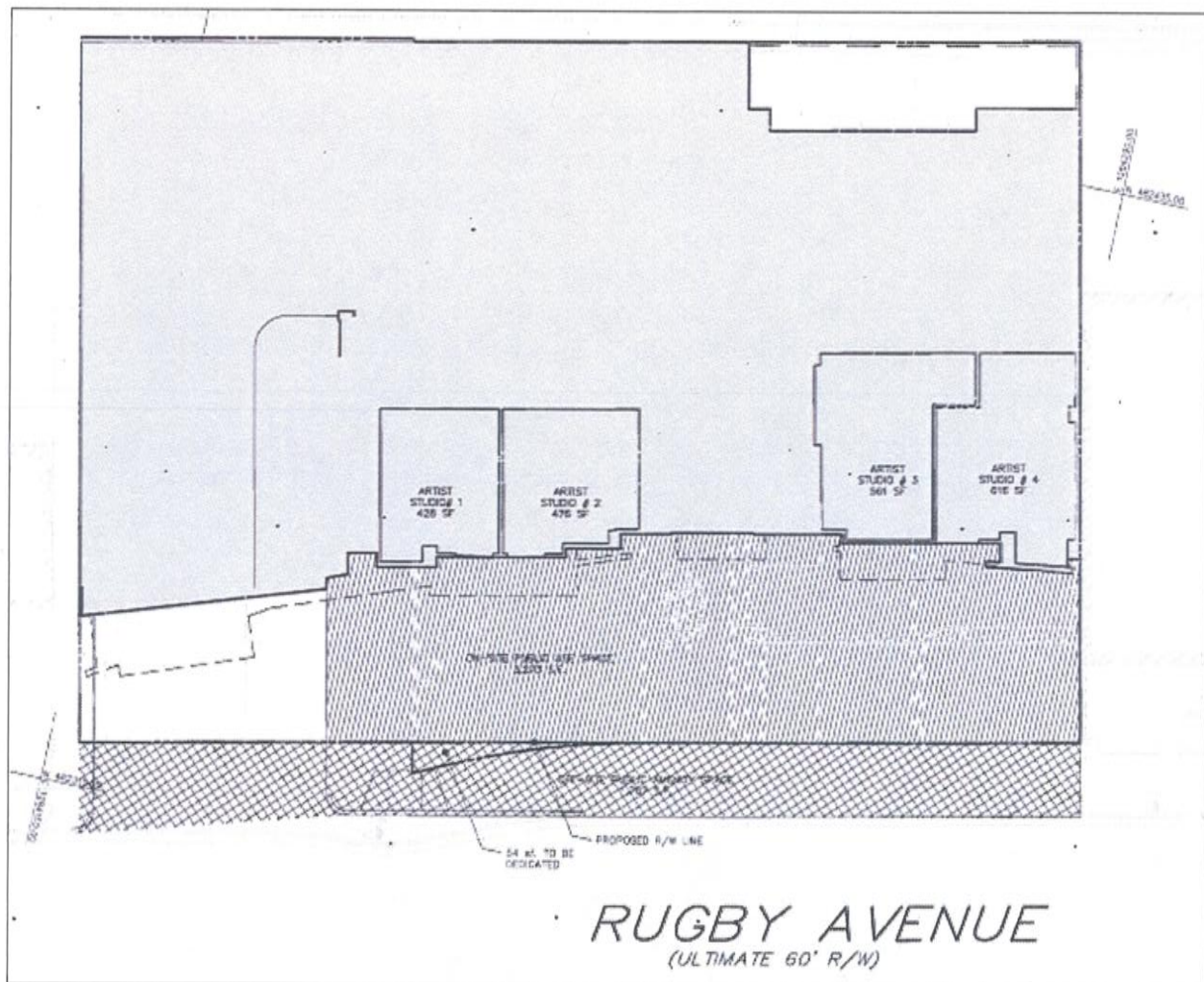
Proposed Plaza Landscape Plan



Proposed Plaza Hardscape Plan

Public Use Space and Amenities

The Applicant proposes to provide on site 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 streetscape as well as 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.



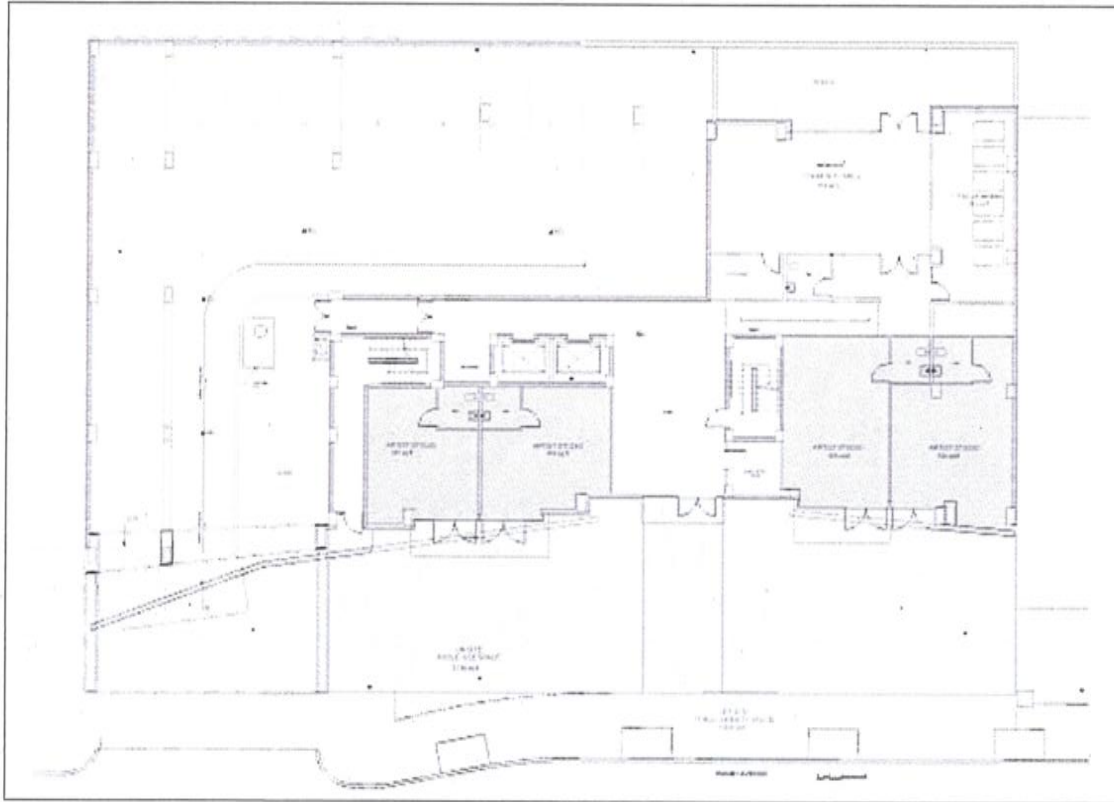
Public Use and Amenity Space

Artist Studios

The Applicant is proposing four artist studios, totaling not less than 2,000 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.

