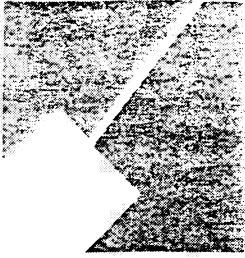


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK & PLANNING

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Item # 4+5

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

MEMORANDUM

DATE: December 6, 2001  
 TO: Montgomery County Planning Board  
 VIA: Joe R. Davis, Chief *JRD*  
 Development Review Division  
 FROM: Larry Ponsford AIA AICP *LRP*  
 Planning Department Staff  
 (301) 495-4576



REVIEW TYPE: Site Plan Review, Project Plan Review (**Amendments**)  
 APPLYING FOR: Approval of removal of the requirement that approximately 8,400 sf be leased for retail use and approval of the option to lease for office use  
 PROJECT NAME: **One Bethesda Center / Community Motors**  
 CASE NUMBERS: 8-84006A and 9-83005A  
 REVIEW BASIS: Sec. 59-D-2 and -3, M. C. Zoning Ordinance

ZONE: CBD-2  
 LOCATION: Bethesda CBD, between Elm Street and Hampden Lane, Wisconsin and Woodmont Avenues  
 MASTER PLAN: Bethesda CBD Sector Plan  
 APPLICANT: Lend Lease Real Estate Investments, Inc.  
 FILING DATE: November 3, 2000  
 HEARING DATE: March 1, 2001 (**Deferred**)  
 HEARING DATE: September 19, 2002

**STAFF RECOMMENDATION (for both Project and Site Plans):** Approval of removal of the retail occupancy requirement for the second floor portion of the 8,400 sf and approval to lease the second floor portion for office use, with the following conditions:

1. Retain the retail designation for the ground floor (plaza level) portion of the subject 8400 sf.
2. All conditions of prior approvals remain in full force and effect, except as they are specifically changed by this approval..

**BACKGROUND SUMMARY:**

These proposed amendments were heard in March 2001 by the Board, at which time the decision was deferred. Staff had recommended removal of the retail requirement from the second floor space and retention of retail uses on the ground floor. At the hearing the applicant asked the board to also remove the retail requirement from the first floor, but on staff's advice, the Board saw the ground floor retail as an amenity which would have to be replaced. The applicant asked for deferral to allow time to consider how to replace the amenity represented by the retail uses.

Staff and the applicant met on occasion in the intervening months to discuss and weigh alternatives. After much negotiation and deliberation, and in the face of declining demand for either use in the subject space, the applicant has decided to accept the staff's recommendation of the first hearing, reflected in the recommendations above. A full discussion of the case is contained in the original staff report and in the March hearing transcript, both of which are attached. Also attached is the letter from applicant's counsel agreeing to the staff recommendation.

**APPENDIX:**

1. Letter dated September 25, 2001 agreeing to staff recommendation
2. Original Staff Report dated February 22, 2001
3. Transcript of the March 1, 2001 Planning Board hearing for Project Plan Amendment

G:\SP\_STAFF\8-84006A  
G:\PP\_STAFF\9-83005A

**LINOWES AND BLOCHER LLP**

ATTORNEYS AT LAW

1010 Wayne Avenue, Tenth Floor  
Silver Spring, MD 20910-5600  
301.588.8580  
Fax 301.495.9044  
Website: www.linowes-law.com

September 25, 2001

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Mark M. Viani  
301.650.7050  
mmv@linowes-law.com

Arthur Holmes Jr., Chairman  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Re: Project Plan 9-83005A and Site Plan 8-84006A - One Bethesda Center/Community Motors (the "Property").

Dear Chairman Holmes and Members of the Board:

We represent One Bethesda Investors, L.L.C. (the "Owner"), owner of the above-referenced Property. The Property is a mixed-use development located between Elm Street and Hampden Lane in the Central Business District of Bethesda. The Property consists of a twelve-story office building, nine townhouses, used for residential purposes, and a two-story building (the "Goldberg Building") located across a small pedestrian plaza from the office building. The pedestrian plaza runs between Elm Street and Hampden Lane, bisecting the Property.

In January 2001, the Owner filed applications to amend the above-referenced project plan and site plan. The object of these amendments was to obtain the Planning Board's approval to permit the Goldberg Building to be used by office and/or retail tenants. In their report to the Board, Planning Staff recommended allowing office tenants on the second floor of the Goldberg Building, but opposed office uses on the first floor. Staff's opposition to first floor retail uses was based on their belief that such uses were part of the amenity package by which the original developer obtained additional density on the Property.

The Board addressed the Owner's request at its meeting on Thursday, March 1, 2001. At that time, certain Board members suggested that the Owner defer its application until such time as it could proffer a replacement amenity sufficient to offset the loss of first floor retail uses in the Goldberg Building for a seven-year period. The Owner accepted the Board's invitation and deferred its application to work with its consultants and Planning Staff to determine a feasible replacement amenity proffer.

Since the Board's meeting, the Owner has met several times with its consultants and Planning Staff to determine an appropriate and feasible replacement amenity proffer. However, during this time the market for office and retail space has continued to decline dramatically.

Arthur Holmes Jr., Chairman  
September 25, 2001  
Page 2

After considerable discussion and analysis with its consultants and Planning Staff along with evaluation of the current market conditions, the Owner has decided to accept the Planning Staff's original recommendation to limit office uses to the second floor of the Goldberg Building with the appropriate entrance and stairway from the first floor.

Accordingly, we request that you place this matter on the Planning Board's agenda at the earliest convenient date for final action.

Thank you for your consideration of this request.

My best regards

Very truly yours,

LINOWES AND BLOCHER LLP

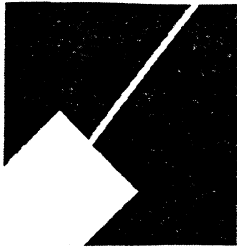
A handwritten signature in black ink, appearing to read 'Mark M. Viani', is written over a large, loopy scribble that partially obscures the text 'LINOWES AND BLOCHER LLP'.

Mark M. Viani

cc: Mr. Lawrence R. Ponsford  
Lawrence M. Ostow, Lend Lease Real Estate Investments  
Daniel Dillon, Jones, Lange and LaSalle  
Robert H. Metz, Esquire



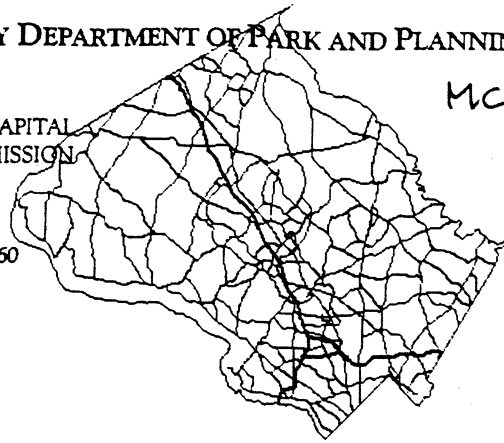
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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760



ITEM #3 AND #4

MCPB 03/01/01

MEMORANDUM

**DATE:** February 22, 2001  
**TO:** Montgomery County Planning Board  
**VIA:** Joe Davis, Chief  
Development Review Division  
**FROM:** Carolyn Revelle Hufbauer *CRH*  
Larry Ponsford  
Planning Department Staff  
(301) 495-4604 and 4576

**REVIEW TYPE:** Project Plan and Site Plan  
**APPLYING FOR:** Removal of the requirement that approximately 8,400 s.f. be leased for retail use and approval of the option to lease for office use  
**PROJECT NAME:** **One Bethesda Center/ Community Motors**  
**CASE #:** 9-83005A and 8-84006A  
**REVIEW BASIS:** Sec. 59-D-2 and Sec. 59-D-3, Montgomery County Zoning Ordinance

**ZONE:** CBD-2  
**LOCATION:** Bethesda CBD, between Elm Street and Hampden Lane, Wisconsin and Woodmont Avenues  
**MASTER PLAN:** Bethesda CBD Sector Plan  
**APPLICANT:** Lend Lease Real Estate Investments, Inc.  
**FILING DATE:** November 13, 2000  
**HEARING DATE:** March 1, 2001

## **SUMMARY**

The applicants request approval to add an optional office designation to approximately 8400 square feet currently designated only for retail use in the project known as One Bethesda Center (formerly known as Community Motors). The applicants maintain that the location, along a pedestrian plaza between Hamden Lane and Elm Street, is not conducive to successful retail use and that the company has not been able to achieve maximum occupancy and maximum rent. They note that office use would generate fewer automobile trips and lower parking demand and state that the proposal conforms to the zone and to the Sector Plan.

Staff finds that retail use on the plaza level is an integral feature of the pedestrian plaza and thus part of the major public amenity originally approved for this optional method project. Retail use in this location conforms to the goals of the 1976, 1982, and 1994 Sector Plans. Staff believes that recent developments in the vicinity improve the outlook for retail and proposes a public-private effort to enhance the pedestrian environment in and around the project.

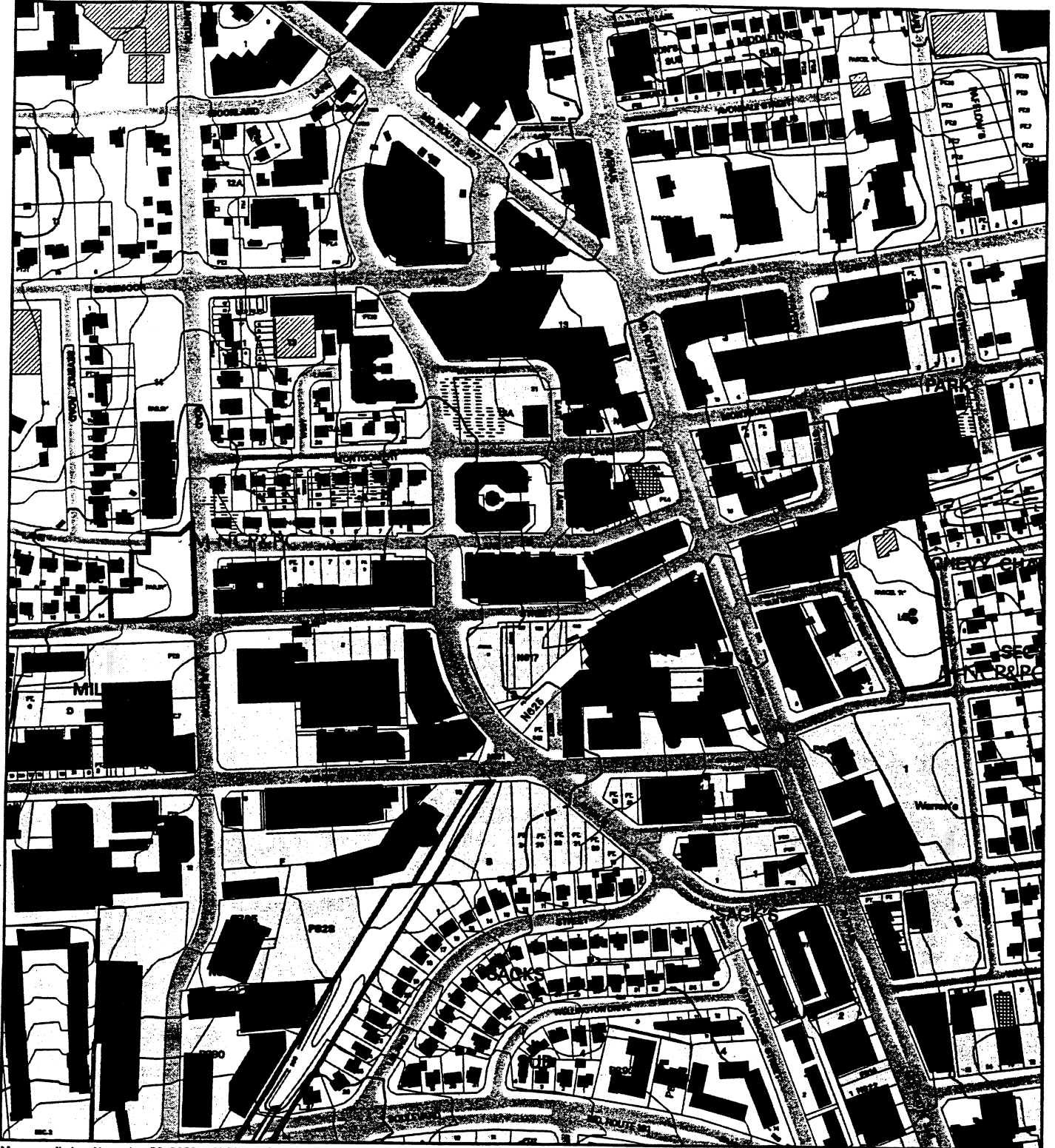
### **STAFF RECOMMENDATION (for both Project and Site Plans):**

Approval of optional office use for the second floor space with the following conditions:

1. Retain the retail designation for space on the plaza level.
2. All conditions of prior approvals remain in full force and effect, except as specifically amended by condition #1 above.

PROJECT DESCRIPTION: Surrounding Area

VICINITY MAP FOR  
**ONE BETHESDA CENTER (8-84006)**



Map compiled on November 20, 2000 at 11:23 AM | Site located on base sheet no - 209NW06

**PROJECT DESCRIPTION: Site and immediate vicinity**

The 46,940 square foot site is located in the Bethesda Central Business District. It is bounded by Hampden Lane to the north; a mid-rise commercial building containing a bank in the ground floor to the east; Elm Street to the south; a two-story commercial structure with a restaurant use and Woodmont Avenue to the west. Hampden Square, a mid-rise mixed-use optional method project, and a three-story commercial structure containing a bank, dry cleaner and a restaurant are located across Hampden Lane to the north. To the south, across Elm Street, on the corner of Wisconsin Avenue, there is the United Artists Cinema building and on the other end of Elm Street on the corner of Woodmont Avenue, there is a new office/retail building constructed by Federal Realty. The area is zoned CBD-2.

The site is two blocks south of the Metro station entrance, near the southern end of the Metro Core District. To the northwest are the apartments and new town houses of the Transit Station Residential District; to the southwest are the restaurants and retail shops along Elm Street, Woodmont Avenue and Bethesda Avenue that have been developed by Federal Realty primarily in the C-2 Zone. Wisconsin Avenue lies to the east.



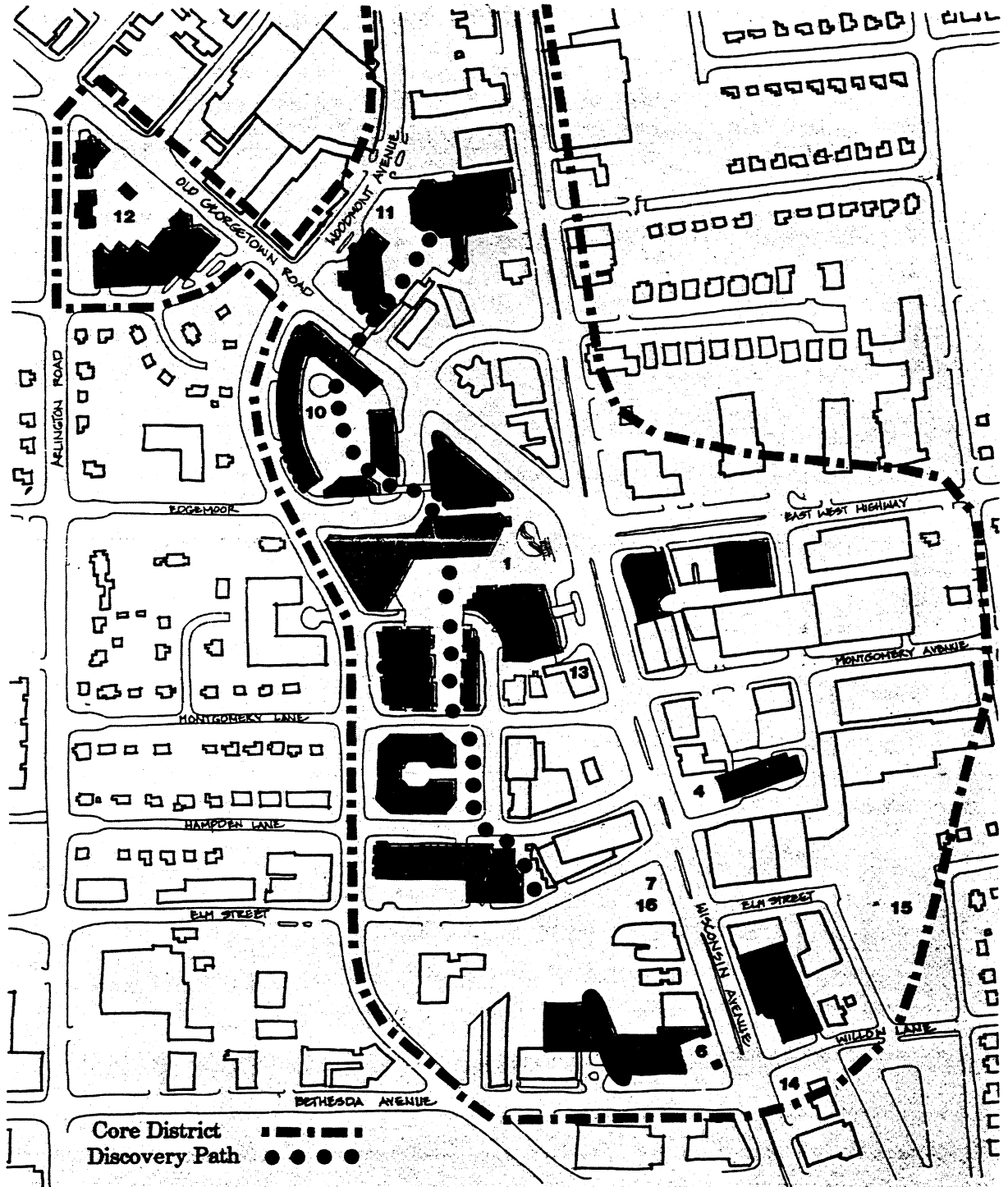
**PROJECT DESCRIPTION: Proposal**

The project for which the amendment is sought is a mixed-use development that includes primarily office use, plus ten residential units and ground floor retail located along Hampden Lane and on the eastern edge of a plaza that runs mid-block between Hampden Lane and Elm Street. The plaza is the major on-site amenity; streetscape on the streets bounding the site is the major off-site amenity. The plaza is at grade with Hampden Lane and elevated approximately four feet above Elm Street at its highest point.

The amendment seeks approval to convert 8,400 square feet of retail space lining the eastern side of the plaza to optional office use; the retail space is in a structure known as the Goldberg Building. Current tenants are the Glass Gallery and Parioli's Restaurant. The plaza provides pedestrian access to the retail space and to the office building on the western side of the plaza. It also provides a way for pedestrians to cross through the site to destinations on and beyond the two bounding streets.

Vehicular access to underground parking is from Elm Street and Hampden Lane. The project provided 464 parking spaces, 17 more spaces than required by the code.

