



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
10/09/03
Item #5

MEMORANDUM – LOCAL MAP AMENDMENT

DATE: October 3, 2003
TO: Montgomery County Planning Board
VIA: John Carter, Chief, Community-Based Planning
FROM: Bill Landfair, AICP, for the Department of Park and Planning WRL
(301) 495-4555

SUBJECT: **Local Map Amendment No. G-808:** Battery Lane, LLC and Laurence Lipnick, applicants – reclassification of 21,101 square feet of land from the C-T Zone to the PD-75 Zone – located at 4811 Battery Lane, Bethesda – Bethesda CBD Sector Plan

FILING DATE: March 12, 2003
PUBLIC HEARING: October 24 and 27, 2003

RECOMMENDATION

Staff recommends **APPROVAL** of Local Map Amendment No. G-808 and the accompanying development plan for the following reasons:

1. The reclassification to the PD-75 Zone is in substantial conformance with the recommendations of the 1994 Bethesda CBD Sector Plan.
2. The reclassification satisfies the purposes and requirements of the PD-75 Zone.
3. The development plan will be compatible with adjacent development.

SUMMARY

The applicants, Battery Lane, LLC and Laurence Lipnick, are seeking reclassification of 21,101 square feet of land from the C-T Zone to the PD-75 Zone located at 4811 Battery Lane, Bethesda.

The applicants are the owners of the subject property, which is located in the northwest quadrant of the intersection of Battery Lane and Woodmont Avenue. The property is improved with a four-story office building, a recently constructed single-family residence, and pavement for parking and driveway access. In addition, the applicants intend to acquire 2,573 square feet of adjacent excess right-of-way along Woodmont Avenue for development. This right-of-way is unimproved and maintained as a landscaping slope. Should the rezoning be granted, the new zoning classification will automatically apply to the acquired right-of-way as per the Zoning Ordinance.

The application for the PD-75 Zone will permit redevelopment of the property by replacing the office building with 10 single-family residential townhouses. The existing single-family house will remain and be incorporated into the new development.

BACKGROUND

A. Description of Property

The subject property is known as Part of Lot 48, Block 2, Northwest Park Subdivision. The rectangular shaped property is comprised of 21,101 square feet and has approximately 60 feet of frontage with Battery Lane and 335 feet of frontage along Woodmont Avenue. The property is zoned C-T (Commercial Transition) and improved with a four story office building fronting on Battery Lane. Off-street parking is located in the front and rear of the building with access from Battery Lane. The property is also improved with a recently constructed single-family residence (approved by the Planning Board in Site Plan No. 8-02026). The topography reflects little green area and a slope in grade from Battery Lane to the center of the site.

B. Surrounding Area

In a floating zone application, the evaluation of the zoning issues requires delineation of the surrounding area. Staff defines the boundaries of the area as follows: focusing on the intersection of Battery Lane and Woodmont Avenue and extending westward from Wisconsin Avenue to the Battery Lane Urban Park and Norfolk Avenue, and southward from the grounds of the National Library of Medicine on the National Institutes of Health (NIH) campus to Cheltenham Drive. This is the same surrounding area accepted by the District Council in its review of G-636, an earlier application for the C-T Zone on the subject property.

The land use and zoning pattern for the area reflects a mix of residential, commercial and institutional land uses. North of the subject property there is open R-60 zoned land that surrounds the Library of Medicine on the grounds of NIH. Confronting to the east and southeast are a mix of uses in the CBD-1 Zone including a Sheraton Hotel and development with lower level office/retail and upper floor residential. 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.

C. Intended Use and Approval Procedures

As shown on the attached development plan, the applicants intend to redevelop the subject property by removing the existing office building and constructing 10 single-family residential townhouses. The existing single-family house on the property will remain and the architecture of the proposed residences has been designed to compliment that structure creating a unified street presence. The townhouses will front on Woodmont Avenue to activate the streetscape. The corner unit at the intersection of Woodmont Avenue and Battery Lane will be oriented towards the intersection. Stone piers, walls, ornamental fencing, and landscaping will be used along the street edge to provide a human scale and privacy for residents. The units will be three stories in height along the street and four stories to the rear adjacent to a five story multi-family building further to the west. The units will have vehicular access via the existing single driveway from Battery Lane. Parking will consist of enclosed two-car garages in the lower level of each townhouse.