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).

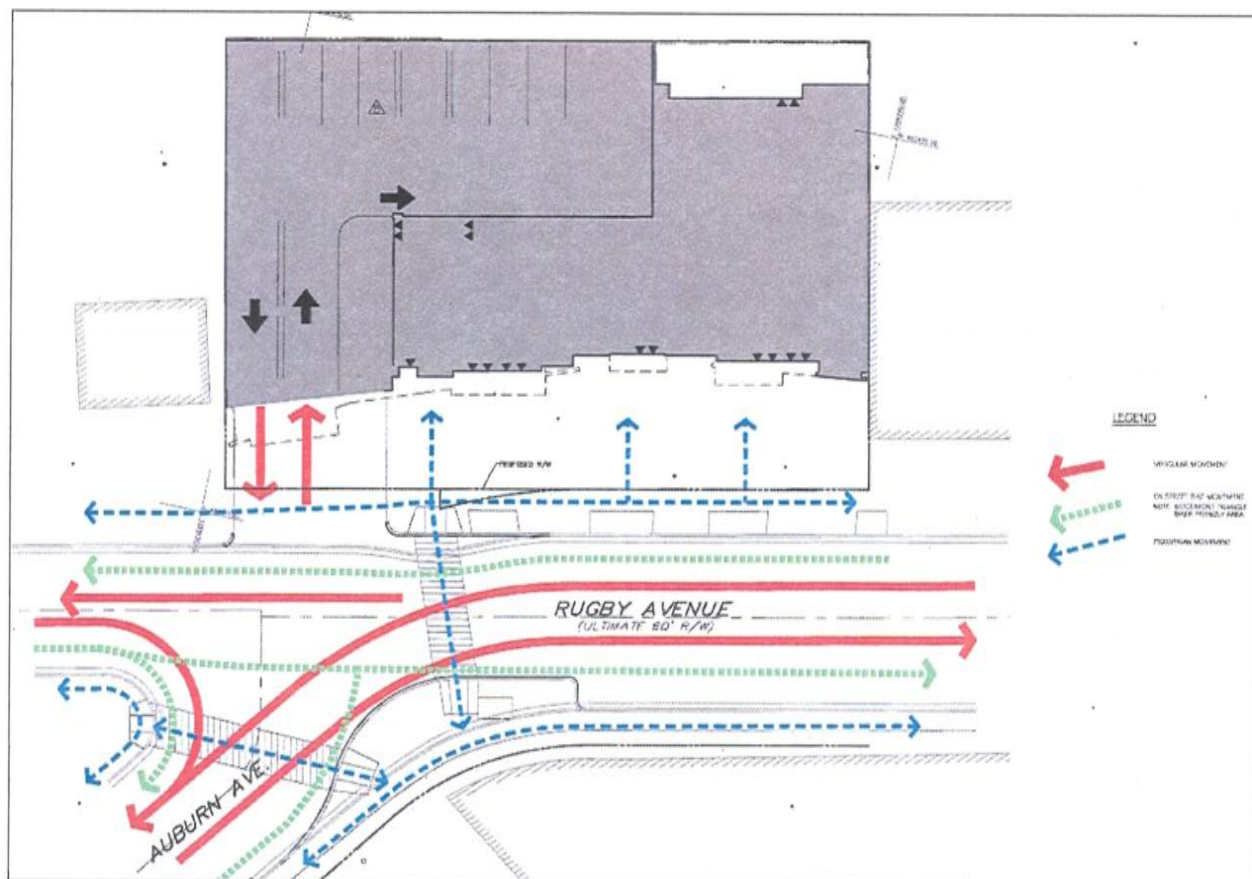
Pedestrian and Vehicular Access

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 Avenue along western edge of the south façade. The 3-level parking garage under the building will provide 100 parking spaces, more than adequately serving the needs of the residents. It will include bicycle and motorcycle parking.



Circulation Diagram

ANALYSIS:

Conformance to Development Standards

PROJECT DATA TABLE (CBD-1 Zone)

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 ¹
Market-rate units		53
MPDUs		8
MPDU provision (minimum percentage)	12.5	13.1
Public use space (minimum percent of net lot area)	20	20.74
On-site (sf.)	3,156	3,273
Off-site amenity space (sf.)		3,788
Total public use and amenity space (sf.)		7,061
As a percentage of net lot area (percent)		44.7
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		10
Rear		0
Side		0
Parking, minimum	70	100
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	

¹ As noted at Project Plan, 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.

Conformance to Master Plan

The Sector Plan locates this property in Block 15, with the following guidance. The CBD-1 zoning remains, with FAR limited to 3.0, and height limited to 90 feet. The Applicant is coordinating with the Parks Department to prepare a facility plan for the Battery Lane Urban Park, one of the public amenity and facility priorities in the Sector Plan. The development will also provide artist studio spaces, as recommended in the Sector Plan.

Local Area Transportation Review

As indicated at Preliminary Plan, the traffic impact statement concluded that no significant impact or increase in congestion is to be anticipated.

FINDINGS: For Site Plan Review

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

Consistent with the approved Project Plan, the Site Plan includes and refines all the elements of the approved Project Plan, including the building size, layout, and location and the design and landscaping of the arts plaza in front of the building.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the CBD-1 zone as demonstrated in the Project Data Table above.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Locations of buildings and structures

Though set back from the street to provide for an urban public plaza, the Rugby Avenue Condominium building is located proximal and parallel to Rugby Avenue, helping to define the public space of the street for passers-by and to improve security in front of the building by providing residents a clear view of the street and plaza. The location of the building is adequate, safe, and efficient.

b. Open Spaces

The plan proposes 3,273 square feet of open space on site, or 20.74 percent of the property. The open space is an arts-oriented plaza located between the building and Rugby Avenue, forming a forecourt between the sidewalk and the building entrance. The plaza is designed in coordination with four artist studios that open directly onto the plaza, both to invite and engage the public in the creative processes happening inside and to facilitate community arts events. The design of

the open space will be a major contribution to the public life of the street and is adequate, safe, and efficient.

c. Landscaping and Lighting

The proposed landscaping on the site consists of a series of planting beds in the plaza, each typically containing ground cover and a flowering specimen tree. Other planting areas include evergreen shrubs. The on-site lighting is intended to illuminate the building entrances and highlight the specimen trees. The design will limit light trespass and provide a safe, inviting environment. The landscape and lighting are adequate, safe, and efficient.

d. Recreation Facilities

The Site Plan is satisfying recreation demand through a combination of private on-site exercise facilities and meeting and seating areas and existing off-site amenities including an extensive pedestrian and bicycle system and the nearby Battery Lane Urban Park. The site is ideally situated to provide pedestrian access to the Bethesda CBD, bike trails, and other recreational amenities. The recreation facilities accessible to residents will be adequate, safe, and efficient.

e. Pedestrian and Vehicular Circulation Systems

Located on an urban street, pedestrian access to the site is provided directly in front of the building via the existing sidewalk system. Vehicular access to the loading area and parking garage is provided from Rugby Avenue and is well-separated and screened from the arts plaza and building entrance by landscape elements. Pedestrian and vehicular circulation systems are adequate, safe, and efficient.