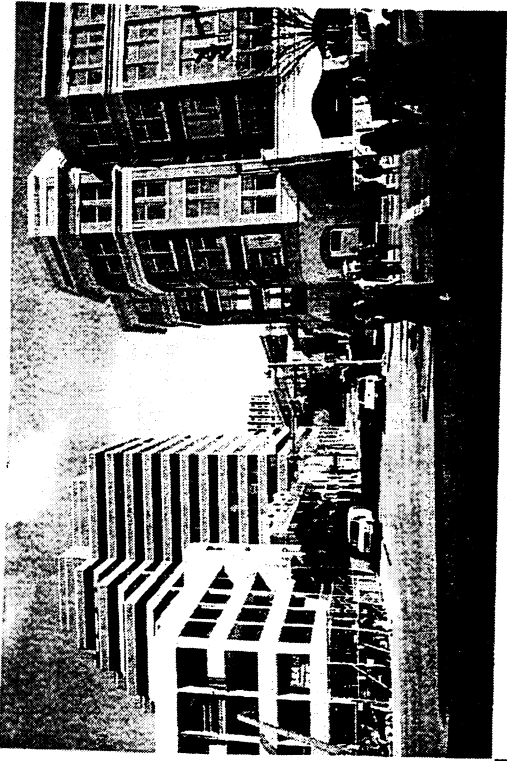
# Bethesda



THE DISCOVERY TRAIL

The Core District

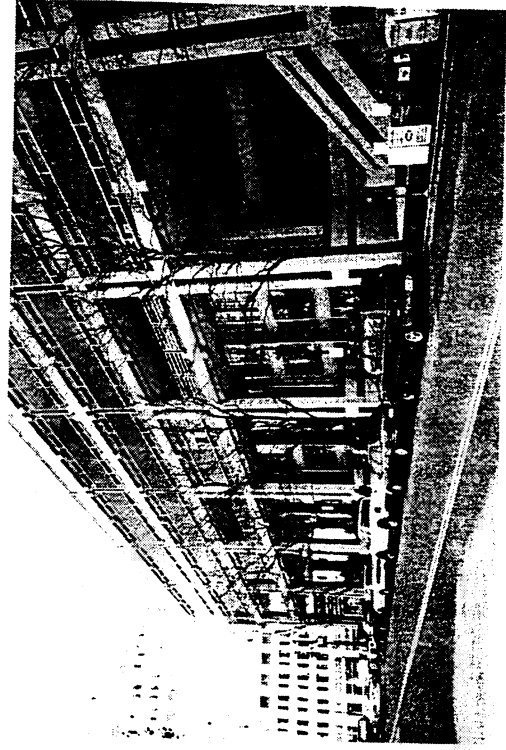
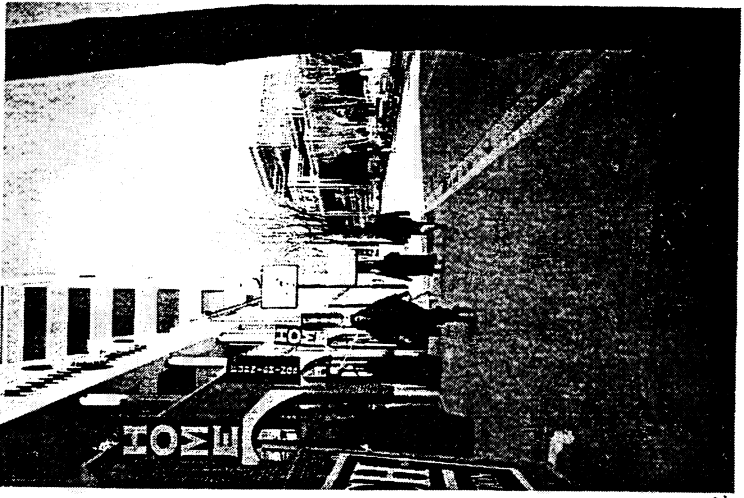
SITE VICINITY: ELM STREET



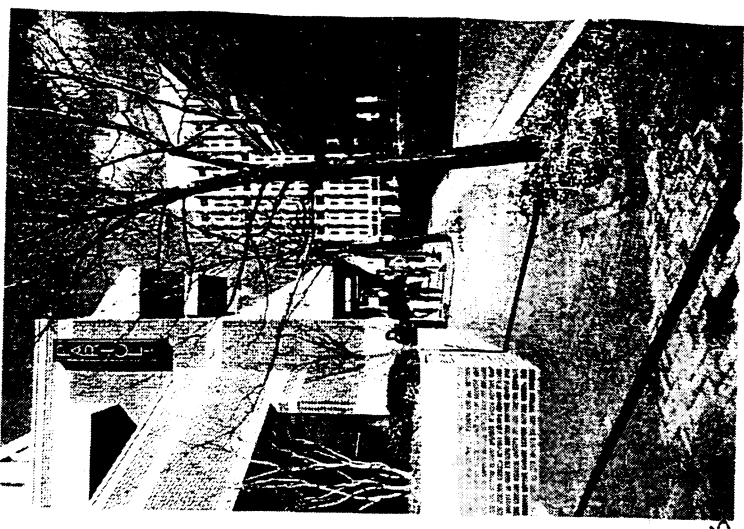
1 View east on Elm from Woodmont  
 2 north side, looking east  
 3 north side, looking east - at project



4 north side looking west



5 Looking southeast toward United Artists

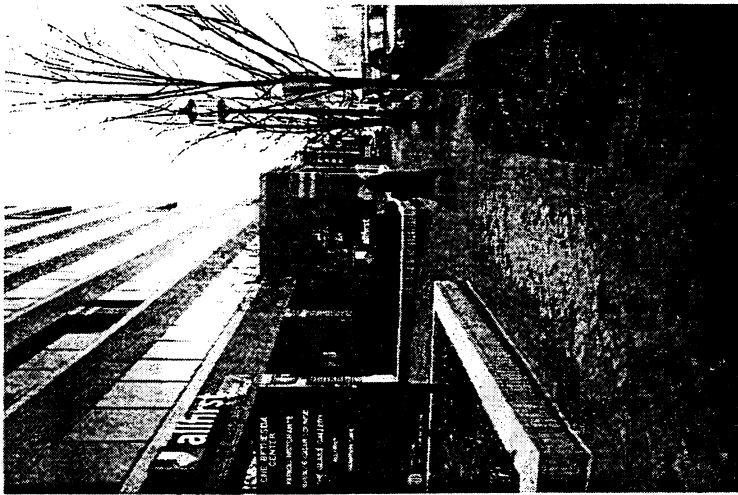


6 Looking northwest toward project

SITE VICINITY : HAMPDEN LANE



1

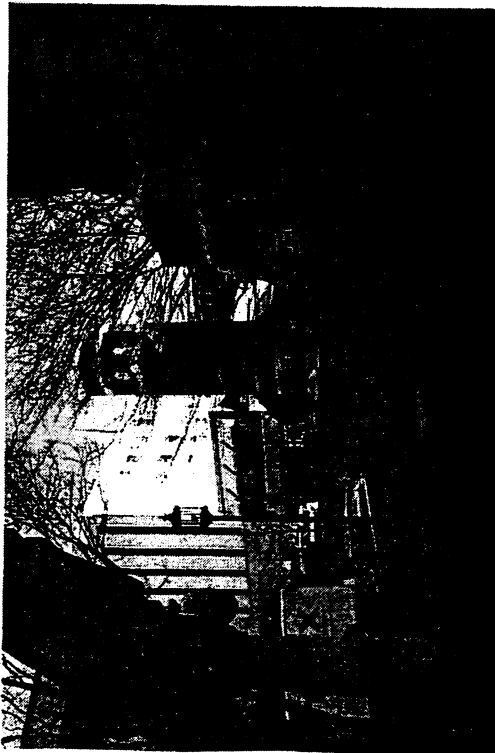


2

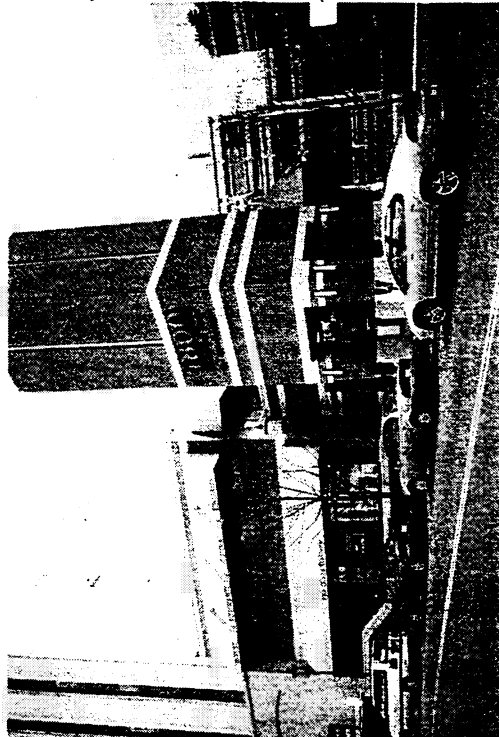


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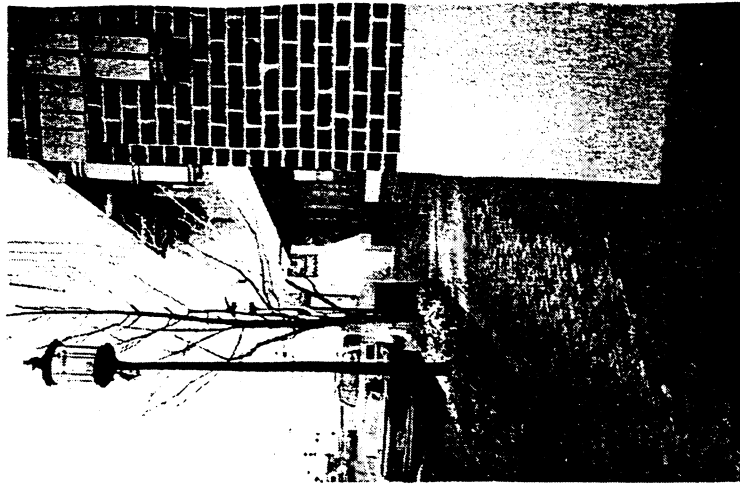
- 1 looking west toward Westmont
- 2 looking west, at plaza entrance
- 3 looking southeast (just west of plaza entrance) : retail



4 looking from Hampden Square to project



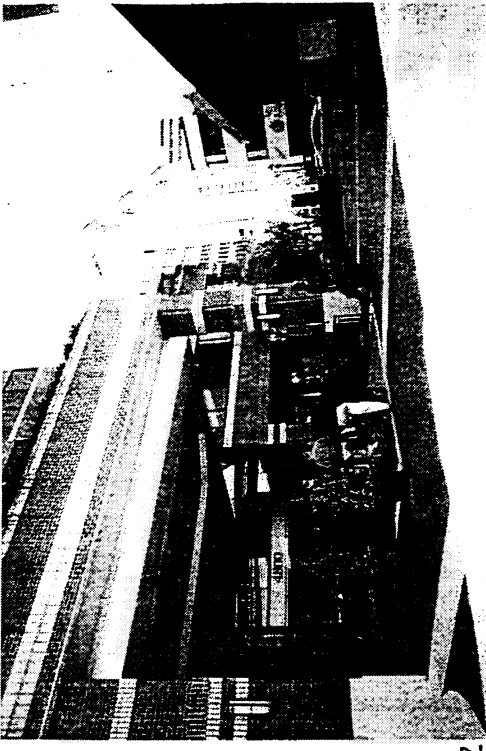
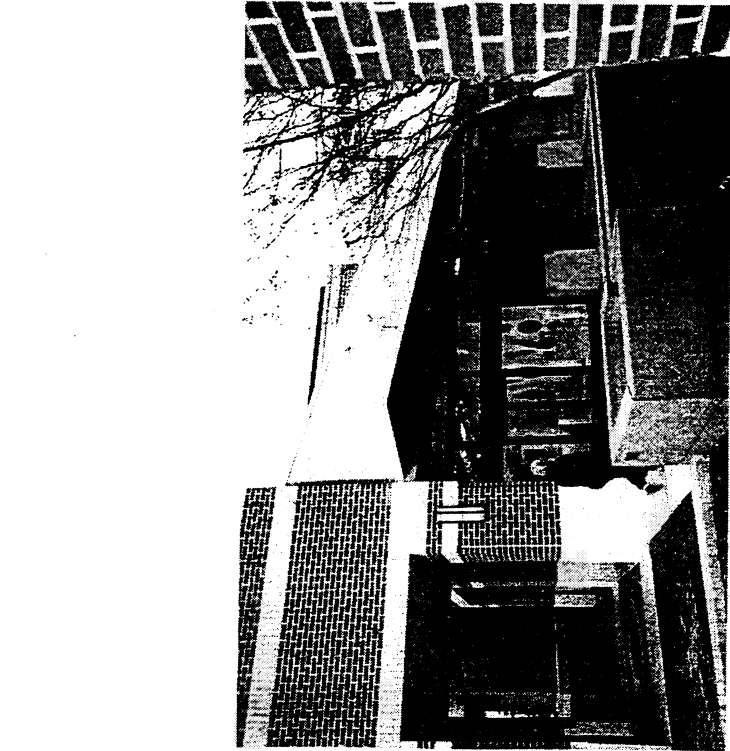
5 looking south to project; Goldberg Building on left (Glass Gallery below, Paroli (Shore); plaza entry on right)



6 looking east toward Wis Edmoir



THE PROJECT: PLAZA



2 Plaza: looking northwest to office building entry  
3 Plaza: looking north toward Metro Center;  
Goldberg Building on right



4 Plaza: looking south; Goldberg Building on left

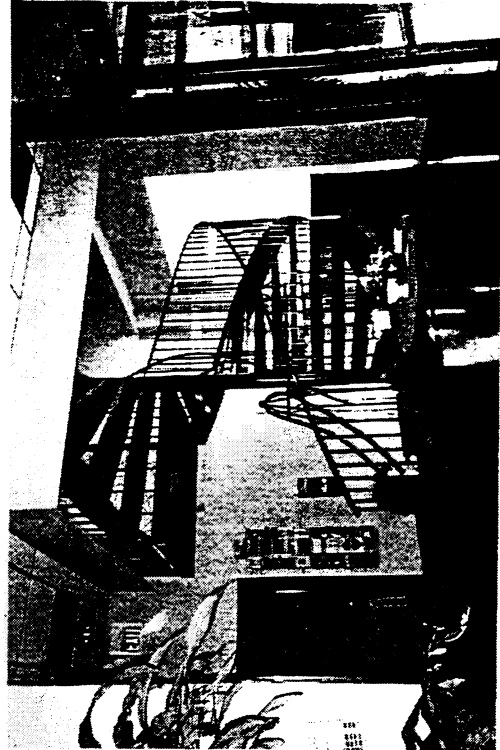


5 Plaza: looking south toward Elm Street

THE PROJECT: INTERIOR OF GOLDBERG BUILDING



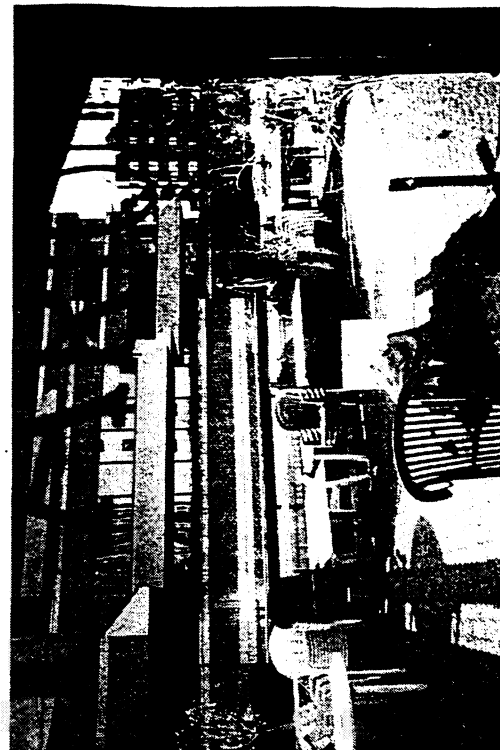
Ground floor (plaza) level



Stairs to second level



Second level: note doors to roof terrace



Second level: roof terrace

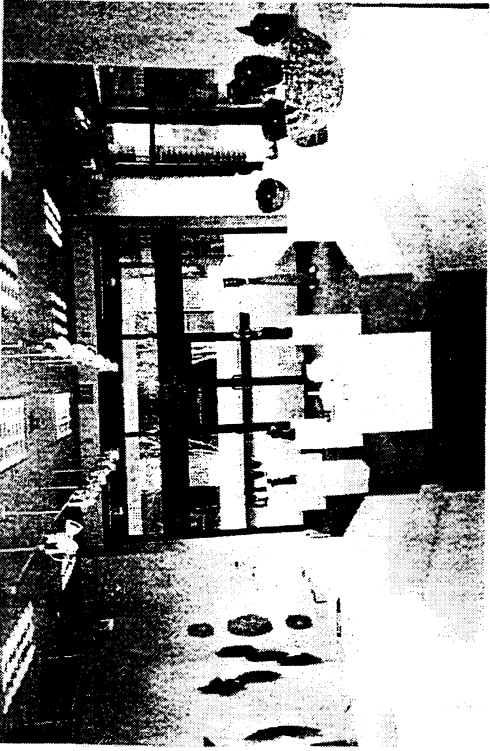
Paroli Restaurant

2

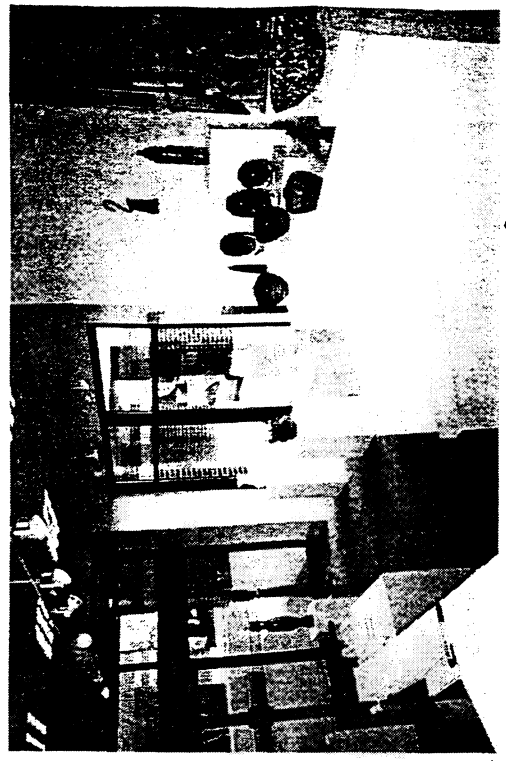
4

3

THE PROJECT: INTERIOR OF GOLDBERG BUILDING



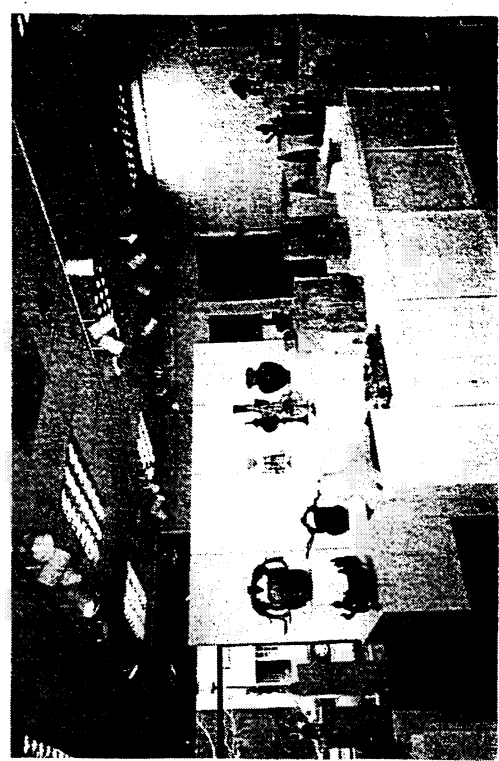
1 looking through gallery to plaza (west)



2 looking toward plaza and entry from Hampton Lane



3 looking through gallery toward south



4 looking toward Hampton Lane

GLASS GALLERY

ON THE DISCOVERY TRAIL / LINK TO METRO CENTER



1 north to Hampden Square



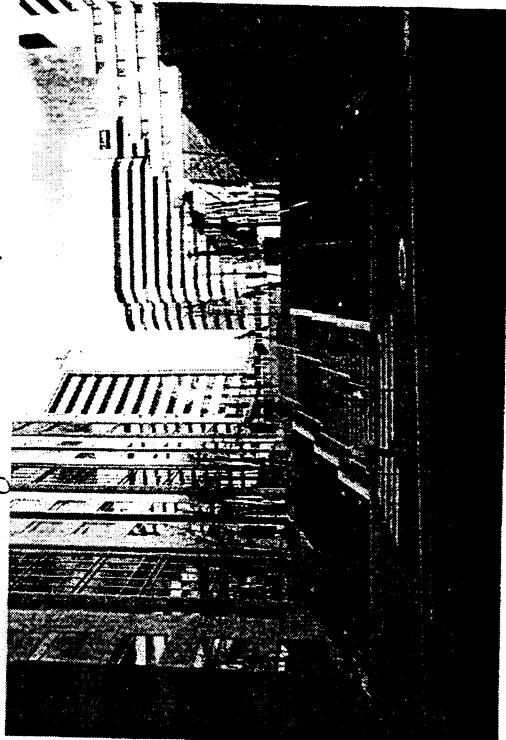
2 north through Hampden Square



3 Alternate Sidewalk route north

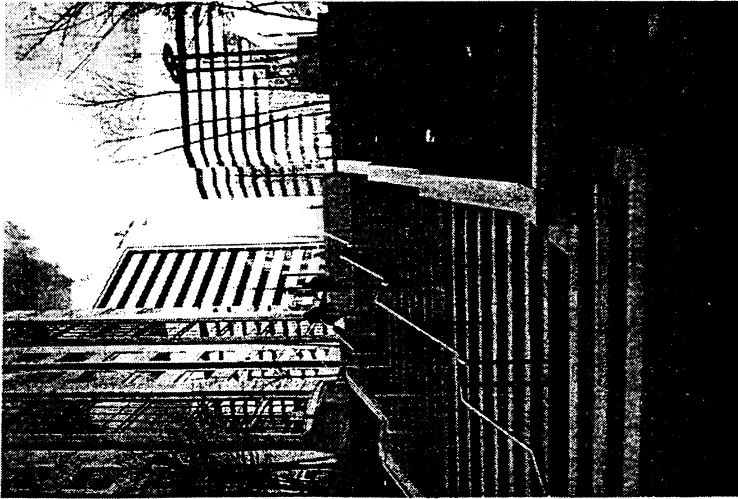


4 north through gazebo to Montgomery Avenue

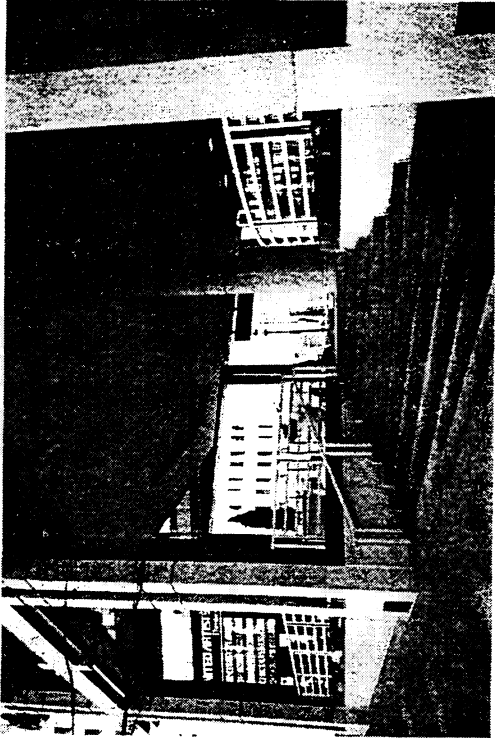


5 north up stairs through Newlands project to Metro Plaza

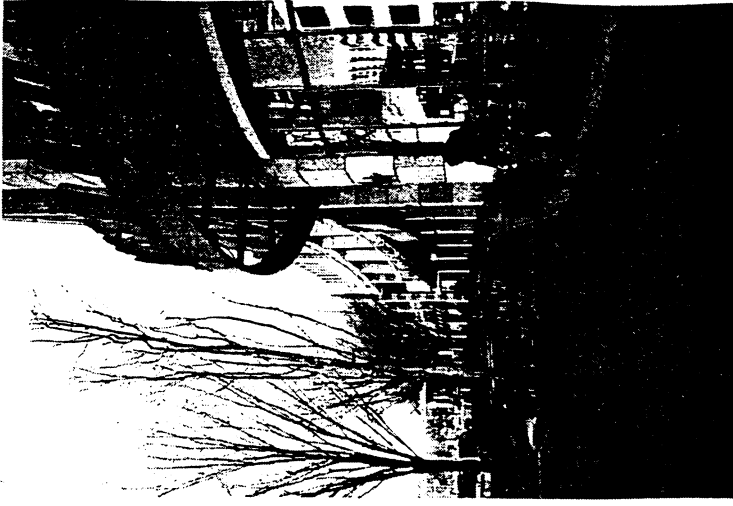
OPPORTUNITIES



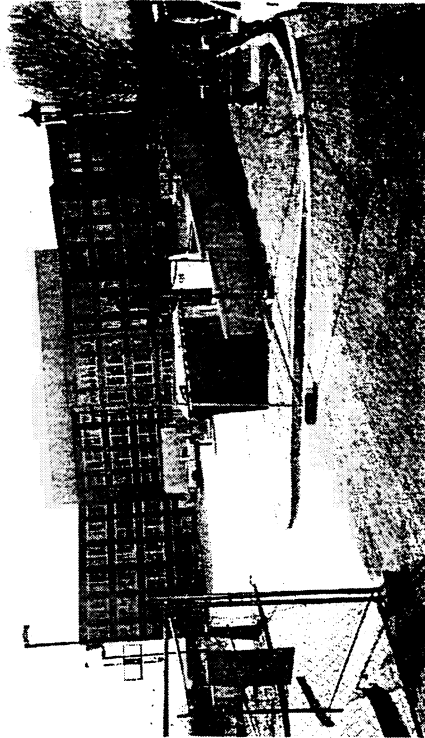
Link to Metro



United Artists: 10 theaters



Woodmont Avenue: Restaurants and shops and pedestrian activity half a block from the Project