The proposed PD-75 Zone allows a maximum density of 75 dwelling units per acre. The total allowed density is 40-units (based on 23,674 square feet of land). With 11 units proposed (10 townhouses and one single-family detached house), the remaining unused density of 29 units would potentially be available for transfer and use on the adjacent property pursuant to Sector Plan recommendations and a development plan amendment.

A comparison of zoning requirements, based on the PD-75 density category, and the development program are found in the table below:

	Required/Permitted	Proposed
Minimum Area	n.a.	23,674 s.f.*
Density	40 dwelling units	11 dwelling units
Green Area	30 percent	32.8 percent
Building Coverage	n.a.	49 percent
Setbacks		
Front	0 feet	1.25 feet
Side	0 feet	16.5 feet
Rear	0 feet	15 feet
Parking	22 spaces	22 spaces

*Includes the subject property comprised of 21,101 square feet and the 2,573 square feet of Woodmont Avenue right-of-way to be acquired by the applicants.

Additional approval procedures following rezoning include the review and approval of a preliminary plan of subdivision and site plan by the Planning Board.

D. Zoning History:

Comprehensive Zoning

1. SMA G-711: C-T Zone reaffirmed; 10/11/94
2. SMA G-20: R-60 Zone reaffirmed; 12/6/77
3. 1958 Countywide comprehensive zoning: R-60 Zone reaffirmed
4. 1954 Regional District zoning: R-60 Zone mapped

Local Map Amendment

G-636: R-60 Zone to C-T Zone; 12/12/89

E. Master Plan Recommendation:

1. Land Use: Commercial Transition/Planned Development
2. Zoning: C-T/PD-75

F. Public Facilities:

1. Water and Sewer Service
 - a. Service Categories: Water Category W-1 and Sewer Category S-1
 - b. Water and Sewer Service: Water and sewer lines abut the subject property. Local service is deemed adequate and the impact from rezoning is considered negligible. (Source: WSSC Development Services Group)
2. Roadways
 - a. Battery Lane: A two-lane residential street with a designated 70-foot right-of-way between Woodmont Avenue and Keystone Avenue.
 - b. Woodmont Avenue: A four-lane undivided arterial roadway with a designated 80-foot right-of-way between Wisconsin Avenue and Old Georgetown Road.

- c. Wisconsin Avenue (MD 355): A six-lane divided roadway classified as a major highway with a right-of-way varying from 104 feet to 120 feet.
- d. Old Georgetown Road (MD 187): A partly divided six-lane roadway classified as a major highway with a right-of-way varying from 80 feet to 100 feet.

3. Schools

The subject property is located within the Bethesda Elementary School, Westland Middle School, and Bethesda - Chevy Chase High School service areas. Based on average yield factors for comparable housing units, the impact of the development is estimated to be approximately two elementary students, one middle student, and one high school student. The current Annual Growth Policy indicates that adequate school capacity exists in the Bethesda - Chevy Chase cluster. (Source: MCPS Department of Planning and Capital Programming)

ANALYSIS

A. **Master Plan**

Sector Plan Conformance

The staff finds the reclassification in substantial conformance with the recommendations of the 1994 Bethesda CBD Sector Plan. The subject property is located in the Battery Lane District designated in the Sector Plan. The application is consistent with the goals and objectives of the Sector Plan as described in the following paragraphs.

- The Sector Plan recommends the PD-75 Zone for the subject property (page 91).
- The Sector Plan encourages the development of housing within the central business district to achieve a more balanced demand on the transportation network (page 28). The application proposes the construction of 10 residential townhouses, replacing an existing office building, and supplementing an existing single-family detached house.
- The Sector Plan considers the site appropriate for the development of a northern gateway to the Woodmont Triangle area (page 90). The application proposes three-story townhouses with appropriate setbacks from the roadways, streetscape, and green areas to provide a gateway to the Woodmont Triangle. The development as a gateway provides a transition from the surrounding community to the central business district.

- The Sector Plan anticipates that the property will either combine with the adjacent multi-family property as a large residential project or develop with an office building (page 90). The application does not include the adjacent property as proposed in the Sector Plan, however, it does not preclude the future development of that site for a large residential project either as part of a future amendment to this application or as a “stand alone” project. The application also provides a feature that anticipates a future, combined development. The application accommodates the joint use of a single access driveway facilitating better access to off-street parking on both properties. This provision for future development including the potential shared use of the access driveway is consistent with the goals of the Sector Plan.

