



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

Item #  
 MCPB 1/24/08

**MEMORANDUM**

**DATE:** January 9, 2008  
**TO:** Montgomery County Planning Board  
**VIA:** Rose Krasnow, Chief *RDYC*  
 Robert Kronenberg, Supervisor *PAK*  
 Development Review Division  
**FROM:** Elza Hisel-McCoy, Assoc. AIA, LEED-AP *CH*  
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 Development Review Division  
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**PROJECT NAME:** 4823 Rugby Avenue  
**CASE #:** 9-20070140  
**REVIEW TYPE:** Project Plan

**ZONE:** CBD-1  
**APPLYING FOR:** Approval of 32,021 gross building square feet of mixed-use development, including 24 multi-family units with 4 MPDUs, 15% of the total units, and 7,022 square feet of commercial space, plus an additional 5,705 square feet of cellar commercial space, on 0.22 gross acres  
**LOCATION:** North Side of Rugby Avenue at the intersection of Del Ray and Rugby Avenues, 250 feet west of Woodmont Avenue  
**MASTER PLAN:** 2006 Woodmont Triangle Amendment to the 1994 Sector Plan for the Bethesda CBD  
**REVIEW BASIS:** Division 59-D-2.11 of the Zoning Ordinance requires submission of a Project Plan as part of the application for the use of optional method of development for a CBD zoned property.

**APPLICANT:** 4823 Rugby Avenue, LLC  
**FILING DATE:** June 4, 2007  
**FILE COMPLETE:** August 1, 2007  
**HEARING DATE:** January 24, 2008

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Attached is the staff report for the proposed 4823 Rugby Avenue Project Plan. The Planning Board public hearing for this application is scheduled for January 24, 2008. The staff recommends **Approval** with conditions as delineated in the staff report.

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## SUMMARY AND BACKGROUND

This application proposes 32,021 gross building square feet of mixed-use development, plus an additional 5,705 square feet of cellar commercial space in an 8-story, 90-foot-high building. The project plan proposes 24 multi-family dwelling units and a total 12,727 gross square feet of commercial office space, including the cellar space. Though not required to because of the small number of units included in the project, in order to better fulfill the intent of the 2006 Woodmont Triangle Sector Plan, the Applicant is voluntarily providing 15 percent of the total units (i.e., 4 units) as moderately priced dwelling units (MPDUs), and is proposing a residential density bonus of 18 percent.

The project's proposed amenity component features an approximately 1,564-square-foot interior/exterior "Interactive ArtSpace," located on the ground floor of the building. It includes 1,165 square feet of interior space and about 400 square feet of exterior space, and opens out directly onto the Rugby Avenue sidewalk. The proposal also provides 2,309 square feet of streetscape and sidewalk improvements in front of the property and across Rugby Avenue.

## ISSUES

### 1. Public Use Space

The CBD-1 zone requires Optional Method projects to provide a minimum public use space equivalent to twenty percent of the site's net lot area (59-C-6.233). With a net lot area of 7,825.5 square feet (0.18 acres), the equivalent required provision for this project is 1,565.1 square feet. The zoning code defines "public use space" (59-A-2.1) as:

**Space required by the sector plan and other space devoted to such uses as space for public enjoyment** consisting of such things as, but not limited to, green areas, gardens, malls, plazas, walks, pathways, promenades, arcades, lawns, fountains, decorative plantings, passive or active recreational areas...  
**Area devoted to this purpose shall be easily and readily accessible to the public without restrictions to particular segments of the public...**  
(emphasis added)

This Project Plan proposes to meet the majority (13.6 percent) of the on-site public use requirement with exterior landscaped walking areas. The remaining 6.3 percent (and more) of the twenty-percent threshold is to be met by an interior arts-themed area equal to 14.9 percent of the net lot area, for a total of 28.5 percent. This approximately 1,564-square-foot interior/exterior Interactive ArtSpace is located on the ground floor of the building, includes 1,165 square feet of interior space and about 400 square feet of exterior space, and opens out directly onto the Rugby Avenue sidewalk.

The Interactive ArtSpace is a unique concept developed jointly between the Applicant, staff, and Carol Trawick of the Bethesda Arts and Entertainment District. Similar in concept to the Torpedo Factory in Old Town Alexandria, Virginia, the ArtSpace consists of two artist studios, totaling 1,165 square feet, which open directly onto a small plaza by means of four pivoting glass walls which extend the studio onto the sidewalk, enabling passers-by to watch the artists in residence work. The "stops" for the pivoting walls

would be a pedestal display, which could accommodate sculpture, painting, and other forms of artwork, and will themselves be created as pieces of art, unifying the experience from the sidewalk through the studio. The interior studio spaces will share a bathroom and will not be accessible from the interior of the building.



Street-Level Perspective of the Open Interactive ArtSpace

As originally submitted, the plan proposed a greater front setback and provided the requisite 20 percent open space in the front of the building. At the Development Review Committee (DRC) meeting for this project, Development Review staff commented, with Community-Based Planning staff concurrence, that the building should be pulled forward to form the desired street wall for Rugby Avenue, that this definition of the public realm (i.e., the street) is the overriding design principle and should be maintained. Pulling the building forward, however, meant that the 20-percent area could not be provided within the Applicant's other limitations. Staff subsequently met with the Applicant team several times to discuss their public use space proposal<sup>1</sup>, ultimately consulting with Ms. Trawick of the Bethesda Arts and Entertainment District.

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<sup>1</sup> One option the group discussed was the pending zoning text amendment that could allow the Applicant to provide their public use space off-site. Though all parties agreed this was an attractive option, the amendment has yet to be passed, and would not be an option within the Applicant's timeframe restrictions. (Should the amendment be passed, it could still be an option for final definition of the public use and amenity proposal determined at Site Plan.)

Although Development Review staff does not typically recommend interior spaces for public use space, as such places have, in the past, failed to remain “easily and readily accessible to the public,” staff finds that the Interactive ArtSpace provides an innovative solution to providing quality public space on so small a site.

The ArtSpace experience would help realize some of the goals and priorities of the Woodmont Triangle Sector Plan. Specifically, a goal of the Sector Plan is to “enhance the existing public arts programs in the Bethesda CBD and provide opportunities for both the visual and performing arts.” (p. 5) Under “Public Amenities and Public Use Space”, the priorities include the provision of “public art, art facilities, and public gathering spaces. The arts-related space needs could include the following: arts incubator space – a... portion of a building open to the public to provide studio space for emerging visual...artists; exhibit, teaching, and lecture space – flexible space within existing or new buildings for a variety of functions; space for the arts” (p. 16). The interactive nature of this experience, where the public can watch the resident artists at work as well as view and enjoy a variety of artworks both inside and outside, meets the spirit and intent of the Sector Plan goal and priorities.

Further, if approved by the Planning Board, the Bethesda Urban Partnership and the Bethesda Arts and Entertainment District would manage and program the hours of operation, choose the artists and the art to occupy the interior and exterior studio and display areas, and find other ways to integrate it into the Bethesda Public Art scene. As a regular permanent feature of the public arts resources in Bethesda, the ArtSpace would be easily and readily accessible to the public, providing a street-activating amenity in this growing “Avenue of the Arts.”

## **2. Moderately Priced Dwelling Units (MPDUs)**

As originally submitted, this Project Plan proposed only 16 multifamily units, below the 20-unit threshold that would require the project to provide MPDUs. At DRC, staff suggested that the project would better conform to the intent of the Sector Plan if it voluntarily provided MPDUs. The Applicant did so, increasing the total number of units from 16 to 24, including 4 MPDUs – 15 percent of the total number of units.

The maximum total density allowed in the CBD-1 zone is 3 FAR, equivalent at this site to 28,237.5 square feet. Subtracting the project’s proposed 7,022 gross square feet of commercial space leaves a maximum residential area density of 21,215.5 square feet. To accommodate the MPDUs, the Applicant increased their proposed residential density to 24,999 square feet, 18 percent more than the maximum ordinarily allowed by the zoning without an MPDU density bonus.

Increasing the total number of units from 16 to 24 has the effect of triggering the MPDU requirements, the minimum percentage provision of which is 12.5 percent of the total number of units, or 3 units. The Applicant is providing a minimum of 4 MPDUs, and proposes taking an 18 percent residential density bonus. The Applicant is not proposing additional height above 90 feet to accommodate the new total number of units.