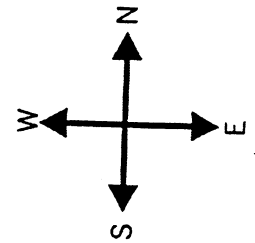
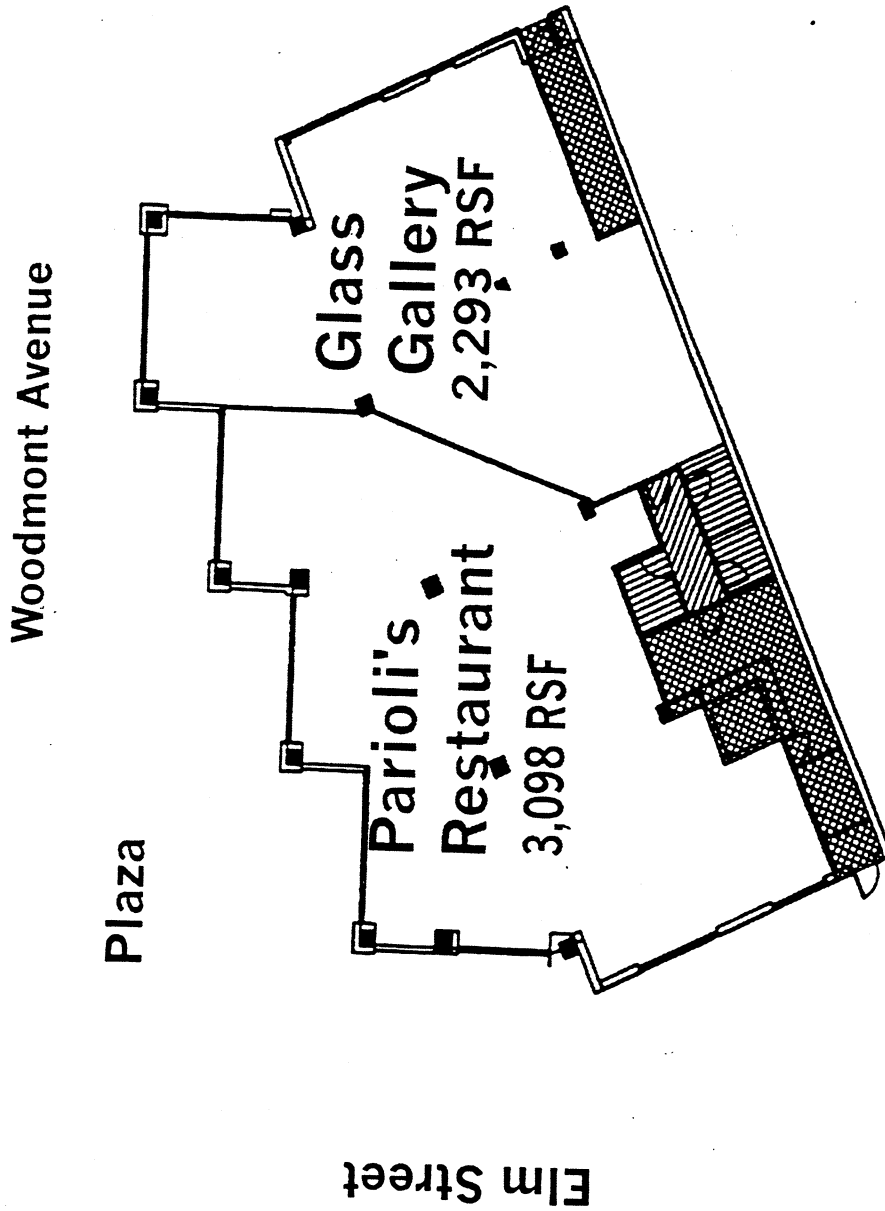


New Federal Realty project, Elm and Woodmont  
• possible cinemas; People generators  
• possible link to Capital Crescent Trail

# One Bethesda Center

(First Floor)

GROUND FLOOR SPACE

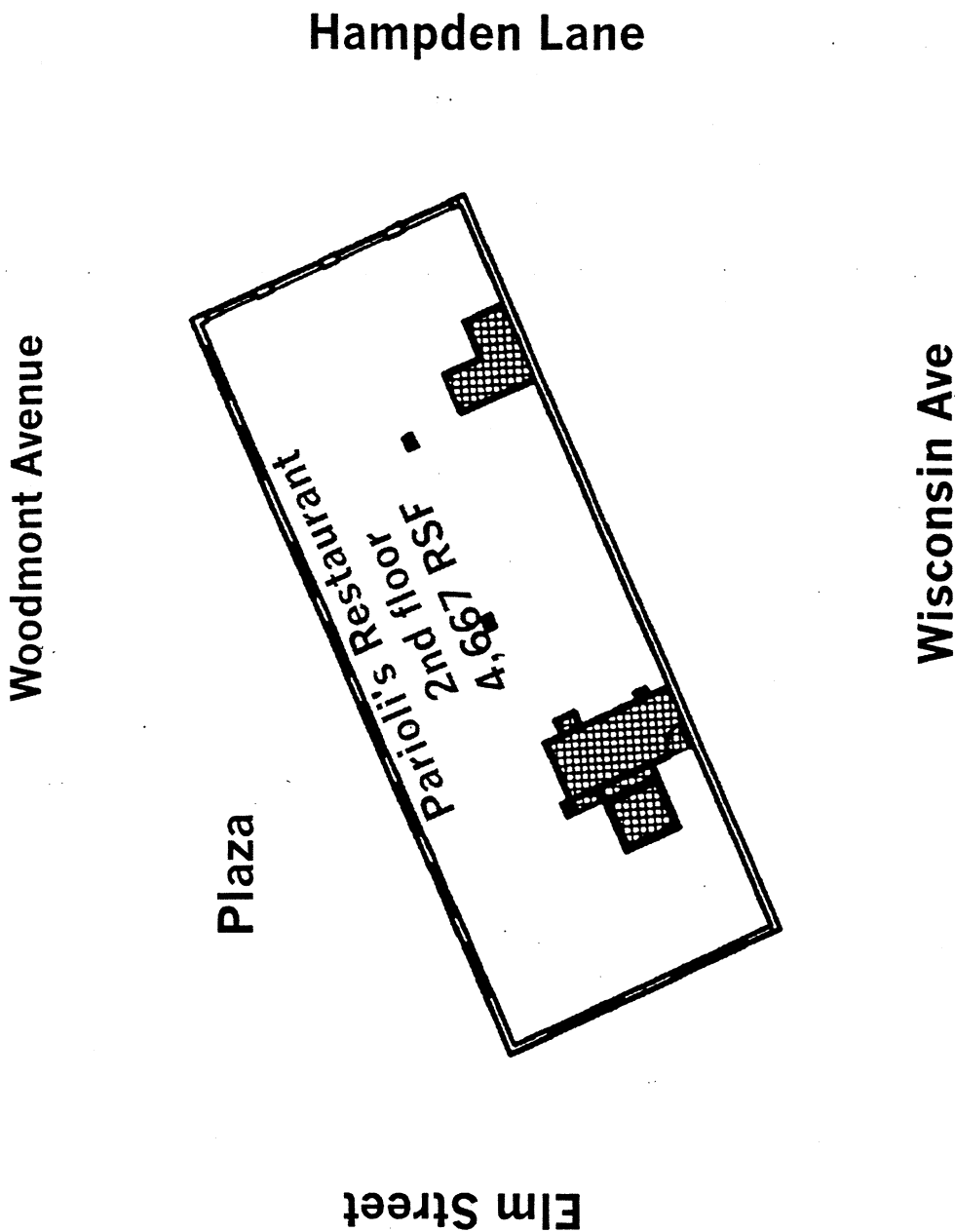


One Bethesda Center  
4800 Hampden Lane  
Bethesda, MD 20814

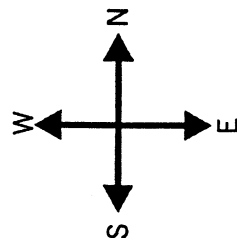
Wisconsin Ave

# One Bethesda Center

(Second Floor)



SECOND LEVEL SPACE



One Bethesda Center  
4800 Hampden Lane  
Bethesda, MD 20814

## **PLANNING AND REGULATORY FRAMEWORK: Master Plan**

### 1976 Bethesda CBD Sector Plan and 1982 Amendment

The 1976 Bethesda CBD Sector Plan developed the concept of concentrating new growth in a town center, within walking distance of the proposed Metro station, in order to increase public use of the Metro system. The entire area recommended for CBD-3 and CBD-2 zoning designations (including the property under review) was designated the Metro Core. The Plan proposed development of a center that would have a high-quality urban character and a favorable pedestrian environment, with development linked by landscaped plazas. The Plan recommended use of the optional method of development as an incentive to encourage developers to provide the desired amenities.

The initial development was intended to be in the CBD-3 area, at Metro Center. The 1982 Amendment to the Sector Plan opened up development in the CBD-2 areas, producing a competition among competing optional method developers known as the "Beauty Pageant." One Bethesda Center was one of the 12

The 1982 Amendment (pp. 19 and 20) stated:

"The quality of the public amenities and facilities to be provided by the optional method projects is critical to the overall success of the future Bethesda CBD. The developers will be required to justify the grant of additional density by providing suitable amenities and facilities. Approval of the maximum density allowed under the zone will require developers to provide a maximum of public facilities and amenities for the benefit of the public."

During the review of these projects, staff created the concept of a Discovery Trail linking the public spaces and public art that were being provided by the private developers.

### The 1994 Bethesda CBD Sector Plan

The new Sector Plan built upon the concepts in the 1976 Sector Plan and the 1982 Amendment. It continued to emphasize redevelopment of the Metro Core and improved access to the Metro station through creating a safe and lively pedestrian network. While noting that retail did not work in all settings, the Plan continued to promote the concept of mixed-use projects to foster a vibrant urban environment. It retained and extended the Discovery Trail, and added the concept of Bethesda as a Cultural District to capitalize on the public art, the bookstores, and galleries.

## **PLANNING AND REGULATORY FRAMEWORK: Prior Approvals**

### **PROJECT PLAN**

The Project Plan for One Bethesda Center was approved August 4, 1983. Originally called American Motors or Community Motors (because it was the site of an automobile dealership), the project included 182,594 square feet of development and an FAR of 3.99. Approximately 5% of the project was proposed for retail use (9,267 s.f.), 85% for office use (149,524 s.f.), 7% for residential use (10 dwelling units) and 3% miscellaneous (auto) use.

The development included an office building that stepped down from a maximum of 143 feet, ten town houses along Hampden Lane, and specialty shops. These shops lined the east side of a plaza with a continuous covered arcade that ran between Elm Street and Hampden Lane. The



plaza was intended to create a vehicle-free pedestrian link to Metro for people living and working to the south and southwest, and by enhancing the desirability of walking to Metro, encourage the effective use of transit facilities. It was to be enlivened by the retail shops on the east side, a restaurant and other retail space on either side of the office building lobby on the west side, and public art. A clock tower was to act as a beacon to attract shoppers/pedestrians from the Metro Center.

The staff report [pp. 45-46] stressed the need to have the amenity area be of very high quality to justify the desire to achieve a maximum density. Staff recommended that the size of the office building lobby be reduced and replaced by outdoor amenity area; that the plaza be moved west “to enhance the ability of the general public to locate the amenity area from Metro Center on the north and encourage...pedestrians to use and enjoy the facilities offered in the plaza;” and that the applicant commit to providing off-site streetscape. The enlargements of the on-site public space were required to go beyond the minimum 20% to justify the maximum density requested under the optional method. A program of public art to enliven the plaza completed the package of amenities.

One of the requirements of the 1982 Amendment was to “provide a management organization which can efficiently and effectively provide maintenance and repairs, program activities and sponsor events.” The Project conformed with this Sector Plan requirement by forming, with four other development projects, a management organization “...to maintain amenity areas and program within these areas, activities and special events for public benefit and citizen enjoyment.” (p. 40 Project Plan staff report) This organization was the predecessor to the Bethesda Urban Partnership.

## SITE PLAN

The Staff Report for the Site Plan adopted as part of the Opinion, like the one for the Project Plan, stressed the relationship between the package of amenities and the extra density:

The applicant proposes to increase the permitted FAR...from 2, which is permitted in the CBD-2 Zone under the Standard Method, to 4, which is permitted under the Optional Method of Development. In return for the greater density, the applicant is providing the following amenities:

Off-Site Amenities: Pedestrian improvements [streetscape] on Hampden Lane, Woodmont Avenue, and Elm Street,

On-Site Amenities:

- (a) Construction of a through block connection and public open space between Hampden Lane and Elm Street including a fountain, landscaping, and retail space.
- (b) Provision of building setback along Woodmont Avenue and Hampden Lane

The intent of the on-site amenities is to provide animated and useful public spaces available for the users of the Bethesda CBD. *The major on-site amenity includes construction of a through block connection and public open space between Hampden Lane and Elm Street. This amenity area includes a fountain, landscaping, steps, the entrance to the office building, and specialty shops.* (Emphasis added)

The intent of both the on-site and off-site amenities is to provide sufficient amenities to justify the additional densities. The proposed amenity package will improve the pedestrian connections with the Bethesda CBD and provide animated areas available for public use.

The Planning Board noted that the water feature (designed by artist Elyn Zimmerman) is an important element in the plaza and should remain functioning as much of the year as possible. The water feature and its operation were to be included in the Enforcement Agreement.

## **DISCUSSION OF AMENDMENT**

### **APPLICANT POSITION**

The applicants, in requesting the option to lease the space on the plaza level for office use (see letter from applicant) raise concerns about the suitability of the location for retail. They contend that the Goldberg Building “lacks the visibility and accessibility imperative to a retail tenant’s ability to attract customers;” it fails to attract customers because it lacks “a convenient and pedestrian-friendly environment;” the “lack of readily available parking renders the Goldberg Building unusable for retail since there is not enough, nor will there ever be, enough foot traffic to support viable retail uses;” and finally that the retail space is “largely overlooked and ignored in favor of nearby retail and restaurant centers” such as the Arlington Road District, Wisconsin South, and Woodmont Triangle.

The applicant contends that the Goldberg building is appropriate, however, for office tenants. The applicant’s letter lays out the history of past tenancies and vacancies with the current retail space and predicts that vacancies will continue if the owners are not allowed to convert the space to office use. “It is the Applicant’s desire to achieve full occupancy at maximum rents, which it cannot do under the current zoning.”

### **STAFF POSITION**

While sympathetic to the applicant’s difficulties with the various restaurant tenants and willing to support optional office use on the second floor, staff believes that conversion of the ground-floor, plaza level retail space to office use is not consistent with the intent of the 1976 and 1994 Sector Plans or the Project Plan and Site Plan.

Point 1: Conversion of ground floor retail space to office use is inconsistent with the underlying premise of approval for the original Project Plan and Site Plan: it undermines the major amenity space that helped justify the extra density approved under the optional method of development. The density is in place. The applicant has an obligation to maintain a lively pedestrian environment in the plaza, not argue that it is pedestrian-unfriendly and therefore retail fails.

Point 2: Conversion of the ground floor retail space to office use does not conform to a major principle of the Sector Plan: enhanced pedestrian access to transit. The plaza is a critical part of the pedestrian network linking the residences and shops of south Bethesda with the Metro. The through-block connection offers an alternative for pedestrians within the long block between Wisconsin and Woodmont Avenues. To attract pedestrians, the space needs to be inviting and safe. Retail activity makes the space safe at night and inviting by day, as people come and go. The blinds on the windows of offices would have the opposite effect, taking eyes off the pedestrian “street.”

Point 3: The Sector Plans for Bethesda are predicated on the public policy not only to concentrate new growth near Metro and provide access to it, but also to create an inviting downtown. The art and cultural features throughout Bethesda help make it a desirable place to live, shop, and work. The Discovery Trail linking the public plazas and public art is a key Sector Plan concept; the One Bethesda Center plaza, with its specialty shops and restaurants and public art, is the southern end of the Discovery Trail. The sculpture and fountain in the plaza and the Glass Gallery within the Goldberg Building contribute to the Cultural District, another key Sector Plan concept. The art inside the Glass Gallery plays off the art in the public space outdoors; both feature nationally known artist and both attract visitors. (See Françoise Yohalem testimony at Site Plan hearing.)

Point 4: The timing of the applicant's request is unfortunate, for developments to the north and south of the plaza are just coming on line that should increase the amount of pedestrian activity in this midblock location. Now is the time to realize the Sector Plan vision. To the north, the steps have recently been opened through the Newlands project--on the north side of Montgomery Avenue--that provide direct pedestrian access to Metro Plaza. To the south, two buildings are being completed that will bring more foot traffic to Elm Street: a four-story building by Lenny Greenburg on the northeast corner of Elm and Woodmont, and six-story building by Federal Realty on the southeast corner of Elm and Woodmont that will include ground-floor retail and possibly several movie screens. Other projects the Planning Board has reviewed (e.g. downtown Silver Spring and Germantown) draw on developers' experience that theaters and restaurants "feed on" each other; it seems likely that these new projects on Woodmont Avenue will increase the volume of pedestrian traffic throughout the immediate area. Plans for development of housing, retail and parking on Lot 31 are proceeding. In the future, it may be possible to create a pedestrian link to the Capital Crescent Trail, and the plaza will have even more foot traffic if the station for the Silver Spring-Bethesda Trolley is constructed on Elm Street at Wisconsin Avenue, as recommended in the Sector Plan.

## SUGGESTED STRATEGIES

Staff has recommended that the Planning Board condition its approval of optional office use on the second floor of the Goldberg Building on retaining retail space on the plaza level, for the reasons stated above. While considering it desirable to have a restaurant using the second-floor space and open air seating area/terrace, staff finds less rationale for denying the request that office use be allowed in that space and therefore has recommended approval of that option.

Staff suggests that the Planning Board direct the applicants to work with staff on launching a public/private effort to ensure that the plaza functions as intended: as a lively pedestrian connection to Metro and contributor to the Discovery Trail and Bethesda Cultural District.

- The applicants should not only continue their efforts to rent the ground floor space for retail but also give equal effort to making the plaza function as a lively pedestrian place. The current repairs to the fountain are critical to restoring this enlivening feature; per the site plan opinion, it should be kept running as much of the year as possible. A review of the architectural lighting to enhance the space and increase the perception of safety at night may be in order. Perhaps the awnings could be renewed and more seasonal plantings added to lend color.
- The applicant should work with Bethesda Urban Partnership to develop ideas for programs in the plaza and coordinated events such as noon-hour tours along the Discovery Trail. As noted above, one of the conditions of approval of the original project plan was to form a management organization that would program events as well as maintain public spaces. When events such as the Bethesda Row Arts Festival or the Taste of Bethesda are held nearby, the retailers at One Bethesda Center can provide complementary activities and promotions.

- The applicant could join adjacent business owners such as the owners of Muleh, a home furnishings store, and the Barking Dog, a restaurant, in promotions for Elm Street. Planning staff could explore the possibilities with Federal Realty of a competition for an artist's mural along the side of the new Federal Realty building facing Elm Street.