4. *Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development.*

The project complements 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-family buildings a block away. The project site is located between apartments and multi-family buildings 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 nine 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.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

As indicated in the Environmental Planning staff memo dated July 15, 2005, this property is exempt from Forest Conservation as a small property of less than 1.5 acres.

The proposed stormwater management concept, approved by the Department of Permitting Services on October 7, 2005, consists of on-site underground vaults located under the plaza.

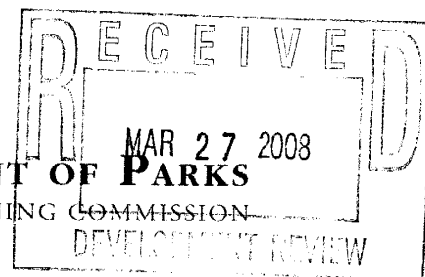
APPENDIX

- A. Battery Lane Urban Park Facilities Plan Scope of Work
- B. Reviewing Agency Letters
- C. Planning Board opinion for Project Plan 9-20070050
- D. Planning Board opinion for Preliminary Plan 1-20060050

APPENDIX A: BATTERY LANE URBAN PARK FACILITIES PLAN SCOPE OF WORK



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



Date: March 24, 2008

To: Elza Hisel-McCoy, Planner Coordinator, Development Review Division

From: Linda Komes, Project Manager, Park Development Division

Via: Michael Ma, Acting Supervisor, Park Development Division

Re: The Rugby Condominium, Site Plan #820070260/Battery Lane Urban Park

Staff from the Park Development Division of the Department of Parks have met with Mr. James Alexander, the developer of the proposed Rugby Condominium project to discuss and review the developer's requirement to provide a facility plan for the improvement of nearby Battery Lane Urban Park. Condition 5c of Project Plan 920070050 states that "The Applicant will also provide a Facility Plan for the improvement of nearby Battery Lane Urban Park. The final scope of this plan will be determined at site plan".

On August 29, 2007 the developer submitted a proposed scope of services to Park Development Division staff for review. Staff found the proposal deficient in several areas. It did not include a community meeting during the early phases of the project, it specifically excluded the provision of arborist services, (a critical element in the renovation of an existing community park with many mature trees), and it did not include the provision of a cost estimate, one of the most important products of the facility planning process. On November 7, 2007, staff provided the developer with a typical scope of work to be followed in developing a facility plan for the park. The sample scope of work is included as Attachment 'A' to this memo. After significant discussion, the developer has agreed to accept the scope of work as provided by staff.

The typical scope of work requires the developer to hold two community meetings, five team meetings, develop an NRI/FSD, prepare two design alternatives and a Preliminary Forest Conservation Plan based on the preferred alternative, obtain stormwater management concept approval, prepare a Facility Plan report and preliminary cost estimate and present it to the Planning Board for approval. It also clearly describes the required deliverables.

The developer has agreed to follow the scope of work as stated in his email dated March 7, 2008, included as attachment 'B'.

Staff from the Park Development Division recommends the following Conditions of Approval be incorporated in the staff recommendation to the Planning Board:

1. The developer shall complete a Facility Plan for Battery Lane Urban Park following the typical Scope of Work contained in the document entitled "Battery Lane Urban Park Process", included as Attachment 'A' to this memo.



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

2. The developer shall obtain the services of an experienced and skilled design team to complete the facility plan for Battery Lane Urban Park. The team shall be “designer-lead” by a landscape architect who shall demonstrate a proven track record of innovative, and sustainable, environmentally-sensitive, public park design. The design team and project manager shall be pre-approved by the Park Development Division.
3. The Facility Plan shall be completed and approved by the Planning Board before approved certified site plan.

BATTERY LANE URBAN PARK PROCESS
(as given to Mr. James Alexander on 11/7/07 by PDD staff)

FACILITY PLANNING SCOPE OF WORK

The Consultant Team shall proceed with work throughout the entire process in a manner that facilitates the thorough planning, coordination, and approval of the project. The Consultant Team shall work closely with their client (developer/agency) and will keep the Maryland National Capital Park and Planning Commission's (M-NCPPC) Project Manager updated as to the status and schedule of the project. The Consultant Team shall work cooperatively with M-NCPPC staff, representatives from other public agencies, adjacent property owners, and the community. The Consultant Team and respective developer/agency staff teams jointly comprise the project Design Team, which will present the facility plan to the Montgomery County Planning Board.

While the contract for the work described herein will be between the developer/agency and the consultant, staff from the Park Development Division (PDD) of the M-NCPPC's Montgomery County Department of Parks will be providing design requirements and guidance to complete this project. To this end, the consultant team will need to closely coordinate with both developer/agency staff and M-NCPPC staff throughout this project to ensure its successful completion.

Throughout the facility planning process, the work shall comply with all applicable federal, state, and local rules, laws, ordinances, regulations, and guidelines. At a minimum, the Consultant Team shall perform the tasks outlined below.

1. Project Initiation

- a. Conduct visual inspections, photography, and analysis of the site. Assimilate all information required to become familiar with field conditions of the existing site, adjacent properties, and surrounding area.
- b. Attend project kick-off meeting and up to five (5) additional M-NCPPC team meetings throughout the duration of the project. Prepare project schedule and distribute at kick-off meeting. M-NCPPC staff will provide copies of park design guidelines and standard details, standard specifications, survey standards, and cost estimating standards to the Consultant Team for use and shall assist the developer/agency in obtaining applicable planning documents, if necessary.
- c. Prepare topographic and boundary survey for project study area, with two foot maximum contour interval, including jurisdictional determination of existing wetlands. Prepare base plans for design work. Comply with M-NCPPC survey requirements.
- d. Conduct geotechnical testing and subsurface investigations to determine physical requirements with respect to construction of footings, structures and stormwater management facilities. Prepare a summary report of findings with design recommendations.
- e. Prepare the Natural Resources Inventory/Forest Stand Delineation Summary Map (NRI/FSD) and obtain approval of plan from the M-NCPPC Environmental Planning Division. Identify individual trees six inches diameter and greater within the study area if requested by the Environmental Planning Division.