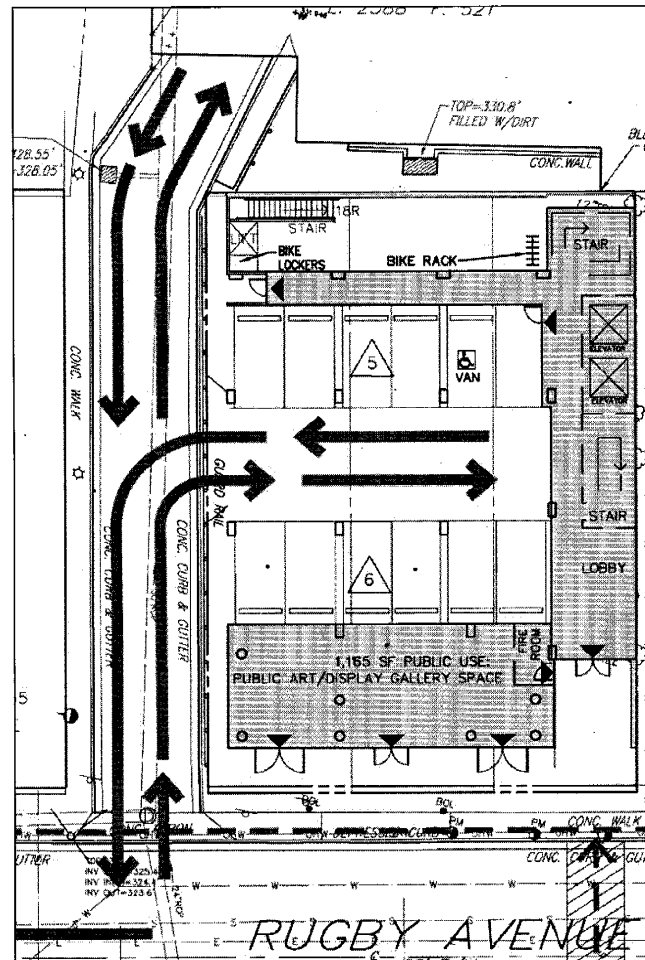
### 3. Loading Space

The Applicant is proposing not to have a designated loading space for its building tenants, instead taking advantage of the on-street parking spaces in front of the building and the main entrance for such eventualities. On a site so small, providing a dedicated loading space would consume a significant portion of the ground floor. Further, the primary vehicular access is proposed to come from the County-owned driveway on the west side of the site. Since this access point is not guaranteed to allow moving vans or indeed to remain available for this site's use, the loading access would likely have to come off Rugby Avenue, disrupting the continuity of what little streetscape and building frontage the site has to offer and adding yet another curb cut in a very short distance.

During DRC, the Department of Public Works and Transportation (DPWT) stated their position that the loading space is required and must be provided. In subsequent conversations Department of Permitting Services (DPS) staff posited that the loading space is not required or may be waived. The issue of loading spaces in CBD areas remains unclear, as does clear responsibility or authority to waive. While the issue will need to be resolved at Preliminary Plan, staff recommends Planning Board approval of this Project Plan without a dedicated loading space, with the understanding that the Project Plan will not have to be amended should the space be required.

### 3. On-Site Parking Lot Access

The Project Plan includes a covered parking lot providing 11 parking spaces, including one van-accessible handicapped space on the first floor of the building. The Applicant is providing the spaces as an amenity for the residents, as the site is located within the Bethesda Parking Lot District. As mentioned above, the sole access to this garage is from the adjacent county-owned parking garage access driveway. As the final details of the arrangement between the Applicant and the county have yet to be determined, there remains a possibility that the garage will become unfeasible to include and may have to be removed, with the understanding that the Project Plan will not have to be amended should the space be required.



## **STAFF RECOMMENDATION**

**Approval** of Project Plan 920070140, dated January 7, 2008, for 32,021 gross building square feet of mixed residential/commercial development, and 5,705 square feet of cellar commercial space, on 0.22 acres, with the following conditions:

### **1. Development Ceiling**

- a. This maximum density for this project is 32,021 gross building square feet of mixed residential/commercial development, including 24,999 residential square feet and 7,022 commercial square feet, and 5,705 square feet of cellar commercial space. The total area of commercial space shall not exceed 12,727 square feet.

### **2. Building Height/Mass**

- a. The height of the proposed building shall not exceed the maximum permitted height of 90 feet as measured from the level of approved street grade opposite the middle of the front of a building to the highest point of roof surface of the flat roof.

### **3. Transportation Improvements**

- a. At the time of Preliminary Plan, the Applicant shall dedicate an additional 87 square feet of right-of-way on the north side of Rugby Avenue to provide for a total of 60 feet of right of way.
- b. Improve the crosswalk across Rugby Avenue east of the intersection of Rugby and Del Ray Avenues in accordance with DPWT recommendations. Final details and locations to be coordinated at Site Plan.

### **4. Moderately Priced Dwelling Units (MPDUs)**

- a. The Applicant shall provide a minimum of 15% of the final total number of units on site as MPDUs, consistent with the requirements of Chapter 25A. The Applicant is proposing an 18% residential density bonus for providing MPDUs on the site. The final number, location, and distribution of MPDUs will be determined at Site Plan.

### **5. Public Use Space**

- a. The proposed public use space must be easily and readily accessible to the general public and used for public enjoyment.
- b. The Applicant shall provide at least 28.5 percent of the net site area, 2,230 square feet, as on-site public use space and at least 29.5 percent, 2,309 square feet, as off-site public amenity space. If the County Council should approve proposed Zoning Text Amendment (ZTA #07-10) before Site Plan, the Applicant may substitute, for some or all of the required on-site public use space, an appropriate equivalent of the required public use space off site, as approved by the Planning Board. The final design and details will be determined at Site Plan.

- c. As part of the required on-site public use space, the Applicant will provide a publicly accessible and programmed interactive art exhibit and studio experience, to be comprised of a minimum of 1,165 square feet for two interior artist studios which open directly onto a sidewalk art exhibition area. All final details to be determined at Site Plan.
  - i. The general design of the interactive art exhibit and studio area shall conform to the illustrations included in the Project Plan.
  - ii. The spaces shall be publicly accessible on a regular basis, though not necessarily every day, for reasonable periods of time during weekdays, select evenings, and weekends.
  - iii. The exterior kiosks will be used for art displays on a regular basis and shall be coordinated by the Bethesda Arts and Entertainment District or similar arts organization.
  - iv. The Applicant will coordinate management of the artist studio and display areas with the Bethesda Urban Partnership and the Bethesda Arts and Entertainment District.

## **6. LEED Certification**

- a. The Applicant commits to achieving a LEED (Leadership in Energy and Environmental Design) Rating Certification, as defined by the U.S. Green Building Council (USGBC) under the LEED Standard for New Construction & Major Renovation (LEED-NC).
- b. The minimum rating level will be determined by time of Site Plan.
- c. By Certified Site Plan, the Applicant will complete project registration with USGBC for LEED Certification.
- d. Before any Use and Occupancy Permit is issued, the Applicant shall:
  - i. Complete the LEED Certification process and achieve the approved Rating Certification with USGBC;
  - ii. Furnish M-NCPPC Development Review Staff with a copy of the final certification.

## **7. Streetscape**

- a. The Applicant shall relocate underground any overhead utilities along the front of the property.
- b. The Applicant shall provide the Bethesda streetscape standard:
  - i. along the property boundary on Rugby Avenue;
  - ii. on the east side of the driveway to Public Parking Garage 35; and
  - iii. in front of Lot 310 at the southwest quadrant of the intersection of Rugby and Del Ray Avenues, as illustrated in the Public Use Space Exhibit of the Project Plan.

## **8. Staging of Amenity Features**

- a. The proposed project shall be developed in one phase.
- b. Landscaping to be installed no later than the next growing season after completion of the building and public use space.



## **9. Maintenance and Management Organization**

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

## **10. Coordination for Additional Approvals Required at Site Plan**

- a. The Applicant shall secure the following additional approvals during Site Plan Review:
  - i. A management and maintenance agreement with the Bethesda Urban Partnership and the Bethesda Arts and Entertainment District Board for the public use space and the proposed artist studios;
  - ii. Written approval from the Montgomery Department of Public Works and Transportation (MCDPWT), or other appropriate agency, regarding:
    1. the final disposition of any required loading spaces;
    2. any non-standard elements within the public right of way.