**FINDINGS for Project Plan Review:**

Section 59-D-2.42 of the Zoning Ordinance establishes the findings which must be made by the Planning Board and forms the basis for the Board's consideration of approval. In accordance herewith, the staff makes the following findings:

- (a) *As conditioned, the proposal complies with all of the intents and requirements of the zone.*
- (b) *As conditioned, the proposal conforms to the approved and adopted Master or Sector Plan or an Urban Renewal Plan approved under Chapter 56. Retaining the retail use on the ground floor of the Goldberg building on the eastern side of the plaza will bring the amendment into conformance with the adopted Sector Plan.*
- (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.*
- (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 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.*
- (e) *The proposal will be more efficient and desirable than could be accomplished by the use of the standard method of development. The retail on the ground floor facing the plaza is part of the amenity that justified the extra density allowed under the optional method of development.*
- (f) *The proposal will include moderately priced dwelling units in accordance with chapter 25A of this Code, if the requirements of that chapter apply. NA*
- (g) *When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from one lot to another or transfer densities within a lot with two or more CBD zones, pursuant to the special standards of either section 59-C-6.2351 or 59-C-6.2352 (whichever is applicable), the Project Plan may be approved by the Planning Board based on the following findings: NA*
- (h) *As conditioned, the proposal satisfies any applicable requirements for forest conservation under Chapter 22A. NA*
- (i) *As conditioned, the proposal satisfies any applicable requirements for water quality resources protection under Chapter 19. NA*

**FINDINGS for Site Plan Review:**

1. *As conditioned, the site plan is consistent with an approved development plan or a project plan for the optional method of development, if required. If both project plan and site plan are amended to allow office use on the second floor and retain retail use on the ground floor of the Goldberg Building, the site plan will be consistent with the project plan.*
2. *The site plan meets all of the requirements of the zone in which it is located. See project Data Table above. Allowing the conversion of the second story of the Goldberg building is a flexible response to the market, while retaining retail will provide an incentive for a variety of land uses and activities to meet the needs and requirements of workers, shoppers and residents (Intent of the Zones b). Retaining retail use will also continue to promote the effective use of transit facilities by enhancing pedestrian access thereto (c) and promote improved pedestrian circulation (d).*
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. *As conditioned, each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development. Retaining retail use on the ground floor and allowing office use on the second floor is comparable to and compatible with adjacent development.*
5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation. NA*

**APPENDIX**

- A. Project Plan Opinion #9-83005
- B. Site Plan Opinion #84006
- C. Letter from Robert H. Metz and Mark M. Viani, November 13, 2000
- D. Testimony of Francoise Yohalem at Site Plan hearing, September 1984

# LINOWES AND BLOCHER

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November 13, 2000

**Robert H. Metz**  
301.650.7012  
rhm@linowes-law.com  
**Mark M. Viani**  
301.650.7050  
mmv@linowes-law.com

Mr. Lawrence R. Ponsford:  
Development Review Division  
Maryland-National Capital Park and  
Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: One Bethesda Center - Project Plan and Site Plan Amendment  
Project Plan No. 9-83005  
Site Plan No. 8-84006

Dear Mr. Ponsford:

Please find attached the application forms, fees and exhibits submitted on behalf of our client, Lend Lease Real Estate Investments, Inc. (the "Applicant"), for an amendment to the Project Plan and Site Plan for One Bethesda Center (the "Project"). The Applicant requests approval to add an optional office designation to approximately 8400 square feet of the Project which is currently designated for retail use.

In 1983, the Planning Board approved the mixed-use Project, for 182,594 square feet of development. The Project included a twelve (12)-story retail and office building, a two (2)-story retail building (the "Goldberg Building"), nine townhouses designated for residential use, related parking and on- and off-site amenities. (See Exhibits "A" and "B").<sup>1</sup> The Goldberg building was part of the original structure where Community Motors, Inc. (an automobile dealership) had their headquarters. In 1984, the site was re-developed and the Goldberg building was incorporated into the One Bethesda Center project.

The Goldberg Building is the subject of this proposed amendment. As indicated in the attached site plans, the 8,400 square feet Goldberg Building lacks the visibility and accessibility imperative to a retail tenant's ability to attract consumers. Furthermore, the Goldberg Building fails to attract consumers to notice, browse, and utilize a retail use due to a lack of a convenient and pedestrian-friendly environment. In addition, the lack of ready-available parking renders the parking renders the Goldberg Building unusable for retail since there is not enough, nor will there ever be, enough foot traffic to support viable retail uses. Further, this retail space is

<sup>1</sup> In 1991 the Board declined to approve an amendment to the Project Plan which proposed to replace the residential uses in the nine townhouses. (See Exhibit "C")

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largely overlooked and ignored in favor of nearby retail and restaurant centers such in Arlington Road District, Wisconsin South Corridor and Woodmont Triangle.

The Goldberg Building is, however, appropriate for office tenants, who do not need to rely on street visibility, pedestrian traffic, or adequate parking to maintain business. The following description of the Goldberg Building and the summary of the past tenancies and vacancies indicate the problems the Applicant can expect if the request optional office designation is not approved.

The Goldberg Building currently has two retail tenants, an art distributor (the Glass Gallery) and a restaurant (Parioli Ristorante). Both tenants have been in financial distress despite their low rental rates that are well below market. Average retail rental rates are \$25-30.00 per square foot and office rental rates are \$28-38.00 per square foot. In comparison, the Glass Gallery is at \$13.25 per square foot and Parioli Ristorante is at \$17.86 per square foot.

The first space is along Hampden Lane and is approximately 2300 square feet. The entrance of the store is off the plaza. (See Exhibit "D"). A jewelry store originally occupied the space and stayed in business for approximately three years then closed its doors in 1988. The Glass Gallery took over the space in 1989. In 1991, the rent was abated for a period of one year in an effort to assist the tenant with their rental obligation. As of January 1, 1993, the tenant's rent abatement continued until the end of the term (September 30, 1994). Since then, the Glass Gallery has remained in the space on a month to month basis with the abatement still in effect. The space has been on the market since the current owners purchased the property in 1997. Leasing difficulties are the split floor plan that changes elevation (3.5 foot change) one third of the way into the space, ADA issues resulting from this change in elevation, and street visibility.

A second retail space, which used to exist between the first and third retail spaces, comprised approximately 1900 square feet. (See Exhibit "D"). The space was originally occupied by an art gallery. The tenant occupied the space for approximately three years then closed its doors in 1990. The space was then leased in 1991 to a hair salon, Natisse International. The salon was in the space for approximately two and a half years, at which time the tenant filed for bankruptcy. The Applicant's predecessor's files indicate the tenant suffered from poor visibility and foot traffic. The Applicant's predecessor regained possession of the space through the bankruptcy court in July of 1993. Later the same year, the adjacent tenant Parioli Ristorante Company (the first Parioli Ristorante) acquired the space. The space remains part of the current Parioli Ristorante space.

The third retail space has two entrances, one on the plaza level facing the main entrance to the office building and the second directly off Elm Street. The space originally contained approximately 6000 square feet (approximately 1,000 square feet on the first floor and the remaining

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5000 on the second floor). (See Exhibit "D"). The space was originally occupied by a Vietnamese restaurant, which stayed in business for approximately two years. A German Restaurant then occupied the space. The lower level space was a deli and the upper was for formal dining. This restaurant remained in business for approximately two and a half years. In late 1992, the space was leased to Parioli Ristorante Company, Inc. The tenant opened for business January 1, 1993. In late 1993, the tenant expanded into the adjacent 1900 square foot space (the second retail space referred in the preceding paragraph). The lower level space was later used as a sushi bar and the upper space was a formal dining room featuring Italian cuisine. The tenant's rent payments became infrequent and in February of 1995, they filed for Chapter 11 reorganization. In 1996, the tenant closed for business. The space remained unused until the lease was assigned in 1997 to the current operator, (who chose to keep the Parioli name). The current tenant is in default of their rent, a suit has been filed. This rental action has been stayed by the Maryland District Court in response to the tenant's recent bankruptcy filing. Difficulties with the space are the visibility and fierce restaurant competition in the downtown Bethesda market.

The Applicant, and its predecessors, have continually struggled with the restaurant tenants to maintain equipment and comply with County Code requirements. Further, the Applicant has been forced to make numerous concessions to the retail tenants for non-payment defaults as well as negotiate semi-full service leases in order to entice tenants to the space.

In comparison, the office building has enjoyed steady occupancy with 80% of the original tenants of the building. The building is currently fully occupied with a waiting list for available space from both existing and prospective tenants. Generally, rent payments are consistent and maintenance issues typical.

In the immediate surrounding neighborhood, the second phase of the Bethesda Row complex is fully leased. A smaller 40,000 square foot office building, currently under construction at the corner of Woodmont and Elm Street, has 6,100 square feet of office space available and 1,900 square feet of retail space (marketed as restaurant space with outdoor seating). The Bethesda Row (which has good visibility and foot traffic) with its large section of restaurants, shops and galleries has been a direct challenge for the retail tenants of One Bethesda Center.

Though the twelve-story office building of the Project benefits from the strength of the Bethesda/Chevy Chase market, the Goldberg Building has fallen short of its anticipated potential. Layout and visibility as well as market demand keep the building from experiencing the steady tenancy the office portion has experienced. The Applicant has been forced to take below market rents, acquire excessive legal fees due to turn over, and excessive operating costs in an effort maintain tenancy. It is the Applicant's desire to achieve full occupancy at maximum rents, which it cannot due under the current zoning. Therefore, for this reason as well as the facts stated above, the Applicant would like to have the option of marketing the Goldberg Building for office/retail use.



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The use of the Goldberg Building for office tenants will decrease the parking requirements and trips generated. The parking requirements for office uses is 1.9 spaces per 1,000 square feet, or 15.96 spaces for the office designation of the 8400 square feet of the Goldberg Building. The requirement for the current retail designation of the 8,400 square feet is 5 spaces per 1,000 square feet (less 15% for the Metro credit – within 1,600 feet of a Metro stop), or 35.7 spaces. The trip generation rates currently contained in the approved Local Area Transportation Review Guidelines and used by the Technical Staff, indicate that the office trip generation is 1.5 trips per 1,000 square feet or 12.6 trips for the 8400 square feet optional designation/conversion. Retail generation is split into 50% at 2.6 trips per 1,000 square feet and 50% at .65 trips per 1,000 square feet, which results in 13.65 trips currently for the subject 8400 square feet of retail designated space. In summary, the requested conversion would decrease the parking requirements by 19.74 spaces and decrease the trips generated by the requested amendment by 1.05 trips. Since the parking requirements and trips generated are less as a result of the requested amendment, the impact is therefore not adverse and the Amendments would therefore not overburden existing or proposed public services.

These Amendments to the Project Plan and Site Plan maintain the satisfaction of all of the purposes and requirements of the CBD-2 zone. The Amendments permit a flexible response to the development of the market, accommodates the need and requirements of the workers, and encourages the most desirable use of land in accordance with the Sector Plan. They also meet the Sector Plan's goal of discouraging retail uses in areas with low-visibility. (Sector Plan, p. 32). Lastly, the addition of an office designation to the Goldberg Building is compatible with the adjacent uses, and will improve the community by achieving a stable occupancy of this space.

We respectfully submit that for all the reasons mentioned above, the Applicant has demonstrated the justification for the addition of an optional office designation for the 8,400 square feet of the Goldberg Building and proven that there is no adverse impact on either the parking requirements or trips generated from the Project. We therefore urge approval of the requested Amendments to the Project Plan and Site Plan. Although we have paid the full filing fees for the requested Amendments, we further respectfully request a reconsideration of that requirement due to the fact we are filing the Amendments concurrently, due to the minor nature of the request and due to the negligible impact that the request has on the totality of the One Bethesda Center Project and its surrounding environment.

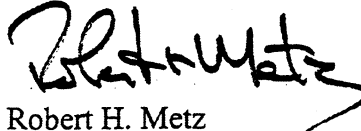
We have enclosed two checks. The first check, in the amount of \$1,310, represents the filing and signage fee for the Project Plan Amendment. The second check, in the amount of \$1,100, represents the filing fee for the Site Plan Amendment. We have also included a list of adjoining and confronting property owners and the application forms.

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November 13, 2000  
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Our best regards.

Very truly yours,

LINOWES AND BLOCHER LLP







Robert H. Metz



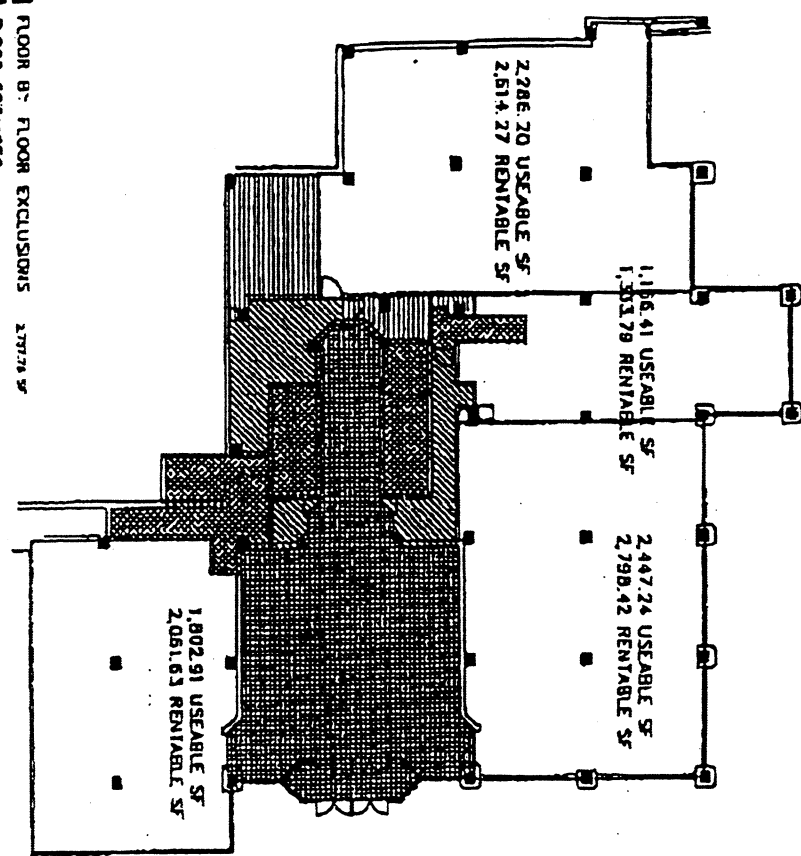
Mark M. Viani




Attachments

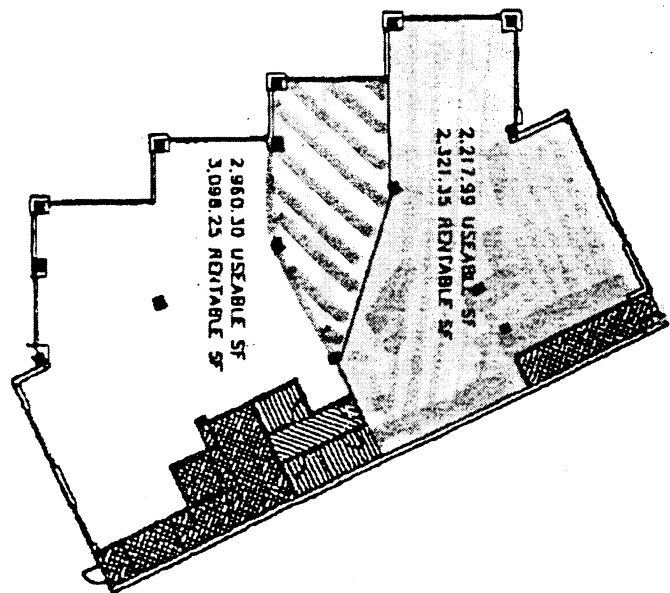
cc: Margaret S. Cleary  
Daniel M. Dillon  
Maria Mellis

 FLOOR BY FLOOR EXCLUSIONS 2777.78 SF  
 FLOOR SERVICES 400.00 SF  
 MULTI-TENANT LOBBIES 241.00 SF  
 MAIN LOBBY 1914.00 SF

1st Retail Space  
 2nd Retail Space  
 3rd Retail Space







 FLOOR BY FLOOR EXCLUSIONS 2443 SF  
 FLOOR SERVICES 1441 SF  
 MULTI-TENANT LOBBIES/CORR. 105 SF



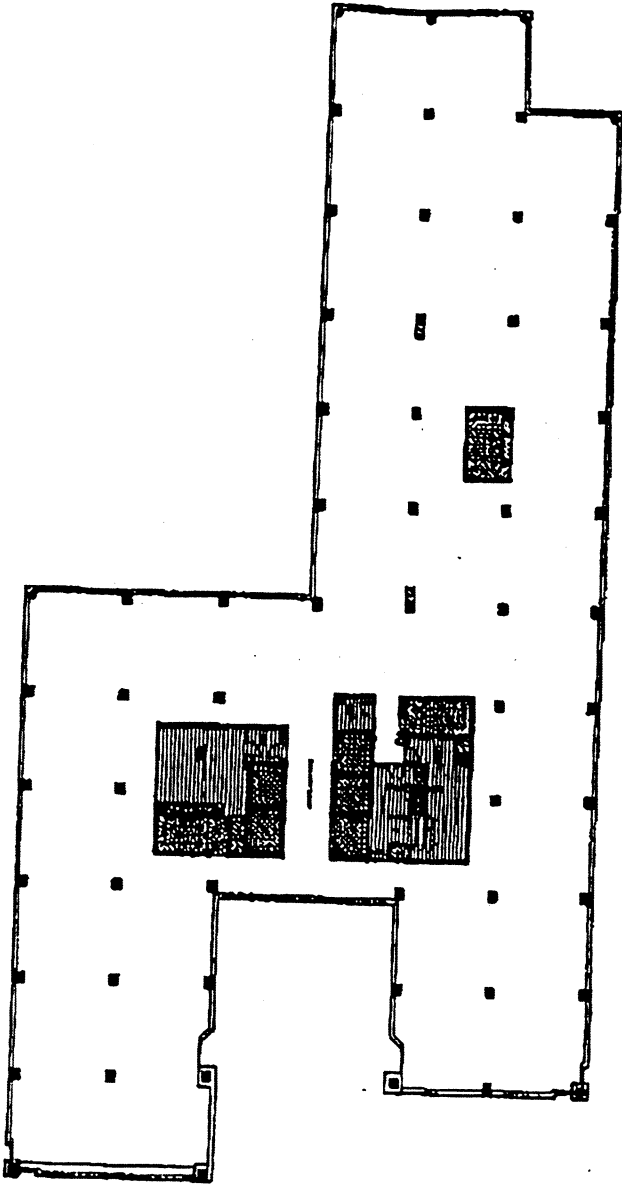
**ONE BETHESDA CENTER**  
 4800 HAMPDEN LANE BETHESDA, MD

**THE WEINHE PARTNERSHIP**  
 ARCHITECTS & PLANNERS

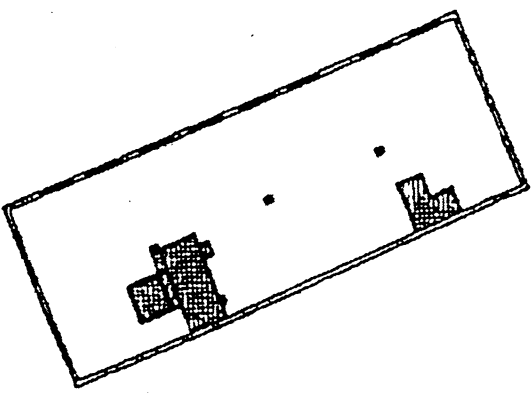
K Street, N.W. Washington, D.C. 20004  
 Tel: (202) 627-2000 Fax: (202) 627-2100

 FLOOR BY FLOOR EXCLUSIONS  
 FLOOR SERVICES  
 MULTI TENANT LOBBIES  
 MAIN LOBBY

SCALE OF  
 1/8" = 1'-0"  
 DATE OF  
 04/07/78



 FLOOR BY FLOOR EXCLUSIONS  
 04/07/78



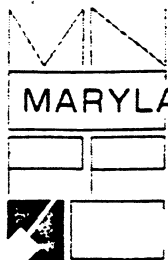
**ONE BETHESDA CENTER**  
 4800 HAMPDEN LANE BETHESDA, MD  
**SECOND FLOOR**

AREA IN 100

**THE WIENHIE PARTNERSHIP**  
 ARCHITECTS & PLANNERS  
 1888 K Street, N.W., Washington, D.C. 20009  
 Telephone: (202) 637-8300 Telex: (202) 443-8100

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760



October 4, 1984

MONTGOMERY COUNTY PLANNING BOARD

Opinion

Site Plan Review No. 8-84006  
American Center Building  
(Formerly Community Motors Center)

Action: Approval with Conditions (Motion by Comm. Krahnke, Seconded by  
Comm. Heimann, with a vote of 4-0, Comm. Keeney Abstaining)

On June 15, 1984, Paul B. Abrams submitted an application for the approval of a site plan for property in the CBD-2 Zone. The application was designated Site Plan Review No. 8-84006.

On September 13, 1984, Site Plan Review No. 8-84006 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Planning Board heard testimony and received other evidence from the staff and the applicant. Except as modified below, the Planning Board adopts the Staff Report (attached hereto and made a part hereof). Based on the evidence and testimony before it, the Planning Board approves Site Plan No. 8-84006, subject to the following conditions:

1. Site Plan Enforcement Agreement and Development Program

The applicant will provide a Site Plan Enforcement Agreement and Development Program prior to approval of the building permit. The water feature and its operation will be included in the Enforcement Agreement.

2. Public Art Schedule

- a. A work schedule for public art program shall become an integral part of the Site Plan Enforcement Agreement and Development Program, for staff review prior to approval of the building permit.
- b. The applicant shall submit for staff review and approval the final design and construction documentation for the artwork no later than eight (8) months after site plan approval. The applicant will continue work with the artist and staff to enrich the brick panels.
- c. Final artwork components of the project will be submitted to staff for conformance to the site plan prior to issuance of the occupancy permit.

3. Street Trees

The applicant shall provide street trees of a type, spacing, and size to be consistent with the adopted Streetscape Plan; the details of which shall be approved prior to issuance of the building permit.

4. Parking

The applicant shall designate a reserved area within the parking structure for residential parking spaces. Final determination of parking circulation and spaces to meet zoning ordinance requirements shall be made prior to issuance of the building permit.