- f. Community Meeting: The Consultant Team shall review existing conditions and obtain input from the community on the project program of requirements. Provide notification of the public meeting to adjacent property owners, civic associations, and relevant interest groups a minimum of two weeks prior to the scheduled meeting.
- g. Prepare a written program of requirements for the project, and obtain approval from the developer/agency and M-NCPPC staff.
- h. Team Meeting #1 would be held to discuss comments after all items in the project initiation phase have been submitted for M-NCPPC staff review.

2. Facility Plan Development

- a. Prepare a minimum of two (2) preliminary design alternatives that include the approved project program of requirements. Provide illustrative plans, sections, perspectives, details and character photos as required to convey the design alternative. Include all program elements, conceptual grading, conceptual stormwater management, landscape design, lighting (if applicable) and any product information or materials selection essential to the design. Provide preliminary cost estimates and an analysis of advantages and disadvantages of each option.
- b. Team Meeting #2: The Consultant Team will present alternatives to the developer/agency and M-NCPPC staff technical team to determine preferred staff alternative(s).
- c. Revise alternatives as required based on written comments that are submitted by M-NCPPC staff subsequent to the meeting.
- d. Identify permits and approvals that would be required for construction of the project.
- e. Review preliminary design alternatives with agencies that review and permit wetland, storm water management and utility work. These agencies may include the Montgomery County Department of Permitting Services, U.S. Army Corps of Engineers, Maryland Department of the Environment, Maryland Department of Natural Resources, Montgomery County Department of Environmental Protection, Montgomery County Department of Public Works and Transportation, and appropriate units within M-NCPPC. Revise alternatives as required.
- f. If requested by M-NCPPC staff, prepare a brief (1 or 2 page) written summary of the project and present the design alternatives to the Wetlands Coordinating Committee and the Development Review Committee. Refine alternatives as required based on committee comments.
- g. Community Meeting: The Consultant Team shall review design alternatives and the preferred option with the community, including adjacent property owners. Provide notification of the public meeting to adjacent property owners, civic associations, and relevant interest groups a minimum of two weeks prior to the scheduled meeting. If possible, the meeting should be hosted jointly with the area Recreation Advisory Board to obtain their comments. Otherwise, a separate presentation of the project to the area Recreation Advisory Board may be required prior to the community meeting.
- h. Revise and refine the preferred alternative as necessary based on community comments.
- i. Team Meeting #3: Obtain approval of preferred alternative from developer/agency staff and M-NCPPC staff.

- j. Prepare and obtain approval of a storm water management concept plan for the preferred alternative. Submit a copy of the concept submission to the M-NCPPC Project Manager for review and approval prior to submitting it to the Department of Permitting Services (DPS). Revise plan before submitting to DPS if necessary, based on M-NCPPC comments.
- k. Prepare and obtain approval of a Preliminary Forest Conservation Plan (FCP) for the preferred alternative by the M-NCPPC Environmental Planning Division.
- l. The Consultant Team shall refine the project cost estimate for each alternative and shall prepare a detailed design and construction cost estimate for the preferred alternative for M-NCPPC review. M-NCPPC staff shall prepare an operating budget cost estimate for any facilities that would be operated by the M-NCPPC.
- m. Prepare final facility plan drawings and a draft report, describing the entire facility planning process and the preferred alternative. The report shall fully represent all work on the project to date and shall address all comments raised by the community, staff, review committees, and coordinating agencies. Submit copies of the draft report for M-NCPPC staff team review a minimum of two weeks prior to scheduling a meeting to discuss the report.

3. Facility Plan Approval Phase

- a. Team Meeting #4: The Consultant Team shall review the draft facility plan report and cost estimate with developer/agency staff and M-NCPPC staff, and M-NCPPC staff will submit written comments.
- b. Revise report or prepare additional supporting information as required based on staff comments.
- c. Submit final facility plan report, incorporating all staff comments. Refer to Deliverables section for requirements.
- d. Team Meeting #5: Joint Design Team shall review and rehearse the Planning Board presentation.
- e. The Design Team will present the project to the Montgomery County Planning Board using a multi-media presentation. Include large-format presentation boards in addition to the multi-media presentation. The project will be presented to the Planning Board for the following approvals: (1) Preliminary Forest Conservation Plan and (2) Park Facility Plan.
- f. Revise the facility plan based on Planning Board comments, if necessary.
- g. Revise the detailed cost estimate for design and construction of the preferred alternative, if necessary.

4. Deliverables

The Consultant Team shall provide the following deliverable items for M-NCPPC via the developer/agency staff:

- a. Autocad 2002 (or later) file version of survey. Submit one disk and two sets of bond prints for use by M-NCPPC. Submit hard copy that defines information found on each CAD layer. Survey shall include north arrow reference to true north, date of survey, and surveyor's certification, professional seal and signature. Survey shall comply with M-NCPPC standards and shall use the state coordinate system. Survey

shall be produced at 1"=30' scale with a two-foot maximum contour interval. Area to be surveyed shall be a minimum of 50 feet beyond the property line in all directions or as directed by M-NCPPC staff.

- b. Autocad 2002 (or later) version of all drawings. Submit one disk and two sets of full size prints as records for each public presentation, each submission to review agencies, the submission to the Planning Board, and the final submission. With each submission of CAD files, include a hard copy that defines information found on each layer, layer set-up for each sheet, and plotting instructions. Use consistent base sheet format, title blocks and sheet sizes for all sheets. Use the M-NCPPC signature block on the cover sheet, if requested by staff. The smallest typical lettering size for full size sheets shall be 1/8" – 1/10" height. Scale of drawings shall be approved by the M-NCPPC Project Manager.
- c. Approved Natural Resources Inventory/Forest Stand Delineation, and Preliminary Forest Conservation Plan.
- d. Three copies of Geotechnical Report, including maps with test locations.
- e. Developer/agency staff or the Consultant Team shall submit meeting notes of all team, permitting agency, and community meetings within one week of the meeting.
- f. Detailed project schedule (hard copy and disk) submitted one week following kick-off meeting, or within three business days of request made by the M-NCPPC Project Manager.
- g. For the community meetings, prepare rendered presentation quality boards mounted and protected to withstand use at multiple meetings. Boards shall show photographs of the site, all necessary environmental and site analysis information, adjacent uses and pedestrian connections, outline of the proposed park program, illustrative drawings and character photos as necessary to communicate proposed design alternatives, and a chart analyzing advantages and disadvantages of options. Boards shall be no larger than 36" x 48".
- h. Cost estimates for each alternative shall follow format of M-NCPPC cost estimate template or other approved format (hard copy and on disk.) Cost estimate shall clearly identify and describe materials, quantities (including a break-down of lump sum items), unit costs for materials and installation, and contingencies. Cost estimates shall also include design and equipment costs and shall be broken down by major categories of construction.
- i. Facility Plan Report describing the facility planning process, including project background, summary of all major tasks completed, alternatives presented to the public, comments made by the community, staff, review committees and approving agencies, final recommendations, and a final cost estimate. The following specific information shall be included in the report and supported with graphics and maps.
 - 1) Introduction: brief purpose, description, location (including vicinity map), history, project initiation, project study area, etc.
 - 2) Facility Plan Process: overview of process, consultants, etc.
 - 3) Planning Document Recommendations: does the project comply with applicable planning document recommendations, such as area master plans or sector plans, Countywide Park Trails Plan, Master Plan for Bikeways, Land Preservation Parks and Recreation Plan, Park Master Plans (if applicable), environmental guidelines, other functional plan recommendations, and other public plans or programs for the area.
 - 4) Demographics and Area Facilities (if applicable to support need for the project)
 - 5) Program of Requirements: proposed elements, issues, compliance with design standards, Pedestrian Impact Statement, etc.

