



Staff Report: Site Plan 820090010, Woodmont View

ITEM #: _____

MCPB HEARING DATE: July 23, 2009

REPORT DATE: July 9, 2009

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Robert Kronenberg, Supervisor *RK*
Development Review Division

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APPLICATION DESCRIPTION: One lot comprised of a proposed multi-story building with 46 residential units and a restaurant, and an existing single family home to remain; 0.52 acres; PD-75 zone; located in the NW quadrant of intersection of Woodmont Avenue and Battery Lane; Bethesda CBD Sector Plan (July 1994) and Woodmont Triangle Amendment to the Bethesda CBD Sector Plan (March 2006).

APPLICANT: Battery Lane, LLC

FILING DATE: November 20, 2008

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY:

Applicant proposes one lot with a multi-story building and an existing one-family detached house to remain as a charitable/ philanthropic use with approved special exception S-2740. The multi-family building consists of a restaurant at street-level, and 46 two-bedroom dwelling units, including 8 MPDUs, and 3 levels of underground parking. The total number of units proposed equals 47, which includes the existing house. The Applicant must provide an easement for future dedication of up to 5 more feet of right-of-way for a total of 40 feet from the centerline of Woodmont Avenue near the northern property line to conform with the Bethesda CBD Sector Plan. In general, Staff supports the project, but does not support the 10 feet and 8 inches of additional height requested because the increase is not in conformance with DPA 06-1, which granted a height bonus up to 79 feet 4 inches based on the MPDUs proposed.

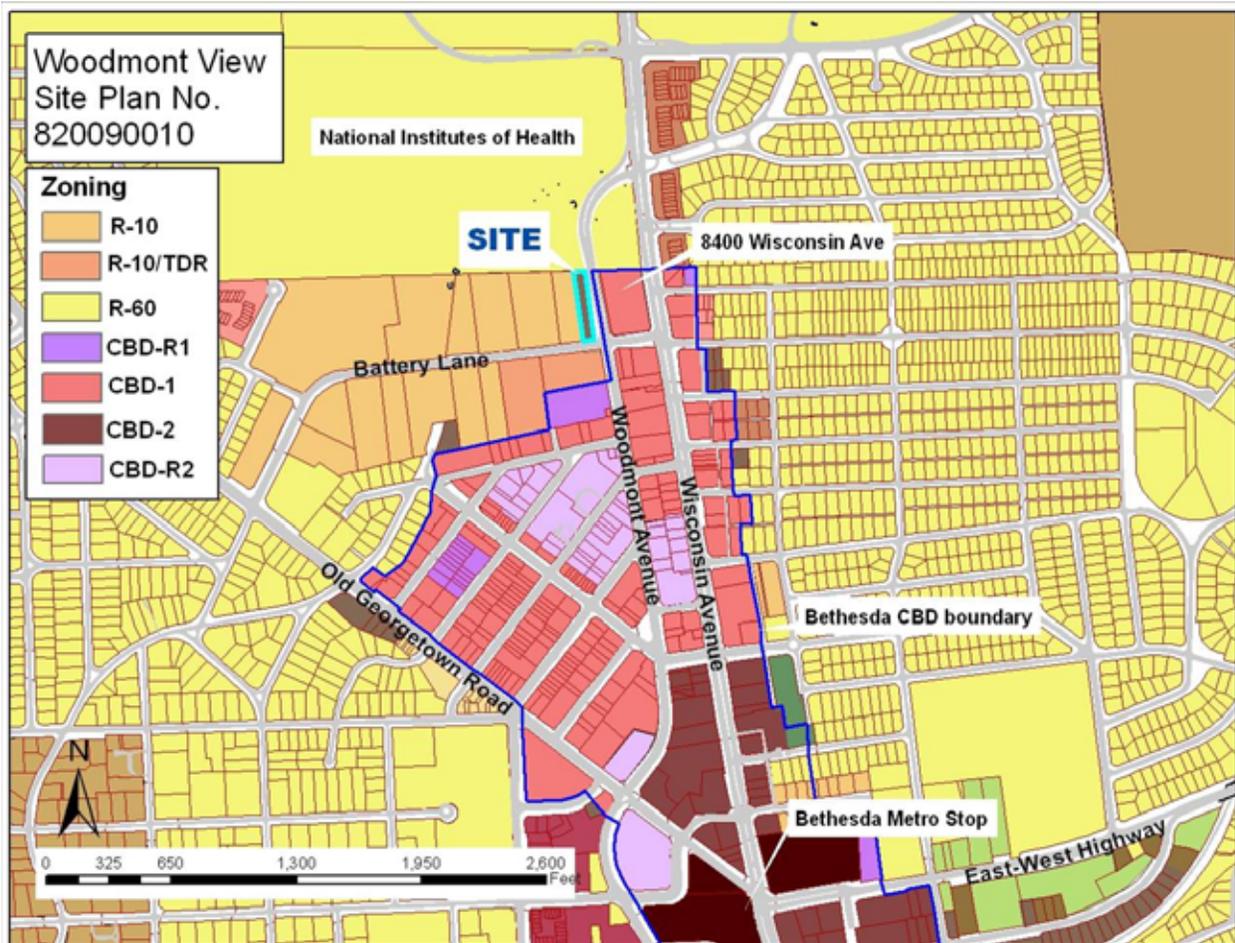
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SITE DESCRIPTION

Vicinity

The subject site is located at the northwest corner of the intersection of Woodmont Avenue and Battery Lane at the northern edge of the Bethesda Central Business District. The site is adjacent to the Aldon Property (Lot 22, Block 2) to the west, and the National Institutes of Health (NIH) to the north. Across Woodmont Avenue to the east is the site of 8400 Wisconsin Ave (Site Plan No. 82006036A), which is currently under construction. Across Battery Lane to the south is an existing apartment building.

The land use and zoning pattern surrounding the subject site reflects a mix of residential, commercial and institutional land uses. North of the property is R-60 zoned land surrounding the Library of Medicine on the grounds of NIH. Confronting to the east and southeast are uses in the CBD-1 Zone, including a Sheraton Hotel and a development with lower-level office/retail and upper floor residential uses. Confronting to the south and adjoining to the west are multi-family residential buildings in the R-10 and R-10/TDR Zones. These buildings range in height from three to five stories. Further to the west is the Battery Lane Urban Park operated by M-NCPPC.



Vicinity Map

Site Analysis

The subject site has approximately 60 feet of frontage on Battery Lane and 340 feet of frontage along Woodmont Avenue, and is rectangular in shape. The site has a gross tract area of 22,618 square feet (0.52 acre). The site is currently occupied by a one-family detached home on the northern end of the property, which will be retained as a philanthropic institution, and a three-story office building on the southern end of the lot, which will be demolished. Between these two buildings is a gravel parking lot, which is accessed through Battery Lane. The Applicant has a “Common Driveway Agreement,” recorded at Liber 26425, Folio 122 among the Land Records of Montgomery County, with the owners of the adjacent Aldon property (Lot 22, Block 2), located to the west, to share certain portions of their respective properties for mutual ingress and egress from Battery Lane.

This site is in the Rock Creek watershed, designated as Use I waters. The topography slopes down from east to west, and there are no environmental features or forest (streams, wetlands, 100-year floodplain, steep or severe slopes, forest and champion or specimen trees) on-site. The site is not located within a Special Protection Area or Primary Management Area. The sidewalk on Woodmont Avenue is concrete with tree pits 30-35 feet on center inserted into part of its width.



Aerial Photo with approximate site's boundary outlined in blue

PROJECT DESCRIPTION

Previous Approvals

Local Map Amendment G-636, approved by the County Council on December 12, 1989, changed the R-60 Zone (which was established in the 1954 Regional District Zoning) to the C-T Zone. This change was reaffirmed on October 11, 1994, in the SMA G-711.

Site Plan No. 820020260, approved by the Planning Board on March 21, 2002 (Resolution dated March 22, 2002), for one-single family dwelling in the CT-zone.

Local Map Amendment G-808, approved by the County Council on March 30, 2004, with the Resolution No. 15-563, reclassified the Property to the PD-75 (Planned Development) Zone and approved the proposal to develop the property with 10 townhouses and an existing detached single-family house, with no MPDUs.

Development Plan Amendment (DPA 06-1), approved by the County Council on April 24, 2007, with the Resolution No. 16-98, approved an eight-story, 46 unit, mixed-use condominium, including 8 MPDUs, and a restaurant, and the retention of the existing single-family, detached home on the northern end of the property. The total number of units approved was 47, which included the existing house. [Appendix A]

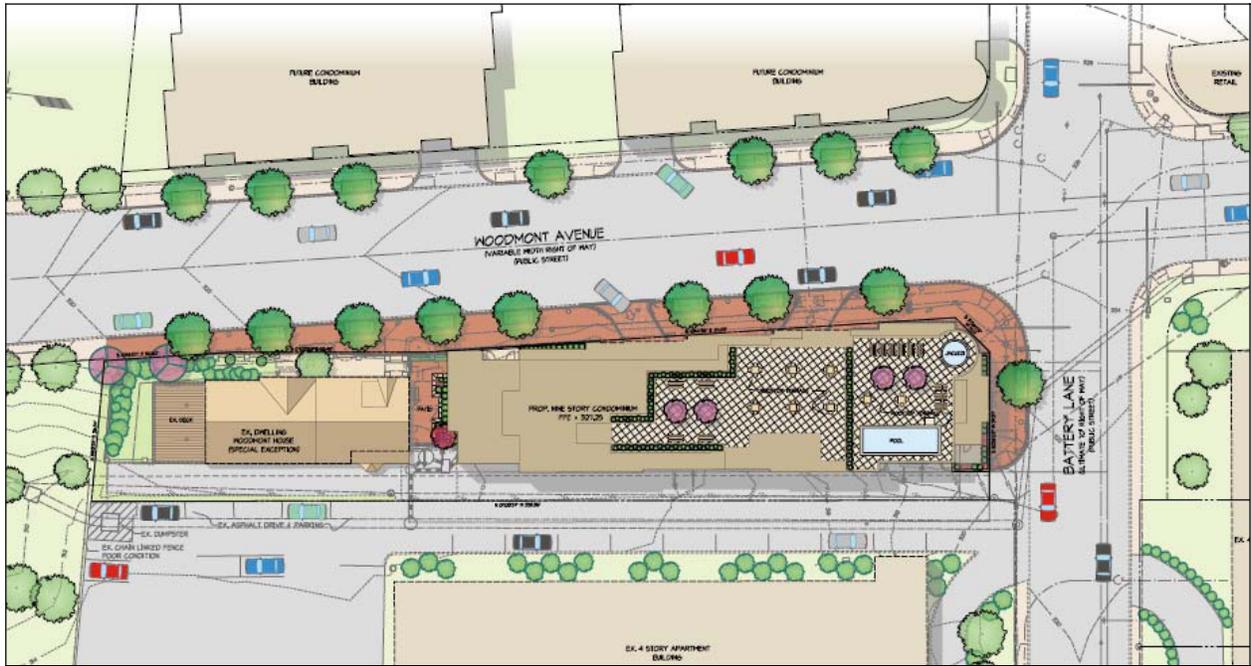
Special Exception S-2740, approved by the Board of Appeals on March 27, 2009, for an extended-stay multi-family residence to house up to five (5) families (Children's Inn) located in the northern portion of the proposed Lot 62. The Planning Board hearing for this case was held on January 15, 2009.

Minor Subdivision No. 220090600, Northwest

This case is pending to create Lot 62 by combining Part of Lot 49, Block 2, Northwest Park Subdivision (Plat No. 134) and Part of Lot 48. Part of Lot 48 is 1,517 square feet of excess public right-of-way along the Woodmont Avenue frontage near the intersection with Battery Lane that was acquired from the County.

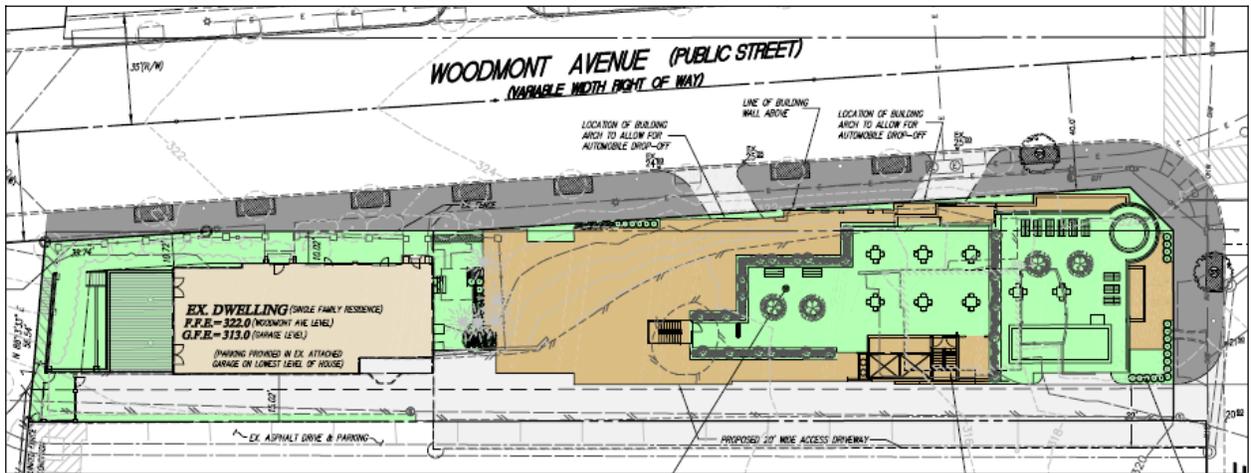
Proposal

The proposed development would create one lot with a new 8/9 story multi-use building and an existing one-family detached house to remain as a charitable/ philanthropic use as part of the approved special exception S-2740. The proposed building consists of a restaurant at street-level, and 46 two-bedroom dwelling units, including 8 MPDUs, and 3 levels of underground parking. Vehicular access to the front of the building is provided via a drop-off/pick-up loop at Woodmont Avenue, and to the rear via a driveway located on a 20-foot wide shared access easement between the subject site and the adjoining property to the west.



Illustrative Plan oriented to the East

The plan meets the green area requirements by providing a combined total of 40.5 percent green space, of which 16.6 percent is located at street level and 23.9 percent on the rooftop of the building. Although green area requirements are typically met on the ground as opposed to building rooftops, urban settings, such as the location of this site, are likely to have more creative and unconventional ways of fulfilling their green area requirements. The recreation facilities provided include various sitting areas and a swimming pool on the rooftop, and an indoor community room and exercise room.



Green Space Exhibit

The proposed building height at 90 feet is higher than the height approved with DPA 06-1, which already granted a 22 percent height bonus above the Sector Plan recommended height limit of 65 feet due to the provision of 17% MPDUs. The DPA allowed minor adjustments to the 79 feet 4 inches at the time of site plan. Although the proposed height at 90 feet (an additional increase of

10 feet 8 inches) would be compatible with the surrounding buildings, Staff is not in support of the proposal since the increase is not in conformance with DPA 06-1. Therefore, Staff recommends that the proposed building height be limited to 79 feet 4 inches as approved by the DPA 06-1. Additionally, the Applicant has already documented that the number of units can be accommodated within the lower height through the DPA, but will most likely result in a different bedroom unit mix.



Woodmont Avenue elevation



Battery Lane elevation and North elevation

The Applicant must provide an easement for future dedication of up to 5 more feet of right-of-way for a total of 40 feet from the centerline of Woodmont Avenue near the northern property line to conform with the Bethesda CBD Sector Plan.

PROJECT ANALYSIS

Master Plan

There are two applicable Master Plan documents: the *July 1994 Bethesda CBD Sector Plan* and the *March 2006 Woodmont Triangle Amendment to the Bethesda CBD Sector Plan*. The site is located within the Battery Lane District in a residential area envisioned for high-rise or garden apartments.

The proposed development meets several of the objectives and the recommendations of the 1994 Sector Plan by increasing the amount of housing near Metro and helping to provide a northern gateway to the Woodmont Triangle. Together with the approved development across Woodmont Avenue, the 8400 Wisconsin Avenue project, the two high-rise residential developments would frame the northern entrance to Bethesda along Woodmont Avenue. The proposal provides eight MPDUs on site, adding to the 25 required on the 8400 Wisconsin Avenue project, and furthering the main goal of the Sector Plan Amendment to increase the supply of affordable housing.

The proposal also conforms to many of the urban design guidelines in the Sector Plan (pp. 92-94), including building orientation towards both Woodmont Avenue and Battery Lane, hidden underground off-street parking, and streetscape development. However, the proposal does not conform with the building height as recommended by the Sector Plan and as increased by the Development Plan Amendment (DPA) 06-1. [Appendix A]

The Sector Plan established a 65-foot height limit on the property, and the Woodmont Triangle Amendment left this recommendation unchanged. Later, the DPA 06-1 granted a 22 percent height and density bonus due to the provision of 17 percent (or eight) MPDUs onsite. Applying the bonus percentage to the height, it yields a permitted height of 79 feet 4 inches, which was the height approved by the DPA 06-1. The height increase was justified based on the MPDU provisions under Chapter 25A, which states that the height may be increased proportionally with the amount of MPDUs on site.

The Applicant is now proposing to increase the building height from 79 feet 4 inches (or 8 stories), as approved by the DPA 06-1, to 90 feet (or 9 stories). Binding element no. 2 of the DPA left flexibility for the Planning Board to make the final height determination at site plan review. The binding element states that:

“the building height is proposed for 79 feet 4 inches measured from the adjoining curb grade along Woodmont Avenue to the highest point of the main roof slab (the roof area covering the major area of the building excluding mechanical, access, elevator penthouses, and decorative gables) with final

measurement subject to review and adjustment by the Planning Board at site plan review.”