5. Underground Utilities

Staff recommends that as a requirement for approval under the optional method of development the following conditions be applied:

- (a) Applicant Utility Services - All utility connections requested to serve the proposed new development will be required to be made underground.
- (b) Adjacent Property Utility Services - (i) If loading utilities underground for proposed development requires modifications to utility services for adjacent properties, those modifications must be provided by the owner requesting service for the proposed new development. (ii) If off-site improvements are to be provided in the front, side, or rear "yards" of adjacent properties, or in public right-of-way, the utilities must be provided underground by the party requesting service for the new development; contingent upon the approval for any and all modifications to front, side, or rear yards by the adjacent owner.
- (c) Utility Service Transition From Underground to Overhead - Transition of service from underground to overhead must be provided by the party requesting modifications as required to maintain service.
- (d) Detailed Review - Detailed requirements for underground utilities must be approved by staff. The applicant will relocate all existing above ground utilities and construct all new underground utilities on-site, off-site, and within the public right-of-way of Woodmont Avenue, Hampden Lane, and Elm Street where the streetscape improvements are provided. These underground utilities will be completed in accordance with applicable requirements of PEPCO, C & P Telephone, MCDOT, State Highway Administration, Washington Gas, WSSC, Cable TV and any other applicable agencies.

All utilities which serve the proposed American Center Building must be located underground. Any utility connections to exist in buildings to remain

after the project is completed will also be located underground. Transition from underground to overhead service will be provided by the applicant as required by MCDOT and M-NCPPC staff. If transfer to overhead is required, the work must include necessary paving and patching of existing streets and sidewalk to meet the standards as established by MCDOT and M-NCPPC and in accordance with the Bethesda Streetscape Plan.

- (e) The applicant shall provide utility transition and accommodations with the County and Bethesda Streetscape CIP with the requirements which may be determined by M-NCPPC and MCDOT staff.

6. Vehicular Trips

The project shall generate no more than 179 new vehicular trips and shall not exceed an FAR of 4.0.

7. Covenant

The applicant will enter into a covenant with the County to cover maintenance and liability for non-standard streetscaping improvements within the County and State right-of-way.

8. Lighting

- (a) Bethesda Lantern

The applicant will provide, install, and maintain all Bethesda Lanterns in accordance with the requirements of MCDOT. The final location must be provided for staff review prior to issuance of the building permit. Power for the lighting will be provided by Montgomery County.

- (b) High Intersection Lighting

MCDOT has agreed to provide, install, and maintain the high intersection lighting. The applicant will install the electrical conduit and coordinate final location in construction phasing with MCDOT prior to start of construction.

- (c) Traffic and Crosswalk Signals

MCDOT will provide, install, and maintain the traffic and crosswalk signals. The final location in construction phasing of the traffic and crosswalk signals will be coordinated with MCDOT prior to start of construction.

- (d) The applicant shall provide complete documentation to fully describe the design and details for the lighting of all amenity areas and parking areas of the

project. These details shall include design sections and specifications of all lighting fixtures. The documentation will include sufficient concept drawings of the night-time conditions to fully indicate the concept of lighting for the amenity areas.

- (e) The applicant will provide lighting along the public right-of-way along Hampden Lane, Woodmont Avenue, and Elm Street where the streetscape improvements are provided, in conformance with the Bethesda Streetscape Plan for the Core District in coordination with the staff of MCDOT and M-NCPPC.

9. Streetscape Elements

The location of benches, trash enclosures, details and specification of all streetscape elements will be designed in accordance with the Bethesda Streetscape as adopted by the Planning Board. Final review and approval will be completed prior to issuance of the building permit.

10. Crosswalks

Provide crosswalks, as approved by MCDOT, in accordance with Staff Report dated June 22, 1983. Treatment and equipment to be consistent with the adopted Bethesda Streetscape Plan and the method, design details, and final locations to be approved prior to issuance of the building permit.

11. Management Organization

The applicant shall draft and provide (for Planning Board approval) agreements for the formation of a management organization. These agreements shall describe the two part structure of the organization: Part 1 - responsibilities of this applicant; Part 2 - the applicant's component responsibilities of a management organization to be composed of representatives of all approved Bethesda project plans. Agreements to bring the organization into reality are to be required prior to issuance of an occupancy permit for the subject application and the realization of such agreements are to be made a condition of approval of this plan.

The applicant shall enter into agreements to participate in such Management Organization as may be adopted as a requirement by the Montgomery County Planning Board as part of the Streetscape Program prior to approval of the occupancy permit. Until the Management Organization is established, the applicant shall be responsible for the maintenance and security of the public amenity areas constructed by the applicant from the applicant's property and within public rights-of-way and for the maintenance of public amenity areas constructed by the applicant on other applicant-held property should such construction be implemented.



12. Off-Site Amenities

In the event the applicant is unable to obtain written agreements from abutting property owners allowing construction of off-site improvements as shown on the Site Plan, a similar area of improvements must be provided within the Bethesda CBD. Instead of the off-site improvements along East Lane required by the Project Plan, an equal area of off-site improvements, to be approved by staff, will be provided in another area of the CBD.

13. Staging

Construction of Community Motors Center must have begun within the zoning ordinance time period requirements or the project plan and site plan shall be considered void unless the Planning Board extends the time period in accordance with zoning regulations and the Amendment to the Bethesda CBD Sector Plan recommendations. The residential units must be substantially complete prior to issuance of the occupancy permit for office and retail space. The Site Plan inspector shall determine the adequacy of the completion of residential units upon inspection of the property.

14. Brick Paving

Provide district paving along the improved area of Hampden Lane. The applicant will submit for staff approval final drawings prior to the approval of the building permit.

15. Landscaping of Terraces

Provide some additional landscaping on several of the terraces for staff review prior to approval of the building permit.

Relying on the Staff Report and testimony as supplemented by the applicant's evidence and testimony, the Planning Board finds:

1. The Site Plan is consistent with Project Plan No. 9-83005.

The Planning Board bases this finding on the plan as submitted and on the Staff Report, pages 7-14 and Staff Testimony.

- A. The Site Plan as submitted maintains the total number of trips generated by the development and remains below the allowable FAR. The Project Plan required the removal of 17 existing trips. The information available to staff for the Project Plan review was based on aerial photos and field-measured square footage for existing structures in 1980. The applicant has submitted as part of the Site Plan a scaled survey of existing structures which more accurately shows the area of the various uses. While the staff calculated the removal of 17 existing trips (for the Project Plan), the more accurate data justifies the removal of 30 trips.

The total trips generation from the new project is calculated at 209 trips. When 30 existing trips are subtracted, a net of 179 trips remain. The total number of new trips approved does not exceed the 179 trips approved at Project Plan. As a result of this increase of existing trips to be removed, the applicant has slightly increased the size of the development without exceeding the allowable FAR or total trips. The Planning Board finds that the floor area and total number of trips shown is consistent with the approved Project Plan.

B. As a result of a change in the property line along East Lane, the applicant for the Franklin B. Salisbury Building was required to make the off-site improvements originally required of this applicant as part of the approved Project Plan. Condition #12 insures that the applicant will make off-site improvements equal in area to that required in the Project Plan.

2. The Site Plan conforms to the requirements of the CBD-2 Zone.

The Planning Board bases this finding on the plan as submitted and on the Staff Report, page 16.

3. The location of the buildings and structures, the open spaces, the landscaping and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.

A. The location of the buildings has been modified to meet the conditions of the Project Plan. The major portion of the building mass is located in the center of the block between Woodmont Avenue and Wisconsin Avenue, adjacent to the major amenity area of the Franklin C. Salisbury Building.

B. The Site Plan includes two major open space areas, a three-block connection and public open space located between Hampden Lane and Elm Street, and a second open space feature provides setbacks from future Woodmont Avenue. The mass of the southeast elevation of the building has been reduced to provide additional sunlight into the public open space areas.

The Planning Board notes that the water feature is an important element in the plaza and should remain functioning as much of the year as possible. Condition #1 ensures that the maintenance of the water feature will be addressed in the Site Plan Enforcement Agreement.

C. The landscaping for the site is adequate. As required by the Project Plan, the applicant has increased the landscaping within the plaza area. In addition, Condition #15 requires landscaping to be added to some of the terraced areas.

D. The off-site amenity package will link and extend the pedestrian pathways along Hampden Lane, future Woodmont Avenue, and Elm Street to the Metro Station, the commercial area and the adjacent residential areas.

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

The west face of the building is set back approximately 40 feet from the future curb of Woodmont Avenue. The landscaping along this section of Woodmont Avenue will provide a "parkway" character. The "parkway" character and the use of two-story, one-family attached units along this frontage reduces the impact of the mass and bulk of the building on the adjacent residential areas.

The eastern edge of the building includes low scale retail uses adjacent to existing retail uses within the CBD. This low scale retail use forms an appropriate transition within the CBD.

The entrance to the three-block connection and retail uses forms the southern boundary of the development. These uses are compatible with existing retail uses located along Elm Street adjacent to the proposed development.

The use of stepped building forms and one-family attached units along Woodmont Avenue and Hampden Lane provide compatibility with the adjacent residential neighborhood. To insure compatibility, the Board requires the applicant to provide some landscaping along some of the terraces. This landscaping will soften the impact of the building on adjacent properties and will enhance its visual impact along Elm Street and Hampden Lane.

To insure compatibility with other projects in the Bethesda CBD-2 Zone, Condition #14 requires the applicant to utilize materials in the approved Bethesda Streetscape Plan along the improved area of Hampden Lane.

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Georgia Avenue • Silver Spring, Maryland 20910-3750

August 4, 1983

MONTGOMERY COUNTY PLANNING BOARD

Opinion

Project Plan No. 9-83005  
Community Motors Center

Action: Approval with Conditions  
(4-0, Commissioner Krahnke Absent)

On February 4, 1983, Marsh/Jackson submitted an application for the optional method of development. The subject property is a 45,666 square foot parcel located between Hampden Lane and Elm Street east of proposed Woodmont Avenue in the CBD-2 zone. The proposed development is a mixed use project comprised of residential units, offices, retail space and parking.

The application proposes development totalling 182,594 square feet resulting in an FAR of 3.99. Also proposed are ten residential units. Approximately 5% of the project is proposed for retail use. 85% of the project is proposed for office space, with residential area amounting to 7% and 3% of the project to be devoted to automobile sales.

The primary proposed on-site amenity is a landscaped plaza including a clock tower and fountain. The application proposes extensive off-site amenities by extending the pedestrian pathway streetscape along portions of Hampden Lane, Elm Street and proposed Woodmont Avenue.

On April 24, 1983, the Montgomery County Planning Board held a public hearing on the proposal, which was identified as Project Plan No. 9-83005, in accordance with Division 59-D-2 of the Montgomery County Zoning Ordinance. The Staff submitted its report recommending approval subject to certain conditions detailed in the Staff Report. Other related hearings were held on April 12 and June 22, 1983, with worksessions on July 7 and 13, 1983. The Planning Board received testimonial and documentary evidence at the hearing.

Findings of the Board

The Planning Board considered the elements listed in §59-D-2.42 of the Zoning Ordinance. Based on the testimony and evidence of record the Board finds:

1. The application as approved complies with all of the purposes and requirements of the CBD-2 zone.

Section 59-C-6.212 and Section 59-C-6.213 list the purposes of the CBD-2 zone as follows:

59-C-6.212

(a) To encourage development in accordance with an adopted and approved master or sector plan by permitting an increase in density where it is in conformity with the sector plan and the site is approved on review by the planning board.

The application fully conforms with the 1982 Amendment to the Bethesda CBD Sector Plan as well as the 1976 Bethesda CBD Sector Plan as set forth in Finding #2 of the Staff Report.

(b) 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 the central business district to meet the needs and requirements of workers, shoppers and residents.

The application includes retail shops, offices and ten residential units thus responding to the needs of workers, shoppers and residents. A mixed use development such as this one which blends in and enhances existing uses and which includes residential uses in scale with existing residential uses exhibits the kind of development flexibility intended by the zone and encouraged by the Sector Plan.

(c) 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 consists of a twelve story office element which is generally designed as a series of sensitively articulated elements, each of which relates in a pleasant way with the surrounding buildings. The mass and scale of residential units are compatible with those in the surrounding area and will serve to shield the parking structure within the interior of the project. The proposal is particularly

~~and~~ its treatment of the buildings to remain  
along Elm Street.

(d) To promote the effective use of transit facilities in the central business district and pedestrian access thereto.

As amended the application will include a covered pedestrian path to encourage transit riders to use the Metro system even during inclement weather. This covered pathway will significantly enhance the desirability of walking to Metro and therefore encourage the effective use of transit facilities.

(e) To promote improved pedestrian and vehicular circulation.

As amended the proposal will create a new vehicle free pedestrian zone within the heart of an environment previously hostile to pedestrians. As amended the application ~~creates~~ a major pedestrian link to the Metro Center which does not exist today. The application proposes additional right-of-way dedication along Elm Street and Hampden Lane. Based upon the testimony and evidence presented by the applicant the Board finds that the application would improve vehicular circulation.

(f) To assist in the development of adequate residential areas for people with a range of different incomes.

The ten residential units provided are entirely consistent with the Sector Plan objective to provide housing in the CBD core within easy walking distance of Metro.

(g) To encourage land assembly and the most desirable use of land in accordance with a sector plan.

The application assembles land owned by the Marsh family and by Euro Motorcars Bethesda, Inc. The mixed uses proposed by the application are entirely consistent with the Sector Plan.

59-C-6.213

(b) To foster and promote the orderly development of the central business districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable urban environment.

The combination of uses proposed in the application will generate economic activity and jobs close to the Metro center while providing residences and an improved pedestrian pathway environment.

(c)(1) To provide a density and intensity of development which will permit an appropriate transition from the cores of central business districts to the less dense peripheral areas within and adjacent to the districts.

The density and intensity of activities on the site is appropriately scaled down from CBD-3 uses to the north and complements other nearby commercial and residential uses. The design of the office tower which steps up from lower heights softens the visual effect of the tower and the potential bulk of the building.

(2) To provide an incentive for the development of residential uses to meet the needs of those employed within the central business districts and those who will be able to use the district transit facilities to travel to and from places of employment.

The ten residential units provided amply meet this requirement.

The application also conforms to the requirements of the CBD-2 zone as demonstrated by the Data Summary included in Table I, attached.

2. The application conforms to the approved and adopted Sector Plan.

The application meets the Plan's recommendation for medium density mixed commercial. It proposes a mix of uses that have the potential to preserve life and visibility during evening hours, particularly through the restaurant and residences. The stepping up pattern of building height conforms to Sector Plan guidelines for projects near Woodmont Avenue. The plaza and the covered pedestrian pathway will encourage the use of the transit system. The historical perspective of the auto age theme will help provide and enhance sidewalk and amenity area environment. As conditioned by this approval, the project materials, landscaping and the like will also improve and enhance the

sidewalk environment.

The application effectively produces a coherent and visually meaningful grouping of buildings. ~~The opportunity to modify this design at Site Plan can only improve the design along the south elevation.~~ As conditioned herein the application will encourage pedestrian shopping opportunities and create interesting and attractive features that will generate pedestrian activity. The application will convert a barren area into an exciting pedestrian landscape and form a maintenance organization to provide upkeep for the amenity areas.

The application conforms to the environmental concerns of the Sector Plan. Additional review of environmental guidelines at Site Plan will ensure adherence to environmental guidelines.

The mix of uses proposed adheres to Sector Plan guidelines. The project will generate a net increase of 179 trips which is fewer than that allocated by the Plan. In addition, two trips will be taken from the residential category.

#### Ranking

Due to the cumulative number of traffic trips generated by the uses and densities shown in all of the Optional Method Applications submitted during this review period, this project (No. 9-83005) as well as eight others (Project Nos. 9-81009, 9-82004, 9-83001, 9-83002, 9-83003, 9-83004, 9-83007 and 9-83008) were subject to the standards for comparison established in the 1982 Amendment to the Bethesda Sector Plan.

The criteria and process used in the ranking have been outlined in the Staff Report of June 22, 1983, and supplemented by the Staff Memorandum of July 6, 1983.

The Planning Board adopts the ranking methodology and recommendations submitted by the Staff in its report of June 22, 1983, and ranks this project as sixth.

3. Because of its location, size, intensity, design, operational characteristics and staging, the proposal is compatible with and not detrimental to existing or potential development in the general neighborhood.

As conditioned by this approval, the overall design of this



project is compatible with existing and potential development in the general neighborhood. The stepped design of the tower assists in compatibility with less intensive uses while the plaza and retail area provide an inviting walkway connecting adjacent streets. Further review of the design of the project at Site Plan may permit some reconfigurations to allow additional ~~sun penetration into the plaza~~. The Board accepts the testimony of the applicant that the operational characteristics of the project meet this requirement.

4. The proposal will not overburden existing public services nor those programmed for availability concurrently with each stage of construction.

Based upon the most recent County Council action, the Board finds that it can consider Woodmont Avenue as a programmed public facility. The Transportation Staff assessed the impact of the project on the roadway capacity. It found that the added traffic of this development, as well as the traffic generated by other projects in the area similarly approved, will not overburden the internal street system. The methodology, assumptions and findings are more fully set out in the Staff Report of June 22, 1983, Finding #4. Other public facilities are likewise available as set forth in the Staff Report.

5. The proposal would be more efficient and desirable than could be accomplished by the use of the standard method of development.

It is unlikely that the site would develop under standard method. The amenity areas and streetscape contributions provide a significant public benefit by creating an entirely new vehicle free pedestrian zone. Based on the Staff Report the Board finds that the proposal would be more desirable and efficient than the standard method of development.

Action

Based on the above findings and following the provisions of Division 59-D-2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board approves Project Plan No. 9-83005 with the following conditions:

1. Truck Dock

The truck dock must be reviewed at Site Plan to assure safe visibility of passing pedestrians and motorists.

2. Improvements Off-Site

The applicant will install premium paving, rebuild driveway aprons as required and install street trees at a minimum of 30 feet on center, and will provide street furniture and lighting in all areas indicated in the Site Plan Amenities Areas within the application. The details of this sidewalk improvement will be integrated with other approved project plans at Site Plan Review.

3. Conditions for Consideration of Off-Site and On-Site Amenities

- (a) This applicant shall provide amenities indicated on submitted drawings.
- (b) The County will not be expected to require the owners of abutting properties to reimburse the applicant for any off-site improvements made to the right-of-way abutting their property.
- (c) East Lane, to the extent of the property line, shall be improved as an amenity area. The applicant shall obtain a written agreement from abutting property owners allowing the off-site improvement shown in the application. In the event the applicant is unable to obtain any or all of these agreements, a substitution in amenity area shall be made at site plan approval subject to Board approval.
- (d) All utilities will be undergrounded at applicant expense as detailed elsewhere in these conditions.
- (e) The applicant will provide the facilities and amenities (in lieu of \$250.00 per linear foot of improvement to the off-site amenity areas) in return for being granted the maximum 4 FAR.

- (f) The applicant shall provide the Arts Enhancement Program (as amended) as outlined in the application.

4. Covenants

The applicant will enter into agreements with the State Highway Administration and with MCDOT, as appropriate, for the installation, liability, and maintenance of amenity areas in the public right-of-way.

5. Arts Program

The design, materials, configuration and construction method of all the items will be detailed for review at Site Plan. The applicant shall provide the following prior to Site Plan Approval:

(a) Identification

Identification of Artists and Artisans on the design team.

(b) Examples

Specific illustrations of examples of artists' and artisans' work which are appropriate for this specific site. (The examples presented are appropriate but should be expanded and made more specific at Site Plan submission.)

(c) Collaborative Process

Establishment (including appropriate documentation) of a collaborative process (in consultation with staff) which will insure a comprehensive integration of ideas and concepts between the team of Artists/Artisans and the project design team for the purpose of insuring a comprehensive treatment of the art elements identified.

(d) Products

Products (which shall be the results of the collaborative process) in the form of a series of drawings, photographs, maquettes, or other appropriate means to illustrate the specific proposed public art and artisanry.

- I. Ceiling of amenity area on-site - An appropriate amount of the ceiling area (to be determined at Site Plan) near the office lobby to be crafted by artisans or provision of an art piece large enough and dramatic enough to dominate the ceiling area.

II. Ground plane of amenity area on-site and streetscape area - Increase crafted area with overall design of paving to be decided at Site Plan Review. Consideration to be given to using addresses in the pavement or other embellishments and crafted elements in order to achieve an interesting design.

III. Street furniture - All benches to be custom crafted. Tree grates and tree guards may be custom designed and fabricated.

IV. Crafted wall end embellishments - 100 percent of wall areas identified by "A" on Figure 5, Proposed Amenity-Area 1 to be crafted by artisans as indicated in perspective. The design to be developed at Site Plan.

V. Feature Lighting - Feature lighting to be of a distinctive design to be approved at Site Plan.

VI. Street Trees - Minimum 5" caliper upon planting. If right-of-way constraints prevent the use of 5" trees, a small reduction may be approved at Site Plan.

VII. Architectural lighting - To be used primarily to enhance art program and to emphasize the pedestrian path. The clock tower and fountain shall be lighted to serve as "beacons" to the pedestrians.

VIII. Retail signage - To be custom crafted by artisans.

IX. The design, other materials, configuration and construction method of all the above will be detailed for review at Site Plan. Consideration shall be given to whether the amount of crafted paving, wall and lighting elements is sufficient.

## 6. Underground Utilities

(a) Applicant Utility Services - All utility connections requested to serve the proposed new development will be required to be made underground.

(b) Adjacent Property Utility Services - (a) If undergrounding of utilities for proposed development requires modifications to utility services for adjacent properties, those modifications must be provided by the owner requesting service for the proposed new developments. (b) If off-site,

improvements are to be provided in the front, side, or rear "yards" of adjacent properties, or in public right-of-way, the utilities must be provided underground by the party requesting service for the new development; contingent upon the approval for any and all modifications to front, side, or rear yards by the adjacent owner.

(c) Utility Service Transition From Underground to Overhead - Transition of service from underground to overhead must be provided by the party requesting service modifications as required to maintain service.

(d) Detailed Review - Detailed requirements for undergrounding utilities will be addressed for approved Project Plans at Site Plan. Applicants may be required to provide road and signal work by MCDOT and MSHA. Drawings for any required improvements must be reviewed concurrent with utility drawings.

(e) Coordination - The location of underground facilities shall be coordinated with WSSC.