- 6) Existing Conditions: adjacent uses, site description, topography, natural features, man-made features, historic or cultural features, existing facilities, road access, parking, paths and trails, transit facilities, utilities, easements, etc. Discuss opportunities and constraints, such as views, compatibility, crime and security, environmental protection, etc.
 - 7) Alternative Plans Considered: summarize features of each plan including advantages and disadvantages and costs.
 - 8) Community Outreach (comments from public meetings on program of requirements and alternatives)
 - 9) Interest Group and Agency Input (comments on program of requirements and alternatives from interest/user groups, area recreation advisory board, county, state or other agencies)
 - 10) Preferred Plan: describe facilities, vehicle access & parking (if applicable), pedestrian and trail access, grading drainage and stormwater management, natural resource conservation, treatment of historic or cultural resources, parkland impacts and mitigation, LEED certification, landscaping, lighting, amenities, accessibility, design standards, and policing (Crime Prevention Through Environmental Design – CPTED).
 - 11) Agency Approvals: Describe applicable permit approvals or coordination, including jurisdictional determination, NRI/FSD, Preliminary Forest Conservation Plan, stormwater management concept plan, utility company coordination, and traffic studies (if applicable).
 - 12) Costs: Include a summary of design and construction costs (and phasing recommendations, if applicable.)
 - 13) Appendices: At a minimum, attach all correspondence received from the community and permit approval letters.
- j. Draft Facility Plan report in 8-1/2" x 11" vertical format with reduced graphics. Submit 15 copies of the draft report for M-NCPPC staff team review a minimum of two weeks prior to scheduling a meeting to discuss the report. Black & white copies are acceptable.
- k. Submit the following for presentation to the Montgomery County Planning Board:
- 1) Final rendered presentation quality drawings mounted and protected, illustrating the entire project and representing all revisions subsequent to the final community meeting.
 - 2) A complete and concise final facility plan report. Submit 7 color copies unstapled on 3-hole punch paper, 15 bound color reports (for M-NCPPC team), one unbound single sided color copy for scanning, 25 bound black and white reports (for public distribution), and an electronic or disk copy.
 - 3) A multi-media presentation in Power Point format including slides of existing conditions, preliminary alternatives, and the preferred alternative. The presentation shall include enough detail with plans, sections, details, perspectives, character photos, etc., to be successfully viewed and understood by the Commissioners and the audience.
- l. Final Facility Plan report in 8-1/2" x 11" vertical format in Microsoft Word, incorporating any changes required by the Planning Board. If changes are required, submit 5 bound color reports, one unbound color report for future duplication, and an electronic or disk copy.

4851 RUGBY AVENUE, LLC
5530 WISCONSIN AVENUE, SUITE 1000
CHEVY CHASE, MD 20815

March 7, 2008

Linda Komes, RLA, AICP
Project Manager
Park Development Division
The Maryland-National Capital Park and Planning Commission
9500 Brunett Avenue
Silver Spring, MD 20901

RE: RUGBY AVENUE CONDOMINIUM – BATTERY LANE PARK FACILITY PLAN

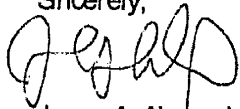
Dear Ms. Komes:

I am writing to confirm our agreement regarding the Facility Planning Scope of Work for the Battery Lane Urban Park provided to 4851 Rugby Avenue, LLC, by the Maryland-National Capital Park and Planning Commission in conjunction with our Site Plan Application for the Rugby Avenue Condominium project in Bethesda, Maryland.

Please be advised that we have reviewed this document and agree to undertake the work as described in the Facility Planning Scope of Work. Further, we agree to retain the services of a qualified design firm with demonstrated experience in designing public parks to undertake this work.

With this in mind, we appreciate your assistance in moving this project forward and look forward to working with you in undertaking this important endeavor. Please do not hesitate to contact me in the event that additional information is required in this regard.

Sincerely,



James A. Alexander
Principal

cc: David Freishtat
Elza Hisel-McCoy
Elliot Schnitzer

APPENDIX B: REVIEWING AGENCY LETTERS

February 29, 2008

MEMORANDUM

TO: Elza Hisel- McCoy, Development Review Division
FROM: Judy Daniel, Team Leader, Bethesda-Chevy Chase Team
SUBJECT: Rugby Condominium
ZONE: CBD-1
MASTER PLAN: 2006 Woodmont Triangle Sector Plan

The Sector Plan locates this property in Block 15, with the following guidance. The CBD-1 zoning remains, with FAR limited to 3.0, and height limited to 90 feet (110 feet with a MPDU bonus. As agreed previously, the Rugby developers are coordinating with the Parks Department, funding a facility plan for the Battery Lane Urban Park, one of the public amenity and facility priorities in the Sector Plan. The development will also provide art spaces, as recommended in the Sector Plan.

The Community Based Planning staff supports the current Site Plan, as substantial improvements have been made to the public use space and amenities package. These were our primary areas of concern previously. As now proposed, the development will be in conformance with the Sector Plan. The staff does not support any proposal of the developer to limit their commitment on the Battery Lane Park facilities plan or intersection improvements. These elements must be fulfilled by the developer as originally agreed in the Project Plan approval.

WSSC Comments

August 20, 2007 Development Review Committee Meeting

3. 820070260 *THE RUGBY CONDOMINIUM*

Water and sewer mains are available to site.

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

Water and sewer service locations may require realignment through WSSC Onsite Review process. Recommend realigning service connections a minimum 5' outside of landscape planter box to avoid possible future root problems and maintenances issues.

Follow WSSC Demolition procedures to abandon existing 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.