Staff believes that this language should be read in the context of the entire case, which makes it clear that it referred to minor adjustments to the building height as reflective of the final determination of the building measuring point. It is unreasonable to believe that this language meant to accommodate an additional story, or a 10 feet 8 inch increase in the building height at the sole discretion of the Planning Board and without further review or analysis by the Hearing Examiner.

Therefore, Staff is not in support of the additional height because the increase is not in conformance with DPA 06-1. Staff recommends that the proposed building height be limited to 79 feet 4 inches as approved by the DPA 06-1.

Adequate Public Facilities (APF)

Because this is a recorded lot, no preliminary plan is required, and thus the required APF findings will take place at either site plan approval or at building permit, according to Chapter 8 of the Zoning Ordinance. The Applicant believes that the previous zoning case and DPA addressed the APF findings; however, the Applicant has requested that if an APF finding is needed, that the finding be postponed until the time of building permit release [Appendix C].

The concern is that this project lies within the Bethesda-Chevy Chase school cluster, which recently went into moratorium. The language of the moratorium resolution (p. 20 of Resolution No. 16-376 [Appendix D]) generally uses the term *subdivisions*, which implies that only preliminary plan approvals are affected. Although a preliminary plan has not been required for this project (the lot is already recorded), Staff still believes that an APF finding needs to be made by the Planning Board and that the current application is subject to the Moratorium because there is a change in use from the existing office building to the proposed residential use.

Pursuant to Chapter 8, the new residential use requires findings for APF, including adequate school capacity. However, staff agrees that it is acceptable to postpone the APF finding until the time of building permit review. Under this scenario, the Applicant can continue with the approval process but cannot build until the findings for school capacity are successfully complete. Other APF findings, including traffic, utilities, fire and rescue, are adequate as conditioned. The validity period for transportation will remain valid for the standard period of time after approval; however, school facility findings must be made at the time of building permit.

Transportation

The site is located within the Bethesda Transportation Management District; however, the Applicant is not required to enter into a Traffic Mitigation Agreement or participate in the

Bethesda Transportation Management District because the application proposes a multi-family residence with a small-scale retail space for a business with less than 25 employees.

Under the current Growth Policy, the Policy Area Mobility Review (PAMR) test requires the Applicant to mitigate 30% of the new peak-hour trips generated by the proposed land uses within the weekday morning and evening peak periods. The Applicant must mitigate a total of eight (8) new peak-hour trips.

The Applicant proposes to provide Accessible Pedestrian Signals (APS) at the signalized intersection of Woodmont Avenue and Battery Lane located within the Bethesda CBD Policy Area as specified in Recommendation No. 3 [Appendix B]. An APS is equivalent to 3 new peak-hour trips. APSs are different from countdown pedestrian signal heads that visually display the Walk or Don't Walk message. APSs are devices for visually-disabled persons located on a curb in front of a pedestrian crosswalk at a signalized intersection that can communicate information about pedestrian signal timing/phasing in a non-visual format such as audible locator tones, visual messages, and/or vibrotactile surfaces.

Environment

As mentioned in the Site Analysis, there are no environmental features, including forest, on the subject site, and the site is not located within a Special Protection Area or Primary Management Area. Therefore, the site is exempt from the Montgomery County Forest Conservation law. Exemption 42002206E was approved in January 2002. No forest conservation or tree save plan review by the Planning Board is required [Appendix B].

The stormwater management concept consists of on-site water quality control via installation of a hydrodynamic structure and a waiver request for water quantity control.

Development Standards

The subject site is zoned PD-75. The purpose of the PD Zone is to provide a means of regulating development which can achieve flexibility of design, the integration of mutually compatible uses and optimum land planning with greater efficiency, convenience and amenity than the procedures and regulations under which it is permitted as a right under conventional zoning categories. The PD-75 Zone allows the proposed residential and commercial uses. The proposed development meets the purpose and requirements of the zone as detailed in the Findings section of this report.

The following data table indicates the proposed development's compliance with the Zoning Ordinance.

Project Data Table for the PD-75 Zone

Development Standard	Zoning Ordinance Permitted/ Required	Binding Elements per DPA 06-1	Proposed for Approval & Binding on the Applicant
Gross Tract Area (GTA)	n/a	n/a	0.52 acres/ 22,618 sq. ft.
Max. Non-residential Density (FAR)	n/a	n/a	0.14
Max. Residential Density (du/acres) 59-C-7.14(a)	75	91.5 (75 du/ac X 1.22 MPDU bonus)	91.5 (75 du/ac X 1.22 MPDU bonus)
MPDUs (%)	12.5%	17%	17%
Max. Number of Dwelling Units - Existing one-family detached - Market Rate - MPDUs	39	47 8	47 1 ^(a) 38 8
Min. Building Setbacks (feet)			
From Woodmont Ave	n/a	0	0
Battery Lane	n/a	0	0
From west side	n/a	11.5	11.5
From rear (north)	n/a	40.5	40.5
Max. Building Height (feet)	n/a ^(b)	79'-4" ^(c)	90'-0" ^(d)
Max. Building Coverage (% of GTA)	n/a	60.6	60.5 (0.31 acres)
Min. Green Area (% of GTA) (59-C-7.16) - At ground level - Rooftop	30 (6,785 sq. ft.)	30	40.5 (9,158 sq. ft.) 16.6 (3,753 sq. ft.) 23.9 (5,405 sq. ft.)
Min. Onsite Parking Spaces (59-E)	98	n/a	101
Residential (Sub-total) (1) existing one-family detached ^(a) (46) 2-bedrooms @ 1.5 spaces 10% reduction (59-E-3.33(a))	66 4 ^(e) 69 - 7.3		
Restaurant (Sub-total) Indoors patron use area (1200 sq. ft.) @ 25 sp/1000 GLS Outdoors patron use area (128 sq. ft.) @ 15 sp/1000 GLS	32 30 2		
Motorcycle spaces	2		2
Bicycle spaces (@ 1 sp/ 20 parking spaces)	5		7
On-site loading	1		1

- (a) Existing one-family detached house to remain with approved special exception S-2740 as a charitable/philanthropic use.
- (b) Although the Zoning Ordinance does not specify a maximum building height for the PD-75 Zone, the Sector Plan Amendment specifies 65 feet, which also recognizes that additional height may be permitted when MPDUs are provided onsite.
- (c) Binding element no. 2 permits measurement from the adjoining curb grade along Woodmont Avenue to the highest point of the main roof slab (the roof area covering the major area of the building excluding mechanical , access, elevator penthouses, and decorative gables) with final height measurement subject to review and adjustment by the Planning Board at site plan approval.
- (d) As measured from the level of approved street grade opposite the middle front of a building to the highest point of roof surface of a flat roof; to the mean height level between eaves and ridge of a gable, hip, mansard, or gambrel roof.
- (e) The total of 4 spaces required include 3 spaces for residents (= 1 space per 2 residents), and 1 space for employees (= 1 space per 2 employees).

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. Staff has not received correspondence on this matter.

FINDINGS

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.*

As conditioned, the site plan conforms to all non-illustrative elements and binding elements of the Development Plan Amendment (DPA 06-1) approved by the County Council on April 24, 2007, with the Resolution No. 16-98, specifically with regard to the height of the building. The binding elements quantified certain development standards, such as the number of dwelling units, building height, setbacks, green space, building coverage, and residential parking spaces because the zone does not have any requirements for some of these.

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

The proposed uses are allowed in the PD-75 Zone and the site plan fulfills the purposes of the zone by integrating mutually compatible uses, such as residential and restaurant, which encourages social and community interaction and activity among those who live and work within the area.

As the project data table on page 11 indicates, the site plan meets all of the development standards of the zone.

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

- a) Buildings and structures

The proposed multi-use building with 46 dwelling units (including 8 MPDUs) extends from the existing single-family home which will remain at the northern property line to the southern property line at the intersection of Woodmont Avenue and Battery Lane. There is an approximate 15-foot wide landscaped area between the two buildings. The new building will have a covered vehicular drop-off area on the Woodmont Avenue side to facilitate access to the restaurant at the ground floor. The restaurant's access is from both Woodmont Avenue and Battery Lane. The outdoor eating area on Battery Lane, along with the streetscape improvements, will help to activate this intersection. The residential units will be accessed from the drop-off area, which connects to an interior lobby area. The building's location and orientation are adequate, safe and efficient, while meeting the aesthetic concerns of the area and the character envisioned by the Master Plan.

b) Open Space

This zone does not have an open space requirement; instead it has a minimum green area requirement of 30 percent of the gross tract area, which was confirmed by binding element number 4 of the DPA 06-1. The plan meets the green area requirements by providing a combined total of 40.5 percent of green space, of which 16.6 percent is located at street level and 23.9 percent on the rooftop of the building. All green areas (including the active/passive recreation rooftop green area) for the building will be accessible to all residents of the condominium, as required by binding element number 5 of the DPA 06-1. Although green area requirements are typically met on the ground as opposed to building rooftops, the green area definition does not preclude the proposed location of green area within the building footprint. The general location of this site, in the Bethesda Central Business District, implies that certain urban densities will promote creative and unconventional approaches to fulfilling the green area requirements. In addition, there is at least one precedent in Bethesda, the LMA G-864 for the Christ Evangelical Lutheran Church of Bethesda Chevy Chase, where rooftop green area has been counted towards the green area requirement. In this case, the Hearing Examiner concluded that “the fundamental intent of the definition and the green area requirement was to provide useful outdoor recreation space for apartment dwellers, and that goal can be satisfied with a well-designed rooftop recreation area as well as on the ground” (p.145). The open space adequately and efficiently addresses the needs of the proposed use and the recommendations of the Master Plan, while providing a safe and comfortable environment.

c) Landscaping & Lighting

The landscaping consists of street trees along Woodmont Ave and Battery Lane to match the species and general spacing of the existing street trees, and raised planters with shrubs on the Battery Lane and Woodmont Avenue façades of the building. Additional landscaping is located along the edges of the roof and on the pool deck, and consists of shrubs and flowering trees, which add interest and provide enclosure for these areas. The landscape provided is safe, adequate and efficient and it meets the standards of the 1992 Bethesda Streetscape Plan.

The lighting plan consists of street lights that meet the standards of the 1992 Bethesda Streetscape Plan and wall mounted lights around the perimeter of the building that provide adequate and efficient levels of illumination to have a safe pedestrian environment.

d) Recreation Facilities

The recreation facilities provided include various sitting areas, an indoor community room, an indoor exercise room, and a swimming pool. These facilities meet the M-NCPPC Recreation Guidelines for a multi-family high-rise development of 5 stories or more, and a single-family detached house in a lot of 20,000 square feet or more. The facilities provided are adequate, safe and efficient at serving the recreational needs of the residents.

e) Pedestrian and Vehicular Circulation Systems

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area. Pedestrian access will be improved through a widening of the existing sidewalk near the northern property line to include the entire width between the curb and the existing fence of the existing house. Pedestrian circulation along Woodmont Avenue is interrupted by the access to the vehicular drop-off area, however, this is mitigated via flush pavement between the sidewalk and the drop-off area (no curb), and the slope is maintained at a maximum of 2 percent at the crossing points. The standards of the Bethesda Streetscape Plan help to improve pedestrian access throughout the CBD by assuring that adequate sidewalks and connections are provided.

In addition to the one-way vehicular drop-off/pick-up loop at Woodmont Avenue, vehicular circulation takes place in the rear of the building through a two-way driveway located within a 20-foot wide shared access easement between the subject site and the adjoining property to the west. This driveway, connecting to Battery Lane and running parallel to Woodmont Avenue, provides access to the 3-level parking garage underneath the building. Three separate entrances to the parking garage provide access to the service court level, parking level 1, and parking levels 2 and 3, respectively. Both residential and restaurant parking needs will be accommodated within the 3 levels of parking. The existing single-family detached house (Children's Inn) has separate parking underneath the house.

The Applicant must provide an easement for future dedication of up to 5 more feet of right-of-way for a total of 40 feet from the centerline of Woodmont Avenue near the northern property line to conform with the *Bethesda CBD Sector Plan*. When dedicated, the existing fence in front of the existing house (Children's Inn) would be located within the additional public right-of-way. At that time, the Applicant must obtain a revocable easement agreement from Montgomery County that includes liability and maintenance considerations for the fence.

The design of the pedestrian and vehicular circulation systems allows for adequate and efficient access to the site and the building, while creating a safe atmosphere for pedestrians, cyclists, and vehicles.

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

The proposed uses are compatible with the adjacent and confronting uses as well as the approved adjacent development. The proposed residential use will increase the supply of existing multi-family housing in the Battery Lane District, whereas the restaurant at street level will help to activate the intersection of Woodmont Avenue and Battery Lane. The proposal also conforms with the high-rise or garden apartment land use designation for this area of the Battery Lane District by the *March 2006 Woodmont Triangle Amendment to the Bethesda CBD Sector Plan*.

Although the proposed building height of 90 feet would be compatible with the surrounding buildings, Staff is not in support of the additional story (approximately 10 feet 8 inches) because the proposal is not in conformance with DPA 06-1. The DPA has already granted a 22 percent height bonus above the Sector Plan recommended height limit of 65 feet due to the provision of 8 MPDUs onsite. Therefore, Staff recommends that the proposed building height be limited to 79 feet 4 inches as approved by DPA 06-1.

As amended, the building height will be compatible with the nearby buildings and is located such that it will not adversely impact existing or proposed adjacent uses. The height of the building at 79 feet 4 inches is higher than the adjacent mid-rise residential building to the west, and lower than the approved building located directly across Woodmont Avenue at 8400 Wisconsin Avenue, at approximately 90 feet. An 8-story building along with the approved building at 8400 Wisconsin Avenue will continue to frame the northern entrance to Bethesda along Woodmont Avenue to create a gateway as recommended by the *July 1994 Bethesda CBD Sector Plan*. The amended height will provide a better transition between the 200-foot buildings of the Bethesda Metro Station and the edges of the Central Business District.

Although the proposed front building setbacks do not conform to existing setbacks on Battery Lane, the PD-75 Zone contains no standards for building setbacks, and the DPA 06-1 approved the proposed setbacks as part of binding element no. 3. The building will be at the property line on Woodmont Avenue and Battery Lane with zero foot setbacks, which is consistent with the urban character envisioned for the Woodmont Triangle and the PD-75 zoning of this narrow site. The sidewalks surrounding the site will be upgraded according to the Bethesda Streetscape Plan.

The proposed building is compatible with the existing single-family dwelling through architectural treatments and materials used. The building has varying roof lines and setbacks for upper floors, which help increase compatibility with the height of the existing house. The north elevation of the building incorporates balconies that face the existing house and the 15-foot landscaped area between the building and the existing house.

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.*

The site is exempt from the Montgomery County Forest Conservation law. There is no forest on-site. Exemption 42002206E was approved in January 2002. Therefore, no forest conservation or tree save plan review by the Planning Board is required.

The stormwater management concept consists of on-site water quality control via installation of a hydrodynamic structure and a waiver request for water quantity control.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of Site Plan No. 820090010, Woodmont View, for a new multi-use building with a restaurant and 46 new dwelling units, including 8 MPDUs, and an existing single family home to remain (a total of 47 units), on 0.52 gross acres. All site development elements shown on the site and landscape plans stamped “Received” by the M-NCPPC on May 20, 2009, are required except as modified by the following conditions.

Conformance with Previous Approvals

1. Development Plan Conformance
The proposed development must comply with the binding elements of the Development Plan Amendment 06-1 [Appendix A].
2. Special Exception Conformance
The proposed development must comply with the conditions of approval of Special Exception S-2740 dated March 27, 2009.
3. Site Plan
Approval of this plan replaces Site Plan No. 820020260.

Environment

4. Stormwater Management
The proposed development is subject to Stormwater Management Concept approval conditions dated January 15, 2002, and later reconfirmed on August 18, 2008, unless amended and approved by the Montgomery County Department of Permitting Services.

Architecture

5. The building height shall be limited to a maximum of 79 feet 4 inches as approved by DPA 06-1.
6. The final design of the building façade will substantially conform to the architectural renderings received by MNCPPC on May 20, 2009, including fenestration and the provision of terraces/balconies.

Parks, Open Space, & Recreation

7. Common Open Space Covenant
Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 (“Covenant”). Applicant shall provide verification to M-NCPPC staff prior to issuance of the use and occupancy permit that Applicant’s recorded Homeowners Association Documents incorporate by reference the Covenant.

8. Recreation Facilities

The Applicant must provide sitting areas, an indoor community room, an exercise room and a swimming pool.

9. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to the Woodmont Avenue and Battery Lane streetscapes.

Adequate Public Facilities (APF)

10. Adequate Public Facilities (APF)

- a. An APF finding for school capacity must be made by the Planning Board prior to building permit release unless the school moratorium is no longer in effect.
- b. The APF review, exclusive of the schools test, for this development will remain valid for 85 months from the date of mailing of the Planning Board Resolution for the Site Plan.

11. Transportation

The applicant shall comply with the condition of approval from M-NCPPC-Transportation Planning in the memorandum dated June 18, 2009 [Appendix B].

Density & Housing

12. Moderately Priced Dwelling Units (MPDUs)

- a. The proposed development must provide 17 percent MPDUs on-site in accordance with the letter from the Department of Housing and Community Affairs dated April 27, 2009 [Appendix B].
- b. The Applicant is receiving a 22 percent density bonus for providing 17 percent (or eight) MPDUs on-site.
- c. The MPDU agreement to build shall be executed prior to the release of any building permits.

Site Plan

13. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.
- b. All onsite light fixtures must be full cut-off fixtures, except for the wall-mounted fixtures.
- c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e. The height of the light poles shall not exceed 13 feet including the mounting base.

14. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- b. On-site amenities including, but not limited to, sidewalks, benches, trash receptacles, and bicycle facilities must be installed prior to release of any residential building occupancy permit.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- d. The development program must provide phasing for installation of on-site landscaping and lighting.
- e. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, trip mitigation, and other features.

15. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Add a note to the site plan stating that an APF finding regarding school capacity must be made before a building permit may be issued unless the school moratorium is no longer in effect.
- c. Add a note to the site plan stating that “M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading”.
- d. Modify data table to reflect changes to the building height, and parking as a result of bedroom-unit mix and development standards enumerated in the staff report.
- e. Ensure consistency off all details and layout between site plan and landscape plan.
- f. Provide for an alternate plant list on the landscape plan.

APPENDICES

- A. Previous Approvals
- B. Agency Letters
- C. Correspondence
- D. Excerpt from 2007-2009 Growth Policy (Resolution No. 16-376)

Appendix A

Resolution No.: 16-98

Introduced: April 24, 2007

Adopted: April 24, 2007

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: APPLICATION DPA 06-1 FOR DEVELOPMENT PLAN AMENDMENT OF G-808, Previously Approved by the Council on March 30, 2004; Stephen Z. Kaufman, Esquire, Heather Dhopolsky, Esquire, and Debra S. Borden, Esquire, Attorneys for the Applicants, Laurence Lipnick and Battery Lane, LLC; OPINION AND RESOLUTION ON APPLICATION; Tax Account Nos. 03379057 and 03379068.

OPINION

Applicants Laurence Lipnick and Battery Lane, LLC (a/k/a "Woodmont View"), filed Development Plan Amendment 06-1, on July 20, 2005, seeking to amend the development plan approved by the Council on March 30, 2004 in LMA G-808. That Council Resolution (No. 15-563) reclassified 21,101 square feet of land located at 4811 Battery Lane, Bethesda to the PD-75 (Planned Development) Zone and accepted Applicants' former plan to develop the property with 10 townhomes and an existing single-family, detached home. Applicants' present plan (*i.e.*, DPA 06-1) would instead develop the subject site with an eight-story (79 feet, 4 inches in height), 46 unit, mixed-use condominium, including eight moderately priced dwelling units (MPDUs) and a restaurant. The existing single-family, detached home on the northern end of the property (Mr. Lipnick's residence) would also be retained, but the existing four-story office building on the southern extreme of the property would be demolished.

The subject property (designated the "Trunnell property" in the *1994 Bethesda CBD Sector Plan*) is part of Lot 48, Block 2, Northwest Park, Plat No. 134, and is bounded by Woodmont Avenue to the east,

Battery Lane to the south, the "Aldon" property¹ (Lot 22, Block 2) to the west, and the National Institutes of Health to the north.

The application for the development plan amendment was reviewed by the Alternative Review Committee (ARC), pursuant to Zoning Ordinance §59-D-1.61(a), and the ARC found that it was not financially feasible to develop the property with eight MPDUs on site, unless bonus height and density were permitted, as requested by Applicants. Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC) and the Montgomery County Planning Board ("Planning Board") considered the application and both recommended approval, including the bonus height and density sought by Applicants. Because the changes to the development plan sought by Applicants were substantial, the Planning Board forwarded the matter to the Office of Zoning and Administrative Hearings (OZAH) for a public hearing.

That hearing was held on January 29, February 23 and March 9, 2007. The only opposition was presented by Jim Humphrey, Chair of the Planning and Land Use Committee of the Montgomery County Civic Federation (MCCF). The primary basis for MCCF's opposition was the request for height 14.3 feet above the 65 foot height limit recommended in the *1994 Bethesda CBD Sector Plan* for the Battery Lane District. On April 6, 2007, the Hearing Examiner filed his Report and Recommendation, recommending approval of the development plan amendment. To avoid unnecessary detail in this Resolution, the Hearing Examiner's Report and Recommendation, is incorporated herein by reference. Based on its review of the entire record, the District Council finds that the application does meet the standards required for approval of the requested development plan amendment, for the reasons set forth by the Hearing Examiner.

The subject site has approximately 60 feet of frontage with Battery Lane and 340 feet of frontage along Woodmont Avenue. The site has a gross tract area of 22,618 square feet (52% of an Acre) because Applicants acquired 1,517 square feet of excess Woodmont Avenue right-of-way (ROW) from the County

¹ The Aldon property is called that because it is run by Aldon Management, but it is referred to as "Site 1" in the 1994 Sector Plan and occasionally as the "Brown" property, because that is the surname of the current owners.

on September 13, 2004, *i.e.*, prior to this application. Applicants dedicated 596 square feet of Battery Lane ROW to the County on July 24, 2002. The site is rectangular in shape, and the topography slopes down from east to west. There are no natural resources (wetlands, streams, flood plains or forest) on the property. The public utilities (water and sewer) serving the property have adequate capacity to handle the proposed development. There is also an existing public storm drain on the adjoining property, which has adequate capacity to take storm water runoff away.

In the 1954 Regional District zoning, this area was zoned R-60. In 1958, the R-60 Zone was reaffirmed as part of the countywide comprehensive zoning. On December 6, 1977, SMA G-20 reaffirmed the R-60 Zone. On December 12, 1989, Local Map Amendment G-636 changed the R-60 Zone to the C-T Zone. That change was reaffirmed on October 11, 1994, in SMA G-711. On March 30, 2004, Local Map Amendment G-808 reclassified the subject site to the PD-75 (Planned Development) Zone in Council Resolution No. 15-563.

The surrounding area must be identified in a floating zone case so that compatibility can be evaluated properly. The "surrounding area" takes into account those areas that would be most directly affected by the proposed development. In the present case, the Hearing Examiner appropriately adopted the definition of the surrounding area accepted by the Council in LMA G-808:

extend[ing] out from the intersection of Battery Lane and Woodmont Avenue to the Battery Lane Urban Park to the west, Norfolk Avenue and Cheltenham Drive to the south, Wisconsin Avenue to the east and the National Library of Medicine on the National Institutes of Health (NIH) campus to the north.

Surrounding the subject site are properties zoned R-60, R-10, R-10/TDR and CBD. The land use and zoning pattern for the area reflects a mix of residential, commercial and institutional land uses. North of the subject property is R-60 zoned land surrounding the Library of Medicine on the grounds of NIH. Confronting to the east and southeast are uses in the CBD-1 Zone, including a hotel on the site of a proposed 200 unit condominium building, known as 8400 Wisconsin Avenue (owned by "Crimson 8400 Bethesda,

LLC”). Confronting to the south and adjoining to the west are multi-family residential buildings in the R-10 and R-10/TDR Zones. These buildings range in height from three to five stories. Further to the west is the Battery Lane Urban Park operated by M-NCPPC. There is also a parking garage south of Battery Lane, within this area.

Pursuant to Code § 59-D-1.11, development in the PD-75 Zone is permitted only in accordance with a development plan that is approved by the District Council when the property is reclassified to the PD-75 Zone or upon approval of an amendment to that development plan pursuant to Code §-D-1.7. The land use plan (Exhibit 78(b)) is a required part of the development plan, and it is entitled “Alternative Amendment To Development Plan” in this case. It shows the proposed locations of all structures, as well as additional information regarding the planned development, both in diagram and textual form. The Development Plan and the Land Use Plan that constitutes one of its primary parts are binding on the Applicants except where particular elements are identified as illustrative or conceptual. Illustrative elements may be changed during site plan review by the Planning Board, but the binding elements (*i.e.*, those used in evaluating compatibility and compliance with the zone) cannot be changed without a separate application to the District Council for an additional development plan amendment.

Binding Elements{ TC "B. Development Plan & Binding Elements" \f C \l "2" }

The textual binding elements here include the following:

1. The maximum number of dwelling units will be 47, including 17% MPDUs (or 8 MPDUs).
2. The building height is proposed for 79 feet 4 inches measured from the adjoining curb grade along Woodmont Avenue to the highest point of the main roof slab (the roof area covering the major area of the building excluding mechanical, access, elevator penthouses, and decorative gables) with final height measurement subject to review and adjustment by the Planning Board at site plan approval.
3. The minimum setbacks will be 0 feet for the front yards on Woodmont Avenue and Battery Lane, 11.5 feet for the side yard to the west, and 40.5 feet for the rear yard from the existing building at the north property line.
4. The minimum green space will be 30% of the gross tract area.

5. All green areas (including the active/passive recreation rooftop green area) for the condominium building will be accessible to all residents of the condominium building.
6. The maximum building coverage will be 60% of the site area.
7. The minimum number of parking spaces for the residential units will be 54, and the number of parking spaces required for the commercial use will comply with the Zoning Ordinance.
8. This property is subject to a Common Driveway Agreement recorded at Liber 26425, Folio 122 among the Land Records of Montgomery County. The Common Driveway Agreement sets forth the agreement between the applicant and the adjacent property owner to share certain portions of their respective properties for mutual ingress and egress from Battery Lane in order to achieve more efficient, convenient, and safer access to both properties.
9. Applicant shall submit a revised Stormwater Management Concept Plan to be approved prior to site plan.
10. The Street commercial space in the planned building will be occupied by a "Quality Restaurant" as described in the Institute of Transportation Engineers (ITE) Trip Generation Manual, 7th Edition, page 1703, not by any more intensive commercial use (*i.e.* one producing more peak hour traffic).

The District Council finds that the development plan submitted with this application satisfies all the requirements for a development plan under Code §59-D-1.61(a)-(e). Each of the required findings is addressed below.

§59-D-1.61(a): consistency with master plan and other County policies.

There are two applicable Master Plan documents, the *July 1994 Bethesda CBD Sector Plan*, and the *March 2006 Woodmont Triangle Amendment to the Bethesda CBD Sector Plan*. As observed by M-NCPPC's Community-Based Planning Division (Exhibit 25, Attachment 4):

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

Technical Staff notes that the proposal also conforms to many of the urban design guidelines in the Sector Plan (pp. 92-94), including streetscape development, building orientation towards both Woodmont Avenue and Battery Lane, vehicular access and off-street parking, hidden underground. The proposal offers attractive architectural features, including rooflines that are compatible with adjacent development and the existing dwelling on the property. Exhibit 25, p. 6.

The Land Use Maps on page 27 of the 2006 Amendment propose a land use of “High-rise or Garden Apartments” for the subject site, evidencing the fact that the Sector Plan Amendment did not intend to preclude an eight-story residential building on the site, as long as it qualifies for the bonus height by the inclusion of on-site MPDUs. Code §59-C-7.14(c)(3) requires projects in the PD Zones with a residential density of more than 28 dwelling units per acre to have a minimum of 12.5% MPDUs, and Section 59-C-7.14(c) permits a development in the PD Zone to exceed the density specified for the PD density category (in this case PD-75) “to accommodate the construction of Moderately Priced Dwelling Units.”

Although a 65 foot height limit is recommended for the area of the subject site by the Sector Plan and its 2006 Amendment, the 2006 Amendment also expressly recognizes that recommended height limits may be exceeded to allow the inclusion of MPDUs. As stated on page 10 of the 2006 Amendment,

Mixed-use projects with moderately priced dwelling units (MPDUs) on-site can achieve the greater height and density allowed in the respective zones as specified in this Amendment, but at a FAR no greater than the maximum allowed in the Zoning Ordinance.

The almost identical statement can be found on page 21 of the 2006 amendment:

Mixed-use projects with MPDUs on-site may achieve a greater height and density than allowed in the 1994 Sector Plan as specified in this Amendment, but no greater than the maximum in the Zoning Ordinance.

The Zoning Ordinance also expressly permits additional height and density in proportion to the MPDUs provided on site, as long as the ARC determines, as it has here, that the addition of MPDUs would not be financially feasible within the base limits prescribed by the Zoning Ordinance. Code §59-D-1.61(a).

Since Applicants are providing 17% MPDUs, they are permitted by Code §25A-5(c)(3) to obtain a bonus density and height of 22%. Applying that bonus percentage to the height and density limits, yields a permitted height of 79.3 feet and a permitted density of 47 dwelling units, exactly what Applicants seek in the subject case. The District Council therefore finds that the 65 foot height limit contained in both the 1994 Sector Plan and its 2006 Amendment for the subject site does not prohibit the 79.3 foot structure proposed here.

The 2006 Woodmont Triangle Amendment also encourages the location of first-floor retail in the Woodmont Triangle area. This sentiment is reiterated explicitly in one of the “Urban Design Guidelines” on page 15 of the Plan Amendment, which recommends that developments:

- Provide street-oriented retail, restaurants, and other street animating uses on the first floor of buildings located along streets such as Norfolk Avenue and Cordell Avenue.

Thus, the inclusion of a street-level restaurant, as planned for the eight-story building in this case, is perfectly consistent with the amended Sector Plan.

The County’s Annual Growth Policy (AGP) and the Adequate Public Facilities Ordinance (APFO) require a review of the availability of adequate public facilities for any proposed development. The evidence is that the subject site will be supplied by ample water and sewer service; that there is adequate school capacity under the AGP schools test; and that the development comports with Local Area Transportation Review standards.

The District Council concludes that the proposed development plan will be in substantial compliance with the use and density indicated in the Master Plan and will not conflict with any other applicable county plan or policy.

§59-D-1.61(b): purposes, standards and regulations of the zone; safety, convenience and amenity of residents; and compatibility with adjacent development.

The requirements for the PD-75 Zone are found in Code §59-C-7.1. PD (Planned Development) zones are a special variety of floating zone with performance specifications integrated into the requirements of the zone. These zones allow considerable design flexibility if the performance specifications are satisfied. The applicant is not bound to rigid design specifications, but may propose site-specific criteria, within the parameters established for the zone, for elements such as setbacks, building heights and types of buildings, all of which must be spelled out on a development plan.

The lengthy purpose clause for the PD-75 Zone (as well as the other PD Zones) is found in Code §59-C-7.11. Generally, it is the purpose of the Zone to implement the general and master plans by permitting “unified development consistent with densities proposed by the master plans.” Development in the PD Zones should be “so designed and constructed as to facilitate and encourage a maximum of social and community interaction and activity among those who live and work within an area and to encourage the creation of a distinctive visual character and identity for each development.” It is intended to produce a “coordinated mixture of residential and convenience commercial uses and encourage a broad range of housing types....” It is also a purpose of the PD Zones to take advantage of open space and trees, enabling them to function “as places for relaxation, recreation and social activity.” The purpose clause also encourages large scale developments and creation of “pedestrian circulation networks, separated from vehicular roadways . . . [which will] minimize reliance upon the automobile as a means of transportation.” Finally, it is the purpose of the PD Zones “to achieve a maximum of safety, convenience and amenity for both the residents ... [and their neighbors], and to assure compatibility and coordination of each development with existing and proposed surrounding land uses.”

As discussed above, the proposed development will be in substantial compliance with the *Bethesda CBD Sector Plan, as Amended*. Accordingly, the application will comply with the first element of the

purpose clause by allowing implementation of applicable Master Plan objectives. However, the small size of the intended development makes it virtually impossible for the builder to satisfy each element of the purpose clause unless one evaluates this development as part of the larger neighborhood.

Typically, developments in the PD Zone are, as mentioned in the “purpose clause,” large in scale, a characteristic which enables the developer to employ the kinds of pedestrian circulation networks, open spaces and recreational areas which are goals of the Zone. The small size of this project limits the use of extensive common areas and pedestrian circulation networks. Nevertheless, Zoning Code §59-C-7.122 does recognize that a PD Zone may be applied to small developments, and this project’s location near the heart of Bethesda allows it to achieve the PD Zone’s social interaction goals in the context of the surrounding area. The development will be close enough for people to walk to nearby restaurants, shops and entertainment.

Moreover, the new development plan calls for a much larger project than originally planned (*i.e.* the original plan called for 10 townhouses, while the plan amendment would allow a 46 unit building to be added to the site). The additional size allows Applicants to supply additional amenities, such as a restaurant and roof-top common areas. Thus, the present application is more in keeping with the purposes of the PD-75 Zone than the original proposal approved by the Council in LMA G-808. More importantly, it will provide a diversity of housing types, called for in the “purpose” clause, but not provided under the G-808 townhouse plan.

Visually, the planned structure will be an improvement over the present office building and gravel parking lot. As noted by the Technical Staff, the new building will front on both Woodmont Avenue and Battery Lane to activate the streetscape. The architecture was designed to blend well with the existing single-family home on the site, and it will provide an interesting gateway to Woodmont Triangle from the north.

In addition, the proposed development would provide the “maximum of safety, convenience and amenity” for both the residents and their neighbors, another stated purpose of the PD Zone. The eight-story structure will have safe vehicular access via the recessed drop-off area on Woodmont Avenue and the existing single driveway on Battery Lane. Parking will be in a two-level underground garage, except for the service court parking and the existing two-car garage attached to the Lipnick residence. The uncontradicted record in this case establishes that vehicular and pedestrian access and circulation will be safe and efficient. Moreover, living within easy walking distance of a Metro station and having the numerous Bethesda retail establishments as well as the Battery Lane Local Park in the neighborhood will be great conveniences. Residents and the public will also benefit from the 30% green area proposed for this project, although the roof-top green space will not be available to the general public.

The goal of visual compatibility will be achieved by designing the proposed building to mesh architecturally with the existing detached, single-family home, and by the similarity of the proposed eight-story building to other structures existing and planned in the surrounding area. In fact, the new development plan calls for a structure that is more in keeping with its surrounding area than the townhouse proposal approved in G-808. Land use compatibility is provided by the fact that the proposed residential use fits in well both with the nearby residential uses and with the variety of local amenities available in Bethesda within walking distance. It is also consistent with the Land Use Plan provided on page 27 of the 2006 Woodmont Triangle Amendment.