#### 7. Management Organization

The applicant shall draft and provide (for Planning Board approval) agreements for the formation of a management organization. These agreements shall describe the two part structure of the management organization: Part 1 - responsibilities of this applicant; Part 2 - the applicants' component responsibilities of a management organization to be composed of representatives of all approved Bethesda project plans. Agreements to bring the organization into reality are to be required prior to issuance of an occupancy permit for the subject application and the realization of such agreements are made a condition of the approval of this project plan.

#### 8. Water Supply and Sanitary Sewer

- (a) Applicant shall obtain authorization for local water main replacement or augmentation as Required By WSSC.
- (b) Applicant shall obtain authorization for local sewer main replacement or augmentation as required by WSSC.

#### 9. Stormwater Management

The applicant shall submit, prior to Site Plan approval,

written verification from the Montgomery County Soil Conservation District that a stormwater management waiver has been or will be granted for this project. In addition, information on best management practices (BMP's) and sediment control shall be provided at Site Plan submission. Adequacy of storm drainage shall be verified by MCDOT. If needed, appropriate CIP projects must be programmed prior to Site Plan approval.

#### 10. Air Quality

Air quality concerns will be considered in more detail at Site Plan submittal when additional information is provided on (a) the impact, if any, of building or garage exhaust on the residential use and amenity spaces, (b) the conceptual location of air intakes for building ventilation, (c) the assessment of impacts of traffic-related air pollution on this development.

#### 11. Noise Quality

A determination should be made at Site Plan submittal of the impact of traffic-related noise pollution on the residential uses. The application must demonstrate conformance to County and State noise standards, especially as related to mechanical and electrical equipment, and truck loading and pick-up areas. Finally, a method of noise protection for the residential shall be provided to insure that indoor noise levels meet Federal standards.

#### 12. Staging

Construction of Community Motors Center must have begun within the zoning ordinance time period requirements or the project plan shall be considered void unless the Planning Board extends the time period in accordance with zoning regulations and the Amendment to the Bethesda CBD Sector Plan recommendations. The residential units must be substantially complete prior to issuance of the occupancy permit for office and retail space. The Site Plan inspector shall determine the adequacy of the completion of residential units upon inspection of the property.

#### 13. Parking

Final determination of parking required to meet zoning ordinance requirements shall be made prior to Site Plan Approval

Convenient pedestrian access, particularly from the parking

area, shall be clearly shown on the Site Plan. Ten parking spaces for residences shall be reserved near residential units. Pedestrian access to parking and the end spaces at the west side of parking garage must be analyzed at Site Plan. All issues such as these mentioned shall be reviewed and resolved to staff satisfaction prior to Site Plan approval.

14. Land Assembly

The land assembly shall be legally documented and arrangements for use of property adjacent to the Woodmont Avenue right-of-way shall be documented prior to Site Plan approval.

15. Amenity Area

The outdoor seating area must be designed as an outdoor space accessible to the public and may not be enclosed for sole use in connection with the restaurant.

16. Covered Arcade

A covered arcade is required continuously from Elm Street to Hampden Lane either by extending the fabric canopies or providing an area under the building.

17. Retail/Clock Tower

Additional retail or other enlivening feature along Hampden Lane to reinforce the pedestrian environment will be reviewed at Site Plan, including possible reconfiguration of the Clock Tower.

18. Plaza Level Elevation

Additional enhancement of landscaping within the plaza level to be reviewed at Site Plan.

19. Elevation Modifications

The southeast corner of the building shall be examined for possible setback to allow greater sun penetration into the plaza. If additional setback is appropriate, other modifications to recapture the lost floor area may be approved at Site Plan.

20. Dedications

Applicant will dedicate to the MCDOT all properties within the right-of-way of Elm Street and Hampden Lane. If the final site survey determines that some portion of the property falls within Woodmont Avenue right-of-way this will also be dedicated to MCDOT.

21. Traffic Signal/Operations Study

The applicant will prepare a detailed traffic signal/operations study (in close cooperation with M-NCPPC, MCDOT, and MSHA) to determine what modifications, if any, may be needed to the Hampden Lane and Elm Street intersections and existing Wisconsin Avenue median breaks.

22. Crosswalks

Provide crosswalks in accordance with Staff Report dated June 22, 1983. Treatment and equipment to be determined at Site Plan.

23. Subdivision

Subdivision of property required. Preliminary Plan must be approved prior to Site Plan approval.



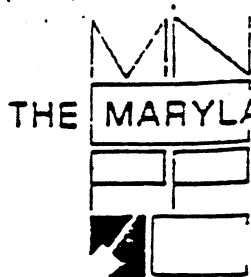
TABLE 1

DATA SUMMARY  
COMMUNITY MOTORS CENTER, #9-83005

Item	Permitted/Required/Guidelines		Provided*	
Parcel Size	22,000 SF min.		45,600 SF = 1.05 acres	
FAR	CBD-2 = 4 FAR O.M.		3.76 FAR	
Total Floor Area including cellar			FAR	+ Cellar
	Retail 12% (.5 FAR)	22,800 SF	9,267 SF	= 5%
	Office 33%	159,600 SF	149,524 SF	= 85%
	Residence		8,272 SF 10 DU's	+ 4,770 SF = 7%
	Misc. (auto)		4,461 SF	= 3%
Total		182,400 SF	171,524 SF	176,295 SF
P.M. Outbound Trips				
	Retail	44	13	
	Office	134	172	
	Residential	--	2	
	Misc. (auto)	--	4	
	Total Trips	228	196	
	Less Existing	-17	-17	
	Net Additional	211	179	
Amenity Area	On Site	9,132 SF = 20%	9,132 SF = 20%	
	Off Site	(none)	17,174 SF = 38%	
Total			26,333 SF	
Parking		447 cars	464 cars	
Height	CBD-2	143 feet	143 feet**	

\* Staff used new plaza and floor 2 data after recalculating floor area from applicants' plan. Auto sales is classified as "miscellaneous" for trip generation purpose.  
 \*\* Mechanical penthouse adds 21 feet, for total height of 164 feet.

Date Mailed: Tuesday, October 9, 1984



8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

October 4, 1984

**MONTGOMERY COUNTY PLANNING BOARD**

**Opinion**

Site Plan Review No. 8-84006  
American Center Building  
(Formerly Community Motors Center)

Action: Approval with Conditions (Motion by Comm. Krahnke, Seconded by  
Comm. Heimann, with a vote of 4-0, Comm. Keeney Abstaining)

On June 15, 1984, Paul B. Abrams submitted an application for the approval of a site plan for property in the CBD-2 Zone. The application was designated Site Plan Review No. 8-84006.

On September 13, 1984, Site Plan Review No. 8-84006 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Planning Board heard testimony and received other evidence from the staff and the applicant. Except as modified below, the Planning Board adopts the Staff Report (attached hereto and made a part hereof). Based on the evidence and testimony before it, the Planning Board approves Site Plan No. 8-84006, subject to the following conditions:

1. Site Plan Enforcement Agreement and Development Program

The applicant will provide a Site Plan Enforcement Agreement and Development Program prior to approval of the building permit. The water feature and its operation will be included in the Enforcement Agreement.

2. Public Art Schedule

- a. A work schedule for public art program shall become an integral part of the Site Plan Enforcement Agreement and Development Program, for staff review prior to approval of the building permit.
- b. The applicant shall submit for staff review and approval the final design and construction documentation for the artwork no later than eight (8) months after site plan approval. The applicant will continue work with the artist and staff to enrich the brick panels.
- c. Final artwork components of the project will be submitted to staff for conformance to the site plan prior to issuance of the occupancy permit.

3. Street Trees

The applicant shall provide street trees of a type, spacing, and size to be consistent with the adopted Streetscape Plan; the details of which shall be approved prior to issuance of the building permit.

4. Parking

The applicant shall designate a reserved area within the parking structure for residential parking spaces. Final determination of parking circulation and spaces to meet zoning ordinance requirements shall be made prior to issuance of the building permit.

5. Underground Utilities

Staff recommends that as a requirement for approval under the optional method of development the following conditions be applied:

- (a) Applicant Utility Services - All utility connections requested to serve the proposed new development will be required to be made underground.
- (b) Adjacent Property Utility Services - (i) If loading utilities underground for proposed development requires modifications to utility services for adjacent properties, those modifications must be provided by the owner requesting service for the proposed new development. (ii) If off-site improvements are to be provided in the front, side, or rear "yards" of adjacent properties, or in public right-of-way, the utilities must be provided underground by the party requesting service for the new development; contingent upon the approval for any and all modifications to front, side, or rear yards by the adjacent owner.
- (c) Utility Service Transition From Underground to Overhead - Transition of service from underground to overhead must be provided by the party requesting modifications as required to maintain service.
- (d) Detailed Review - Detailed requirements for underground utilities must be approved by staff. The applicant will relocate all existing above ground utilities and construct all new underground utilities on-site, off-site, and within the public right-of-way of Woodmont Avenue, Hampden Lane, and Elm Street where the streetscape improvements are provided. These underground utilities will be completed in accordance with applicable requirements of PEPCO, C & P Telephone, MCDOT, State Highway Administration, Washington Gas, WSSC, Cable TV and any other applicable agencies.

All utilities which serve the proposed American Center Building must be located underground. Any utility connections to exist in buildings to remain

after the project is completed will also be located underground. Transition from underground to overhead service will be provided by the applicant as required by MCDOT and M-NCPPC staff. If transfer to overhead is required, the work must include necessary paving and patching of existing streets and sidewalk to meet the standards as established by MCDOT and M-NCPPC and in accordance with the Bethesda Streetscape Plan.

- (e) The applicant shall provide utility transition and accommodations with the County and Bethesda Streetscape CIP with the requirements which may be determined by M-NCPPC and MCDOT staff.

6. Vehicular Trips

The project shall generate no more than 179 new vehicular trips and shall not exceed an FAR of 4.0.

7. Covenant

The applicant will enter into a covenant with the County to cover maintenance and liability for non-standard streetscaping improvements within the County and State right-of-way.

8. Lighting

- (a) Bethesda Lantern

The applicant will provide, install, and maintain all Bethesda Lanterns in accordance with the requirements of MCDOT. The final location must be provided for staff review prior to issuance of the building permit. Power for the lighting will be provided by Montgomery County.

- (b) High Intersection Lighting

MCDOT has agreed to provide, install, and maintain the high intersection lighting. The applicant will install the electrical conduit and coordinate final location in construction phasing with MCDOT prior to start of construction.

- (c) Traffic and Crosswalk Signals

MCDOT will provide, install, and maintain the traffic and crosswalk signals. The final location in construction phasing of the traffic and crosswalk signals will be coordinated with MCDOT prior to start of construction.

- (d) The applicant shall provide complete documentation to fully describe the design and details for the lighting of all amenity areas and parking areas of the

project. These details shall include design sections and specifications of all lighting fixtures. The documentation will include sufficient concept drawings of the night-time conditions to fully indicate the concept of lighting for the amenity areas.

- (e) The applicant will provide lighting along the public right-of-way along Hampden Lane, Woodmont Avenue, and Elm Street where the streetscape improvements are provided, in conformance with the Bethesda Streetscape Plan for the Core District in coordination with the staff of MCDOT and M-NCPPC.

9. Streetscape Elements

The location of benches, trash enclosures, details and specification of all streetscape elements will be designed in accordance with the Bethesda Streetscape as adopted by the Planning Board. Final review and approval will be completed prior to issuance of the building permit.

10. Crosswalks

Provide crosswalks, as approved by MCDOT, in accordance with Staff Report dated June 22, 1983. Treatment and equipment to be consistent with the adopted Bethesda Streetscape Plan and the method, design details, and final locations to be approved prior to issuance of the building permit.

11. Management Organization

The applicant shall draft and provide (for Planning Board approval) agreements for the formation of a management organization. These agreements shall describe the two part structure of the organization: Part 1 - responsibilities of this applicant; Part 2 - the applicant's component responsibilities of a management organization to be composed of representatives of all approved Bethesda project plans. Agreements to bring the organization into reality are to be required prior to issuance of an occupancy permit for the subject application and the realization of such agreements are to be made a condition of approval of this plan.

The applicant shall enter into agreements to participate in such Management Organization as may be adopted as a requirement by the Montgomery County Planning Board as part of the Streetscape Program prior to approval of the occupancy permit. Until the Management Organization is established, the applicant shall be responsible for the maintenance and security of the public amenity areas constructed by the applicant from the applicant's property and within public rights-of-way and for the maintenance of public amenity areas constructed by the applicant on other applicant-held property should such construction be implemented.

12. Off-Site Amenities

In the event the applicant is unable to obtain written agreements from abutting property owners allowing construction of off-site improvements as shown on the Site Plan, a similar area of improvements must be provided within the Bethesda CBD. Instead of the off-site improvements along East Lane required by the Project Plan, an equal area of off-site improvements, to be approved by staff, will be provided in another area of the CBD.

13. Staging

Construction of Community Motors Center must have begun within the zoning ordinance time period requirements or the project plan and site plan shall be considered void unless the Planning Board extends the time period in accordance with zoning regulations and the Amendment to the Bethesda CBD Sector Plan recommendations. The residential units must be substantially complete prior to issuance of the occupancy permit for office and retail space. The Site Plan inspector shall determine the adequacy of the completion of residential units upon inspection of the property.

14. Brick Paving

Provide district paving along the improved area of Hampden Lane. The applicant will submit for staff approval final drawings prior to the approval of the building permit.

15. Landscaping of Terraces

Provide some additional landscaping on several of the terraces for staff review prior to approval of the building permit.

Relying on the Staff Report and testimony as supplemented by the applicant's evidence and testimony, the Planning Board finds:

1. The Site Plan is consistent with Project Plan No. 9-83005.

The Planning Board bases this finding on the plan as submitted and on the Staff Report, pages 7-14 and Staff Testimony.

- A. The Site Plan as submitted maintains the total number of trips generated by the development and remains below the allowable FAR. The Project Plan required the removal of 17 existing trips. The information available to staff for the Project Plan review was based on aerial photos and field-measured square footage for existing structures in 1980. The applicant has submitted as part of the Site Plan a scaled survey of existing structures which more accurately shows the area of the various uses. While the staff calculated the removal of 17 existing trips (for the Project Plan), the more accurate data justifies the removal of 30 trips.

The total trips generation from the new project is calculated at 209 trips. When 30 existing trips are subtracted, a net of 179 trips remain. The total number of new trips approved does not exceed the 179 trips approved at Project Plan. As a result of this increase of existing trips to be removed, the applicant has slightly increased the size of the development without exceeding the allowable FAR or total trips. The Planning Board finds that the floor area and total number of trips shown is consistent with the approved Project Plan.

B. As a result of a change in the property line along East Lane, the applicant for the Franklin B. Salisbury Building was required to make the off-site improvements originally required of this applicant as part of the approved Project Plan. Condition #12 insures that the applicant will make off-site improvements equal in area to that required in the Project Plan.

2. The Site Plan conforms to the requirements of the CBD-2 Zone.

The Planning Board bases this finding on the plan as submitted and on the Staff Report, page 16.

3. The location of the buildings and structures, the open spaces, the landscaping and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.

A. The location of the buildings has been modified to meet the conditions of the Project Plan. The major portion of the building mass is located in the center of the block between Woodmont Avenue and Wisconsin Avenue, adjacent to the major amenity area of the Franklin C. Salisbury Building.

B. The Site Plan includes two major open space areas, a three-block connection and public open space located between Hampden Lane and Elm Street, and a second open space feature provides setbacks from future Woodmont Avenue. The mass of the southeast elevation of the building has been reduced to provide additional sunlight into the public open space areas.

The Planning Board notes that the water feature is an important element in the plaza and should remain functioning as much of the year as possible. Condition #1 ensures that the maintenance of the water feature will be addressed in the Site Plan Enforcement Agreement.

C. The landscaping for the site is adequate. As required by the Project Plan, the applicant has increased the landscaping within the plaza area. In addition, Condition #15 requires landscaping to be added to some of the terraced areas.

D. The off-site amenity package will link and extend the pedestrian pathways along Hampden Lane, future Woodmont Avenue, and Elm Street to the Metro Station, the commercial area and the adjacent residential areas.

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

The west face of the building is set back approximately 40 feet from the future curb of Woodmont Avenue. The landscaping along this section of Woodmont Avenue will provide a "parkway" character. The "parkway" character and the use of two-story, one-family attached units along this frontage reduces the impact of the mass and bulk of the building on the adjacent residential areas.

The eastern edge of the building includes low scale retail uses adjacent to existing retail uses within the CBD. This low scale retail use forms an appropriate transition within the CBD.

The entrance to the three-block connection and retail uses forms the southern boundary of the development. These uses are compatible with existing retail uses located along Elm Street adjacent to the proposed development.

The use of stepped building forms and one-family attached units along Woodmont Avenue and Hampden Lane provide compatibility with the adjacent residential neighborhood. To insure compatibility, the Board requires the applicant to provide some landscaping along some of the terraces. This landscaping will soften the impact of the building on adjacent properties and will enhance its visual impact along Elm Street and Hampden Lane.

To insure compatibility with other projects in the Bethesda CBD-2 Zone, Condition #14 requires the applicant to utilize materials in the approved Bethesda Streetscape Plan along the improved area of Hampden Lane.





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 George Avenue • Silver Spring, Maryland 20910-3780

MONTGOMERY COUNTY PLANNING BOARD

OPINION

AMENDMENT

Project Plan Review #9-83005 (Amendment) Date Mailed: January 4, 1991  
Project: One Bethesda Center/Community Motors Center

Action: Motion was made by Commissioner Floreen, seconded by Commissioner Henry, with a vote of 4-0, Commissioners Bauman, Floreen, Henry, and Hewitt voting for and no Commissioner voting against. Commissioner Keeney was absent.

On September 19, 1990, Stephen J. Orens submitted an application for the approval of an amendment to an approved project plan for property in the CBD-2 zone. The application was designated Project Plan Review #9-83005 (Amendment).

On November 15, 1990, Project Plan Review #9-83005 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the testimony and evidence presented by the staff and on the staff report hereby adopted by the Montgomery County Planning Board, which is attached hereto and made a part hereof, the Montgomery County Planning Board finds:

1. The proposed amendment will result in an unacceptable increase of nine trips which exceeds the capacity for the CBD established in the approved sector plan;
2. A substitution of office uses for the approved residential uses does not meet the goals of the sector plan that "residential development should occur as one of the mix of uses in the core", and
3. A substitution of office uses for the approved residential uses does not meet the requirements of the CBD 2 zone as follows:
  - a. to assist in the development of adequate residential areas for people with a range of different incomes, and
  - b. to provide an incentive for the development of residential uses to meet the needs of those employed within the CBD.

Therefore, the Montgomery County Planning Board disapproves the proposed amendment to Project Plan #9-83005.

Exhibit C

ONE BETHESDA CENTER

BETHESDA MARYLAND

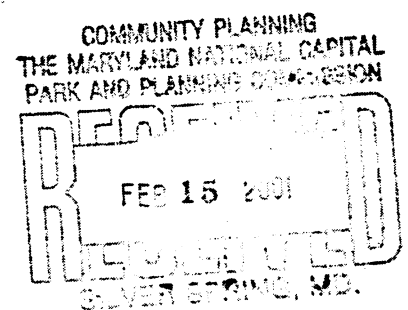
DESCRIPTION OF ARTWORKS

The choice of public artworks for the One Bethesda Center building in Bethesda offered a particular challenge, since the amenity area where the art is to be located is a relatively small plaza, a mid-block pedestrian mews connecting Elm Street and Hampden Lane. This pedestrian thruway, also leading to the main entrance to the office building lobby, is expected to be a busy and animated area, flanked by colorful retail shops and a restaurant.

The architects designed a sensitively-scaled and handsome brick office building in which the ziggurat forms of the stepped elevations create a lively and non-dwarfing backdrop to the amenity space, animating the upper areas with a changing play of shapes and shadows, while generous plantings form a colorful and graceful "skirt" along the base of the building. These elements, plus the protective awnings along the retail area, will give the passageway a European flair, offering the pedestrians a lively, semi-protected area, with many opportunities to look, browse, and even contemplate.

Three locations were identified, and three types of artworks chosen, that would provide exciting visual enrichment to this public area, while offering different types of experiences to those proceeding across the plaza.

First, the important south-corner entrance to the plaza at Elm Street was selected for the site of a sculptural environmental fountain to be a "main-event" inviting pedestrians into the area. A second location is the large glass wall at the main entrance to the office building, a perfect site for a rich sculptural glass work that would frame this entrance in a dramatic yet elegant way. The third location: four wall panels along the retail area facing the office building which presented an opportunity for ornamental brick reliefs of special tactile quality that would provide great visual interest to that side of the architectural complex.



The design team, consisting of the building and landscape architects, the developer, and the art consultant, selected three artists of excellent reputation who, while working in different materials and techniques, would arrive at concepts and designs that would be compatible. Each artist was given the opportunity to make an exciting individual statement and contribute a major work to be an integral part of an harmonious totality that the collaborative process would insure. Through this process, each artist was kept aware of the others' proposals and designs, while working closely with the members of the design team.

The Architectural Fountain by Elyn Zimmerman:

New-York based Elyn Zimmerman has acquired an international reputation for her environmental and architectural site-specific works, while being praised for her intuitive sensitivity to materials and her great pride in craftsmanship. For One Bethesda Center she has designed a sophisticated architectural water feature which runs the whole length of the facade of the office building, proposing a work that, while perfectly integrated with its environment, provides great visual interest, as well as an opportunity for rest and contemplation.