## PROJECT DESCRIPTION: Surrounding Vicinity

The proposed development is located on the north side of Rugby Avenue between Norfolk Avenue on the west and Woodmont Avenue on the East, at the intersection of Rugby and Del Ray Avenues. The property is bound to the north by Public Parking Lot 35, on the east by a surface parking lot and an eight-story office building, and to the west by the driveway for the Public Parking Garage and a three-story office building. Directly across Rugby Avenue from the site, at the southeast quadrant of the intersection with Del Ray Avenue, is a 15-story multi-family apartment building. The application is in the CBD-1 zone, as are the properties immediately surrounding. Several small arts-related businesses are on the south side of Rugby Avenue and on Auburn Avenue, such as Jerry's Music, the Washington School of Photography, the Little City Art Studio and the Gallery Neptune. To the west of the subject property is the site of the approved Project Plan for the Rugby Avenue Condominiums (#920070050), which feature 61 units, an arts plaza and four ground floor artist studios. The site is located within the Woodmont Triangle Study Area within the Bethesda CBD.



Site Vicinity

**PROJECT DESCRIPTION: Site Description**

The 4823 Rugby Avenue site is on the north side of Rugby Avenue and includes parts of Lots 457, 458, 459, and 663, Northwest Park, totaling 7,825.5 net square feet. Approximately 1,500 square feet were previously dedicated for roadways, and an additional 87 square feet are proposed for dedication, amounting to a gross tract area of 9,412.5 square feet. The site currently consists of a private parking lot with approximately 25 parking spaces. Overhead utility wires, which carry Pepco, Comcast, and Verizon cables, exist along both sides of Rugby Avenue. There are no utility poles in front of the property, but there is one just east and another just west of the site. The nearest intersections of Rugby Avenue with Del Ray and Norfolk Avenues are not signalized. The site topography is flat with approximately one foot of drop from the northwest to the southeast. There are several existing medium-sized (e.g., 8-12" trunk) trees on the eastern boundary of the site. Vehicular access would be provided from the Public Parking Garage driveway on the western side of the property, while pedestrian access would be provided from Rugby Avenue.



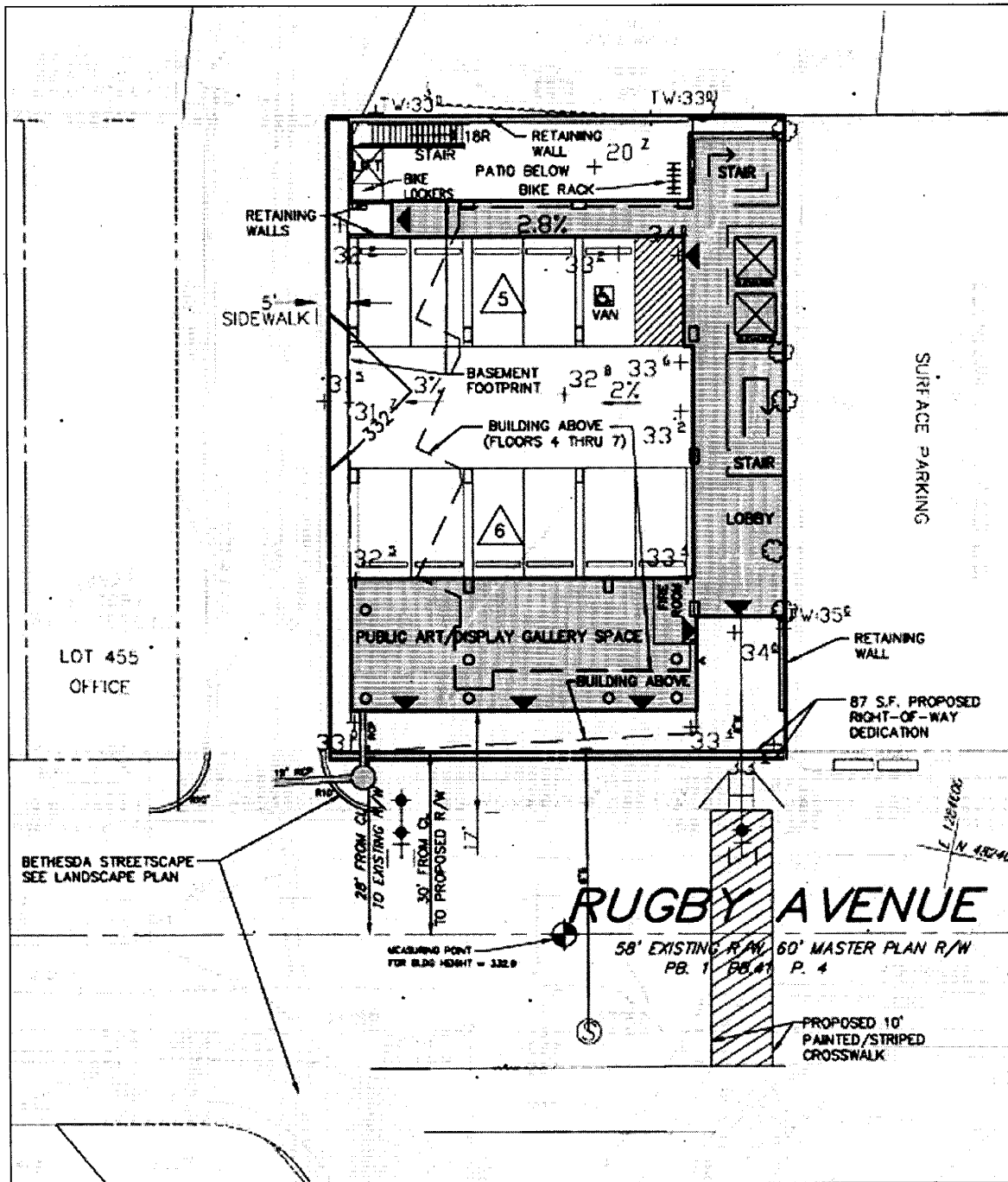
Site Aerial View



Site Aerial Oblique View

**PROJECT DESCRIPTION: Proposal**

The Applicant proposes 32,021 gross building square feet of mixed residential/commercial development, including 24 multi-family dwelling units, including 4 MPDUs, and 7,022 square feet of office space, and 5,705 square feet of cellar commercial space, in an 8-story, 90-foot building on 0.22 acres.