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: Richard Weaver
Development Review Division

SUBJECT: Plan # 8-07026 , Name The Rugby Condominium
DRC date: Monday, August 20, 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:

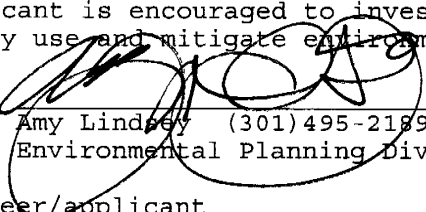
SUBMITTAL ADEQUACY

 X Plan is complete. (see recommendations below)

EPD RECOMMENDATIONS:

 X Approval.

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: 7/30/07

cc: engineer/applicant

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}
 , Environmental Planning

Date: 7/26/05

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 #			



Isiah Leggett
County Executive

DEPARTMENT OF PERMITTING SERVICES

Carla Reid
Director

Project Name: The Rugby Condominium

Preliminary Plan #:

Site Plan #: 820070260

Applicant: 4851 Rugby Avenue, LLC

Engineer: VIKI, Inc.

Zone: CBD-1

Number of Lots (Acres): 1 lot, .47 ac.

Zoning Reviewer: Laura Bradshaw

Development Standards on Plan(s):

Standard	Required	Proposed
Front:	0	?
Rear:	0	?
Sides:	0	?
Height:	90	90
Building Coverage:	N/A	N/A
FAR	3	?

☐ Plan(s) meets zoning requirements.

☒ Plan(s) meets zoning requirements, but see comments below.

☐ Plan(s) do not meet zoning requirements. See comments below.

Comments: On final site plan please provide the proposed set backs in both data table format and on the site plan drawing. When providing front set back, measure from building overhang to front property line. Provide FAR calculations including gross floor area for Residential, non-residential and combined.

****Note-**When applying for a building permit please identify both the BRL approved on the certified site plan and the dimensions from the structure to the property lines on all four sides.

Mark Beall: (240) 777-6298 or Laura Bradshaw: (240)777-6296
255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850-4166.



DEPARTMENT OF PERMITTING SERVICES
Carla Joyner, Director

NOTICE

In the General Comments block on plans that are submitted for site plan approval, the addition of the following language will expedite inspection of developments under site plan enforcement: Contact DPS Site Plan Enforcement inspectors (at 240-777-????) for inclusion a pre-construction meeting.

For all proposed development that requires either preliminary or full site plan review, permit submittal plans must include the following detail, where applicable. This information ensures expedient site plan inspection throughout progress of the project.

Location and Section:

- Private road section
- Private road curb, gutters, sidewalks
- Hike & bike trails (width & material)
- Recreational areas including tot lots

Location and detail:

- Public seating areas
- Recreational equipment location and detail (type)
- Handrails
- Public art
- Hardscaping (decorative paving, boulders, walls etc.)
- Retaining walls/fences
- Lighting (heights & types)
- Entrance Features
- Public Use Space Amenities
- Site furnishings
- Trash Receptacles

Accessory Structures:

- Side
- Rear
- Height*

Note* Montgomery County Zoning Ordinance states that accessory structures cannot be more than 50% of the footprint of the principal structure and nor occupy more than 20% of the rear yard.

Hisel-McCoy, Elza

From: Douglas Lohmeyer [montconsulting@hotmail.com]
Sent: Thursday, November 08, 2007 9:52 PM
To: Hisel-McCoy, Elza
Subject: The Rugby Condominiums

Elza,

On behalf of HOC, I have reviewed the revised site plans for the Rugby Condominiums.

The latest plans address the comments provide by HOC at the DRC meeting.

I will be forwarding the architectural plans provided by Vilka to HOC for their review.

Doug Lohmeyer

Montgomery Consulting

On behalf of HOC



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

October 7, 2005

Mr. Barry Smith
Vika Inc.
202251 Century Boulevard, #400
Germantown, MD 20874

Re: Stormwater Management **CONCEPT** Request
for Rugby Ave. Condominiums
Preliminary Plan #: N/A
SM File #: 220291
Tract Size/Zone: .364 acres/CBD-1
Total Concept Area: .364 acres
Lots/Block: pt. of lots 443,444,447,448,627
Watershed: Lower Rock Creek

Dear Mr. Smith:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site water quality control via a Stormfilter or an approved equivalent. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs. Recharge is not required because this is a redevelopment site.

The following **conditions** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. All covered parking is to drain to a WSSC sanitary sewer system. Provide a copy of the mechanical drawings to verify where roof, surface and garage drains outlet.

This list may not be all-inclusive and may change based on available information at the time.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this



office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Blair Lough at 240-777-6335.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard R. Brush", written over the word "Sincerely,".

Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm bli

cc: C. Conlon
S. Federline
SM File # 220291

QN -exempt; Acres: .36
QL - on-site; Acres: .36
Recharge is not provided

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

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

Date: August 17, 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 # 820070260, The Rugby Condominium
Project Plan # _____
Preliminary Plan # _____, DPS File # 220291
Subdivision Review Meeting of August 20, 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 100year 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 StormFilter or approved equal

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:

cc: Steve Federline, Environmental Planning Division, MNCPPC

bll DRC site plan.03/01



FIRE MARSHAL COMMENTS

DATE: FEBRUARY 1, 2008
TO: BARBARA STAFFORD, VIKI INC.
FROM: TYLER MOSMAN
RE: THE RUGBY CONDOMINIUMS, 9-20070050 8-20070260

PLAN APPROVED.

1. Review based only upon information contained on the plan submitted **01-23-08**. 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



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

March 28, 2008

MEMORANDUM

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

VIA: Shahriar Etemadi, Supervisor *DEH fed*
Transportation Planning

FROM: Ed Axler, Planner/Coordinator *EA*
Transportation Planning

SUBJECT: Rugby Condominium
Site Plan No. 820070260
Bethesda Central Business District

This memorandum is Transportation Planning staff's Adequate Public Facilities (APF) review and approval of the subject site plan application to construct up to 61 residential units within a 9-story building in downtown Bethesda. The APF test was approved as part of the Preliminary Plan No. 120060290 approval by the Planning Board on May 3, 2007.

RECOMMENDATIONS

We recommend approval of the subject site plan with the following transportation-related conditions:

1. Limit the development to 61 high-rise residential units.
2. Provide one inverted-U bike rack in front of the entrance and four bicycle lockers in the proposed structured parking garage.
3. Reconfigure the intersection of Rugby Avenue and Auburn Avenue for improved pedestrian access and safety as indicated on the submitted site plan to be implemented prior to issuance of use and occupancy permits.