Her fountain design is composed of two parts or "events". The first, starting at the north-end of the plaza, is a long, narrow, granite trough whose simple geometric design plays against the organic quality of the stone. At that end, the water bubbles out from a square pool before being channelled into the trough, two feet above pedestrian level. One of the side walls of this trough becomes the back of a pedestrian bench inviting the public to rest by the soothing water, with plantings forming a colorful backdrop. The water soon falls into a circular pool at ground level, to continue below grade across the front of the building until it reaches the waterfall-amphitheater area, with sunken steps leading to a private reflective pool. This is the main feature of this work, with the water cascading down a height of four feet into a pool area, while, at grade level, a curtain of vegetation separates the fountain from the building. The core of the waterfall itself is sculpted from richly cleft and textured granite blocks on which the water will tumble down while, as a contrast, three vertical

channels lined with smooth granite walls will carry the water down on a more peaceful course. At this amphitheater, the combination of shapes, textures, lights and sounds, will create the feeling of a mini-oasis, a public yet private place where one can rest, contemplate, or visit with a friend. As the sun moves across the plaza, it will add changing shadows, creating different effects and moods at different times of the day. At night, the sculpture-fountain will be lighted in a dramatic yet soothing way.

The Glass Screen by Sal Fiorito:

In order to enrich the main entrance to the office building, Sal Fiorito, a well-known Washington glass designer, in close collaboration with the architects, has proposed an exciting iron-and-glass paneled screen, shaped as an archway framing the main doors. This work, which will span over an area of approximately twenty by twelve feet (including doors) will consist of an iron skeleton with panel inserts made up of 1/4 inch thick wired-glass, vitralite and safety glass, assembled with channels of zinc and/or lead. Fiorito designed a beautiful, functional, and versatile structural element totally integrated into the overall design scheme from the beginning, thereby providing an embellishment to the facade of the building while making an important artistic statement.

To create more exciting effects and a more sophisticated manipulation of light without sacrificing details, Fiorito will use glass that is primarily clear, translucent and opalescent, which he proposes to enrich by using techniques such as sandblasting, etching, painting, chipping and fracturing. While, at first sight, the glass screen will appear as an elegant ornament to the building, many of the subtleties and delicacies of the design will be discovered by the curious viewer who will be able to "read" into this intricate design. The glasswork will become a changing display, offering different hues and shifting layers of depth when viewed from the outside or from the inside, in reflected or in transmitted light.

The Brick Reliefs by Mara Smith:

The third artist to create a collaborative work of art for the plaza is Mara Smith, from Texas, who has executed many important public commissions all over the country. Responding to the elastic quality of the brick, the artist has designed a succession of four 6' x 8' brick reliefs that can be read as one continuous "story" with each panel representing a complete "chapter" to the story.

Smith, who is combining years of study of mythology with modern art into the carving of her murals, produces very symbolic images, and feels that it is up to the viewer who looks at her work to make his own interpretation according to his own experience.

Her unique technique is a modern adaptation of an ancient form which dates back to Egyptian and Mayan civilizations. When she is ready to carve her design into the clay, the brick-yard itself becomes a temporary studio for this artist, where she spend many arduous hours working on her knees, cutting the intricate design into the wet clay with a curved knife. With other simple tools she adds texture and details to her composition. After the bricks are numbered for identification, they are subject to an elaborate firing and cooling down procedure before being reconstructed into murals according to the coding and under the artist's supervision.

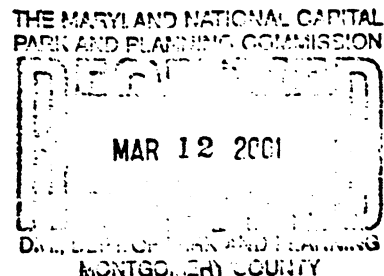
Mara Smith's beautifully carved images, offering a symbolic interpretation of nature's elements, together with the warm quality of the brick itself, plus the changing effects of light filtering through the triangular openings in the awnings above the panels, will combine to create a sculptural work of great depth and richness. The viewer who first sees the murals at a distance will be attracted to them and will want to discover the intricate details of this unusual "story in brick".

The amenity space for the One Bethesda Center building was conceptualized and molded as a whole, each artistic element being weighed in relationship to the total environment. The three artworks described above that were selected for the plaza will articulate this public space with a variety of contrasting visual and spatial experiences so that, walking through the plaza, will become a sequential journey of discovery.

Francoise Yohalem  
September, 1984

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



-----X  
:  
PUBLIC HEARING ON :  
:  
Community Motors/One Bethesda : Project Plan Review  
Center : No. 9-83005A +  
:  
:  
-----X : Site Plan Review  
No. 8-84006-A

A hearing in the above entitled matter was held on  
Thursday, March 1, 2001, commencing at 2:35 p.m., in the  
Montgomery Regional Office Auditorium, 8787 Georgia Avenue,  
Silver Spring, Maryland 20910, before:

ARTHUR HOLMES, JR.  
Vice Chairman

MEREDITH K. WELLINGTON

WENDY COLLINS PERDUE

ALLISON BRYANT

**COPY**

Deposition Services, Inc.

INDEX

ALSO PRESENT:

MICHELE ROSENFELD, ESQ.,  
Associate General Counsel

CAROLYN REVELLE HUFBAUER 3

LARRY PONSFORD

APPEARANCES / STATEMENTS:

MARK VIANI, ESQ. 13

ROBERT METZ, ESQ.

MARGARET CLEARY,

ROBERT VESHANCEY

MARIE MELLIS

DAN DILLON

## P R O C E E D I N G S

1  
2 MR. HOLMES: This is the March 1st afternoon  
3 session, Montgomery County Planning Board. Our first item is  
4 a project plan review, Community Motors/One Bethesda Center.  
5 We'll hear from the staff.

6 MS. HUFBAUER: Thank you. Good afternoon. I'm  
7 Carolyn Revelle Hufbauer with the community-based planning  
8 division. With me is Larry Ponsford of the development review  
9 division.

10 As you said, the item before you is project plan  
11 amendment 083005A, and site plan amendment 884006A, One  
12 Bethesda Center, formerly known as Community Motors or  
13 American Motors site.

14 The applicant, Land Lease Real Estate Investments  
15 Incorporated requests permission to lease the space in a  
16 portion of the project, the two-story Goldberg building, for  
17 office rather than retail use, it's current designation.  
18 Current tenants in that portion of the project, for your  
19 reference, a project that's on the east side of a plaza that  
20 runs through the site between Hampden and Elm Street are the  
21 Glass Gallery on Hampden Lane, and Perioli's Restaurant on Elm  
22 Street.

23 We'll start with an orientation Power Point  
24 presentation. This will orient you to the site, this site,  
25 with a series of slides. Ready. The first view -- can you



1 see through the chairs?

2 MR. HOLMES: No, we need the lights down.

3 (Discussion off the record.)

4 MS. HUFBAUER: The first view is an axonometric view  
5 of the project from, the project, with Wisconsin Avenue on the  
6 right. Larry is pointing to it there. Woodmont Avenue on the  
7 left, Elm Street going east/west, right in the center of the  
8 site, by that, yes, right there is Elm Street. And that's the  
9 project with Elm to the south and Hampden to the north.

10 The next slide is looking east up Elm Street from  
11 the corner of Woodmont Avenue. One Bethesda Center is that  
12 brick building on the left, steps down, and a new four-story  
13 building that Lenny Greenberg is just completing is there on  
14 the left side of the slide. And on the right side of the  
15 slide is a building that Federal Realty is just completing as  
16 part of their retail project.

17 The next slide shows us from the project looking  
18 north or rather southeast to the cinema, United Artist Cinema  
19 building on Wisconsin Avenue. The next slide, this is looking  
20 at the project from Hampden Lane, looking south. And that's  
21 the clock tower of the project right in the center. The Glass  
22 Gallery in the Goldberg building, and the Perioli's Restaurant  
23 space that's on the left, and the plaza on the right.

24 Looking the other direction, from the plaza toward  
25 the discovery trail, this project is the southern terminus of

1 the discovery trail, that trail that links the plazas and  
2 public art in Bethesda. This is moving from the plaza through  
3 the next space to Hampden Lane, going north toward Metro  
4 Plaza.

5 Next slide. This shows you the steps that go just  
6 on the other side, the north side of Montgomery, up to the  
7 Metro Plaza. Next slide. This is the view of the site from  
8 the project plan file. That large semi-<sup>arcade</sup>secure space in the  
9 lower left is the fountain by Ellen Zimmerman. The retail  
10 space that's at issue is on the right, the retail shops, which  
11 are clearly marked as retail shops.

12 Next slide. This is another view, very quickly,  
13 from the project plan file of the plaza and the building on  
14 either side of it. Next slide.

15 In this slide, from the site plan file, we have the  
16 green is the plaza in the middle of the building, the office  
17 building on the left, and it steps down to Woodmont, the  
18 townhouses there, as they are showing. And the space at issue  
19 is at the right of the green space, the retail space in the  
20 Goldberg building on the right.

21 Next slide. This is, again, a rendering of the  
22 concept behind the plaza from the site plan file, showing the  
23 Ellen Zimmerman fountain in the left corner, the retail space,  
24 just there is the retail space on the right of the Goldberg  
25 building, and on the left is the office building of the

1 project. Straight ahead is the clock tower and the Metro  
2 Center beyond. Next slide.

3 This is looking at it today, a view, same direction,  
4 northwest toward the Metro Plaza. That's the office building  
5 entrance on the left. The fountain would be just farther to  
6 the left in the left hand corner. The retail space in the  
7 Goldberg building is to the right on this slide. Next slide.

8 Another view of that, that shows a little bit more  
9 of the right of the Goldberg building. You could barely see  
10 the big relief by Maura Smith on right. Next slide.

11 This is looking the other direction through the  
12 plaza toward the United Artist Cinema with the office building  
13 on the right and the subject retail space on the left, the  
14 Perioli's space. Next slide, and the awning above, again, the  
15 awning above. This is the Perioli's space in the Goldberg  
16 building. We're stepping back toward the north in this slide.  
17 The space to the left to the north is the Glass Gallery.

18 And in this slide you see the Glass Gallery space  
19 again from the entrance to the plaza. And that's the clock  
20 tower space, that would be the clock tower to the left, and on  
21 the right, that's part of the fountain by Ellen Zimmerman,  
22 weaves through. That's the end of the Power Point  
23 presentation.

24 Just to orient you to these graphics here that the  
25 applicant provided, this is the building shown here, the plaza

1 space, with the Goldberg building where the retail is that  
2 we'll be talking about. This is north toward Metro Plaza, and  
3 this is Hampden Lane and Elm Street here. We also have a  
4 graphic of the discovery trail that shows how this space is  
5 the southern terminus of the discovery trail that winds its  
6 way on up to the Metro Plaza here, and Metropolitan. In the  
7 most recent sector plan, it's been expanded to go to the east  
8 side of Wisconsin as well.

9           The applicant in seeking to lease the Goldberg  
10 building for office use, maintains that historically the  
11 building hasn't been able to attract retail customers because  
12 it lacks visibility and accessibility. It lacks a convenient  
13 pedestrian-friendly environment. It lacks parking and  
14 therefore foot traffic. And it must compete with nearby  
15 retail and restaurant centers. They contend that the building  
16 is more suitable for office use, and that office use will  
17 bring them occupants and rents.

18           Staff believes that conversion of the ground floor  
19 space in the Goldberg building is not consistent with the  
20 intent of the 1976 and 1994 sector plan<sup>s</sup>, or of the original  
21 project plan and site plan. Our first point would be that the  
22 major amenity of this project, in the approved project and  
23 site plan<sup>s</sup>, is the through-block plaza, and the retail shops  
24 that line the eastern side of the plaza.

25           The site plan staff report, which is adopted as part

1 of the opinion, states, the major on-site amenity includes  
 2 construction of a through-block connection and public open  
 3 space between Hampden and Elm Street. This amenity area  
 4 includes a fountain, landscaping, steps, the entrance to the  
 5 office building, and specialty shops.

6 The opinion makes clear that as in all cases with  
 7 the optional method, there is a relationship between the extra  
 8 density and the package of amenities. We are arguing that the  
 9 density is in place and the applicant has an obligation to  
 10 make the amenity work, to maintain a lively pedestrian  
 11 environment in the plaza, and not argue that the plaza is not  
 12 pedestrian-friendly and therefore retail fails.

13 Our second point is that conversion of the ground  
 14 floor retail space to office does not conform to a major  
 15 principal of the sector plan, namely, enhanced pedestrian  
 16 access to transit. This mid-block path is intended to be part  
 17 of the pedestrian path from south Bethesda to the Metro.  
 18 Retail shops lining the plaza, with people coming and going,  
 19 will make the space safer and more likely to attract  
 20 pedestrians to use it as a way to get to Metro.

21 Thirdly, as you remember, a major premise of the  
 22 sector plans in Bethesda has not been to just put <sup>growth</sup> ~~roads~~ there,  
 23 but to make the Bethesda a real downtown, with art, cultural  
 24 facilities. The plaza is the southern end, as I said, of the  
 25 discovery trail that links the public plazas and the public

1 art. The public art and the fountains in the plaza, the Glass  
2 Gallery that is a current tenant in the retail space of the  
3 Goldberg building contribute to the cultural district, another  
4 sector plan concept.

5 It is important to have ground floor retail uses  
6 along the plaza that contribute to the animation and interest  
7 of the discovery trial, and ideally that contribute to the  
8 cultural district.

9 Our fourth and final point is to do with the timing  
10 of this discussion. Now, you'll hear from the applicant that  
11 they have amended their request in a letter that's before you  
12 to ask for a one-time authorization to permit the Goldberg  
13 building to be used by office tenants for just the next seven  
14 years.

15 The applicant maintains that office use should be  
16 allowed for the next seven years, until that portion of the  
17 Bethesda CBD fully matures, and the sector plan vision can be  
18 realized.

19 Staff is arguing that the time is ripe now for  
20 retail to succeed. Events that have occurred recently, and  
21 will occur in the near future to ensure a greater chance of  
22 retail success include the following. Larry is going to point  
23 out some of these things, based on our field visit.

24 To the north, steps have been opened up to Metro  
25 Plaza with completion of the Newland's building. To the

1 south, two buildings that we showed you in the Power Point are  
2 just being completed, but will bring more foot traffic to Elm  
3 Street. Lenny Greenberg's building that we showed you, the  
4 one that was yellow, under construction there, that's just  
5 been completed.

6 A new Federal Realty building, part of the very  
7 successful retail spaces and activities that you've been  
8 talking about that Federal Realty has built there. And  
9 ideally, they will have cinemas there, to complement the  
10 cinemas at the other end of Elm Street, <sup>once we</sup> ~~since~~ you find out  
11 what happens with <sup>Loew's</sup> ~~low~~ cinema. But we think that's an  
12 attraction that makes this area more vital, not a competitor.

13 There are already more residents in Bethesda, the  
14 southern end of town, with the completion of the Crescent  
15 Plaza, just south of Bethesda Avenue, and we're working on  
16 plans for building housing on lot 31, right there, just where  
17 the Capital/Crescent trail beings. Links to the  
18 Capital/Crescent trail can be explored from this location.  
19 The station for the trolley is meant to be right across the  
20 street in the Elm Street right-of-way.

21 So our recommendation is to retain the ground floor  
22 space as retail. We are recommending that the second story  
23 space could be used for office, so we are recommending  
24 approval of that aspect, but with the condition that the  
25 ground floor be retained for retail for the reasons that are

1 articulated.

2           And just to conclude, we feel that there are a  
3 variety of strategies. These aren't really recommendations to  
4 you. I've just stated the recommendation to you to allow  
5 office space second floor, but keep the retail on the ground  
6 floor. But we have some suggested strategies.

7           We think that the applicant could work with us, with  
8 Bethesda Urban Partnership. Urban Partnership, you know, is  
9 very, very active in the area. They can look a little more  
10 closely, we think, at the space, to, for example, take  
11 advantage of the fact that the space where Perioli's has been  
12 has access onto Elm Street and the plaza. That's really quite  
13 an advantage to have the street access, as well as the plaza.

14           We are thinking that they should continue to try to  
15 have outdoor cafe eating. Apparently, Perioli's has done  
16 that, but we think that's an important thing to keep on trying  
17 to animate the space with seating. We think there are some  
18 design strategies that they could do. The wall on the side  
19 where the office building entrance is, is meant to be seating,  
20 but we think they could add some more temporary seating in the  
21 space.

22           We think they could -- we know it is very important  
23 that they keep the fountain running. And they are under a  
24 renovation project right now with the fountain. And that  
25 really is critical to enlivening the space.



1           The architectural lighting is very attractive, but  
2 maybe they could find some other spots where additional  
3 lighting would be added. Maybe the awnings could be looked at  
4 to add a little more color. Perhaps the clock tower could be  
5 enclosed in glass to be the real beacon that it was intended  
6 to be. And there could be inside squares from the different  
7 retail shops, or information about the Urban Partnership about  
8 activities.

9           And then the last point would be working more  
10 closely with Bethesda Urban Partnership to enhance the  
11 understanding of what the discovery trail is. Maybe have noon  
12 time towers starting here of the trail. Work with retailers  
13 on Elm Street for events that are oriented toward Elm Street.  
14 And maybe they could work with Bethesda Transportation  
15 Solutions to get a stop for the shuttle bus.

16           So those are some of our ideas, and I'm open to  
17 questions after you've heard from the applicant.

18           MR. HOLMES: Any comments before we go to the  
19 applicant?

20           MR. BRYANT: You didn't, I don't think I heard you  
21 respond to the Lend Lease side. Do you want to say something  
22 about that?

23           MS. HUFBAUER: Well, again, what they are proposing  
24 in the letter that's in front of you, is that rather than  
25 their original application, which was to say that we would

1 like forever, amen, the ability to have the space be used for  
2 office; rather, they are now saying, please let us have office  
3 for just the next seven years, and then revisit it.

4 And our argument would be, why wait seven years. We  
5 think the activity is in this area now. The steps are  
6 completed up to Metro. There is activity half a block away.  
7 We don't see any advantage to waiting seven years. We think  
8 there is a lot going on right now that they can take advantage  
9 of.

10 MR. BRYANT: I know this is not our purview, but it  
11 helps me, perhaps, understand. Do you look at pricing with  
12 them, also, from that standpoint?

13 MS. HUFBAUER: That isn't something that we  
14 typically get into.

15 MR. BRYANT: So therefore, we don't know what the  
16 economic implications of their request are.

17 MS. HUFBAUER: I'm sure that they will tell you.  
18 But that isn't something that we focus on.

19 MR. BRYANT: Okay.

20 MR. HOLMES: Okay, we'll hear from the applicant.

21 MR. VIANI: Members of the Board, good afternoon.

22 I am Mark Viani. With me is Robert Metz. We're with the law  
23 firm of Linowes and Blocher, appearing today on behalf of Lend  
24 Lease Real Estate Investments, the owner and applicant of the  
25 property.

1 With us is Margaret Cleary, vice president with Lend  
2 Lease. Also, Robert VeShancey, Marie Mellis, and Dan Dillon  
3 with Jones, Lang and LaSalle, who are the property managers  
4 and leasing agents for Lend Lease at this property.

5 Lend Lease is a fairly major player in the real  
6 estate market. They have over \$40 billion dollars in assets.  
7 They have 54 million square feet of office space, 51 million  
8 square feet of retail space, 36 million square feet of  
9 industrial space, plus numerous residential and hotel  
10 properties. Within the D.C. Metro area alone they have \$3  
11 billion dollars worth of assets.

12 Jones, Lang, LaSalle, the property managers, lease  
13 or manage over 600 million square feet of property worldwide,  
14 12 million square feet in the D.C. area alone. So these are  
15 fairly experienced players in dealing with this particular  
16 property. I also want to point out that we have mailed out  
17 the requisite notices, pursuant to the Zoning Ordinance, and  
18 have filed the requisite certificate of posting.

19 As Ms. Hufbauer was kind enough to give introduction  
20 to the property, I'll kind of skip a lot of that, and just  
21 kind of focus specifically on the application itself. The  
22 application deals exclusively with the Goldberg property. And  
23 it's important to remember the applicant is asking for an  
24 alternative additional use of the property for office use. We  
25 are not asking to remove the underlying retail use. We are

1 proposing no additional new construction or site design of the  
2 property, other than any kind of internal renovations to the  
3 Goldberg building, which would accompany the occasion of  
4 putting in new tenants.

5           Since the development of this project in 1984, the  
6 Goldberg building has been used exclusively for retail  
7 purposes. Unfortunately, due to the Goldberg building's  
8 location in relation to the retail centers of Bethesda, its  
9 lack of visibility and accessibility, it's less than ideal for  
10 retail units.

11           If you can refer over to the site plan, the Goldberg  
12 building is located, the front of the building is oriented  
13 toward the plaza, so the front of the Goldberg building is its  
14 main opportunity to catch pass-by traffic is located away from  
15 the streets, as its primary opportunity to catch pass-by  
16 traffic.

17           The sides of the Goldberg building, along Hampden  
18 Lane and Elm Street, are largely unnoticeable. And this is  
19 fairly typical of what you see along Elm Street and Hampden  
20 Lane. On Elm Street is typified by fairly narrow sidewalks.  
21 And if you take a look at the northern end of Elm Street,  
22 you'll find, going from beyond the Goldberg building over  
23 towards the Bank of America building, that's just basically a  
24 large brick wall.

25           Going past the plaza, down towards Woodmont Avenue,

1 you have an entrance to a parking garage, no real street  
2 presence there. It isn't until you get down to the store  
3 called, a restaurant called the Barking Dog, and then where  
4 the current construction is for the four-story office  
5 building, that you start heading into anyplace that is really  
6 pedestrian friendly.

7           On the southern end of Elm Street, you have,  
8 beginning from Wisconsin Avenue, you have the theater. But as  
9 you move down, and as we saw in photo number three, I think it  
10 was, you see basically another large marble wall that is  
11 really, the only significant features there are little  
12 brackets in there to hold movie posters, and there is no real  
13 street presence.

14           Going down Elm Street, you come to the entrance to  
15 the parking garage, and then you have to continue way down  
16 towards Elm Street, until you hit Jaleo, which just opened up.  
17 And that's the only retail area there.