Urban Design Guidelines

The application and the development plan are consistent with the urban design guidelines in the Sector Plan (page 92). The building height for the townhouses is lower than the guideline of 65 feet for development as recommended in the Sector Plan. The location of the units, their setback from the roadways, and the location of green area will help to prevent a “canyon effect” along Battery Lane and Woodmont Avenue. The proposed development also provides the opportunity to implement the streetscape features recommended in the sector plan. Off-street parking will be located in the rear of the development as also recommended in the Sector Plan.

At the time of preliminary plan and site plan review, design elements will be further refined to ensure conformance with Sector Plan streetscape standards, an effective gateway transition, and encouragement of opportunities for joint development with the adjacent property including the use of a shared access driveway.

B. Requirements of the Zone

The planned development zones have fewer specific requirements and restrictions than other zones and permit more flexibility of design and use, subject to a development plan approved as part of the granting of the zoning category. The relevant provisions are found in Section 59-C-7.1 of the Zoning Ordinance and are evaluated below:

59-C-7.11. Purpose.

It is the purpose of this zone to implement the general plan for the Maryland-Washington Regional District and the area master plans by permitting unified development consistent with densities proposed by master plans. It is intended that this zone 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. In so doing, it is intended that the zoning category be utilized to

implement the general plan, area master plans and other pertinent county policies in a manner and to a degree more closely compatible with said county plans and policies than may be possible under other zoning categories.

The application will be consistent with the above-stated goals and will be in substantial conformance with the recommendations of the Bethesda CBD Sector Plan. The Sector Plan specifically recommends the subject property for the PD-75 Zone.

It is further the purpose of this zone that development 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 that development in this zone produce a balanced and coordinated mixture of residential and convenience commercial uses, as well as other commercial and industrial uses shown on the area master plan, and related public and private facilities.

As recommended by the Sector Plan, the proposed development will be residential. It will have a distinctive visual character and identity reinforced through architecture, green area, and streetscape. The residential use will contribute to a balance of residential, commercial and institutional uses in the area.

It is furthermore the purpose of this zone to provide and encourage a broad range of housing types, comprising owner and rental occupancy units, and one-family, multiple-family and other structural types.

The development plan proposes 11 townhouse units. While the project is small in size comparable to nearby multi-family development it will contribute to a broader range of housing types for the surrounding area. It is expected that the units will be owner occupied.

Additionally, it is the purpose of this zone to preserve and take the greatest possible aesthetic advantage of trees and, in order to do so, minimize the amount of grading necessary for construction of a development.

With the exception of landscaping around the existing single-family house, there are no natural features or specimen trees to be preserved. The development plan will take advantage of existing grading on the property by locating garages in the lower level of the townhouses thereby minimizing the amount of additional grading required for construction.

It is further the purpose of this zone to encourage and provide for open space not only for use as setbacks and yards surrounding structures and related walkways, but also conveniently located with respect to points of residential and commercial concentration so as to function for the general benefit of the community and public at large as places for relaxation, recreation and social activity; and,

furthermore, open space should be so situated as part of the plan and design of each development as to achieve the physical and aesthetic integration of the uses and activities within each development.

The development plan will provide approximately 33 percent green area within setbacks and yards surrounding the townhouses and related walkways benefiting residents and the public at large. In addition, rooftop terraces will provide places of relaxation, recreation and social activity for residents while improved streetscape helps to integrate the development with the surrounding area.

It is also the purpose of this zone to encourage and provide for the development of comprehensive, pedestrian circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities, and thereby minimize reliance upon the automobile as a means of transportation.

The development plan provides an improved pedestrian circulation network with wider sidewalks and streetscape resulting in better access for residents and the public traveling through the area.

Since many of the purposes of the zone can best be realized with developments of a large scale in terms of area of land and numbers of dwelling units which offer opportunities for a wider range of related residential and nonresidential uses, it is therefore the purpose of this zone to encourage development on such a scale.

The Sector Zone recommends the PD-75 Zone for the subject property, which given its size, will yield a maximum of 40 dwelling units. A total of 11 units are proposed on the development plan. The applicants attempted to pursue assemblage with the owner of the adjacent multi-family development to develop on a larger scale, but no agreements were ultimately attainable. The development plan does not preclude future redevelopment of the adjacent property either separately or in conjunction with the subject site (through a development plan amendment).

It is further the purpose of this zone to achieve a maximum of safety, convenience and amenity for both the residents of each development and the residents of neighboring areas, and, furthermore, to assure compatibility and coordination of each development with existing and proposed surrounding land uses.

The development plan would provide for the safety, convenience and amenity of residents and assures compatibility with the surrounding multi-family residential and commercial land uses.