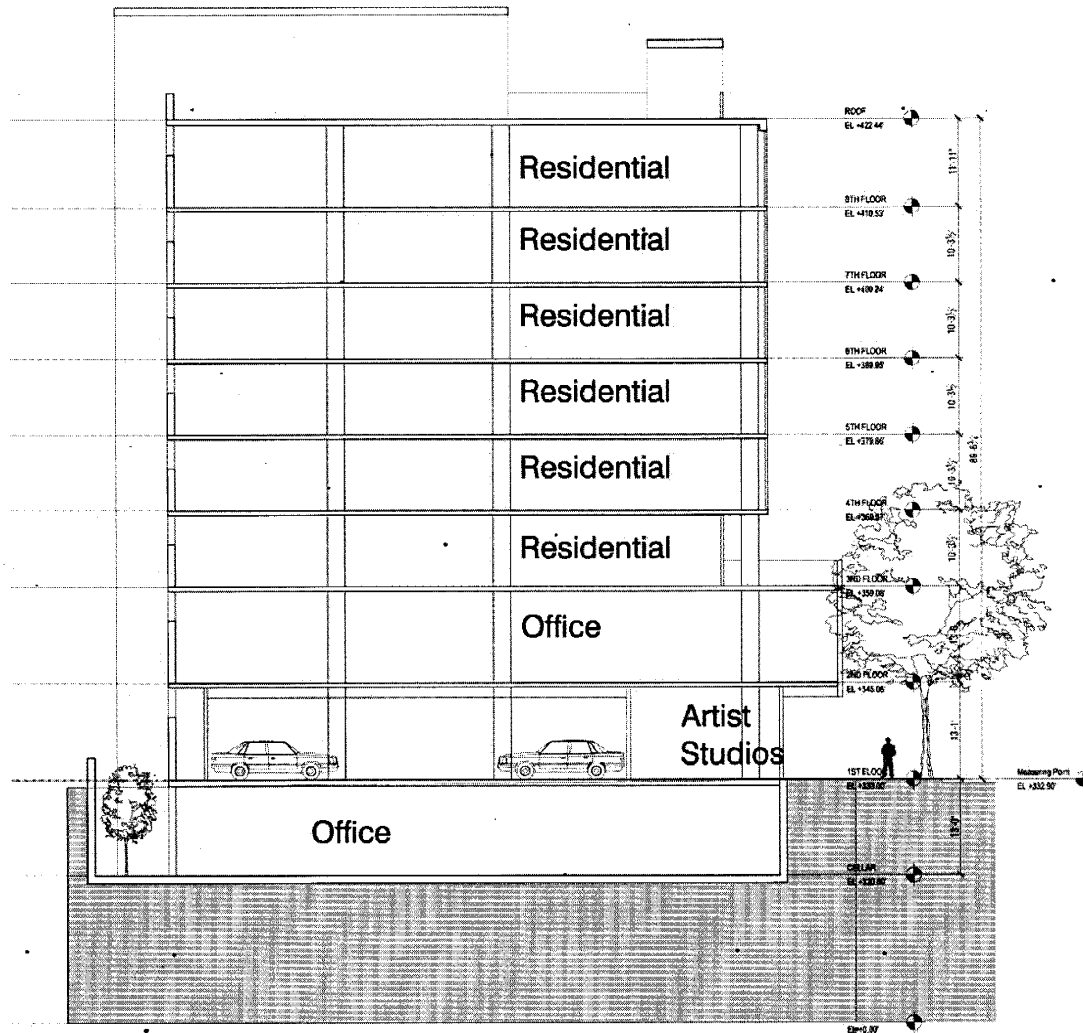
Site Plan



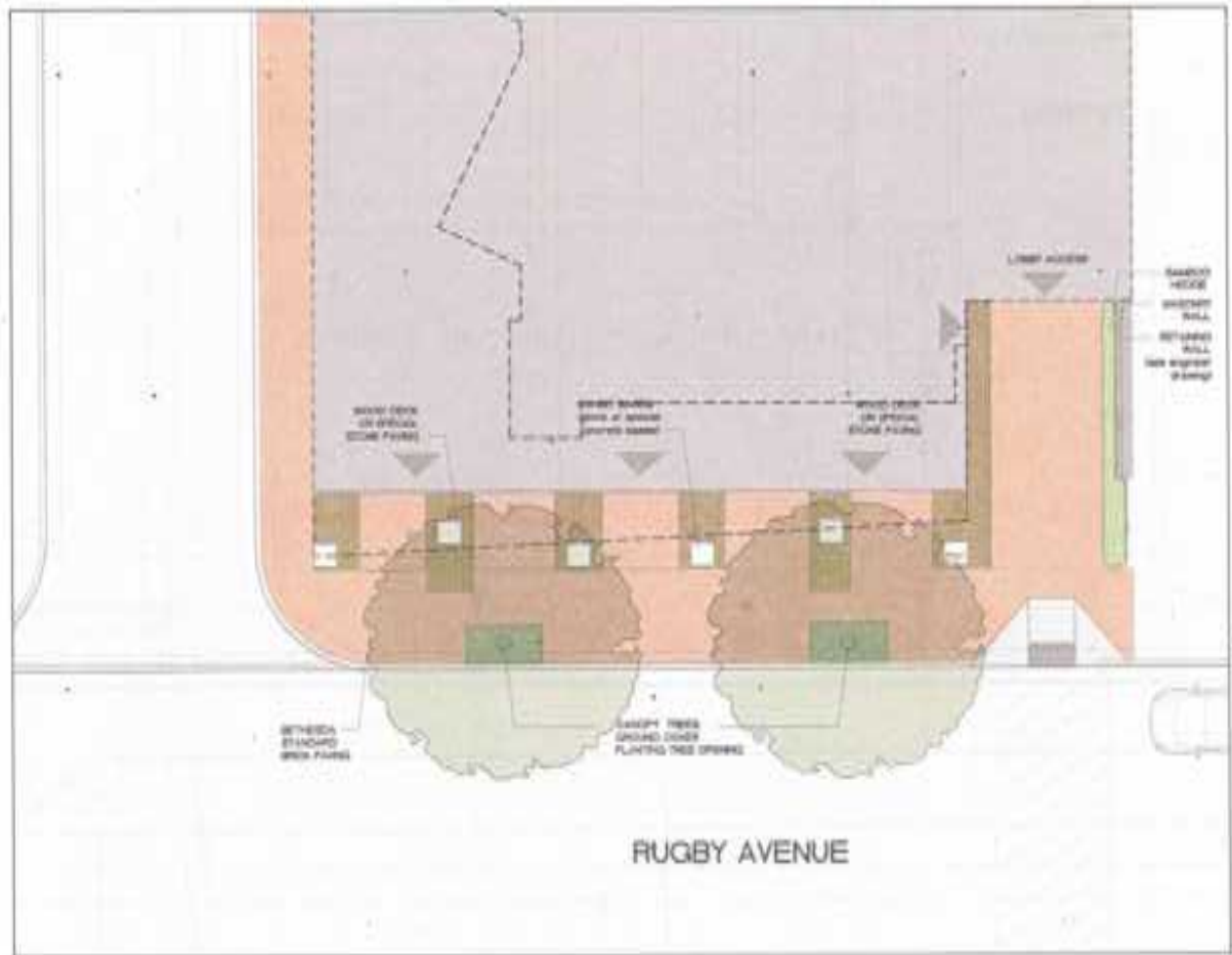
Del Ray Avenue Perspective

## Building Design

The contemporary design of this 8-story concrete, glass, and steel building accommodates six floors of multi-family residential units (with a maximum of 24 units) above one story of commercial office space, ground floor interactive art space and parking garage, and cellar office space. The ArtSpace and commercial floors cover almost the entire lot surface, serving both to define the street edge and provide a plinth upon which the stepped-back residential floors may provide better light, air, and view access to each of the residential units. The entrance to the building lobby is at the east edge of the façade and is recessed to focus attention on the ArtSpace. The proposed landscape design concept reinforces these features.