DISCUSSION

Site Location, Parking, Access, and Circulation Improvements

The subject site is located in the northeastern corner of the intersection of Rugby Avenue and Auburn Avenue in the Bethesda Central Business District (CBD). The apartment underground garage is proposed to be directly accessed from Rugby Avenue. Improvements to this intersection are proposed to make geometric modification that will improve pedestrian access across the intersection per Recommendation No. 3. The southeastern corner of this intersection is proposed to be bumped out to shorten the pedestrian crossing distance with crosswalks across the east and south approaches and handicapped ramps. A bike rack and four bicycle lockers are required per the County code.

Local Area Transportation Review (LATR)

The proposed 61 residential units is projected to generate 18 peak hour trips within the weekday morning peak hours (7:30 to 9:30 a.m.) and 18 peak hour trips within the weekday evening peak hours (4:00 to 7:00 p.m.). At the time of preliminary plan review, a traffic impact study was not required to satisfy LATR because the proposed residential development generates fewer than 30 peak-hour trips within the weekday morning and evening peak hours.

Policy Area Mobility Review (PAMR)

The Applicant is not required to satisfy the PAMR requirements because a completed application was filed for Preliminary Plan No. 120060290 on August 10, 2005, that is prior to January 1, 2007.

Master Plan Roadways and Bikeways

In accordance with the Bethesda CBD Sector Plan, the master-planned roadways and bikeways are as follows:

1. Rugby Avenue segment east of Auburn Avenue is designated as a business district street with a recommended right-of-way of 60 feet and a designated Biker Friendly Area.
2. Auburn Avenue is designated as a business district street with a recommended right-of-way of 60 feet and a designated Biker Friendly Area.

According to the *Countywide Bikeways Functional Master Plan*, Rugby Avenue and Auburn Avenue do not have any designated bikeways. One block to the west, bikeways SR-7 and SR-10 (The National Institutes of Health (NIH) Capital Crescent Trail Connector Alternative) crosses Rugby Avenue at the intersection of Glenbrook Road-Norfolk Avenue. This signed shared roadway connects to the Battery Lane Urban Park and the National Institutes of Health property north of Battery Lane.

Pedestrian Access

The northern side of the Rugby Avenue/Auburn Avenue intersection does not have a marked pedestrian crosswalk. The County has long-term plans for more efficient 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. As part of the site plan review, the Applicant will provide these improvements rather than participate in the County's longer term Bethesda CBD pedestrian project required at project plan and preliminary plan.

EA:tc

cc: Chuck Kines

mmo to Hisel-McCoy re Rugby Condos 820070260

APPENDIX C: PROJECT PLAN PLANNING BOARD OPINION



SEP 20 2007

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

MCPB No. 07-142
Project Plan No. 920070050
The Rugby Condominium
Date of Hearing: May 3, 2007

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review project plan applications; and

WHEREAS, on February 2, 2007, 4851 Rugby Avenue, LLC, c/o Van Ness Property Group ("Applicant"), filed an application for approval of a project plan for 61 multi-family units including 8 MPDUs, 13.1% of the total units ("Project Plan"), on 0.47 acres of CBD-1-zoned land, on the north side of Rugby Avenue at the intersection of Auburn and Rugby Avenues, 300 feet east of Norfolk Avenue. ("Property" or "Subject Property"); and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920070050, the Rugby Condominium (the "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated April 18, 2007, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on May 3, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

APPROVED AS TO LEGAL SUFFICIENCY
KGD by myb 8/31/07
M-NCPPC LEGAL DEPARTMENT

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, on May 3, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Bryant; seconded by Commissioner Robinson; with a vote of 3-0, Commissioners Bryant, Hanson, and Robinson voting in favor. Commissioners Purdue and Wellington were absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board approved Project Plan No. 920070050 for 61 multi-family units including 8 moderately priced dwelling units ("MPDUs"), 13.1 percent of the total units, on 0.47 gross acres in the CBD-1 Zone, subject to 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 Montgomery County Department of Public Works and Transportation ("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 percent or 8 MPDUs on-site, consistent with the requirements of Chapter 25A. The Applicant is receiving a 6 percent 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 Plan 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 DPWT 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 DPWT;
- d. Finalize with Parks Department and Planning Department staff the scope of the Facility Plan for Battery Lane Urban Park.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record and all applicable elements of § 59-D-2.43, the Montgomery County Planning Board, with the conditions of approval, FINDS:

(a) The proposed development complies with all of the intents and requirements of the CBD-1 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. At a height of 90 feet, the building is in line with the taller buildings on Rugby

Avenue, including the 8-story office building next door. This height 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 two metro stations in the Bethesda CBD. Under the optional method, this Project Plan 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 Project Plan 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 for the Project Plan 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 restaurants as well as retail, service, and arts uses within the Woodmont Triangle and along Wisconsin Avenue. Additionally, the Project Plan includes significant intersection and streetscape improvements to pedestrian access to and through the site.

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

The Project Plan 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 Plan would provide 53 market rate units and 8 MPDUs on-site (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 stations 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 Plan 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 under utilized.

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 artist studios and exhibition space, made available by the on-site public space and amenities package, will provide a center for the surrounding blocks, encouraging public arts events to draw nearby residents together. The artist studios and exhibition space will 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 among 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 dwelling units per acre ("du/ac") 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 the Zoning Ordinance, as increased by the MPDU density bonus.

Requirements of the CBD-1 Zone

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the standards proposed for approval. The Board finds, based on the aforementioned data table, and other evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-1 zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

DATA TABLE

	Development Standard Approved by the Board and Binding on the Applicant
Minimum lot area (sf.)	20,258
Previously dedicated area	4,423
Proposed dedicated area	54
Net lot area	15,781
Density (maximum dwelling units/acre)	
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)	
w/ MPDU density bonus of 6% for providing 13.1% MPDUs on site	61
Market-rate units	53
MPDUs	8
MPDU provision (minimum percentage)	13.1
Public use space (minimum percent of net lot area)	20.77
On-site (sf.)	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.)	
With a Planning Board finding of no adverse impacts on surrounding properties	90*
Number of stories	9
Minimum Building Setbacks (ft.)	
Front	15
Rear	0
Side	0
Parking	101
29 one-bedroom units @ 1.25 spaces each	
24 two-bedroom units @ 1.5 spaces each	
4 one-bedroom MPDUs @ 0.625 spaces each	
4 two-bedroom MPDUs @ 0.75 spaces each	
Ten percent reduction for multi-family use in the CBD	

(b) The proposed development conforms to the Woodmont Triangle Amendments to the Bethesda CBD Sector Plan.

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 the adjacent 8-story building 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) Because of its location size, intensity, design, operational characteristics and staging, the proposed development is compatible with and not detrimental to existing or potential development in the general neighborhood.