Technical Staff correctly observes that “the building height provided will be compatible with adjacent development and will integrate mutually compatible uses,” because “[t]he proposed height is higher than adjacent mid-rise residential development to the west, but it is lower than adjacent residential development at 8400 Wisconsin Avenue, which is 100 feet.” Also, “[t]he residential use is consistent with existing and planned land use in the surrounding area ... [and t]he commercial use . . . [will] fit into the fabric of the urban environment of the Bethesda CBD.” Exhibit 25, p.6. It should also be noted that the

Amended Sector Plan allows heights up to 110 feet directly across Battery Lane to the south (Diagram on Page 12 of the Sector Plan Amendment); and the property to the north is NIH, an institutional use with large buildings.

The proposed use of the subject site as a mixed-use, multi-family dwelling is also consistent with the planned use across Woodmont Avenue and with the other existing uses on Battery Lane, almost all of which are multi-family structures. Finally, the proposed building is compatible with the more urban style of development that is planned for the Woodmont Triangle area under the Sector Plan Amendment. The District Council finds that the new proposal for a mixed-use, eight-story condominium, would be more compatible with the surrounding area than the initial plan of ten townhouses for the subject site.

In sum, the proposed development is consistent with the intent and purposes of the PD-75 Zone. We next look to the “standards and regulations” of the PD-75 Zone, which are spelled out in Zoning Ordinance §§59-C-7.12 through 7.18.

Code Sections 59-C-7.121 and 59-C-7.122 are inapplicable because this application does not seek a reclassification of the zone, but only a development plan amendment.

Pursuant to Code §59-C-7.131, all types of residential uses are permitted in the PD-75 Zone except detached, single-family homes. The existing detached, single-family house on the site is permitted to remain because it predated the rezoning, approved by the Council in G-808. The Council determined at that time that it is a nonconforming use subject to the restrictions contained in Division 59-G-4 of the Zoning Ordinance.

Code Section 59-C-7.132(b) permits commercial uses in the PD-75 Zone under specified circumstances. Applicants seek to include a small amount of restaurant commercial space (3200 square feet of gross floor area) on the first floor of their proposed eight-story building. The District Council finds that such commercial space is permitted under Section 59-C-7.132(b) because the *Bethesda CBD Sector*

Plan endorses such uses for the area. This application also satisfies the alternative prong of this section because a restaurant use would achieve the purpose of the zone by adding an additional and compatible amenity.

Section 59-C-7.14 determines the appropriate density category for the zone when reclassification is sought. That is not the case here, so this section is inapplicable.

Code Section 59-C-7.15, addresses compatibility, a subject which has already been discussed in the context of the Zone's purpose clause. Based on the preponderance of the evidence, the District Council concludes that the development proposed on the subject property would be compatible with and would not adversely affect the character of adjacent development.

Section 59-C-7.16 requires 30% green area for the PD-75 Zone. Textual Binding Element #4 of the Amended Development Plan calls for a minimum of 30% green area, thus meeting the 30% green-area requirement under the PD-75 density category.

Section 59-C-7.17, discusses dedication of land for public use. Applicants previously dedicated of 596 square feet of right-of-way along Battery Lane. No additional dedication is planned.

Section 59-C-7.18 specifies that off-street parking must be provided in accordance with the requirements of Article 59-E of the Zoning Ordinance. In this case, eighty-eight (88) parking spaces are required for the site, including both the residential requirements (54 spaces)² and commercial requirements (34 spaces). Applicants will provide the required 88 spaces on site in a two-level underground garage (75 spaces); in the service court (11 spaces); and in the exiting garage attached to the Lipnick single-family home (2 spaces).

² The number of residential parking spaces required in this case is reduced by 17% (from 65 to 54) pursuant to Zoning Ordinance §59-E-3.33(b)(3) because Applicants will be providing 17% of their dwelling units as MPDUs.

In sum, the District Council finds that Applicants have complied with all of the purposes, standards and regulations of the PD-75 Zone, as set forth in Article 59-C of the Zoning Ordinance.

The next finding required by Section 59-D-1.61 is a determination that the proposed development would provide the “maximum safety, convenience, and amenity of the residents.” Since this required finding is practically identical with one of the purpose clause requirements for the PD-75 Zone, it has been discussed in that context, above. As noted there, Applicants have provided the maximum in safety, convenience and amenities for the future residents of this development.

§59-D-1.61(c): safe, adequate and efficient internal vehicular and pedestrian circulation systems.

The development plan provides an improved pedestrian circulation network with wider sidewalks and better access for residents and the public traveling through the area. As noted previously, the project is designed to provide safe, adequate, and efficient access for vehicles and pedestrians. Vehicular points of access will be provided on both Woodmont Avenue and Battery Lane. The Applicants have negotiated a common driveway agreement with the owner of the adjacent multi-family development to accommodate a shared driveway. The overwhelming evidence is that the site will provide safe, adequate and efficient pedestrian and vehicular access. Accordingly, the District Council finds that the proposed circulation systems and site access would be safe, adequate and efficient.

§59-D-1.61(d): preservation of natural features

There are no forests, specimen trees or natural features existing on the site. The site, which is mostly impervious at present, was significantly graded to construct the existing office building and parking lot. Applicants submitted a Natural Resources Inventory and Forest Stand Delineation (NRI/FSD), and received an exemption from the M-NCPPC as to forest conservation requirements in connection with LMA G-808. That exemption is still in effect. A Preliminary Storm Water Management Concept and Sediment Control Plan was also approved by the Department of Permitting Services in conjunction with LMA G-808;

however, Technical Staff determined that an amended plan must be filed prior to site plan review in the current case. Applicants agreed to add a textual binding element stipulating that a revised stormwater management concept plan will be submitted and must be approved prior to site plan. It is now Textual Binding Element #9.

In sum, the District Council finds that Applicants have demonstrated the environmental controls required by "Finding (d)."

§59-D-1.61(e): common area maintenance.

The property is owned by Co-Applicant, Laurence Lipnick, as demonstrated by the deed to the property filed as Exhibit 75. According to Applicants' counsel, Applicants will form a condominium association, which will be responsible for maintenance of common and quasi-public areas. He submitted a sample "Declaration of Condominium" of the kind which will be used for this development (Exhibit 76). It includes a provision (Article 2, Section 2.1(b)) for maintenance of common elements by the "Council of Unit Owners."

The District Council finds that Applicants have sufficiently demonstrated both ownership of the property and their commitment to perpetual maintenance of all recreational and other common or quasi-public areas.

The Public Interest

The final finding which is required under Maryland law is that the proposed Development Plan Amendment will be in the public interest. The proposed development will promote the "health, safety, morals, comfort, and welfare of the inhabitants of the regional district" (*i.e.*, the public interest) by providing the kind of residential development called for in the *1994 Bethesda CBD Sector Plan*, and the affordable housing which is a goal of the 2006 Woodmont Triangle Amendment, without any adverse effect on public facilities. It will offer an attractive transition from the north into the denser portions of

Bethesda and will bring more residents within walking distance of Metro and a variety of convenience retail establishments in Bethesda. In sum, the District Council finds that the proposed Development Plan Amendment is in the public interest.

Based on the foregoing analysis and the Hearing Examiner's report, which is incorporated herein, and after a thorough review of the entire record, the District Council concludes that the proposed development satisfies the intent, purpose and standards of the PD-75 Zone; that it meets the requirements set forth in Section 59-D-1.61 of the Zoning Ordinance; that the application proposes a project that would be compatible with development in the surrounding area; and that the requested development plan amendment has been shown to be in the public interest. The District Council also finds that the legal issues raised by the People's Counsel and MCCF were appropriately decided by the Hearing Examiner, as detailed in his report. For these reasons and because approval of the instant application for a development plan amendment will aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be approved in the manner set forth below.

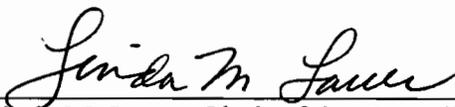
ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, approves the following resolution.

Development Plan Amendment (DPA) 06-1, requesting amendment of the Development Plan approved by the Council on March 30, 2004, in Local Map Amendment (LMA) # G-808, regarding the property located on part of Lot 48, Block 2, Northwest Park Subdivision, Plat No. 134, in the Seventh Election District, at 4811 Battery Lane, in the northwest quadrant of Woodmont Avenue and Battery Lane, in Bethesda, is approved subject to the specifications and requirements of the Development Plan

Amendment, Exhibit 78(b), provided that the Applicants submit to the Hearing Examiner, for certification, a reproducible original and three copies of the approved Development Plan Amendment within 10 days of approval, as required under Code §59-D-1.64.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

Appendix B



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

April 27, 2009

RECEIVED

APR 30 2009

DEVELOPMENT REVIEW

Mr. Stephen Z. Kaufman
Ms. Debra S. Borden
Linowes and Blocher LLP
7200 Wisconsin Avenue, Suite 800
Bethesda, MD 20814-4842

Re: Woodmont View – Site Plan No. 820090010

Dear Mr. Kaufman and Ms. Borden:

Thank you for providing responses to the Development Review Committee (DRC) comments of the Department of Housing and Community Affairs (DHCA). DHCA staff has reviewed your responses and the revised floor plans, and these adequately address our DRC comments:

- All of the MPDUs now have two bedrooms, as do all of the market rate units.
- The size and design of the MPDUs is acceptable.

If you need anything further, please contact Lisa Schwartz at 240-777-3786.

Sincerely,

Christopher J. Anderson
Manager, Single Family Programs

cc: Sandra Pereira, M-NCPPC ✓
Richard Y. Nelson, Jr., Director, DHCA
Joseph T. Giloley, Chief, Housing and Code Enforcement Division, DHCA
Lisa S. Schwartz, Senior Planning Specialist, DHCA

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Division of Housing and Code Enforcement

Code Enforcement
FAX 240-777-3701

Moderately Priced
Dwelling Unit
FAX 240-777-3709

Housing Development
and Loan Programs
FAX 240-777-3691

Landlord-Tenant Affairs
FAX 240-777-3691



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

MEMORANDUM

DATE: June 22, 2009

TO: Sandra Pereira, Build/Development Review Division

VIA: Bill Barron, South Central Corridor Team Leader
Vision/Community-Based Planning Division 

FROM: Crystal Myers, Senior Planner 
Vision/Community-Based Planning Division

SUBJECT: Site Plan 820090010, Woodmont View

Vision Division staff reviewed the proposed site plan, dated April 8, 2009. The site contains approximately 22,618 square feet of PD-75 zoned land. It is located on Woodmont Avenue and is within the Woodmont Triangle Amendment to the Sector Plan for the Bethesda CBD Plan (2006). The site was approved for a special exception for a charitable or philanthropic institution, Children's Inn (S-2740, approved on 1/15/09). The project meets many of the housing and land use goals of the Master Plan. However, it is also in conflict with two Master Plan recommendations concerning building height and transportation needs.

Transportation

While the Woodmont Triangle Amendment (2006) does not contain recommendations for Woodmont Avenue, the Bethesda CBD Sector Plan (1994) recommends an 80 foot right-of-way for this roadway. The proposed site plan needs to comply with this recommendation to be consistent with the Bethesda CBD Sector Plan (1994).

Height

The Applicant is proposing to increase their building height from 79 feet 4 inches to 90 feet. Staff refers to the Bethesda CBD master plan, the zoning ordinance, and the zoning case G-808 and DPA 06-1 for guidance in answering the question of appropriate height for this project.

The 1994 Bethesda CBD master plan established a 65' height limit on the property. Though the site is included within the Woodmont Triangle Amendment's boundaries, the

Amendment deferred to the Bethesda CBD master plan on height recommendations for the property. After the 1994 Bethesda CBD plan was adopted, the Moderately Priced Dwelling Units (MPDUs) bonus density and height provision was added to the zoning ordinance. The provision permits proportional height increases for providing MPDUs.

The question of height increase for this project first came up during the review process of zoning case G-808 and DPA 06-1. The Applicant asked for an additional 14 feet 4 inches for the building to be permitted a height of 79 feet 4 inches. The Applicant agreed to make 17%, or 8 units, of their 47 units MPDUs. Since this is beyond the MPDU requirement, the Applicant received the 22% bonus density. The Hearing Examiner applied the 22% bonus percentage to the height and density limits and found that it yields a permitted height of 79 feet and 4 inches.

Community-based planning staff found the additional 14 feet 4 inch height in conformance with the master plan and recommended approval of G- 808 and DPA 06-1. Staff justified the increase by noting the reference in the MPDU provision where height is permitted to be increased, "Under 25A MPDU provisions, the height may be increased proportionally with the amount of MPDUs on site". A proportional increase for 8 MPDUs is 14 feet 4 inch so it is an appropriate height restriction for the project.

In their Justification statement the Applicant argues that in DPA 06-1 the County Council left the final determination for height to the Planning Board at site plan review. This is based on the binding element which says, "The building height is proposed for 79 feet 4inches measured from the adjoining curb grade along Woodmont Avenue to the highest point of the main roof slab...with final measurement subject to review and adjustment by the Planning Board at site plan review". Vision Staff does not believe that this element permits a 14 ft 8 inch increase to be permitted at site plan review.

Therefore, Vision staff finds that since the Applicant has not made any changes in the number of MPDUs provided, the project needs to maintain the 79 foot 4 inch height restriction. If the Applicant wants to increase the height 90 feet the DPA should be amended and the binding element should be changed.



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

April 28, 2009

MEMORANDUM

TO: Sandra Pereira, Senior Planner
Move Division

VIA: John Carter, Chief *JC*
Urban Design and Preservation Division

FROM: Margaret K. Rifkin, Urban Designer *MKR*
Design Division

SUBJECT: Woodmont View – Site Plan 820090010
Design Division Review Comments



COMMENTS

The proposed site plan is generally consistent with the urban design recommendations in the Bethesda CBD Sector Plan, Woodmont Triangle Amendment if the following conditions are met:

- Provide Bethesda Streetscape along Battery Lane and Woodmont Avenue.
- Reduce the building height so that it is commensurate with the additional height above 65 feet necessary to accommodate the eight MPDUs.

BACKGROUND

The proposal is for one lot with a new high rise. It also includes an existing family home to remain for use by NIH patients and families. The nine-story high rise is proposed to be 88 feet in height, and consist of a restaurant on the ground level and eight stories of condominiums. The existing three-story office building is to be removed. The 0.52 acre site is located in the PD-75 zone in the northwest quadrant, intersection of Woodmont Avenue and Battery Lane.

DISCUSSION

Page 11 “Support the ‘step down’ of building heights from the Metro Station area to the edges of the Central Business District, but provide incentives for increased building heights to encourage new opportunities for housing for all income levels.” The recommended building height for this area is shown as 65’ on page 12 of the Amendment. This property is proposed to have a building that is 88 feet in height. The building will include 8 MPDUs. The additional height above 65’ must be **specifically to accommodate the 8 MPDUs in order to be** consistent with the Plan.

Page 16 “Provide the Bethesda Streetscape on other streets in the study area, such as Cordell Avenue.” The site plan will be conditioned to provide the Bethesda streetscape along both Battery Lane and Woodmont Avenue.



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

MEMORANDUM

TO: Sandra Pereira, Senior Planner, Development Review

VIA: Stephen D. Federline, Master Planner, Environmental Planning

FROM: Lori Shirley, Planner Coordinator, Environmental Planning

SUBJECT: Site Plan #820090010 – Woodmont View, Bethesda
Revised plans

DATE: April 16, 2009

Recommendation

The revised plans date stamped as received by the Environmental Planning Division on April 8, 2009, have no bearing on our original recommendation of **approval** in the January 5, 2009 memo.

Background/Proposal

The 0.17 acre site known as 8300 Woodmont Avenue is located at the northwest quadrant of the Woodmont Avenue/Battery Lane intersection in Bethesda. Adjoining property to the north is the National Institute of Health (NIH). The site has one single-family detached dwelling constructed in 2002. This structure will be retained as is, for adaptive reuse as a multi-family, transitional housing and extended-stay residence for pediatric patients and their families enrolled at the nearby NIH. The site is undergoing concurrent review in Special Exception S-2740 known as The Children's Inn at NIH.

Environmental Guidelines and Forest Conservation

There are no streams, wetlands, 100-year floodplain, steep and severe slopes, forest and champion or specimen trees on-site. The site is not located within a Special Protection Area or Primary Management Area. The site is exempt from the Montgomery County Forest Conservation law. Exemption 42002206E was approved in January 2002. There is no forest on-site. Therefore, no forest conservation or tree save plan review by the Planning Board was required.

SDF:LS

820090010_WoodmontView_2_ls_docx



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

June 18, 2008

RECEIVED

JUN 19 2008

MEMORANDUM

TO: Sandra Pereira, Site Planner
Development Review Division

VIA: Shahriar Etemadi, Supervisor
Transportation Planning

FROM: Ed Axler, Planner/Coordinator EA
Transportation Planning

SUBJECT: Site Plan No. 8200090010
Woodmont View
Bethesda Central Business District (CBD) Policy Area

DEVELOPMENT REVIEW

This memorandum is Transportation Planning staff's Adequate Public Facilities (APF) review for the subject site plan for a proposed apartment building with ground-floor retail space and a second Children's Inn at National Institutes of Health (NIH). The Children's Inn would be located in the existing Woodmont House as reviewed in Special Exception Case No. S-2740.