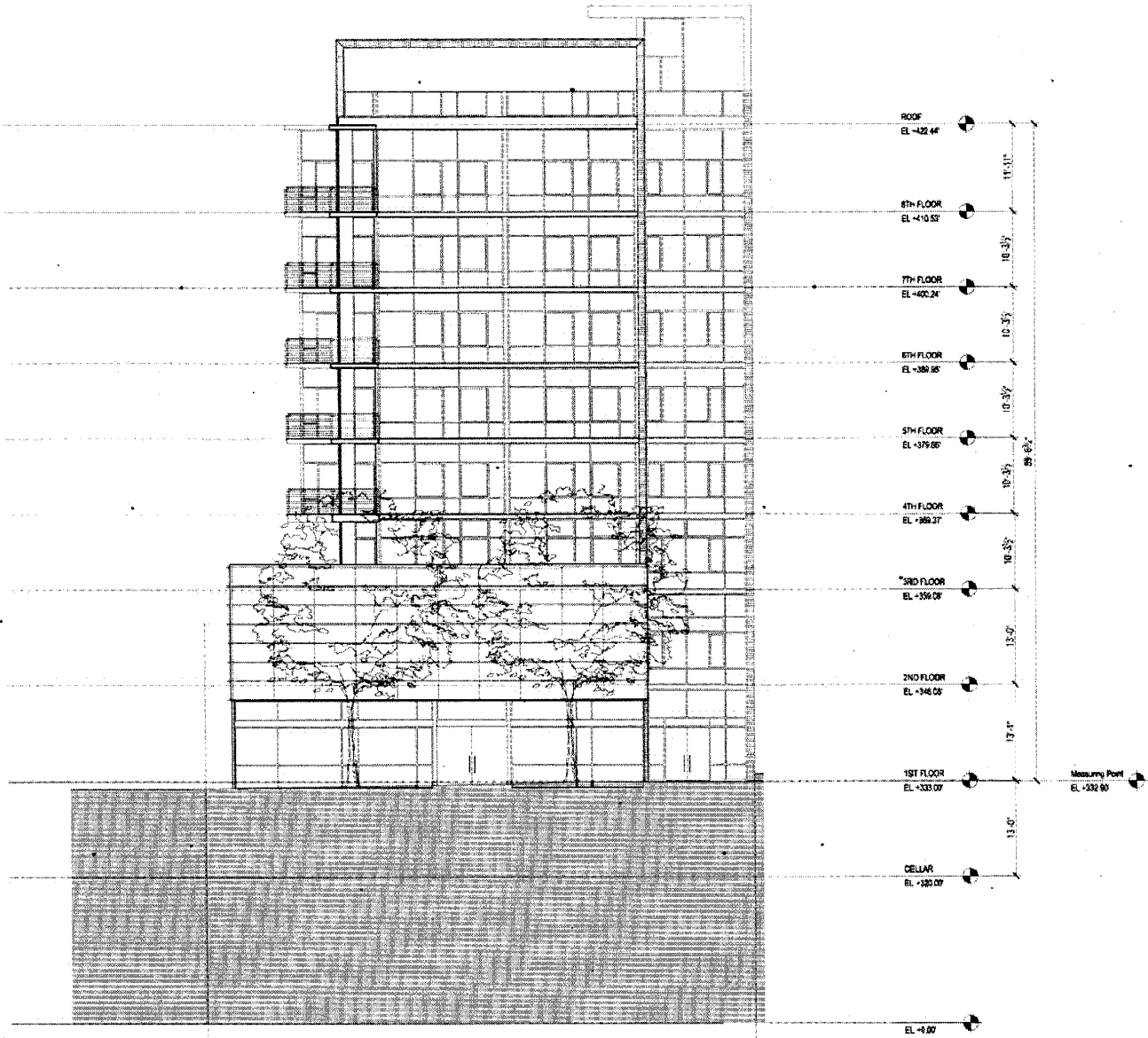


Building Section

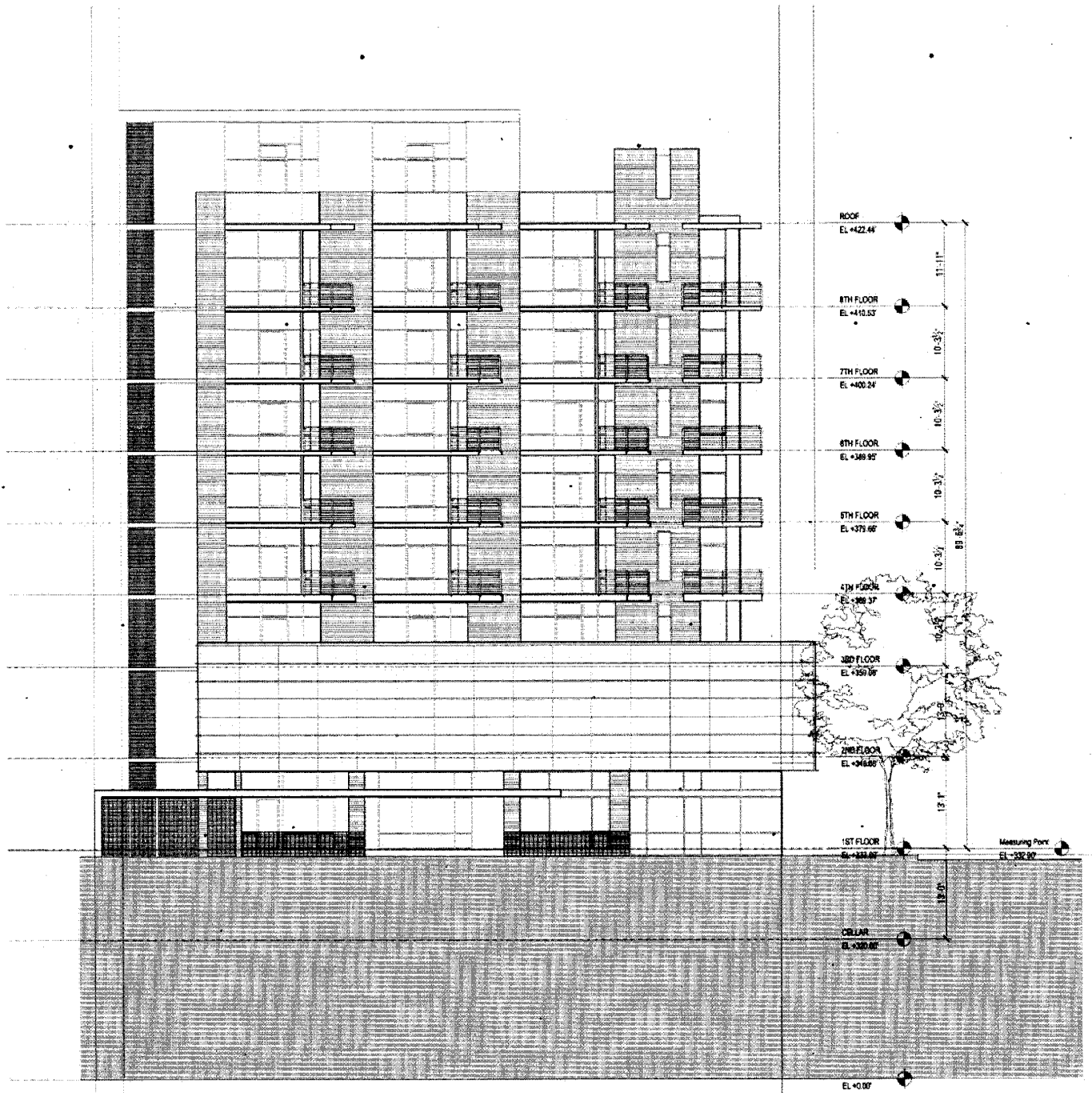


Landscape Plan





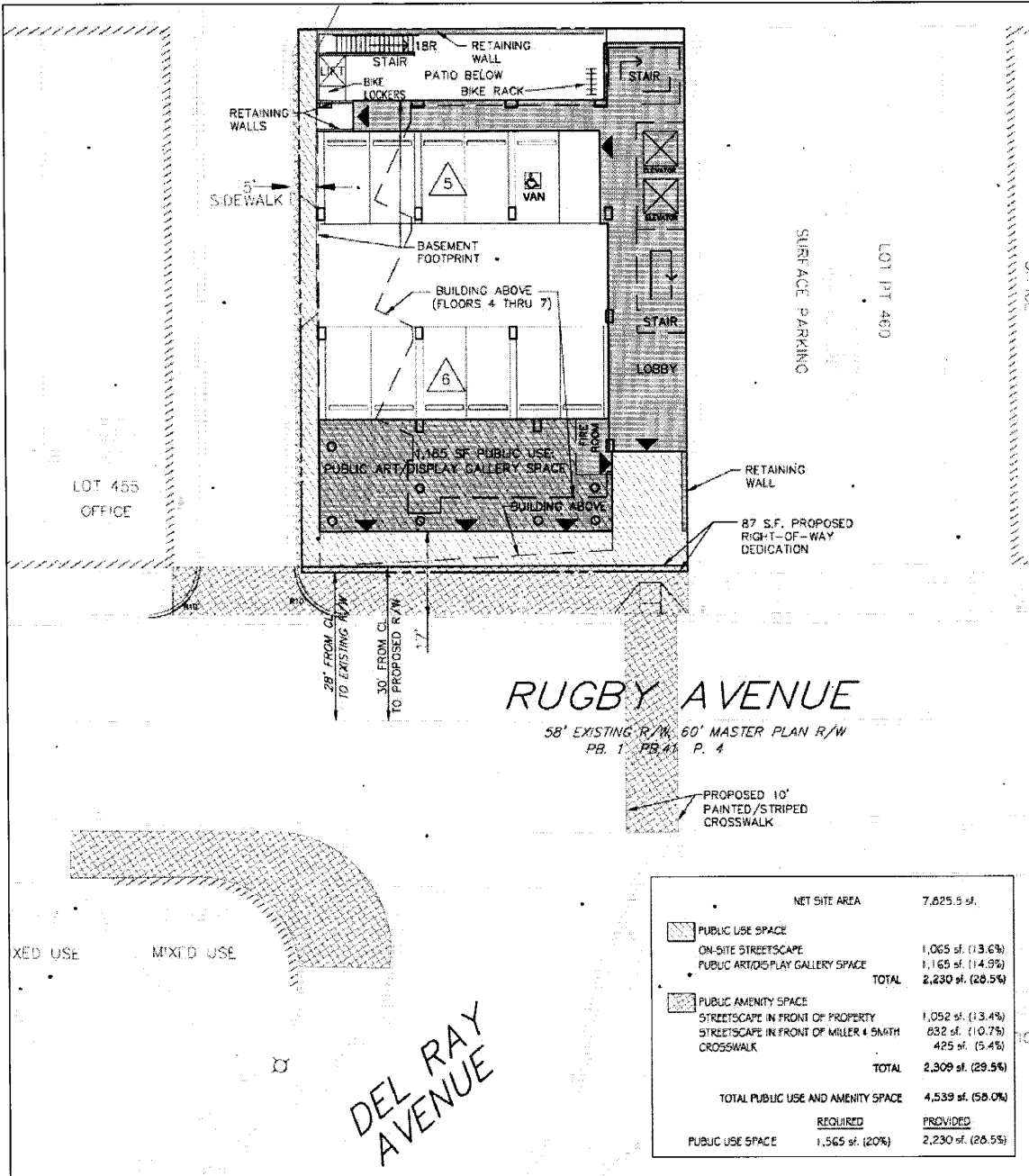
Rugby Avenue (South) Elevation



Driveway (East) Elevation

## Public Use Space and Amenities

The Applicant proposes to provide on site a public use space equivalent to 28.5 percent of the net tract area. This includes 1,165 square feet of interior and about 400 square feet of exterior Interactive Art Space located directly on the street front of the building, as well as pedestrian space along the side of the building, required for public access to the garage by the Department of Public Works and Transportation. In addition to the on-site public use space, the Applicant is providing improved streetscape in front of the site and across Rugby Avenue, crosswalk improvements across Rugby Avenue in front of the site to the east side of the intersection with Del Ray Avenue, and will be undergrounding the overhead utility lines in front of the property. Each of the streetscape improvements will meet the Bethesda Streetscape Standard.