The Project Plan is complementary to the architectural character of the larger Bethesda CBD and environment, 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-family residential building a block away. The project site is located between apartments and multi-family residential buildings on the north, single-family residential buildings 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) The proposed development does 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 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.**

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

The Project Plan 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 proposed development is 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 Plan could achieve approximately half the proposed dwelling units and would provide only 5 MPDUs. Under the optional method, the Project Plan provides 8 MPDUs. The

Project Plan 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 Plan would yield only half the public use space, a minimal amount of streetscape, and no amenity space.

(f) The proposed development includes moderately priced dwelling units in accordance with Chapter 25A of this Code.

The Project Plan is providing 8 MPDUs on site, 13.1 percent of the total number of units, in accordance with Chapter 25A of the Montgomery County Code. The Project Plan 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) The proposed development satisfies any applicable requirements for forest conservation under Chapter 22A.

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

(h) The proposed development 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.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920070050, The Rugby Condominium, stamped received by M-NCPPC on April 4, 2007, are required except as modified herein; and

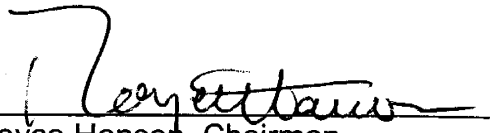
BE IT FURTHER RESOLVED that this project plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

BE IT FURTHER RESOLVED that the date of this Resolution is SEP 20 2007
(which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

At its regular meeting, held on Thursday, September 6, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner Robinson, seconded by Commissioner Bryant, with Commissioners Hanson, Bryant, and Robinson voting in favor, and Commissioners Cryor and Lynch abstaining, ADOPTED the above Resolution, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Project Plan No. 920070050-The Rugby Condominium.


Royce Hanson, Chairman
Montgomery County Planning Board

APPENDIX D: PRELIMINARY PLAN PLANNING BOARD OPINION



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

SEP 21 2007

MCPB No. 07-146
Preliminary Plan No. 120060290
The Rugby Condominium
Date of Hearing: May 3, 2007

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on August 10, 2005, 4851 Rugby Avenue, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 1 lot on 0.47 acres of land located on the north side of Rugby Avenue at the intersection of Auburn and Rugby Avenues, approximately 300 feet east of Norfolk Avenue ("Property" or "Subject Property"), in the Bethesda Central Business District master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120060290, The Rugby Condominium ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated April 20, 2007, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on May 3, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

Approved as to
Legal Sufficiency:

KGD mmp 8/31/07

8787 Georgia Avenue, Suite 100, Bethesda, MD 20814-4110 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on May 03, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Robinson; seconded by Commissioner Bryant; with a vote of 3-0, Commissioners Hanson, Bryant, and Robinson voting in favor, and Commissioners Perdue and Wellington absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120060290 to create 1 lot on 0.47 acres of land located on the north side of Rugby Avenue at the intersection of Auburn and Rugby Avenues, approximately 300 feet east of Norfolk Avenue ("Property" or "Subject Property"), in the Bethesda Central District master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to 61 multi-family dwelling units including a minimum of 12.5 percent moderately priced dwelling units ("MPDUs").
- 2) The Applicant must comply with conditions of approval for Project Plan #920070050 (formerly #9-06005).
- 3) Final number of dwelling units and MPDUs as per condition #1 above to be determined at the time of site plan.
- 4) The Applicant must comply with conditions of the Montgomery County Department of Public Works and Transportation ("DPWT") letter dated, March 9, 2006, unless otherwise amended.
- 5) The Applicant must comply with the conditions of approval of the Montgomery County Department of Permitting Services ("DPS") stormwater management approval dated October 7, 2005.
- 6) Applicant must provide one bike rack in front of the entrance and four bicycle lockers in the proposed structured parking garage.
- 7) The Applicant must provide adequate recreation amenities. Amenity package to be coordinated with M-NCPPC Staff, including staff from Park Planning & Resource Analysis.
- 8) The Applicant must participate with others, including Staff and DPWT, to reconfigure the intersection of Rugby Avenue at Auburn Avenue for improved pedestrian access and safety.
- 9) The Applicant must dedicate all road rights-of-way shown on the Preliminary Plan to the full width mandated by the Master Plan unless otherwise designated on the Preliminary Plan.
- 10) The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes. Only

those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By _____" are excluded from this condition.

- 11) The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Resolution.
- 12) Other necessary easements must be shown on the record plat.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the master plan.*

The proposed Preliminary Plan is subject to the 1994 Sector Plan for the Bethesda Central Business District and the 2006 Woodmont Triangle Amendment. The 1994 Sector Plan for the Bethesda Central Business District recommends residential development at the northern end of the district. The sector plan identifies properties along Rugby Avenue which are zoned CBD-1 that have the potential of being assembled for optional method development and recommends a height limitation of 90 feet. Section 59-C-6.235 (b) of the Zoning Ordinance normally requires a maximum height of 90 feet for optional method development. The 2006 Woodmont Triangle Amendment does not specifically identify the site but maintains the CBD-1 zone and encourages the development of housing. The Preliminary Plan proposes redevelopment for multi-family residential housing with MPDUs and a maximum building height of 90 feet in accordance with the master plan goals.

2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

Site Location, Access, Circulation and Parking

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 (LATR)

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 in 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 60 feet ultimate right-of-way. As the proposed Preliminary Plan occupies the northern side of Rugby Avenue east of its intersection with Auburn Avenue, the Applicant will dedicate land to equal 30 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 a 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 circulation through this intersection, at which time the Applicant will participate on a pro rata basis with other parties to implement this improvement. The Preliminary Plan proposes to tie into the existing network of pedestrian facilities within the Bethesda CBD.

3. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

The Preliminary Plan complies with all agency requirements and Chapter 50 of the Montgomery County Code, Subdivision Regulations, in that public facilities will be adequate to support and service the area of the proposed subdivision. The Board finds that the size, width, shape, and orientation of the proposed lot is appropriate for the location of the subdivision.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

There are no environmentally sensitive features on the Subject Property. The Property was granted an exemption from forest conservation on July 26, 2005.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

On October 7, 2005, the MCDPS Stormwater Management Section approved the project's stormwater management concept, which includes topsoiling and an engineered sediment control plan for water quality control.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

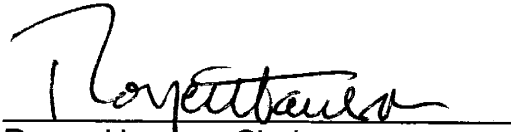
BE IT FURTHER RESOLVED, that the date of this Resolution is SEP 21 2007 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

At its regular meeting, held on Thursday, September 6, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner Robinson, seconded by Commissioner Bryant, with Commissioners Hanson, Bryant, and Robinson voting in favor, and Commissioners Cryor and Lynch abstaining, ADOPTED the above

Resolution, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan No. 120060290-
The Rugby Condominium.

A handwritten signature in black ink, appearing to read "Royce Hanson", written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board