RECOMMENDATIONS

We recommend the following conditions as part of the APF test for transportation requirements related to approval of the subject site plan:

1. The Applicant must limited the site plan to a maximum of 46 mid-rise apartment units, a maximum of 3,200 square feet of ground-floor general retail space, and an extended-stay multi-family residence for up to five (5) families as granted under Special Exception Case No. S-2740.
2. The applicant must provide an easement for future dedication of up to 5 more feet of right-of-way for a total of 40 feet from the centerline of Woodmont Avenue near the northern property line. This easement must be shown on the final record plat. When dedication is required by any public agency, the existing fence in front of the Woodmont House would be located within the area of additional public right-of-way area. At that time, the applicant must obtain a revocable easement from, and an agreement with the Montgomery County Department of Permitting Services (DPS) that includes liability and maintenance considerations for the fence.

3. The Applicant must mitigate an equivalent of 8 new peak-hour trips to satisfy Policy Area Mobility Review by funding, designing, and installing accessible pedestrian signals for each pedestrian crosswalk at the intersection of Woodmont Avenue and Battery Lane. The existing conditions at the intersection corners must be modified, as needed, to be ADA compliant. The accessible pedestrian signals must be installed prior to release of any building permit.
4. The Applicant must clearly designate parking spaces in the proposed apartment/retail building's garage to be reserved for residents and their guests and distinguished from retail customers and employees to comply with a DPA-06-1 binding element.
5. Instead of providing bike racks or lockers for the Children's Inn at NIH, the Applicant must provide and maintain, in perpetuity, at least one bicycle for shared use by the residents and guests to travel to and from NIH and other nearby destinations. The petition must also provide in perpetuity, and replace when necessary, a bicycle pump, replacement tubes, a lock and a child's and an adult helmet.

DISCUSSION

Site Location

The subject site, proposed Lot 62, is located in the northwest quadrant of the intersection of Woodmont Avenue and Battery Lane. In addition, the subject site is located on the boundary between the Bethesda CBD Policy Area and Bethesda CBD Sector Plan area. A lease line is proposed to divide the proposed apartment building with ground-floor retail space from the Woodmont House.

Related Regulatory Actions

The related regulatory actions are as follows:

1. Minor Subdivision Case No. 220090600, Northwest: This case is pending to create Lot 62 by combining Part of Lot 49, Block 2, Northwest Park Subdivision (Plat No. 134) and Part of Lot 48. Part of Lot 48 is a 1,517-square-foot sliver of excess public right-of-way along the Woodmont Avenue frontage (i.e., in excess of the sector-planned 40 feet from the centerline) near the intersection with Battery Lane that was acquired from the County on September 13, 2004.
2. Special Exception Case No. S-2740, Children's Inn at NIH (or Woodmont House): This special exception use is an extended-stay multi-family residence to house up to five (5) families located in the northern portion of proposed Lot 62. The Planning Board hearing for this case was held on January 15, 2009.
3. Development Plan Amendment (DPA) No. DPA-06-1: This DPA was approved on April 24, 2007, with Resolution No. 16-98, for 46 condominiums with ground-floor retail use and the existing single-family detached house.

4. Site Plan No. 8-02026, Woodmont View: The site plan was approved by the Planning Board on March 21, 2002, for the then-proposed Woodmont House and the existing office building at 4811 Battery Lane.
5. Zoning Case No. G-808: This rezoning from the C-T to the PD-75 zone was granted by the County Council on March 30, 2004, with Resolution No. 15-563.

Vehicular Site Access and On-Site Parking

The vehicular access points are proposed:

1. From Woodmont Avenue: A one-way drop-off/pick-up semi-circular loop in front of the main entrance to the proposed apartment/retail building.
2. From a shared 20-foot-wide access easement/driveway: The shared two-way driveway with the adjacent Battery Lane Apartments runs along the site's western frontage parallel to Woodmont Avenue and connects to Battery Lane. The driveway serves as access to the apartment/retail building's loading dock and the underground parking garage and to the existing Woodmont House underground parking garage.

The subject site is located outside the Bethesda Parking Lot District.

Available Transit Service

The subject site is located within a quarter-mile of the Medical Center Metrorail Station. Bus service is available on the following routes:

1. Ride-On routes 34, 42 and 70 operating along Woodmont Avenue frontage.
2. Ride-On routes 34 and 70 operating along nearby Battery Lane.
3. Ride-On route 33 and Metrobus routes J-2, J-3, J-8, J-9, and 14B operating along nearby Wisconsin Avenue (MD 355).

Pedestrian and Bicycle Facilities

Pedestrian and bicycle facilities would not be adversely impacted by the vehicular traffic generated by the proposed apartment/retail building and extended-stay housing facility. As shown on the site plan, the existing sidewalk along the property frontage of Woodmont Avenue and Battery Lane would be upgraded including increasing the "clear walkable area" to the minimum sidewalk width to six feet near the northern property line

The required bicycle parking for the residents and their guests and for retail customers and employees is shown on the site plan as follows:

1. One inverted-U bike rack next to the main entrance of the proposed apartment/retail building at the drop-off/pick-up semi-circular loop from Woodmont Avenue.

2. Four bike lockers in a well-lit area of the proposed apartment/retail building's Level 2 parking garage and within 60 feet of its entrance/exit point from the building's access point to the easement/driveway.

In lieu of the typical recommendation to provide bicycle racks or lockers, the out-of-town residents living in the Children's Inn at NIH will be provide a bicycle with a bicycle pump, replacement tubes, a lock, a child's helmet, and an adult's helmet for their use as specified in Recommendation No. 5. This bicycle provides the residents as an alternative transportation mode to travel to and from the NIH campus and other nearby destinations within the CBD.

Sector-Planned Roadways and Bikeways

In accordance with the *Bethesda Central Business District Sector Plan*, *Bethesda/Chevy Chase Master Plan*, and *Countywide Bikeways Functional Master Plan*, the sector/master-planned roadways and bikeways are classified as follows:

1. Woodmont Avenue is designated as an arterial, A-68, with a recommended 80-foot right-of-way. According to the *Countywide Bikeways Functional Master Plan*, a shared use path, SP-62, is designated along the Woodmont Avenue frontage.

The right-of-way at the northern boundary line is 35 feet from the centerline along Woodmont Avenue. Based on the Planning Board's opinion dated March 22, 2002, (Attachment No. 1) for the previously-approved Site Plan No. 8-02026, Woodmont View, consideration was given for the "possible future Master Plan ROW on Woodmont [Avenue]." A preliminary plan of subdivision was not required at that time, but this provision left open the possibility that additional five (5) feet of right-of-way for a total of 40 feet from the centerline would be required in the future if and when it is needed. The additional right-of-way is required to be in conformance with the *Bethesda CBD Sector Plan*. The subject site plan continues the required easement for future dedication as specified in Recommendation No.2. The right-of-way will be 40 feet from the centerline along the other frontage of Woodmont Avenue with the creation of Lot 62.

2. Wisconsin Avenue (MD 355) is designated as a major highway, M-6, with a recommended 104-foot right-of-way in the *Bethesda CBD Sector Plan* and 120-foot right-of-way in the *Bethesda/Chevy Chase Master Plan*. A bikeway is not designated along the nearby segment of Wisconsin Avenue.
3. Battery Lane is designated as a business district street with a 70-foot right-of-way and a bike friendly area west of Woodmont Avenue. According to the *Countywide Bikeways Functional Master Plan*, a signed shared roadway, SR-10, is designated along the Battery Lane.

Sector-Planned Transportation Demand Management

The site is located within the Bethesda Transportation Management District. As multi-family residences with small-scaled retail space, the Applicant is not required to enter into a Traffic Mitigation Agreement to participate in the Bethesda Transportation Management District.

Local Area Transportation Review

Table 1 below shows the net increase in the peak-hour trips generated by the proposed land uses during the weekday morning peak period (6:30 to 9:30 a.m.) and the evening peak period (4:00 to 7:00 p.m.). The peak-hour trips were calculated in Table 1 below in accordance with the procedure required in DPA-06-1. The total trips include new, diverted, and pass-by trips where the new trips are shown in parentheses after the total trips in Table 1 below.

Table 1: Site-Generated Peak-Hour Trips

<i>Land Uses</i>	<i>No. of Units or Square Feet</i>	<i>Site-Generated Peak-Hour Trips</i>	
		<i>Morning Total (New)</i>	<i>Evening Total (New)</i>
Proposed Land Uses			
Mid-Rise Apartments	46 units	20 (20)	22 (22)
General Retail Use	3,200 sq. ft.	3 (2)	24 (14)
Extended-Stay Multi-Family Facility	5 families	1 (1)	1 (1)
Subtotal- Peak-Hour Trips		24 (23)	47 (37)
Existing Land Uses			
General Office Use	4,200 sq. ft.	6 (6)	9 (9)
Single-Family Detached Unit	1 unit	1 (1)	1 (1)
Subtotal- Peak-Hour Trips		7 (7)	10 (10)
Net Change in Peak-Hour Trips (Proposed-Existing)		17 (16)	37 (27)

The Local Area Transportation Review (LATR) for the extended-stay multi-family residence is based on the special exception’s Transportation Statement for the Children’s Inn at NIH that utilized the past experiences at the existing NIH Children Inn:

1. These families will not have use of personal vehicles while residing at the Children’s Inn because they arrive from out-of-town locations and cannot afford a long-term vehicle rental. These residents can walk from the Children’s Inn to NIH’s medical facilities that are located within close proximity of this extended-stay residence. In addition, the residents will be given Metro passes to use public transit. Thus the residents would not generate any peak-hour vehicular trips within the weekday morning and evening peak periods.
2. Two full-time staff persons are proposed to work on the Children’s Inn site on either a 7:00-am-to-3:00-pm shift or a 3:00-pm-to-11:00-pm shift. In addition, a security guard is proposed on this site during the evenings.

Thus, only one vehicular trip would arrive at 7:00 a.m. by a staff person within the weekday morning peak period, and one vehicular trip would arrive by the security guard within the weekday evening peak period.

In accordance with the *Local Area Transportation Review and Policy Area Mobility Review Guidelines*, a traffic study was submitted to satisfy LATR because the proposed land uses generate 30 or more total peak-hour trips within the weekday morning and evening peak periods. Table 2 below shows the calculated Critical Lane Volume (CLV) values at analyzed intersections for existing, background (trips generated from approved but un-built developments) and total traffic conditions:

Table 2: Calculated Critical Lane Volumes at the Analyzed Intersections

<i>Analyzed Intersection</i>	<i>Peak Hour</i>	<i>Traffic Condition</i>		
		<i>Existing</i>	<i>Background</i>	<i>Total</i>
Wisconsin Avenue & Woodmont Avenue	Morning	791	857	858
	Evening	987	1,049	1,050
Wisconsin Avenue & Battery Lane/Rosedale Avenue	Morning	916	984	989
	Evening	911	1,009	1,012
Old Georgetown Road & Battery Lane	Morning	988	1,016	1,018
	Evening	1,150	1,288	1,298
Woodmont Avenue & Battery Lane	Morning	1,009	1,141	1,147
	Evening	612	722	728
Woodmont Avenue & Cordell Avenue	Morning	642	653	656
	Evening	526	527	530

At all the analyzed intersections in all traffic conditions, all CLV values on Table 2 above are less than the 1,800 congestion standard for the Bethesda CBD Policy Area and, thus, LATR is satisfied.

Policy Area Mobility Review

Under the current *Growth Policy*, the Policy Area Mobility Review (PAMR) test requires the Applicant to mitigate 30% of the new peak-hour trips generated by the proposed land uses within the weekday morning and evening peak periods. The Applicant must mitigate a total of eight (8) new peak-hour trips as calculated below:

Table 3: New Peak-Hour Vehicular Trips to be Mitigated

Land Uses	Weekday Peak-Hour Trips		30% of Higher # of "Net Increase in Peak-Hour Trips" equals the total # of PAMR trips required to be Mitigated:
	Morning	Evening	
Proposed Apartments, Retail, & Extended-Stay Residence	23	37	8 (or = 27 x 0.30)
Existing Office & House	7	10	
Net Increased in Peak-Hour Trips	16	27	

The Applicant proposes to provide accessible pedestrian signals (APS) at the signalized intersection of Woodmont Avenue and Battery Lane located within the Bethesda CBD Policy Area as specified in Recommendation No. 3. An APS is equivalent to 3 new peak-hour trips. APSs are different from countdown pedestrian signal heads that visually display the Walk or Don't Walk message. APSs are devices for visually-disabled persons located on a curb in front of a pedestrian crosswalk at a signalized intersection that can communicate information about pedestrian signal timing/phasing in a non-visual format such as audible locator tones, visual messages, and/or vibrotactile surfaces (refer to the pictures on Attachment No. 2)

EA:tc
 Attachments

- cc: Robbie Brewer
 Craig Hedberg
 Steve Kaufman
 Sandra Pereira
 Steve Smith
 Carl Starkey
 Elsabett Tesfaye
 David Weber (Gutschick, Little & Weber)

mmo to Pereira re Woodmont View 820090010.doc



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MONTGOMERY COUNTY PLANNING BOARD

OPINION

DATE MAILED: March 22, 2002

SITE PLAN REVIEW #: 8-02026

PROJECT NAME: Woodmont View

Action: Approval subject to conditions. Motion was made by Commissioner Bryant, seconded by Commissioner Wellington, with a vote of 3-0, Commissioners Holmes, Bryant and Wellington voting for. Commissioners Robinson and Perdue were necessarily absent.

The date of this written opinion is March 22, 2002, (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before April 21, 2002 (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed, this Site Plan shall remain valid until the expiration of the project's APFO approval, as provided in Section 59-D-3.8.

On March 21, 2002 Site Plan Review #8-02026 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

- 1. The Site Plan is consistent with an approved development plan or a project plan for the optional method of development if required;*
- 2. The Site Plan meets all of the requirement of the C-T zone, and is consistent with an urban renewal plan approved under Chapter 56;*
- 3. The locations of the buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;*
- 4. Each structure an use is compatible with other uses and other Site Plans and with existing and proposed adjacent development;*
- 5. The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation;*
- 6. The Site Plan meets all applicable requirements of Chapter 19 regarding water resource protection*

Therefore, the Montgomery County Planning Board APPROVES Site Plan #8-02026, which consists of one single family dwelling, subject to the following conditions:

1. Standard Conditions dated October 10, 1995:

- A. Signature set of site, landscape and sediment and erosion control plans to include for staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
 - i. Limits of disturbance.
 - ii. Methods and locations of tree protection.
 - iii. Conditions of DPS Stormwater Management Concept approval letter
 - iv. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
 - v. The development program inspection schedule.
 - B. No clearing or grading prior to M-NCPPC approval of signature set of plans.
2. Streets trees per Master Plan in existing tree pits along Woodmont
 3. Redesign stair to deck to extend eastward no closer to the ROW line than ten feet, to avoid locating a structure in the possible future Master Plan ROW on Woodmont
 4. Move the pedestrian way stair in the easement along the north property line westward to ten feet from the ROW, to avoid locating a structure in the possible future Master Plan ROW on Woodmont
 5. Provide Bethesda streetscape along Woodmont for the full frontage of the subject dwelling; add a street tree at the north property line along Woodmont, subject to MCDPWT approval.
 6. Provide access easement along north property line, to contain pedestrian path and/or stair to Woodmont sidewalk
 7. Dedicate 35 feet of ROW from Battery Lane centerline and truncation at intersection with Woodmont ROW.
 8. Undergrounding of utilities to be postponed till future PD proposal is approved on remainder of lot.



Item # 5
March 21, 2002

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

DATE: March 15, 2002
TO: Montgomery County Planning Board
VIA: Joe R. Davis, Chief *JRD*
Development Review Division
FROM: Larry Ponsford AIA AICP *LP*
Planning Department Staff
(301) 495-4576



REVIEW TYPE: Site Plan Review
APPLYING FOR: Approval of one single family detached dwelling
PROJECT NAME: Woodmont View
CASE #: 8-02026
REVIEW BASIS: Sec. 59-D-3, M. C. Zoning Ordinance

ZONE: C-T Commercial-Transitional
LOCATION: NW quadrant, Intersection of Wisconsin Avenue and Battery Lane
MASTER PLAN: Bethesda Chevy Chase/Bethesda CBD Sector Plan
APPLICANT: 4811 Battery Lane LLC (Larry Lipnick)
FILING DATE: January 30, 2002
HEARING DATE: March 21, 2002

STAFF RECOMMENDATION: Approval of one single family detached dwelling with the following conditions:

1. Standard Conditions dated October 10, 1995, Appendix A
2. Redesign stair to deck to not extend eastward beyond the face of the dwelling, to avoid building in the possible future Master Plan ROW on Woodmont
3. Move the pedestrian way stair in the easement along the north property line westward, to avoid building in the possible future Master Plan ROW on Woodmont
4. Provide Bethesda streetscape along Woodmont for the full frontage of the subject dwelling; add a street tree at the north property line along Woodmont, subject to MCDPWT approval.
5. Provide access easement along north property line, to contain pedestrian path and stair to Woodmont sidewalk
6. Dedicate 35 feet of ROW from Battery Lane centerline and truncation at intersection with Woodmont ROW.
7. Undergrounding of utilities to be postponed till future PD proposal is approved on remainder of lot.