Public Use and Amenity Space

The Applicant is also striving to improve the availability of affordable housing in the Woodmont Triangle and promote sustainable design. Though not required to do so because of the relatively small number of units provided by the project, the Applicant is voluntarily providing 15 percent of the final total number of units as MPDUs (i.e., four out of the proposed twenty-four units). The Applicant is receiving a 18 percent residential density bonus. The provision of these units will expand the availability of affordable housing in the Bethesda CBD. Further, the Applicant is committing to designing and building a project to attain LEED Certification, reducing the environmental impact of the project and promoting the sustainable development of the district.

### **Interactive ArtSpace**

The Applicant is proposing an interior/exterior Interactive ArtSpace for the ground floor of the building, to open directly out onto Rugby Avenue. Similar in concept to the Torpedo Factory in Old Town Alexandria, Virginia, the ArtSpace consists of two artist studios, totaling 1,165 square feet, which literally open directly onto a small plaza by means of four pivoting glass walls which, when open, extend the studio onto the sidewalk, enabling passers-by to watch the artists in residence work. The retail level glass wall feature will further enable permit pedestrians to see into the space and gallery area even when the walls are closed, further serving to activate the street. The “stop” for each of the pivoting walls would be a pedestal display, which could accommodate sculpture, painting, and other forms of artwork, and will themselves be created as pieces of art, unifying the experience from the sidewalk through to the studio. The interior studio spaces would not be accessible from the rest of the building and will share a bathroom.

The Applicant will enter into a management agreement with the Bethesda Urban Partnership and will coordinate with the Bethesda Arts and Entertainment District for the programming of the Interactive ArtSpace. The final size and design of the spaces and programming details will be determined at Site Plan.

In concert with the artist studios in the nearby Trillium project on Wisconsin Avenue and the artist studios and plaza at the Rugby Avenue Condominiums just a few lots west of this project, this Interactive ArtSpace will significantly contribute to the development of Rugby Avenue as an arts destination both as part of the Bethesda ArtWalk and in its own right.



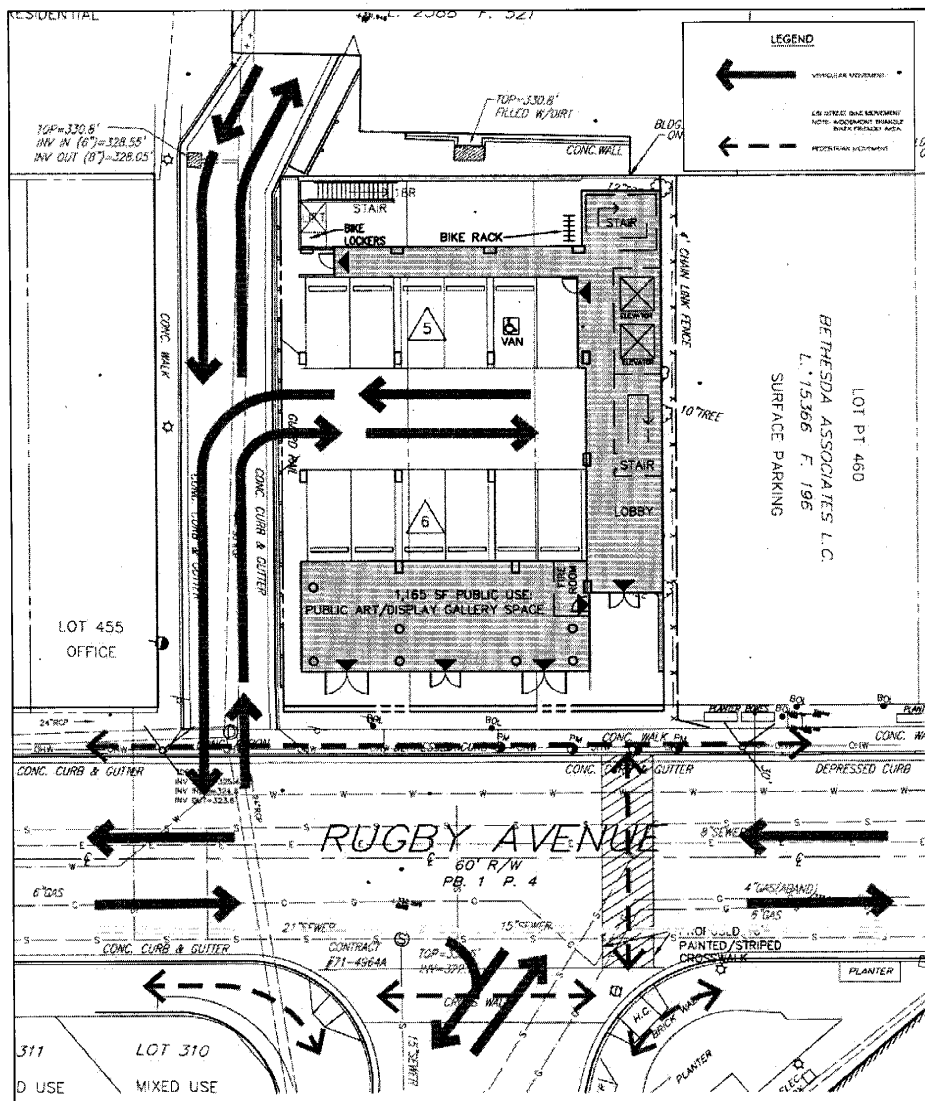
View of Interactive ArtSpace from Del Ray Avenue (Closed and Open)

## Pedestrian and Vehicular Access

The site is conveniently located for residents to walk to the Bethesda Metro Station, and the Medical Center Metro Station, each approximately one-half mile away, or to a bus stop on Woodmont or Rugby Avenues. The Bethesda trolley stops along Rugby Avenue across from the site. The many shops, restaurants and services in the Woodmont Triangle are all within walking distance.

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

Vehicular access to the parking lot will be provided from the Public Parking Lot 35 driveway off of Rugby Road along western edge of the site. The parking lot is contained at grade within the building footprint and will provide 11 parking spaces as an amenity for residents. The project is located within the Parking Lot District and, indeed, shares its northern site boundary with a public parking lot.



Circulation Plan

## **PLANNING AND REGULATORY FRAMEWORK:**

### **Sector Plan**

The Project Plan is in conformance with the Woodmont Triangle Amendment to the 1994 Bethesda CBD Sector Plan. A description of the themes and goals for the Woodmont Triangle and Bethesda CBD are outlined in the Sector Plan Conformance standards on page 28.

### **Prior Approvals**

The proposed development is zoned CBD-1. The property is comprised of parts of Lots 457, 458, 459, and 663, Northwest Park.

### **Preliminary Plan**

The Applicant has submitted a Preliminary Plan of subdivision (1-20070760), which is being reviewed separately.

## **BASIS FOR CONSIDERATION OF ISSUES**

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

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

**FINDINGS for Project Plan Review:**

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

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

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

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

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

The proposed development consists of a 90-foot high, 8-story mixed residential/commercial development with 32,021 gross building square feet, including 24 multi-family dwelling units with 4 MPDUs, and 7,022 square feet of office space, plus 5,705 square feet of cellar commercial space. Under the 1994 Plan, a maximum height of 50 feet was recommended at this location. In 2006, the Woodmont Triangle Amendment increased the recommended building height to the maximum allowed in the zone, which, as applied to this proposal, is 90 feet. To approve a height of 90 feet, the Planning Board must make a finding that the project does not adversely impact the surrounding properties. The Applicant is not seeking additional height above 90 feet to accommodate the MPDUs. Staff recommends approval of the 90-foot height as it is line with the taller buildings on Rugby Avenue, including the 8-story office building next door, helps transition between the 3-level garage to the north and the 15-story building to the south, and creates no significant impacts on the surrounding properties.

This Project Plan would accomplish several Sector Plan and Woodmont Triangle Amendment objectives by providing more housing, MPDUs on site, and contributing to the arts-themed amenities.