This zone is in the nature of a special exception, and shall be approved or disapproved upon findings that the application is or is not proper for the

comprehensive and systematic development of the county, is or is not capable of accomplishing the purposes of this zone and is or is not in substantial compliance with the duly approved and adopted general plan and master plans. In order to enable the council to evaluate the accomplishment of the purposes set forth herein, a special set of plans is required for each planned development, and the district council and the planning board are empowered to approve such plans if they find them to be capable of accomplishing the above purposes and in compliance with the requirements of this zone.

The applicants have submitted a development plan with the application demonstrating that it is capable of accomplishing the purposes of the zone and are in substantial conformance with the Sector Plan.

59-C-7.12. Where applicable.

Land may be classified in a planned development zone if it is located within an area for which there is an existing, duly adopted Master Plan or Sector Plan and meets at least one of several criteria described in Section 59-C-7.122 of the Zoning Ordinance. One such criteria is that the site is specifically recommended for the zone and so situated that assembly of enough land to accommodate at least 50 units is unlikely and the development of fewer than 50 units is in the public interest. The subject property is recommended for the PD-75 Zone by the 1994 Bethesda CBD Sector Plan. The applicants attempted to pursue assemblage with the owner of the adjacent multi-family development, but no agreements were ultimately attainable. Development of the subject property with 10 townhouses does not preclude future redevelopment of the adjacent property and provides additional housing in an area with existing infrastructure.

59-C-7.13. Uses permitted.

All types of residential uses, including townhouses and attached units, are permitted in planned development zones. There are some limitations based on the density category of which PD-75 is considered an urban high-density category. While detached single-family homes are not permitted in that category, the existing house on the site should be allowed to remain as a "grandfather use" since it predates the rezoning.

59-C-7.14. Density of Residential Development

The Sector Plan recommends the PD-75 Zone, which is an urban high-density category permitting a maximum of 75 dwelling units per acre. Given the size of the subject property, a total of 40 units are permitted. A total of 11 units are proposed on the development plan (10 townhouses and one single-family).

59-C-7.15. Compatibility.

The proposed residential townhouses will be compatible with other uses existing or proposed adjacent to or in the vicinity of the planned development. These include the

adjacent multi-family development, the NIH campus, and the commercial uses found in the Bethesda central business district.

59-C-7.16. Green area.

Green area will be provided in the amount based on the proposed density category. The urban high density of the PD-75 Zone requires a minimum green area of 30 percent. As shown on the development plan, approximately 33 percent green area is proposed.

59-C-7.17. Dedication of land for public use.

There will be no dedication of land for public use. The existing 70-foot right-of-way along Woodmont Avenue and Battery Lane will be sufficient to accommodate existing and future traffic demands as well as provide adequate sidewalk and landscaping space behind the curb.

59-C-7.18. Parking facilities.

Off-street parking will be provided in accordance with the requirements of article 59-E. A total of 22 parking spaces will be provided in garages located on the lower level of the units. Access will be via a common driveway from Battery Lane.

C. Specific Findings

The District Council must evaluate the application, including the development plan, under five specific findings set forth in Section 59-D-1.61 of the Zoning Ordinance.

59-D-1.61. Findings.

- (a) *That the zone applied for is in substantial compliance with the use and density indicated by the master plan or sector plan, and that it does not conflict with the general plan, the county capital improvements program or other applicable county plans and policies.*

The Bethesda CBD Sector Plan recommends the PD-75 Zone for the subject property. The density category of the zone permits a maximum of 75 dwelling units per acre. Given the size of the subject property, a total of 40 units are permitted. The 11 units shown on the development plan are well below this density. The development will not conflict with the county capital improvements program or other applicable county plans and policies.

- (b) *That the proposed development would comply with the purposes, standards, and regulations of the zone as set forth in article 59-C, would provide for the maximum safety, convenience, and amenity of the*

residents of the development and would be compatible with adjacent development.

The development plan will comply with the purpose, standards, and regulations of the PD-75 Zone. Maximum safety will be provided through improved vehicular access and sidewalk system. Convenience results from being located in close proximity to the Bethesda central business district with its wide array of goods and services as well as within walking distance of two Metro Stations and other public transit. Amenities include improved streetscape, enclosed gardens along the fronts of the townhouses, and rooftop terraces. The location of the site adjacent to multi-family development and the large open space of the NIH campus will help address compatibility.