SUMMARY OF ISSUES

1. Dedication of Master Plan ROW on west side of Woodmont (resolved)
2. Permissibility of residential use (resolved)

PROJECT DESCRIPTION: Surrounding Vicinity

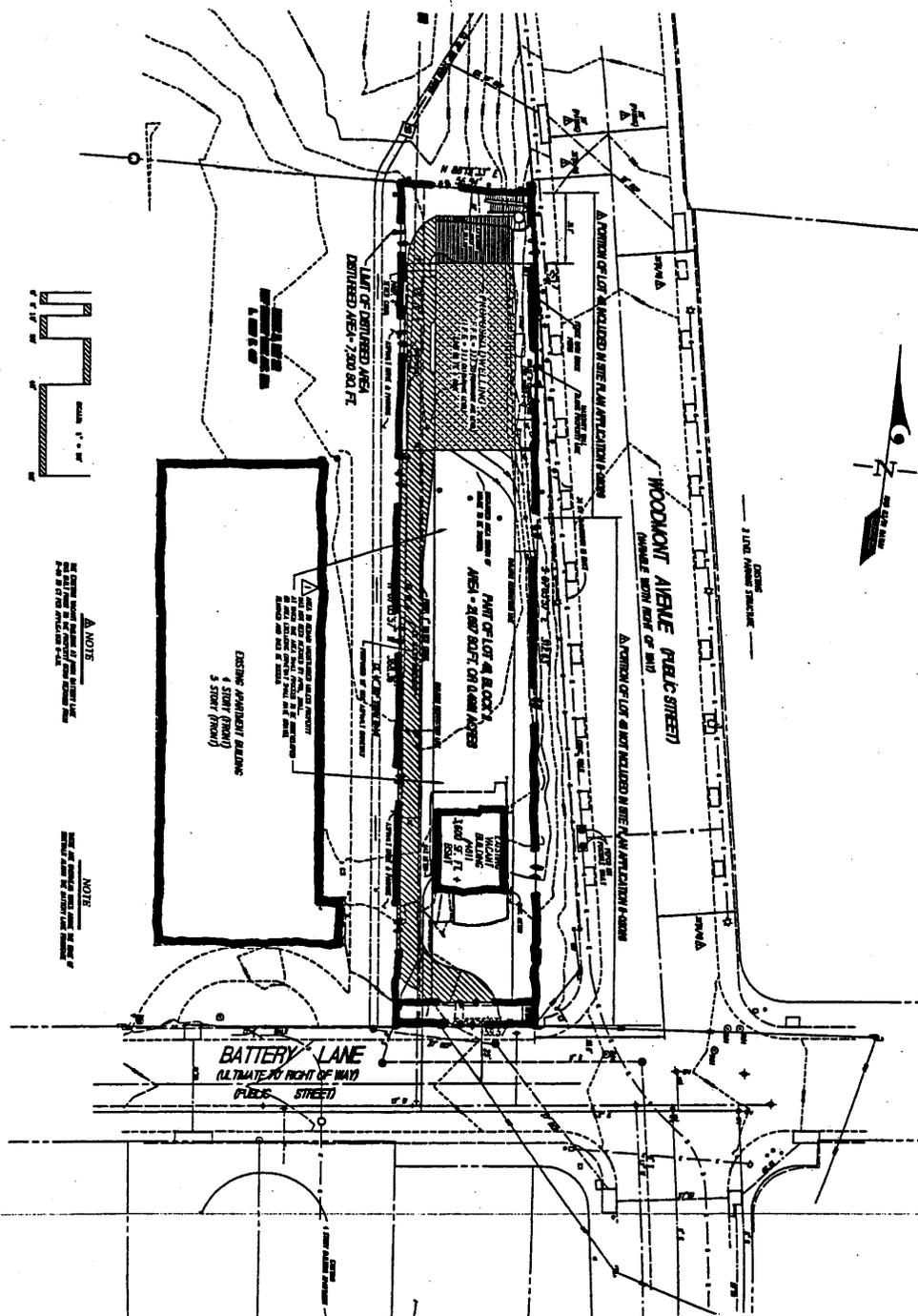
The site is just at the north edge of the Bethesda Central Business District. It is one of the two sites flanking the entry point into the CBD on Woodmont from the north; its development will provide one-half of the gateway to the CBD at this point. The other half, across Woodmont, is currently the rear of the garage behind the Sheraton hotel facing Wisconsin. To the north of this site are the wooded and grassy lawns of the National Library of Medicine. To the west is an existing apartment building and parking lot. The site is bounded on the south by Battery Lane, which is classified as a residential street.



PROJECT DESCRIPTION: Site Description

A remodeled/enlarged single family house containing office uses occupies the south end of the site. The house was on the site since before the site was rezoned to C-T, and was converted to office use after rezoning to C-T. The south side of the office building is paved for parking, and the remainder is unpaved but also used for parking. Woodmont's sidewalk is concrete with tree pits 30-35 feet on center inserted into part of its width.

A curb cut on Battery Lane gives access to the site. A WSSC easement traverses the west edge of the site from South to North. There is no significant vegetation. The site slopes down from Woodmont toward the west, with most of the drop in an embankment along the Woodmont ROW. The rear two-thirds of the site are about one level below Woodmont.

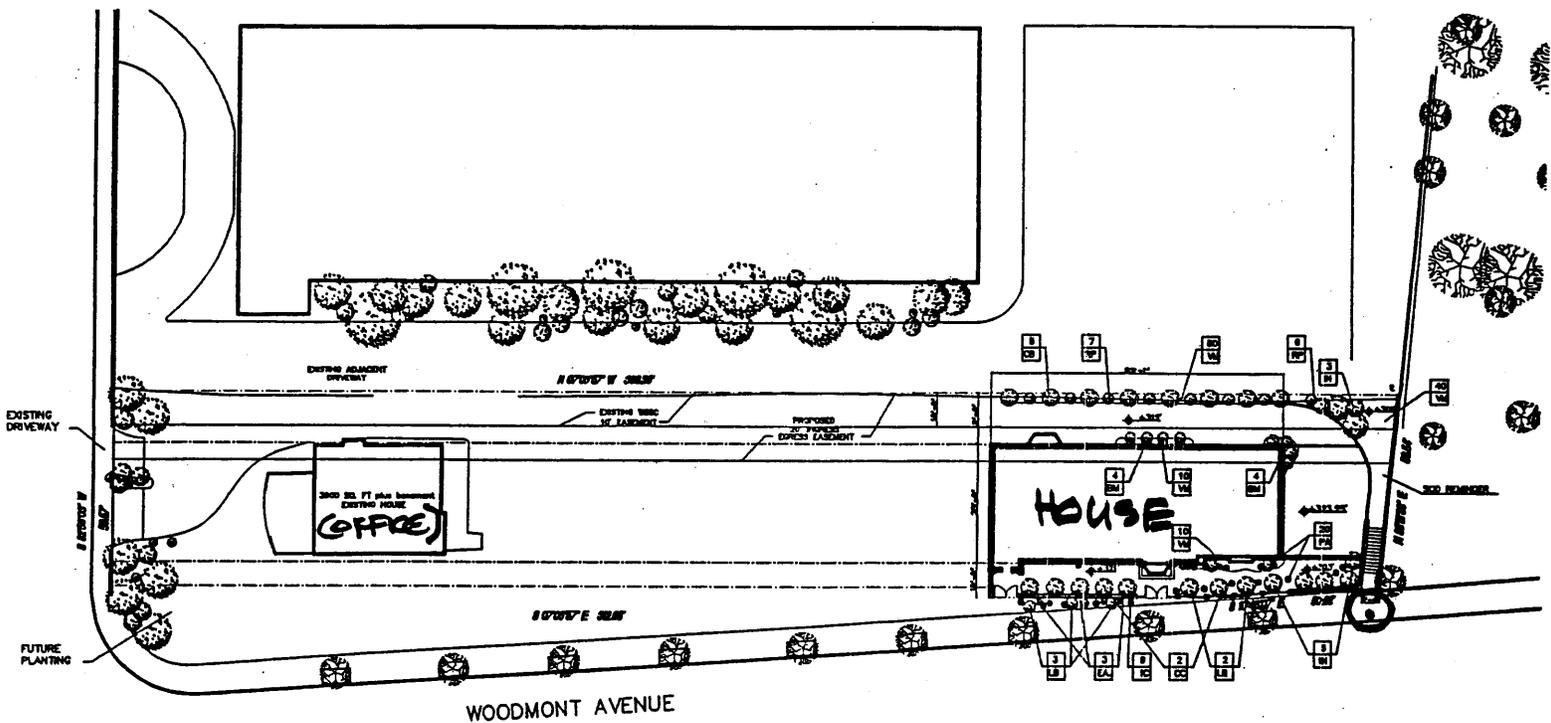


PROJECT DESCRIPTION: Proposal

The applicant proposes to build a large single family dwelling at the north end of the site. The house will be accessed along a driveway over the WSSC easement along the west edge, via the existing Battery Lane curb cut. The house is designed to appear to be two smaller, abutting houses, to reduce the scale and to blend compatibly with a *future* phase which will be proposed *later* for the southern 2/3 of the site, namely a row of residential townhouses facing Wisconsin Avenue. Prior to that proposal's being reviewed by the Board, this and possibly the adjacent apartment building will have to undergo rezoning to PD-75 in accordance with the Master Plan. *The subject of this review is only the single family detached dwelling on the north third of the site.*

The house will feature a deck on its north end which will overlook the grounds of the Library of Medicine. The lowest floor, on grade with the library grounds, will house parking, both in the basement of the house and under the deck. The parking below the deck is somewhat screened from the southbound travelers entering the CBD on Woodmont by the stairs along the edge of the deck, and by a second stair from the yard level up to the Woodmont sidewalk. The applicant proposes to provide this pedestrian connection from the apartments to the west of the site to Woodmont, for those commuting on foot to and from NIH or its Metro stop. The path would be in an access easement along the north end of the subject site.

Access will utilize the existing curb cut on Battery Lane for the time being, and will be restricted to right-in, right-out movements. The site has received a small-lot exemption from Forest conservation requirements. The MCDPS has waived quantity control of storm water but required on-site quality control.



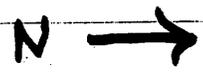
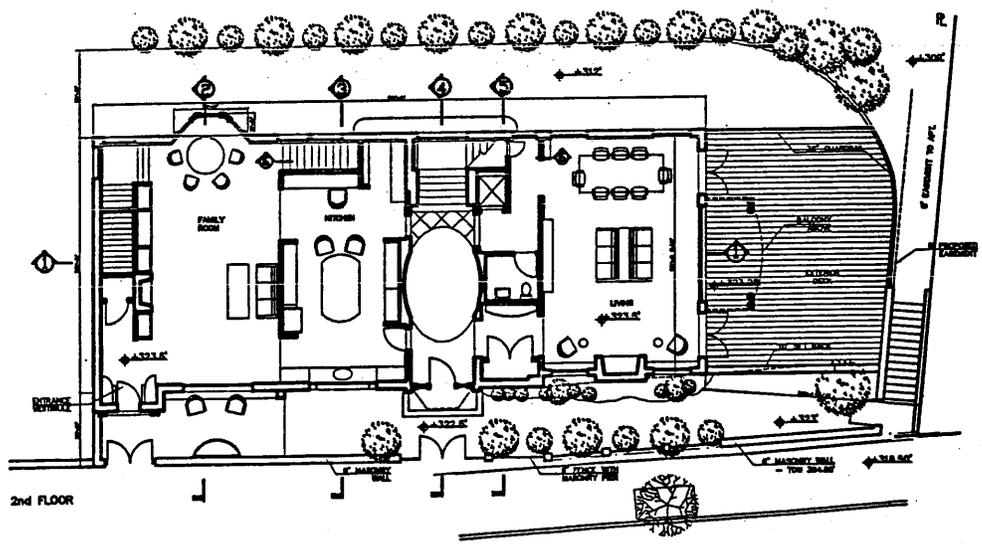
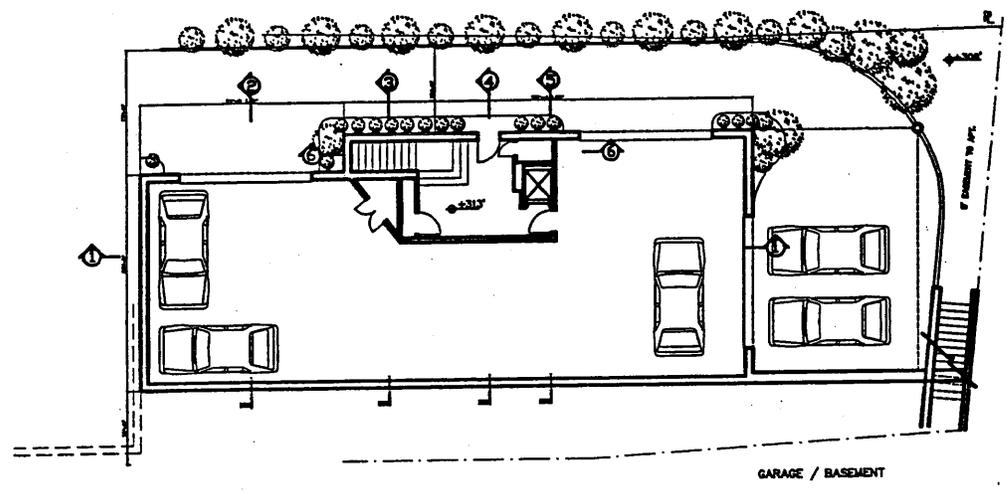
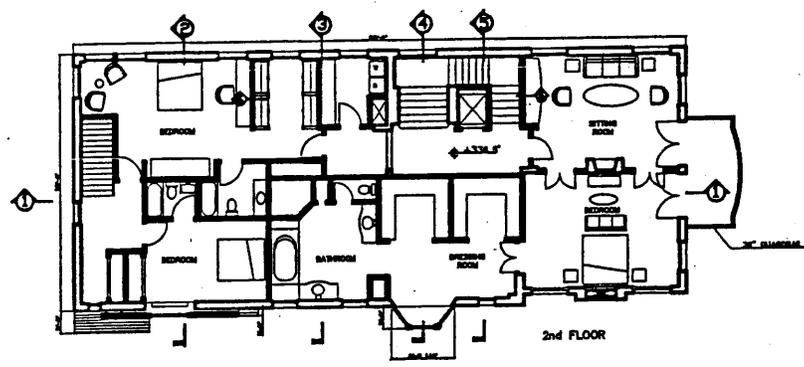
DATE: _____
LIMITS: _____

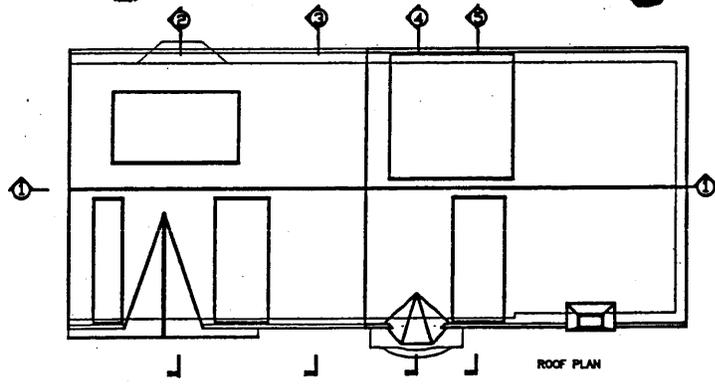
PLANS

BATTERY LN
4811 BATTERY LN
BETHESDA, MD

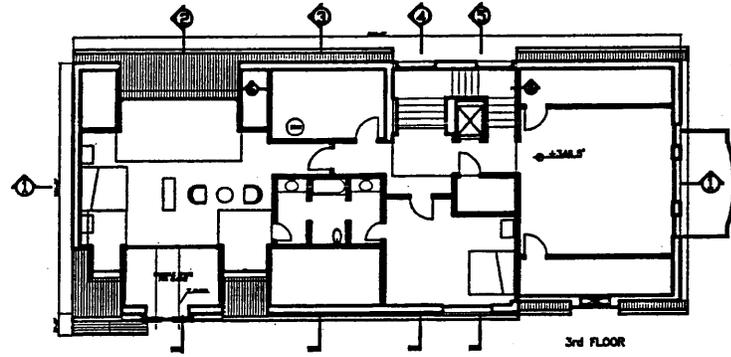
MORRISON ARCHITECTS
1726 CONGRESS AVE, NW
WASHINGTON, D.C. 20004
TEL: 202-331-1100 FAX: 202-331-1101
WWW.MORRISONARCHITECTS.COM

A4

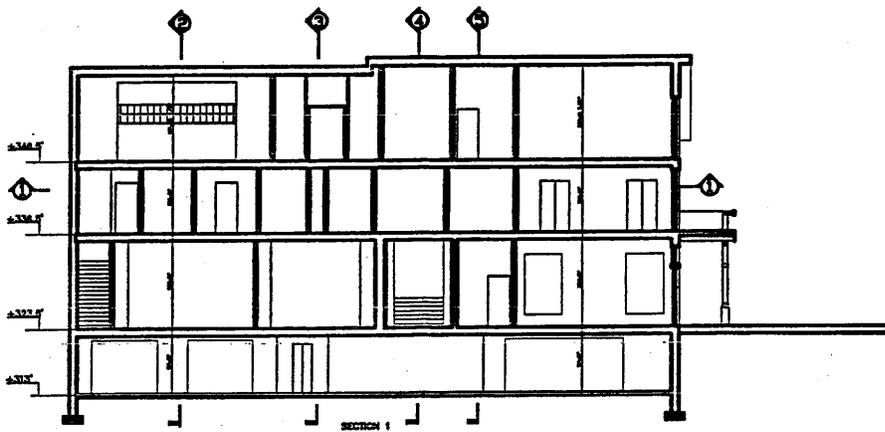




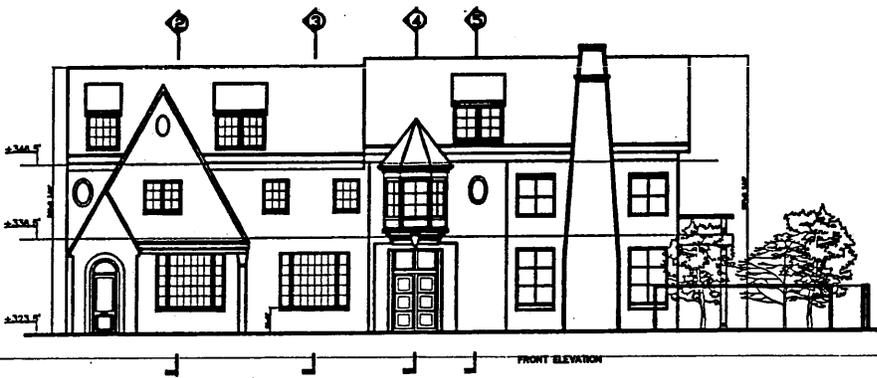
ROOF PLAN



3rd FLOOR



SECTION 1



FRONT ELEVATION



DATE: _____
 DRAWN BY: _____
 CHECKED BY: _____

BATTERY LN
 4811 BATTERY LN
 BETHESDA MD

BATTERY LN
 4811 BATTERY LN
 BETHESDA MD

MORRISON ARCHITECTS
 1728 CONNECTICUT AVENUE, NW SUITE 300, WASHINGTON D.C. 20009
 TELEPHONE: 202.338.8182 FAX: 202.338.8184
 E-MAIL: MORRISON@MORRISONARCH.COM

A5

PROJECT DESCRIPTION: Prior Approvals

The Site is a recorded lot, and as such need not undergo Preliminary Plan Review. The property was rezoned to C-T (opinion attached). The opinion notes the existence of a single family residence on the site. The fact that this house existed at the time of the C-T rezoning is a necessary condition for permitting the residential use. MCDPS has indicated its support for the proposed use (letter attached).