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

The Project Plan responds to the need for a variety of housing, including affordable housing, near metro in the Bethesda CBD. Under the optional method, this project encourages the development of active urban streets by providing a dynamic publicly accessible Interactive



ArtSpace and by improving the quality of the surrounding streetscape, enhancing Rugby Avenue and encouraging future development.

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

The proposed project would continue the planned revitalization of Rugby Avenue between Norfolk and Woodmont Avenues and contribute to the supply of residential choices in the Bethesda CBD. A proposed height of 90 feet would create a desirable transition between the 15-story buildings across Del Ray Avenue and the 4-story apartment buildings to the northwest.

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

The site is located approximately one-half mile from both the Bethesda and the Medical Center Metro Stations. Bus stops for six bus routes are located on Woodmont and Rugby Avenues, and the Bethesda Circulator stops across the street. Future residents would be able to walk to the numerous places of employment and restaurant, retail, service, and arts uses within the Woodmont Triangle and along Wisconsin Avenue. Additionally, the project includes intersection and streetscape improvements to enhance pedestrian access to and through the site.

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

The project would provide an improved pedestrian sidewalk, replacing the existing 5-foot wide concrete sidewalk with a 15-foot wide streetscape sidewalk with the Bethesda brick pavers. Providing street trees and placing utilities underground would make walking along this site to Battery Lane Urban Park or to Woodmont Avenue a more pleasant experience.

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

This project provides 20 market rate units and 4 MPDUs (15 percent of the total unit count). One of the main goals of the Woodmont Triangle Amendment to the 1994 Bethesda Sector Plan is to provide housing near metro for a variety of income levels.

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

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

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

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

The 4823 Rugby Avenue project proposes additional residential units for the edge of the CBD, including much-needed affordable housing. The arts flavor of the public space and amenities package will provide an attraction for the surrounding community, encouraging public arts events to draw nearby residents together. It can also dovetail with the variety of arts-related businesses and other mixed-use projects already located nearby. These amenities will help further enliven this northern edge of the CBD as a smaller-scale arts and entertainment component of the larger arts and performance spaces closer to the center of the CBD, including the Imagination Stage and others.

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

To promote compatibility with the adjacent land uses, 90 feet is the maximum recommended height at the edge of the CBD. The Application would provide a transition from adjacent 4-8 -story garage and office buildings and a 15-story multi-family building across Rugby Avenue.

The height of the building will have minimal solar impact. Directly north of the site is a parking garage, and to the east and west are 4-8 story office buildings.

**REQUIREMENTS OF THE CBD-1 ZONE**

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

**PROJECT PLAN DATA TABLE**

Zoning Ordinance Development Standard	Permitted/Required	Proposed for Approval
Minimum lot area (sf.)	n/a	9,412.5
Previously dedicated area		-1,500
Proposed dedicated area		-87
Net lot area		7,825.5
Density, for Mixed-Use Projects		
Note: while the CBD-1 zone allows a non-residential FAR of 2, the Woodmont Triangle Sector Plan limits the non-residential FAR to 1.		
Non-Residential, Maximum (FAR)	1	.75
Non-Residential, Maximum (SF)	9,412.5	7,022
Residential, Maximum (FAR)	< 3	
Residential, Maximum (SF)	< 28,237.5	

Zoning Ordinance Development Standard	Permitted/Required	Proposed for Approval
Residential, with 18% Density Bonus (FAR)	< 3.66	2.66
Residential, with 18% Density Bonus (SF)	< 34,449.75	24,999
Total, Residential & Non-Residential (FAR)	< 3.66	3.4
Total, Residential & Non-Residential (SF)	< 34,449.75	32,021
Market-rate units		20
MPDUs		4
Total, Maximum		24
MPDU provision (minimum percentage)	12.5	15
Public use space (minimum percent of net lot area)		
On-site (percent)	20	28.5
On-site (sf.)	1,565	2,230
Off-site amenity space (percent)		29.5
Off-site amenity space (sf.)		2,309
Total public use and amenity space (percent)		58
As a percentage of net lot area (sf.)		4,539
Maximum Building Height (ft.) <sup>2</sup>	90	90
Number of stories		8
Minimum Building Setbacks, Minimum (ft.)	Not Specified	
Front (Rugby Avenue)		0
Rear		0
West Side		0
East Side		0
Parking		
Residential		
20 one-bedroom units @ 1.25 spaces each	25	
4 one-bedroom MPDUs @ 0.625 spaces each	2.5	
Residential Subtotal	27.5	
10 %Reduction for Multi-Family Units in CBD	-2.75	
Residential Total	24.75	
Commercial (12,727 GSF) @ 2.4/1,000 GSF	30.54	
Subtotal	56	
Mixed Use Reduction	-12	
Total Number of Parking Spaces	44	11 <sup>3</sup>

<sup>2</sup> As measured from the level of approved street grade opposite the middle of the front of a building to the highest point of roof surface of a flat roof (59-A-2.1)

<sup>3</sup> The project is located within the Bethesda Parking Lot District.

## Amenities and Facilities Summary

### On-Site Improvements

#### Interactive ArtSpace

- Similar in concept to the Torpedo Factory in Old Town Alexandria, Virginia, the ArtSpace consists of two artist studios, totaling 1,165 square feet, which literally open directly onto a small plaza on Rugby Avenue by means of four pivoting glass walls which, when open, extend the studio onto the sidewalk, enabling passers-by to watch the artists in residence work.
- Colorful articulation of the glass walls, together with their store-front character, will attract passers-by.
- The “stop” for each of the pivoting walls would be a pedestal display, which could accommodate sculpture, painting, and other forms of artwork, and will themselves be created as pieces of art, unifying the experience from the sidewalk through to the studio.
- Will be managed by the Bethesda Urban Partnership and programmed with assistance from the Bethesda Arts and Entertainment District.

### Off-Site Improvements

#### Street and Intersection Improvements

- Dedication of 87 square feet of the site to complete the existing 60-foot right of way for Rugby Avenue in front of the site.
- Provision of a new crosswalk across Rugby Avenue from the southeast corner of the site to the sidewalk on the eastern side of Del Ray Avenue.

#### Streetscape

- Provision of the Bethesda Streetscape standard details for the public sidewalk in front of the building and across the street in front of Lot 310.
- Undergrounding of utilities in front of the site.

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

### **Zoning and Land Use Conformance:**

The approved and Adopted 1994 Bethesda CBD Sector Plan recommends the CBD-1 zone for this site. The proposed Project Plan conforms to the uses permitted in the zone. The development proposes 24 multi-family units, including 4 MPDUs, and 12,727 total square feet of commercial uses on 0.22 acres.

The proposed development is using the optional method of development in the CBD-1 zone. The minimum required public use space for this project is 20 percent of the net lot area, or 1,565 square feet. The project proposes 2,230 square feet, or 28.5 percent. In addition the Applicant is proposing 2,309 square feet, or 29.5 percent, of off-site amenity space in the form of streetscape and intersection improvements. The combined on- and

off-site public use and amenity area is 4,539 square feet, or 58 percent of the net site area.

**Conformance with the Purpose of the Woodmont Triangle Amendment:**

The Woodmont Triangle Amendment builds on the goals of the 1994 Plan, seeks to spur the development of a variety of housing in the Woodmont Triangle, and encourages mixed-use development proposals to foster the revitalization of the area. The project site is included in the Woodmont Triangle Study Area but was not discussed in the Amendment. At 8 stories, the project and its 8-story neighbor help transition the “stepping down” recommended by the Woodmont Triangle Amendment, mediating between 15 stories along Del Ray Avenue to 4-stories on Battery Lane to the west.

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

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

The surrounding properties are a mix of residential, office, and retail uses, ranging from neighboring 4-8-story office buildings to a 15-story multi-family building across Rugby Avenue at Del Ray Avenue. The project site is located between a public parking garage on the north, office buildings on the east and west, and a combination of high-rise multi-family and older lower-rise commercial and retail buildings on the south. The proposal would be compatible with the surrounding existing built environment. As mentioned above, at 8 stories the project also helps transition the “stepping down” recommended by the Woodmont Triangle Amendment, mediating between 15 stories along Del Ray Avenue to 4-stories on Battery Lane to the west.

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

The project will be built in one phase. As indicated in the Transportation Planning memo dated January 8, 2008, the residential project will not appreciably impact the adjacent intersections.

The project is located within the Bethesda Parking District, but the Applicant is providing 11 parking spaces on site for the convenience of the tenants. A public parking structure is located directly behind the site, and public transit is available.