- (c) *That the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.*

The development plan is designed to provide safe, adequate, and efficient access for vehicles and pedestrians. The vehicular point of access will be provided via Battery Lane. The applicant has negotiated a joint easement with the owner of the adjacent multi-family development to accommodate a shared driveway. A paved sidewalk ranging from 10 to 12 feet in width will be located along Woodmont Avenue and Battery Lane.

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

The site was significantly graded to construct the existing office building and parking lot. As a result, the property slopes away from the street grade along Battery Lane to a depression approximately eight feet lower in the center of the site, creating a rectangular bowl. The development plan will take advantage of this change in grade by locating garages in the lower levels of the townhouses. While the site will be mostly impervious, approximately 33 percent will be retained as green area. There are no forests, specimen trees or natural features existing on the site. Stormwater management will be limited to water quality control measures.

- (e) *That any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common or quasi-public purposes are adequate and sufficient.*

A condominium association will be formed and will be responsible for the maintenance of all common or quasi-public areas. Documents showing the ownership and method of assuring maintenance may be finalized at site plan review.

D. Transportation Issues

Based on an adequate public facilities (APF) review of the application, the Transportation Planning staff will recommend the following conditions at preliminary plan as part of the APF test for transportation requirements:

1. Maintain a 70-foot right-of-way for Woodmont Avenue.
2. Maintain a 70-foot right-of-way for Battery Lane.

Local Area Transportation Review

The proposed development of ten townhouses is expected to generate five trips in the morning and evening peak hour of the weekday peak periods. This does not require a Local Area Transportation Review (LATR) traffic study.

Recent traffic studies for other developments in the vicinity of the subject property indicate that all intersections will operate well within the congestion standard of 1,800 Critical Lane Volume for the Bethesda CBD policy area. Staff does not have any objection to the approval of the application since it meets the requirements of LATR.

Existing Right-of-Way

The existing 70-foot right-of-way along the frontage with the subject property is deemed sufficient to accommodate existing and future traffic demands as well as provide adequate sidewalk and landscaping space behind the curb. The abandonment of a portion of the Woodmont Avenue right-of-way for streetscape improvements and other amenities will not affect the provision of a 70-foot right-of-way. The road abandonment will be reviewed as a mandatory referral at a later date.

Pedestrian and Site Access and Circulation

Staff finds the adequacy of pedestrian and vehicular circulation to be satisfactory. In fact, there will be a wider than required sidewalk along the frontage of the site on Woodmont Avenue. There will be a five-foot sidewalk along Battery Lane. Pedestrian crossings are in place at the intersection of Woodmont Avenue and Battery Lane. Vehicular access to the site is provided from Battery Lane. Traffic circulation will be adequate and safe within and around the site.

Policy Area Review/Staging Ceiling Analysis

The site is located within Bethesda CBD policy area, which has a remaining capacity of 847 jobs and 414 housing units as of July 31, 2003.

E. Environmental Issues

Forest Conservation

A Natural Resource Inventory/Forest Stand Delineation for the subject property has been approved by the Environmental Planning staff. A Forest Conservation Plan exemption has been granted because of the small size of the property, there is no existing forest, afforestation requirements will be less than 10,000 square feet, and no specimen or champion trees will be disturbed. The site is not subject to a requirement for a Tree Save Plan.

Stormwater Management

The County Department of Permitting Services (DPS) approved a Stormwater Management Concept, however, it is no longer valid. A revised concept must be submitted to conform to the new stormwater management law and Executive Regulation No. 7-02AM. Since the increase in runoff generated by the project will probably be less than that required by DPS for structural water quantity control, a waiver for water quantity may be issued although structural quality control will be required.

Water Quality

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

Environmental Guidelines

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

Noise

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

F. Community Issues

The applicants contacted local citizens associations on several occasions to inform them about the status of the application and solicit comment. The associations included

the Edgemoor Citizens Association, East Bethesda Citizens Association, and Battery Park Citizens Association. To date, the applicants are not aware of any concerns expressed by these groups. Staff has not heard from anyone in the community regarding the proposal.

G. Conclusion

The staff recommends approval of Local Map Amendment No. G-808 with a finding that the reclassification to the PD-75 Zone is in substantial conformance with the recommendations of the 1994 Bethesda CBD Sector Plan; the reclassification satisfies the purposes and requirements of the PD-75 Zone; and the development plan will be compatible with adjacent development.

Attachments

Vicinity Map
Development Plan
Illustrative Plans
Illustrative Plan/Roof Plan
Illustrative Elevations
Identification Plat
Sector Plan Figure 4.19