ANALYSIS: Conformance to the Master Plan

The Master Plan recommends specific guidelines for height, building orientation and stepping if the parcels along Battery Lane and Woodmont assemble and seek PD-75 zoning. The applicant anticipates taking this action in the near future. The guidelines include, among others:

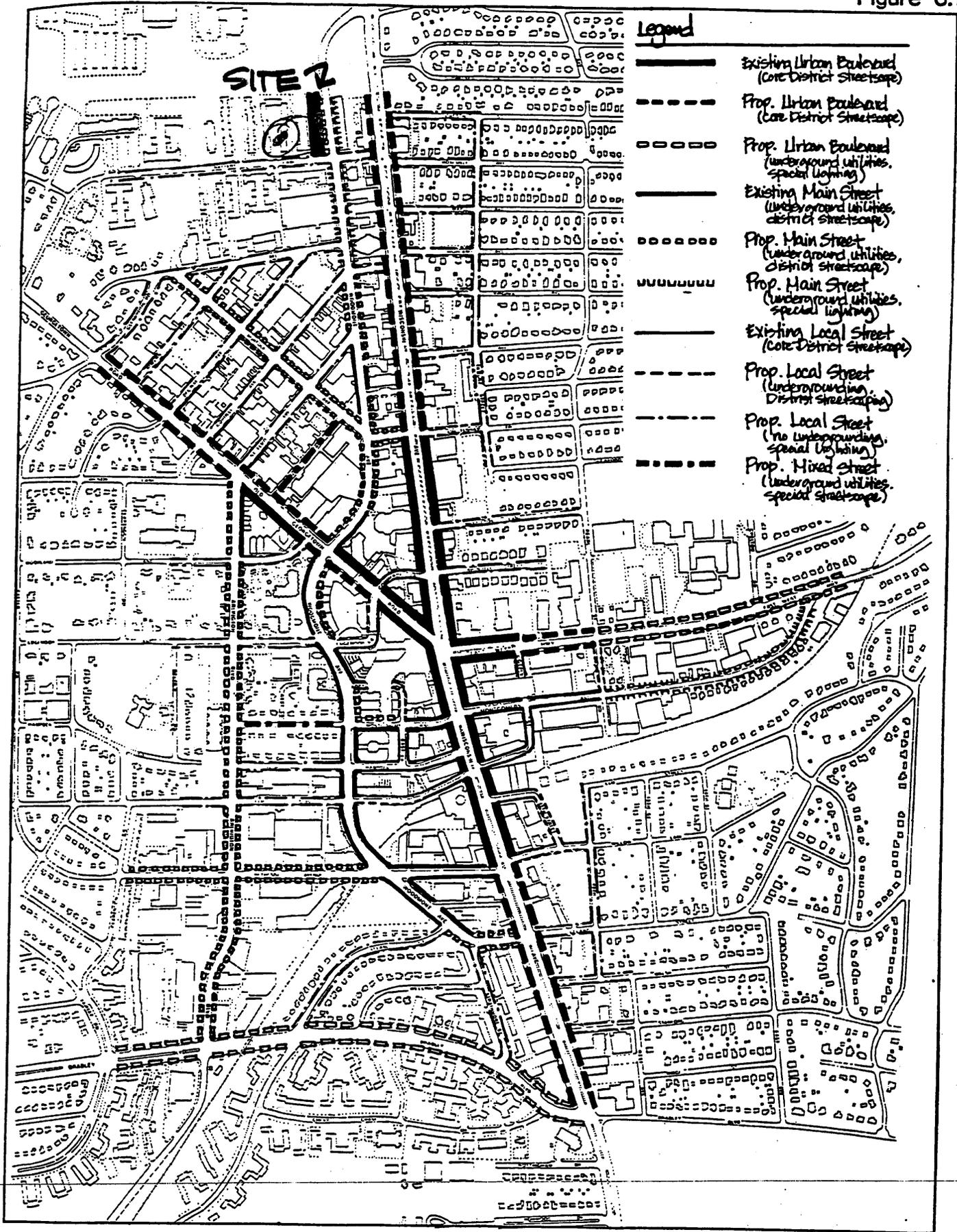
1. Arrange the buildings in a manner that acknowledges the site's gateway location for the Woodmont Triangle District and minimizes the "canyon effect" along Woodmont. This can be achieved by such measures as locating the bulk of the building perpendicular to the street, stepping back the upper floors, or architecturally expressing the two- or three-story base.
2. Create a gateway to the Woodmont Triangle by providing flowering trees along the eastern edge of the site.
3. Provide parking in the rear or below grade to minimize impact on the pedestrian environment.

The proposal features a two-three story house, and a future row of townhouses is anticipated by the same owner; this is in conformance with the guideline for a low building along Woodmont. The street trees will be perpetuated per the Master Plan. The parking is on the level below the Woodmont sidewalk.

ANALYSIS: Conformance to Development Standards

PROJECT DATA TABLE

Development Standard	Permitted/ Required	Proposed
Lot Area:	NA	21,697 sf
Gross Floor Area: (sf)	10,848	7248
Floor Area Ratio (FAR):	0.5	0.34
One-family detached dwelling units:	NA	1
Building Coverage (%):	35	18
Building Height (ft.):	35	35
Setbacks (ft.):		
Front yard	10	10
Side yard	15	25.6
Rear yard	15	15
Frontage	100	423
Parking:	2	6



FINDINGS: For Site Plan Review

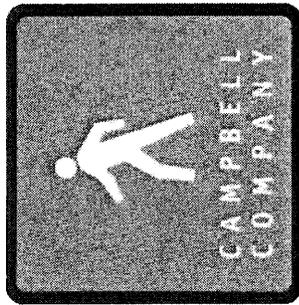
1. *The Site Plan is consistent with an approved development plan or a project plan for the optional method of development if required. N.A.*
2. *The Site Plan meets all of the requirements of the zone in which it is located. See project Data Table above.*
3. *The location of the building and structures, the open spaces, the landscaping, recreation facilities, and the 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.*
5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation and Chapter 19 regarding water resource protection.*
The site has received a small-lot exemption.

APPENDICES

- A. Standard conditions dated October 10, 1995
- B. Opinion of C-T zoning case
- C. Letter from Robert Hubbard, MCDPS

APPENDIX A: STANDARD CONDITIONS OF APPROVAL DATED 10-10-95:

1. Signature set of site, landscape and sediment and erosion control plans to include for staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
 - a. Limits of disturbance.
 - b. Methods and locations of tree protection.
 - c. Conditions of DPS Stormwater Management Concept approval letter
 - d. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
 - e. The development program inspection schedule.
 - f. Streets trees per Master Plan in existing tree pits along Woodmont
2. No clearing or grading prior to M-NCPPC approval of signature set of plans.



ACCESSIBLE PEDESTRIAN SIGNALS

Jim Lampe, Control Technologies
September 24, 2008



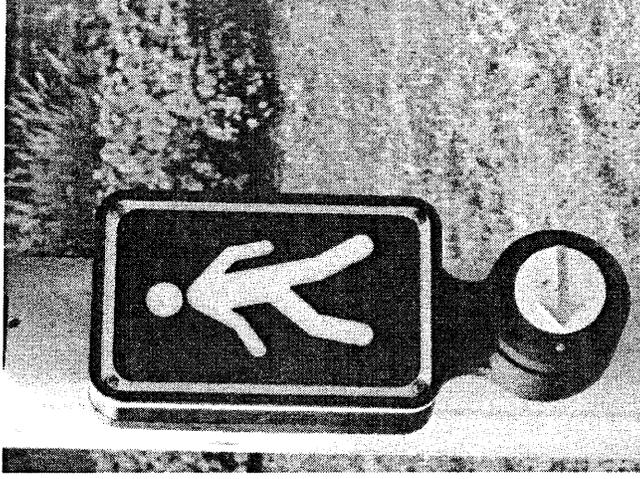
Metropolitan Washington Council of Governments

Serving the National Capital Region

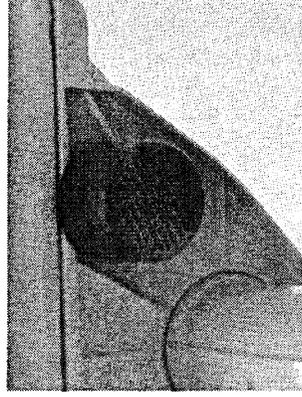
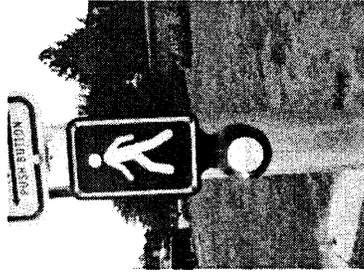
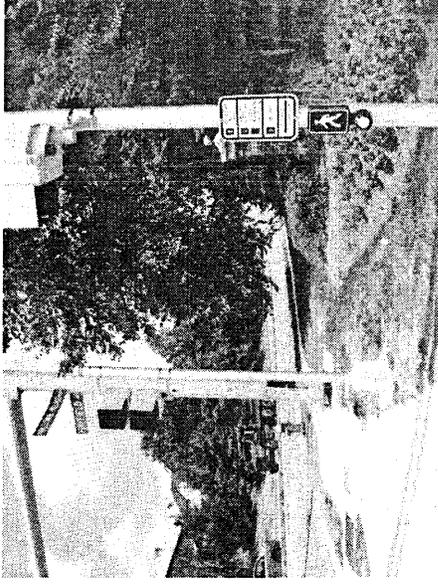
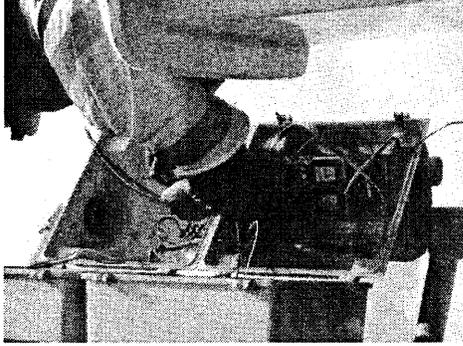
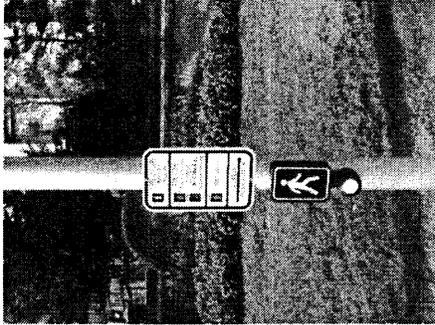


What is APS

A device that communicates information about pedestrian timing/phasing in a non-visual format such as audible tones, verbal messages and/or vibrotactile surfaces



What is APS



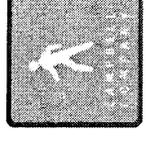
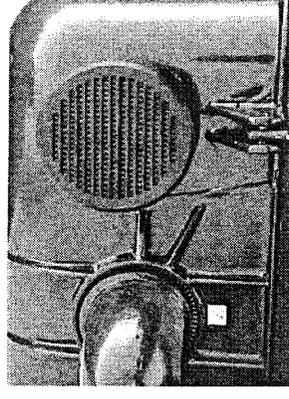
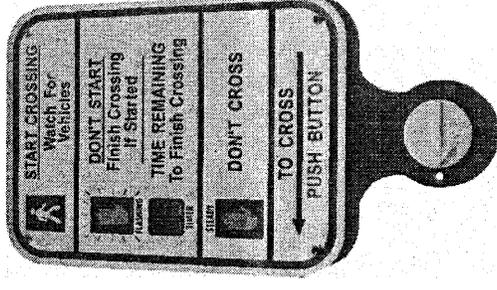
Metropolitan Washington Council of Governments

SERVING THE NATIONAL CAPITAL REGION



APS in the MUTCD (2000)

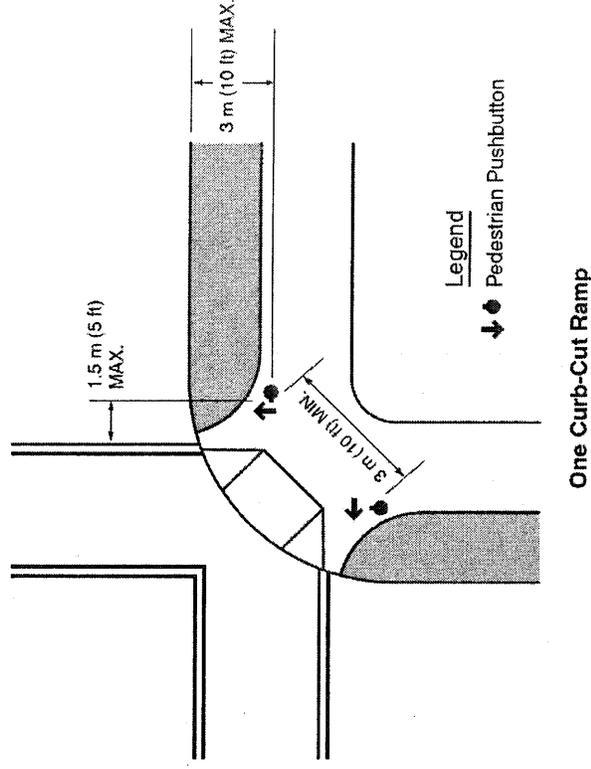
- Accessible Device Examples:
 - Fully Integrated Pedestrian Station:
 - Sound emitted from pedestrian station
 - PPB integral to pedestrian station
 - Vibrotactile device integral to pedestrian station
 - Speaker on Pedestrian Display
 - Sound emitted from Pedestrian Display
 - Vibrotactile devices (not for long)
 - VTO



APS in the MUTCD (2003)

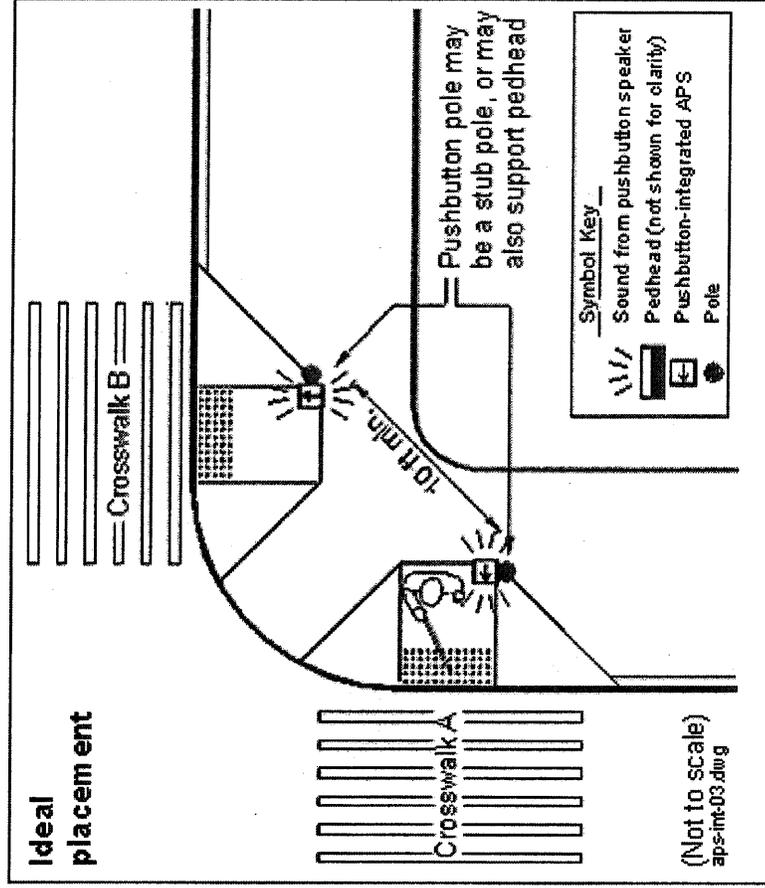
2003 MUTCD Changes

- In 4E.09 Accessible Pedestrian Detectors – clarified APS pushbutton location (Guidance)
- Pushbuttons for accessible pedestrian signals should be located as follows:
 - Adjacent to a level all-weather surface;
 - Within 5 feet of the crosswalk extended;
 - Within 10 feet of the edge of the curb, shoulder, or pavement, and;
 - Parallel to the crosswalk to be used.