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

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

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

Under the standard method of development, the project could achieve approximately two-thirds the proposed dwelling units and would not provide MPDUs. Under the optional method, this plan provides four MPDUs. The project also provides significant urban public use space for the size of the site, streetscape improvements, and a commitment to LEED Certification. Under the standard method of development, the project would yield half the public use space, a minimal amount of streetscape, and no amenity component.

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

Given the low total number of units, this project is not required to provide MPDUs. However, to better achieve the Woodmont Triangle Sector Plan goal of increasing the supply of affordable housing, the proposed development is providing 4 MPDUs on site, 15 percent of the total number of units, in accordance with the provision of Chapter 25A of the Montgomery County Zoning Ordinance. The low number of units included in the project also exempts it from Workforce Housing requirements.

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

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

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

A stormwater management concept plan proposing on-site management in an underground vault was approved on June 7, 2007.

## APPENDIX

### A: Reviewing Agency Approvals

## Appendix A: Reviewing Agency Approvals



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

December 24, 2007

**MEMORANDUM**

**TO:** Elza Hisel- McCoy, Development Review Division  
**FROM:** Judy Daniel, Team Leader, Bethesda-Chevy Chase Team  
**CC:** John Carter, Chief, Community-Based Planning  
**SUBJECT:** 4823 Rugby Building Project Plan  
**ZONE:** CBD-1  
**MASTER PLAN:** 2006 Woodmont Triangle Sector Plan

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The Community-Based Planning staff supports this proposed Project Plan.

This is a mixed-use building proposed on Rugby Avenue at the intersection with Del Ray Avenue. The Sector Plan locates this property in Block 15, with the following guidance. The CBD-1 zoning remains, with FAR limited to 3.0, and height limited to 90 feet (110 feet with a MPDU bonus). The project is proposed under the optional method, but only 16 dwelling units are proposed, so no MPDUs are required, and none are proposed.

The project indicates office/retail potential use in the basement, and on the first and second floors. The residential units are on the remaining four floors. The public use space is proposed as art spaces along the front of the building, creating a plaza type space with large doors that open to provide display areas.

The Community-Based Planning staff generally finds the proposal for this small building on this small lot will provide a good mixed use structure. And we believe that the revised proposal for the public use space is acceptable. It provides arts space as recommended under the priorities for Public Amenities and Facilities listed on page 16 of the Sector Plan. And the improvements to the streetscaping will be an important link for this segment of Rugby Avenue.





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

January 8, 2008

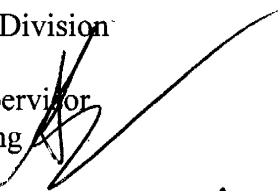
**MEMORANDUM**

TO: Elza Hisel McCoy, Site Planner  
Development Review Division

VIA: Shahriar Etemadi, Supervisor  
Transportation Planning

FROM: Ed Axler, Planner/Coordinator  
Transportation Planning

SUBJECT: 4823 Rugby Avenue  
Project Plan No. 9200700140  
Bethesda Central Business District

  
EA

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This memorandum is Transportation Planning staff's Adequate Public Facilities (APF) review and approval of the subject project plan in downtown Bethesda.

**RECOMMENDATIONS**

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

1. The applicant must limit this project plan to a maximum of 24 mid-to-high-rise apartments.
2. At the time of preliminary plan, the applicant must satisfy transportation requirements that include, but not limited, to the following:
  - a. Satisfy the APF test under the *FY 2007-2009 Growth Policy* by submitting a Policy Area Mobility Review (PAMR) study or statement to show 30% of the new peak-hour trips generated by the proposed land use shall be mitigated within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods.
  - b. Provide one inverted-U bike rack in front of the main entrance of the apartment building. The applicant should coordinate with Transportation

Planning staff to determine the ultimate location of the bike rack prior to approval of certified site plan.

## **DISCUSSION**

### Site Location and Access

The subject site is located on the north side of the T-intersection of Rugby Avenue and Del Ray Avenue. Vehicular access for the residents and service vehicles is proposed from Rugby Avenue.

### Available Transit Service

Bethesda Metrorail Station is located approximately 3,400 feet to the south of the subject site. Ride-On route 92 operates along Rugby Avenue.

### Pedestrian Facilities

Sidewalks exist along Rugby Avenue.

### Master-Planned Roadways and Bikeway

In accordance with the *Bethesda CBD Sector Plan*, Rugby Avenue is designated as a business district street with a recommended 60-foot right-of-way and a bike friendly area. In accordance with the *County Functional Master Plan of Bikeways*, a signed shared roadway, SR-12, is designated along Rugby Avenue.

### Sector-Planned Transportation Demand Management

The site is located in the Bethesda Transportation Management District. As a 24-unit apartment building, the applicant is not required to enter into a Traffic Mitigation Agreement to participate in the Bethesda Transportation Management Organization.

### Local Area Transportation Review (LATR)

The proposed 24-unit apartment building would generate 7 peak-hour trips within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods. A traffic study is not required to satisfy LATR because the proposed 24-unit apartment building generates less than 30 total peak-hour trips during the weekday morning and evening peak periods. However, a traffic study was submitted because the proposed land uses originally included 15,688 square feet of retail space. The following nearby intersections were analyzed in this traffic study:

1. Old Georgetown Road and Battery Lane
2. Old Georgetown Road and Glenbrook Road
3. Old Georgetown Road and Auburn Lane

4. Glenbrook Road and Rugby Avenue
5. Woodmont Avenue and Battery Lane
6. Woodmont Avenue and Rugby Avenue
7. Woodmont Avenue and Cordell Avenue

The results of this traffic study were that the critical lane volumes at these intersections were less than the congestion standard of 1,800 for the Bethesda CBD Policy Area.

EA:tc

cc: Judy Daniel  
Barbara Kearney  
Chuck Kines  
Mike Lenhart  
Stacy Silber  
Fiona Thomas

mmo to Hisel-McCoy re 4823 Rugby Avenue 820070140.doc

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

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

TO:  Richard Weaver   
 Development Review Division

SUBJECT:  Plan # 9-07014 & 1-07076 , Name  4823 Rugby Avenue   
 DRC date: Monday, August 20, 2007

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

**SUBMITTAL ADEQUACY**

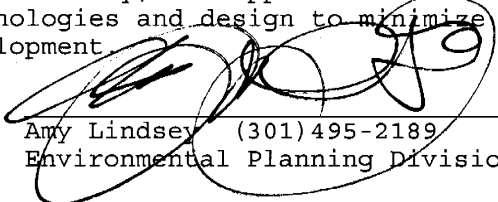
X  Plan is complete. (see recommendations below)

**EPD RECOMMENDATIONS:**

X  Approval.

1. This plan is exempt from Forest Conservation Law as per 4-07078E, Small Property (11/09/2006). No Tree Save Plan is required for this property.
2. This project may need to comply with County Council Bill 17-06, Montgomery County Green Buildings Law, depending on the building permit filing date. The applicant should develop a comprehensive plan now in order to achieve this. LEED points can be achieved using such diverse measures as the proposed green roofs, green building materials, energy saving measures, and waste reduction plans. Regardless of applicability, the applicant is encouraged to investigate additional green technologies and design to minimize energy use and mitigate environmental impacts of development.

SIGNATURE:

  
 Amy Lindsey (301) 495-2189   
Environmental Planning Division

DATE:  7/30/07

cc: engineer/applicant

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

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

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

Date: August 17, 2007

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

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

**SUBJECT:** Stormwater Management Concept Plan/100-Year Floodplain Review  
Site Plan #  
Project Plan # 920070140 , 4823 Rugby Avenue  
Preliminary Plan # 120070760 , DPS File # 231446  
Subdivision Review Meeting of August 20, 2007

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

**SM CONCEPT PLAN PROPOSED:**

- On-site:**  CPv  WQv  Both  
 **CPv** < 2cfs, not required  
 On-site/Joint Use  Central (Regional): waived to  
 Existing  Concept Approved June 7, 2007  
 **Waiver:**  CPv  WQv  Both  
 Approved on  
 **Other**

**Type Proposed:**

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

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

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

**SUBMISSION ADEQUACY COMMENTS:**

- Provide verification of Downstream notification.

**RECOMMENDATIONS:**

- Approve  as submitted  with conditions (see approval letter)  
 Incomplete; recommend not scheduling for Planning Board at this time.  
 Hold for additional information. See below  
 Comments/Recommendations:

cc: Steve Federline, Environmental Planning Division, MNCPPC

bll DRC site plan.03/01