APS in the MUTCD (2003)

Recommended Pushbutton Locations



Metropolitan Washington Council of Governments

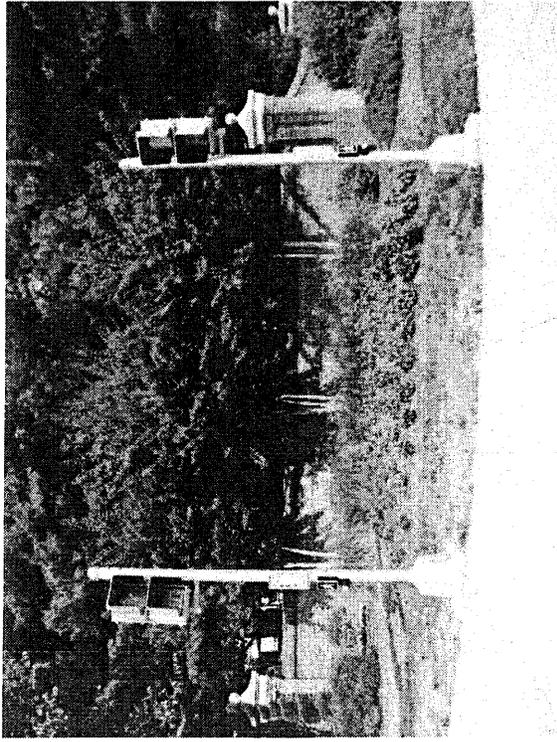
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APS Research

APS Research - Recent Research Outcomes

- Primary APS Features
 - Pushbutton Locator Tones
 - Tactile Arrow
 - Actuation Identification
 - Audible Walk Indication
 - Vibrotactile WALK Indication
 - Responsive to Ambient Sound
- Secondary APS Features
 - Audible Beacons





FIRE MARSHAL COMMENTS

DATE: 10-Jun-09
TO: David Weber
Gutschick Little & Weber, PA
FROM: Patsy Warnick
RE: Woodmont View
820090010

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **09-Jun-09** .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.
- If FDC* is required for Children's Inn it must be located within 100' of a hydrant.

Appendix C

Pereira, Sandra

From: Borden, Debra S. - DSB [DBorden@linowes-law.com]
Sent: Wednesday, July 08, 2009 11:25 AM
To: Krasnow, Rose; Kronenberg, Robert; Pereira, Sandra
Subject: Fw: Woodmont View Site Plan - APF Question
Attachments: 2007-2009 Growth Policy.pdf; Resolution 15-563.pdf; Resolution 16-98.pdf; LMAG808-Staff Rept.pdf; HE Rpt G808.pdf; HE Rpt DPA 06-1.pdf; Section 8-30.pdf

Follow Up Flag: Follow up
Flag Status: Completed

FYI

From: Borden, Debra S. - DSB
To: David Lieb (E-mail) ; Cathy Conlon (E-mail)
Cc: Kaufman, Stephen Z. - SZK
Sent: Thu Jul 02 12:04:47 2009
Subject: Woodmont View Site Plan - APF Question

We have reviewed the County Code, the Growth Policy (2007-2009) and the District Council Resolutions and supporting technical staff reports underlying the Woodmont View zoning case (G-808) and the Development Plan (06-1). We have come to a number of conclusions and invite your review of the County Code sections and Resolutions attached hereto.

1. Growth Policy. Paragraph S4 of the Growth Policy mandates that the Board “must not approve any residential subdivision in that cluster” if the program capacity exceeds 120% for that fiscal year. While it has been determined that the BCC school cluster will exceed 120% for the elementary school level in the 2010 fiscal year, the fact remains that Woodmont View is a Site Plan application, not a residential subdivision. The recorded lot upon which the Woodmont View development sits was also subjected to a condo plat in 2002. Moreover, a development plan was approved in 2007 and a determination of adequate public facilities occurred at that time when the minimal number of pupils generated by the development was accounted for and approved.
2. APF was approved at Zoning and at Development Plan. Language contained in both the District Council Resolution approving the zoning and the Council Resolution approving the Development Plan specifically acknowledge the minimal number of pupils estimated to result from the development and provide that current growth policy in place at the time has been satisfied. There is no indication from the Resolution that additional adequate public facilities testing or reviews are appropriate or must be provided for this project, particularly for the minimal number of pupils generated from a project of this size and nature.
3. Section 8-30 of the Montgomery County Code. Additionally it appears that Woodmont View is not subject to the current moratorium pursuant to Section 8-30 under Article IV of the County Code which states that the term “development” excludes “replacement of an existing building if ... the number of public school students who will live in the building would not increase by more than 5.” According to the M-NCPPC 2005 Census Survey, utilizing an elementary pupil generation rate of .042, Woodmont View would produce less than 2 students at the elementary level and only 5 students overall.
4. APF at Building Permit. According to the County Code, the APF requirement is triggered at building permit, not site plan, therefore we would respectfully request on behalf of the Applicant, to be heard by the

Planning Board on our Site Plan Application. In the event it is determined that another APF determination must be made, then a condition could be placed in the Site Plan resolution that requires an APF determination at and prior to the issuance of a building permit to implement the Site Plan.

Debra S. Borden

Linowes and Blocher LLP
7200 Wisconsin Avenue
Bethesda, MD 20814
Ph: 301.961.5250
Fax: 301.654.2801
dborden@linowes-law.com
www.linowes-law.com

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<<2007-2009 Growth Policy.pdf>> <<Resolution 15-563.pdf>> <<Resolution 16-98.pdf>> <<LMAG808-Staff Rept.pdf>>
<<HE Rpt G808.pdf>> <<HE Rpt DPA 06-1.pdf>> <<Section 8-30.pdf>>

MEMORANDUM

TO: Sandra Pereira
Robert Kronenberg
FROM: Stephen Z. Kaufman
Debra S. Borden
DATE: May 20, 2009 (revised 6/5/09)
RE: Woodmont View - Site Plan No. 820090010
Justification for Increased Height

The Property is located at the intersection of Battery Lane and Woodmont Avenue, in Bethesda (the "Property") and is zoned PD-75. In 2007, the Applicant obtained an amendment to an approved Development Plan (DPA 06-1), which allows a 47-unit, 8-story condominium to be constructed on the Property. The PD-75 Zone has no building height limit imposed by the zone. The height limit is determined and set in the Development Plan or the site plan as directed by the Council or its designee, in this case it was the Alternate Review Committee (ARC), in order to promote flexibility in achieving the purposes of the zone in section 59-C-7.11 and compatibility with the other uses existing or proposed for the adjacent area. Section 59-C-7.15(a).

The 1994 Bethesda CBD Sector Plan recommended a 65-foot building height limit, and that recommendation was left unchanged by the 2006 Woodmont Triangle Amendment to the Bethesda CBD Sector Plan (the "Woodmont Triangle Amendment"). However the Woodmont Triangle Amendment also provides that "mixed-use projects with MPDUs on-site may achieve a greater height and density than allowed in the 1994 Sector Plan in the respective zones as specified in this Amendment, but at a FAR no greater than the maximum allowed in the Zoning Ordinance." Similarly, the Zoning Ordinance expressly permits height limits to be exceeded to provide MPDUs on-site.

During the time in which DPA 06-1 was under consideration, the ARC process was required to approve additional height and it determined that 79'3" was appropriate reserving to the Planning Board the final determination of additional height. While the ARC concluded that additional height was necessary to make the project financially feasible to provide MPDUs on-site, they based the recommendation of additional height on a percentage of FAR, they left the final determination of height up to the Planning Board. Since DPA 06-1 was approved, the ARC process has been eliminated altogether. The Applicant's architect, Eric Morisson of Morisson Architects is of the opinion that at 79'3" appropriate ceiling heights cannot be provided, unless additional height is approved. In addition, since the DPA was approved, the unit mix has been

Sandra Pereira
Robert Kronenberg
May 20, 2009 (revised 6/5/09)
Page 2

altered to provide 2-bedroom MPDU units in equal proportion to the market rate units¹, and higher ceilings for all units, which overall improves the quality of the MPDUs provided in the Project. Additionally, the Site Plan provides more greenspace than noted in the approved DPA on the roof resulting in better, higher quality amenity space. The greenspace requirement is 30% of the site, but with the additional height the Applicant is able to provide over 40% greenspace on site.

While the ARC recommended 79'3" we believe that architectural design elements and the adjusted unit mix, and additional greenspace, coupled with the provision of 15% MPDUs merits additional height in an area surrounded by approved buildings in excess of 90 feet. Additionally, the language allowing the height to be exceeded contained in both the Zoning Ordinance and the 2006 Woodmont Triangle Sector Plan Amendment, do not specify the amount of height which may be added, and do not limit the amount of height to the specific proportion suggested by the ARC. The height may be increased to accommodate MPDUs and resulting bonus units, but may not exceed the maximum height of the zone. Thus, as the PD zone does not have a height limit, the maximum height is firmly within the discretion of the Planning Board to approve an appropriate height that is both compatible with existing and proposed nearby uses and providing the best possible aesthetic design.

It is instructive to rely on the urban form guidelines in the Bethesda CBD Sector Plan. The Sector Plan sets forth eight Urban Form Principles that acknowledge the existing framework in the Bethesda CBD and describe recommendations aimed at maintaining and strengthening the urban pattern of development. Urban Form Principles are discussed at page 40 of the Bethesda CBD Sector Plan, and this Project meets these principles in the following manner:

1. *Focus the highest densities within the Metro Core District to achieve a tightly configured center, while improving transitions to the residential edges.*

At 90 feet, the proposed building is consistent with the principle of stepped down building heights at the edges of the core, providing a transition to the more residential edge. The approved building located directly across Woodmont Avenue from the site at 8400 Wisconsin Avenue, will be 100 feet in height along Wisconsin Avenue and 110 feet on Woodmont Avenue. On the other side of the site, moving away down Battery Lane and away from Wisconsin Avenue, older mid-rise residential buildings are located that range from 5 to 10 stories, a few of which are taller than 100 feet. Accordingly, a

¹ DPA 06-1 included 19 two-bedroom units and 27 one-bedroom units. The Site Plan, incorporating the additional height requested herein, proposes 45 two-bedroom units, consequently all of the MPDUs would have two bedrooms.

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Robert Kronenberg
May 20, 2009 (revised 6/5/09)
Page 3

slightly higher building at Woodmont View will both improve the transition from the 110-foot building directly adjacent to it, and still be compatible with the mix of residential buildings on the other side of the site.

2. *Step down building heights from the Bethesda Metro Center properties to achieve desirable and compatible transitions to adjacent areas.*

At 90 feet in height, the Site will be considerably lower than the 200 foot buildings of the Metro Center Properties, thus in conformance with the idea of providing compatible transitions to adjacent areas, while serving the equally important goal of maximizing the supply of housing within the Woodmont Triangle.

3. *Achieve an infill character for a new development by dividing large projects into several buildings, which will achieve an urban form with a “fine grain” versus “coarse grain” created by larger single structures.*

Woodmont View is a small site at just over half an acre. A corner element on the northeast corner of the site is set back along Battery Lane with the angled property line, and a 15 foot wide sidewalk is provided to make the streetscape larger and much improved. The “fine grain” urban form is enhanced through these architectural treatments incorporated into the design of the building and the right of way treatments.

4. *Design new buildings that respond to views and vistas within the CBD to create focal points and landmarks that improve the orientation and strengthen the perception of existing centers.*

The architectural design incorporates interesting roof shapes to make the structure appear as several buildings grouped together. Along Battery Lane, levels 1 through 8 are stepped back substantially in accordance with language in the Bethesda CBD Sector Plan.

5. *Treat rooftops as sculptural elements that contribute to the visual interest of the skyline. Where appropriate, consider rooftops as usable outdoor space for recreational or commercial purposes.*

The rooftop of the building will contain outdoor amenities such as a swimming pool, patio, and club- room, for both active and passive recreational purposes, open to the residents of the condominium building, and available by reservation to the residents of the Children’s Inn, located on the same lot.

Sandra Pereira
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May 20, 2009 (revised 6/5/09)
Page 4

6. *Allow a diversity of architectural styles that achieve good building proportions, reduce the sense of bulk, and maintain human scale. Clearly identify the building entrances in the façade design and locate it at street level.*

The proposed building has a contemporary style with stone and masonry details. The building exterior materials and the massing proportions will help the buildings blend in harmoniously with the surrounding urban landscape. The entrance will be clearly identified and located at street level. The street level architectural treatments, entrances, landscaping and public spaces combine to create a desirable pedestrian scale and experience.

7. *Achieve compatibility with nearby residential areas through techniques such as stepped down heights, articulated building walls and façade treatments, and the architectural means designed to minimize building bulk and shadow impacts and create a gradual transition.*

The massing of the building is compatible with neighboring structures. Accordingly, the Applicant requests that a minimum of 90 feet in height be approved for the project in order to achieve compatibility with the buildings across Woodmont to the east and to maintain compatibility with the mix of buildings further west down Battery Lane, within context of its surroundings. The setback on the ground floor, and continued up to the 8th floor of the building façade helps to minimize the building bulk and the shadow impact.

8. *Achieve energy efficiency in the form and design of the building by such means as recessed windows or awnings to shade interiors from direct sunlight.*

The building is designed to be energy efficient. The glazing will be modern high performance to allow for maximum clarity and transparency while not sacrificing the energy conservation goals of the enclosure walls.

According to the draft Design Guidelines for White Flint, adequate massing of buildings is critical to achieve a successful pedestrian environment. Taller, narrower buildings above bases, with well articulated street walls help to achieve a more contemporary pedestrian centered appearance. These observations are equally true in the Woodmont Triangle, and particularly true for the transitional area in which the site is located. The unique location of the site between the higher buildings along Wisconsin Avenue and the lower residential buildings along Battery Lane, and on the edge of the Metro District Core, calls for flexibility to achieve a design which is functional, providing room for 10% additional greenspace, MPDUs and the adjusted unit mix, and adequate ceiling height, while satisfying the urban form guidelines of the Sector Plan. The proposed height of 90 feet serves these various goals more effectively.

Sandra Pereira
Robert Kronenberg
May 20, 2009 (revised 6/5/09)
Page 5

cc: Dave Weber
Eric Morisson
Larry Lipnick

Appendix D

Resolution No: 16-376
Introduced: May 24, 2007
Adopted: November 13, 2007

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Council President at the request of the Planning Board

SUBJECT: 2007-2009 Growth Policy

Background

1. County Code §33A-15 requires that no later than November 15 of each odd-numbered year, the County Council must adopt a Growth Policy to be effective until November 15 of the next odd-numbered year, to provide policy guidance to the agencies of government and the general public on matters concerning land use development, growth management and related environmental, economic and social issues.
2. On December 12, 2006, the County Council adopted Resolution 16-17, directing the Planning Board to prepare growth policy recommendations by May 21, 2007.
3. On May 21, 2007, as required by Resolution 16-17 and in accordance with §33A-15, the Planning Board transmitted to the County Council its recommendations on the 2007-2009 Growth Policy. The Final Draft Growth Policy as submitted by the Planning Board contained supporting and explanatory materials.
4. On June 19 and June 26, 2007, the County Council held public hearings on the Growth Policy and related items.
5. On October 1, 8, 15, 16, and 22, 2007, the Council's Planning, Housing, and Economic Development Committee conducted worksessions on the recommended Growth Policy.
6. On October 23 and 30, and November 6, 2007, the Council conducted worksessions on the Growth Policy, at which careful consideration was given to the public hearing testimony, updated information, recommended revisions and comments of the County Executive and Planning Board, and the comments and concerns of other interested parties.

The groupings used are only to administer the Adequate Public Facilities Ordinance and do not require any action by the Board of Education in exercising its power to designate school service boundaries.

S2 Grade Levels

Each cluster must be assessed separately at each of the 3 grade levels -- elementary, intermediate/middle, and high school.

S3 Determination of Adequacy

Each year, not later than July 1, the Planning Board must evaluate available capacity in each high school cluster and compare enrollment projected by Montgomery County Public Schools for each fiscal year with projected school capacity in 5 years.

S4 Moratorium on Residential Subdivision Approvals

In considering whether a moratorium on residential subdivisions must be imposed, the Planning Board must use 120% of Montgomery County Public Schools program capacity as its measure of adequate school capacity. This capacity measure must not count relocatable classrooms in computing a school's permanent capacity. If projected enrollment at any grade level in that cluster will exceed 120% of capacity, the Board must not approve any residential subdivision in that cluster during the next fiscal year.

Table 3 shows the result of this test for November 15, 2007, to July 1, 2008. Table 3 also shows the remaining capacity, in students, at each grade level in each cluster. Using average student generation rates developed from the most recent Census Update Survey, the Planning Board must limit residential subdivision approvals in any cluster during the fiscal year so that the students generated by the housing units approved do not exceed the remaining capacity for students at any grade level in that cluster.

S5 Imposition of School Facilities Payment

In considering whether a School Facilities Payment must be imposed on a residential subdivision, the Planning Board must use 105% of Montgomery County Public Schools' program capacity as its measure of adequate school capacity. This capacity measure must not count relocatable classrooms in computing a school's permanent capacity. If projected enrollment at any grade level in that cluster will exceed 105% of capacity but not exceed 120%, the Board may approve a residential subdivision in that cluster during the next fiscal year if the applicant commits to pay a School Facilities Payment as provided in County law before receiving a building permit for any building in that subdivision.

Table 4 shows the result of this test for November 15, 2007, to July 1, 2008. Table 4 also shows the remaining capacity, in students, at each grade level in each cluster. Using average student generation rates developed from the most recent Census Update Survey, the Planning Board must limit residential subdivision approvals in any cluster during the fiscal year so that the students generated by the housing units approved do not exceed the remaining capacity for students at any grade level in that cluster.

S6 Senior Housing