18           On the north end of the property, over on Hampden  
19 Lane, the only significant retail presence in the area is  
20 across the street there is an F&M, I believe it is, an F&M  
21 Bank. There is a place called the Modern Tailor, which is a  
22 small tailor shop. Further up the road, going towards the  
23 Exxon station, there is a small Italian restaurant, an  
24 engraving shop, and the Exxon station itself. The building  
25 behind it is the Bank of America.

1           Going across Hampden Lane, you go that little road  
2 going directly north, I believe is called East Lane. On the  
3 east side of East Lane, there really is no street presence at  
4 all. You just have two entrances. You have another large  
5 concrete wall with two openings to parking garages.

6           On the west side you have what is part of the  
7 discovery trail, it's kind of a small little park. If you are  
8 going up Elm Street, up, sorry, East Lane, that is fronted by  
9 a series of columns, and then there is a, you can't get direct  
10 access into there unless you walk from Hampden Lane over  
11 there. And I think we saw that in a photo that Carolyn had  
12 there. And it really gives the impression of more being a  
13 private amenity for that office building here. There's not a  
14 lot, the area itself does not have a lot of foot by traffic  
15 pattern.

16           Parking is another problem in the area. The on-site  
17 parking is somewhat insufficient in that a lot of the area  
18 devoted towards visitor parking is really used by people  
19 visiting the office tenants in the office building, the  
20 12-story office building that is also on the property.

21           Adjacent and nearby on-street parking is limited to  
22 scattered meter parking on Elm Street and on Hampden Lane, and  
23 some going up East Lane, and generally is not sufficient for  
24 people to park, feed the meter, and go visit retail spaces.  
25 It's not the draw that you will find in the adjacent area,

1 which leads me to my third point, that the Goldberg building  
2 is really located outside of the retail centers in Bethesda.

3 To the west, a couple of blocks to the west, you'll  
4 see is the Arlington Road retail area, which is really the  
5 evolving retail area in Bethesda. To the north you have the  
6 Woodmont Triangle area, which is the traditional restaurant  
7 retail area. And then to the east we have, along Wisconsin,  
8 we have the Metro core and the Wisconsin Avenue retail sector.

9 Unfortunately, the configuration of the Goldberg  
10 building being located away from these roads, and these roads  
11 themselves not really lending logically to the pattern, the  
12 foot patterns between these three properties, they don't  
13 really, the Goldberg building doesn't really realize any of  
14 the synergy from these three parcels, these three retail  
15 centers.

16 As evidence of this is really the history of this  
17 property. You have, it originally started out, and you'll see  
18 in your letter, we had three retail spaces. There have been  
19 jewelry stores, hairdressers, a litany of five or six  
20 restaurants. Currently, the property has two users, one  
21 called the Glass Gallery, which is, occupies the front section  
22 of the first floor, and the second one called Perioli's, which  
23 is the two spaces on the first floor and the entire second  
24 floor.

25 It's important to note that recently Perioli's,

1 which is now, I guess, the sixth restaurant in this area, went  
2 bankrupt again. So the Lend Lease has lost another tenant.  
3 We hope to have this property released from the bankruptcy  
4 stay, the stay from the U.S. Bankruptcy Court in Greenbelt, in  
5 the near future.

6 The retail experience, the leasing experience from  
7 the Goldberg building kind of stands in sharp contrast to the  
8 12-story office building and nearby office development. The  
9 12-story office building on this property enjoys a steady  
10 occupancy with over 80 percent of the original tenants still  
11 present. The building is fully occupied and there is a  
12 waiting list for both existing tenants and prospective tenants  
13 looking to locate on the property.

14 This is evidence similar to what you are seeing in  
15 the Bethesda area for the office market. The nearby 40,000  
16 square foot building at the corner of Woodmont and Elm is  
17 already fully preleased. The Chevy Chase bank tower is fully  
18 preleased. So there is a little more of a healthy office  
19 market in this area.

20 The use of the Goldberg building for office tenants  
21 will have a couple of positive effects. First of all, it will  
22 increase the likelihood of steady viable tenants, not  
23 dependent on foot traffic or location to our retail center.  
24 It also will decrease the parking requirements and trip  
25 generations for this property. You would end up with, under



1 the current traffic and parking standards about 19 fewer  
2 parking space requirements, and one fewer trip.

3 And also it is important to note that the  
4 application is in the spirit of the CBD-2 zone, which permits  
5 a flexible response to the development of the market,  
6 accommodates the needs and requirements of workers, encourages  
7 the most desirable use of land, in accordance with the sector  
8 plan. And I would note that the sector plan does discourage  
9 retail uses in low visibility areas. And it would just  
10 improve the community by creating stable occupancy.

11 Larry, if you could be kind enough to put up that  
12 other thing showing the Metro core area. Thank you.

13 MS. WELLINGTON: What's being built behind the movie  
14 theaters, on the same side as the movie? That's being built.  
15 Is that an office building? It's a new building going up  
16 there at the corner of Woodmont and Elm on the same side as  
17 the theaters.

18 MS. HUFBAUER: This is what we were talking about  
19 earlier, the building that Federal Realty has built. It is a  
20 standard method project, and there are shops at the ground  
21 floor level.

22 MS. WELLINGTON: No, that's where Jaleo is, right?  
23 Yes, no, that one is almost done. No, this is being  
24 constructed, it's on Elm, you know, the movie theater, the  
25 United Artist building, it's behind it. It's where the United

1 Artists used to have a parking lot.

2 MR. METZ: I think that's the one that Carolyn just  
3 mentioned.

4 MS. WELLINGTON: That is the Jaleo?

5 MR. VIANI: Right. From Elm Street, it dovetails  
6 onto a parking lot.

7 MS. HUFBAUER: So parking, there is a parking  
8 structure, sort of parking lot on top of the Federal Realty's  
9 building, because of the slope down Elm Street. The building  
10 is, there is street-grade retail. This part of it is a  
11 parking lot for Federal Realty. Is that what you are talking  
12 about, do you think? Halfway between United Artists and the  
13 restaurant? I think that might be what you are talking about.

14 MR. PONSFORD: Yes, the top of their garage  
15 structure is on grade.

16 MS. WELLINGTON: So it's garage on the Elm Street  
17 side?

18 MS. HUFBAUER: Yes.

19 MR. PONSFORD: That's phase one. There is phase two  
20 that will go on top of that, right?

21 MS. HUFBAUER: No, I think at the moment there is  
22 not a phase two. That's what's so disappointing, actually, to  
23 us. We really would have liked an optional method project.  
24 But it is standard method. They may, in the future, come back  
25 for the extra density and do something with optional method.

1 feet.

2 The property provides, right now, about 15,000  
3 square feet of retail space. The Goldberg building represents  
4 about 8,400 square feet of that. All of that retail was  
5 located in the Goldberg building, and on the first floor of  
6 the office building towards the north on Hampden Lane, where  
7 the Allfirst bank is, and the Hampden Cafe. I would point out  
8 that that is also part of the discovery trail, all right.

9 It is also important to recognize, what are the  
10 quality and the viability of the existing uses in the Goldberg  
11 building. The staff points to the Glass Gallery as an example  
12 of the type of artistic retail specialty shops which the  
13 discovery trail should typify.

14 This ignores the fact, however, that the Glass  
15 Gallery is only open Wednesdays through Saturdays from noon to  
16 5:00. And unfortunately, the Glass Gallery is not willing to  
17 commit to a multi-year contract. Therefore, the property  
18 owner has been forced to go with a month-to-month lease while  
19 it looks for an alternative tenant at a rate well below, at  
20 \$13 per square foot, below the market, which is right now at  
21 \$25 to \$30 per square foot.

22 Even with these generous terms, and they have been  
23 there quite a long time, we have had problems making rent.  
24 The property has been on the market for two and a half years,  
25 and they haven't been able to find a tenant for this property.

1 But we are not aware of any plans, for the moment, for  
2 anything on top of that space.

3 MS. WELLINGTON: Okay. I think that was it.

4 MR. VIANI: As I said, staff opposes the proposal,  
5 at least as far as the first floor retail on the Goldberg  
6 building. They believe that this part is essentially an  
7 essential part of the amenity package for the development.

8 With respect, we disagree. We think they are  
9 placing a little too much weight on the discussion and the  
10 site plan staff report. First floor retail is part of the  
11 amenity package, but only one of the components in it. And we  
12 think it kind of ignores the need to respond as dictated in  
13 the CBD zone, to the changing environment within the Bethesda  
14 Metro area.

15 The CBD zone permits a flexible response to the  
16 development of the market, accommodating the needs of the  
17 workers, encouraging the most desirable use of the land, and  
18 encouraging stable occupancy. It also ignores the practical  
19 experience of the property. The property owners have spent,  
20 this property owner and previous property owners have spent 15  
21 to 16 years in diligent efforts to make a viable retail use of  
22 the property, all to no avail.

23 The project plan approving this property showed that  
24 there would only be a small portion of the development  
25 advocated to retail space, about 5 percent or 9200 square

1           Also, the other existing user right now, Perioli's,  
2 as we said before, has gone bankrupt again. This represents  
3 the fifth or sixth failure of a restaurant at this site.  
4 Clearly, the practical experience of retail and restaurant  
5 users at this site at this point in time is not a viable  
6 experience.

7           Lastly, staff points that the site might be able to  
8 function a little bit better if it was better lit, and if  
9 there was better coordination with the Bethesda Urban  
10 Partnership. But I would like to point out that I have been  
11 to the site myself, and the site is well lit. The lighting  
12 there is typical with what you find in that entire area.

13           The Planning Board had approved the lighting plan as  
14 part of this development. The site has on-site security.  
15 Also, as for participation with the Bethesda Urban  
16 Partnership, the property does participate fully with the  
17 Bethesda Urban Partnership. As recently as a month and a half  
18 ago, we have had both a bloodmobile on the site, and we have  
19 had a commuter options display in the lobby that went on for  
20 about a week or so.

21           The property owner encouraged its tenants to  
22 participate in the Bethesda Urban Partnership, and encourages  
23 retail tenants to -- and staff had some very, very good  
24 suggestions, to get together with other businesses and  
25 participate in joint ventures or joint opportunities to

1 promote each other. And the property owner can only encourage  
2 their tenants to do that. And some tenants do, and some have  
3 not participated as fully as they might have. But all the  
4 property owner can do is encourage.

5 It is also important to remember that we are not  
6 asking to delete retail uses from the Goldberg building;  
7 merely, for the option to have additional office tenants.  
8 Therefore, we would ask that you grant the application.

9 Alternatively, we would ask that you consider a  
10 proffer contained in our letter to accept a one time  
11 authorization to <sup>permit</sup> ~~prevent~~ the Goldberg building to be used for  
12 office tenants for seven years, beginning upon the date of the  
13 execution of a lease, or in no case later than one year from  
14 the date of the Planning Board's action approving this offer.

15 This would represent, really, a win-win situation  
16 for both the property owner, the Planning Board, and the  
17 Bethesda community. The property owner gets a benefit from a  
18 stable tenancy, and a reasonable return on this property. The  
19 Bethesda neighborhood benefits by a stable tenancy at the  
20 Goldberg building, and lesser traffic and parking impact from  
21 an office use. The Planning Board would benefit from having  
22 an active use on the property, while preserving the amenities  
23 for a reasonable time, until that portion of the Bethesda CBD  
24 in which the property is located fully matures.

25 At the conclusion of this seven-year period, we will

1 reduce, we will return to the Board, reassess the situation to  
2 determine if the vision of the staff as to this area of  
3 Bethesda having become active, has been fulfilled. So with  
4 that, I thank you very much for your time.

5 MR. HOLMES: Questions of the applicant?

6 MS. PERDUE: Are you proposing some alternative  
7 amenity? It seems to me, in the original plan, retail, as is  
8 not uncommon, ground floor retail is treated as an amenity for  
9 which <sup>density is allowed</sup> ~~intensity~~ in exchange. Maybe I misunderstand, but I  
10 understand that it is asking that you not have to provide the  
11 retail. But I don't hear an alternative. The goal here was  
12 street activation, and so in exchange for not having to do the  
13 retail, we would like to relandscape the street. I mean, I  
14 don't know what the -- maybe that isn't part of this, and I  
15 just didn't understand it.

16 MR. METZ: Yes, well, the staff reports are very  
17 clear that the main amenity was this plaza and so forth. It  
18 does mention specialty shops. Now, the goal is to have active  
19 participating in that space. What we are saying to you is  
20 that it makes more sense now to have an office in there,  
21 rather than have nothing.

22 MS. PERDUE: So office is now the amenity?

23 MR. METZ: Well, the amenity is the plaza and the  
24 opportunity for people to go through the plaza. I think the  
25 staff is placing too much emphasis on the idea that there

1 would be some retail there. I don't think the retail is,  
2 quote, the amenity.

3 MS. PERDUE: Having not participated in that one, I  
4 don't have a view on that. I can say, in other cases we have  
5 perceived the retail to be an amenity.

6 MR. METZ: Right. But in this case, this was part  
7 of the beauty pageants back in the early eighties. And it was  
8 mentioned that there would be retail there, but that wasn't  
9 the main emphasis. The main emphasis was to have a plaza  
10 there so people could walk from Hampden to Elm and vice-versa,  
11 and to have retail there, to have it activated, and so forth.

12 But we're saying, it's not, the retail hasn't been  
13 activated, because there is not much there. I mean, the  
14 Perioli space is vacant, and the Glass Factory is just open a  
15 few hours of the week.

16 What we are saying, it makes more sense now to have  
17 some office in there, to have people going in and out as  
18 opposed to what's there now. We're not preventing anything  
19 more. We think that the plaza would be more useful to have  
20 office there than what the retail is now.

21 MS. WELLINGTON: I think the concern is that the  
22 plaza then becomes for the people in the office, and that one  
23 of the reasons for the amenity of the street-oriented retail  
24 was to make that a common area where people come and go more,  
25 and activate the use.



1 MR. METZ: Well, we're not preventing anybody from  
2 doing that. We're not putting up road blocks. What we're  
3 trying to do is to make it more active than it is now.

4 MS. PERDUE: Right. You're not proposing road  
5 blocks, but the reality is, if it is office space, it will  
6 function that way. One could imagine a proposal that said, we  
7 would like to streetscape and park benches. I don't know  
8 whether that would make any sense at this time. It may be  
9 that that's appropriate.

10 But we would like to run noon concerts there and  
11 have, and the space may not be suitable for that, either. So  
12 I'm not proposing that. But a notion of, we realize that it  
13 didn't, retail is not working, and we are not simply saying,  
14 don't make us do this anymore. We are offering an alternative  
15 publicly engaging aspect.

16 Meredith is not sure she agrees with it, office  
17 tends to, particularly office adjoining an interior court like  
18 that, is intended to, is likely to lead to a perception of an  
19 office place. It is nice for the office workers. I don't  
20 mean to denigrate that, but it is not, wouldn't have the  
21 impact of making it feel public. Do we have speakers?

22 MR. HOLMES: No. We have no speakers.

23 MS. PERDUE: No speakers on this --

24 MR. HOLMES: You have speakers?

25 MS. HUFBAUER: No.

1 MR. HOLMES: Mr. Bryant?

2 MR. BRYANT: Yes. The question that you asked about  
3 alternatives I thought was very apropos. But I'm also  
4 concerned from another standpoint, and that is --

5 (Discussion off the record.)

6 MR. BRYANT: I was saying that it's apropos the  
7 question that my colleague asked about alternatives. And I  
8 normally support the staff in this kind of recommendation. I  
9 do have a question, however, as I asked the staff and they  
10 said that perhaps you would give the answer.

11 In addition to effective land use policy, and making  
12 and accommodating development standards, there is always the  
13 underlying issue, from my standpoint at least, of whether or  
14 not does something make sense now versus when it was proposed  
15 some time ago, and what are the economic implications of  
16 continuing to, for example, hypothetically, lease something  
17 for \$13 a square foot, where \$25 to \$30 a square foot is the  
18 going rate.

19 I think that that has some relevance in terms of  
20 decisions that owners want to make. And so I'm always looking  
21 for a way of accommodating the reality of the market place  
22 with the principals that underlie how you got in that market  
23 place.

24 So from that aspect, staff has suggested about 10  
25 different things that could be done to look at how to beef up

1 or make that space become more attractive, et cetera. Have  
2 you considered any of those things?

3 MR. VIANI: I would respond, we also have both the  
4 property owner and the property manager here as well. The  
5 property owner has participated very actively in the Bethesda  
6 Urban Partnership, and they do take pride in maintaining their  
7 facility right now.

8 We are in the middle of winter, so the fountain is  
9 turned off, you know, the trees are denuded. So, you know, it  
10 is probably not in beauty pageant shape at this point. But it  
11 is a prime piece of property. It is very well maintained.  
12 They certainly are active in the Bethesda Urban Partnership.  
13 And you can only force, you know, your tenants, and some of  
14 their tenants did participate very actively in there, in these  
15 types of business community partnerships, you can only force  
16 people to do so much.

17 And on the other hand, you can only realize so much  
18 from those efforts. We're at this point now 15-16 years with  
19 this, trying and trying and trying to get some viable retail  
20 units and restaurant uses in the property. You know, they  
21 have been active in the Bethesda Urban Partnership. They have  
22 been active in the community. They have held numerous events  
23 at the property.

24 And they have had, you know, the Glass Gallery is a  
25 nice store and stuff, but it's only open, you know, five hours

1 out of the day for four days a week. The other property  
2 right now is completely vacant. And that, unfortunately, is  
3 the fact. Some of these properties have been on the market,  
4 looking for retail tenants for over two and a half years, you  
5 know. And the only rent they are getting right now is half of  
6 what the going rate is right now. And that's just the  
7 economic realities.

8 MR. METZ: Perioli's was an excellent restaurant,  
9 and it used to be very crowded, but for some reason, it failed  
10 as did all of the other restaurants that were in that area. I  
11 don't know whether it is just tough to compete with Woodmont  
12 Triangle or the parking is just not satisfactory. I mean,  
13 they have valet parking, but like everything else, it has  
14 failed. And we're not sure of a reason why, except after four  
15 or five or six restaurants failing, you kind of wonder, you  
16 know, are we banging our head against a brick wall.

17 MR. BRYANT: Right.

18 MS. WELLINGTON: Well, it is hard to understand,  
19 because Woodmont Triangle is coming to you now. I mean, a  
20 building that is coming around the corner, there's Jaleo and  
21 the street clientele is going to be coming along with that.  
22 Pines of Rome is a block over, in a sort of similar location,  
23 and that's been a long time institution. Have you all looked  
24 into what went wrong and what you could do to remedy it?

25 MR. METZ: Yes, to answer that question, they just

1 don't have an answer why it keeps failing. And that's why we  
2 did an alternative to give us some time to at least get  
3 something in there that makes sense.

4 MR. VIANI: I will also point out that Pines of Rome  
5 is a little further, closer to Wisconsin Avenue, a little more  
6 readily visible from some of the retail corridors, whereas  
7 once you get into the plaza, yes, it is an attractive plaza.  
8 But the process of getting to there, is a relatively, you  
9 know, hidden, or you wouldn't think to go walking down that  
10 particular street. It's not the natural corridor for  
11 pedestrians.

12 If you go down Elm Street, looking from there down  
13 for the theater, you have large no real street presence,  
14 narrow streets.

15 MR. BRYANT: We saw it.

16 MR. VIANI: Yes.

17 MR. BRYANT: Let me ask the staff, from that stand  
18 point, there are two things I am interested in. One is  
19 whether or not any kind of action that we might take would be  
20 precedent setting; and secondly, whether or not we've made  
21 similar accommodations in this sector, or what type  
22 accommodations have we made because of the challenges that  
23 this sector may or may not offer?

24 MS. HUFBAUER: On the later question, it is correct,  
25 as Mr. Metz, I think, pointed out in his letter, that we did

1 on Metro Center retail space, and I think there were some  
2 other spaces, perhaps the Chevy Chase Garden Plaza, there were  
3 time approvals geared to a certain time. We will allow office  
4 and revisit it in a certain number of years. That made sense  
5 on Metro Center, for example, because the Lorenz building was  
6 not able to go forward when the other projects went forward.

7 In that case, the Newlands building, which replaced  
8 what would have been the Lorenz building, is there now, and so  
9 that's one of ours. And then they built the stair, which is  
10 part of the discovery channel, the discovery trail, excuse me.  
11 So we think that, yes, that approach can have merit. We don't  
12 think that it is the appropriate strategy in this case because  
13 we don't agree that the future is when things are going to  
14 happen. We think things are happening right now in this area.

15 And by this summer, when the building, Federal  
16 Realty building is finished, and then the Greenberg building  
17 is finished, and then people go to the movies at United Artist  
18 and walk down the street to get their ice cream on Elm, down  
19 Elm Street to Woodmont <sup>Avenue</sup> ~~Triangle~~, they might instead stop in at  
20 this space, if there were an attractive user.

21 MS. WELLINGTON: Well, I think Commissioner Perdue  
22 sort of started the discussion on alternatives. And as I  
23 remember, the only case that I participated on that was  
24 similar to this, was the plaza, I think there by the Hyatt.

25 MR. BRYANT: Right.

1 MS. HUFBAUER: Yes, the Metro plaza.

2 MS. WELLINGTON: Metro plaza. But in that case,  
3 when we agreed to allow that to become alternatively office,  
4 the company had already commissioned a study, as you remember,  
5 by the people who did Harbor Place, so there was a huge  
6 sincere, serious effort to look at why that had failed for  
7 retail, and what could be done to animate it.

8 In this case, I guess you all said, well, as an  
9 alternative, you would agree to it only being office for seven  
10 years. But I haven't heard any suggestions of how you could  
11 -- I mean, this is a very successful building. You've got a  
12 waiting list. I also know this building very well. And it's  
13 in the heart of one of the most happening areas in the  
14 Washington Metropolitan area.

15 MR. METZ: But in the Bethesda Metro case, before  
16 you came on the Board, we were before this Board several times  
17 for a period of time of seven-year periods for changing from  
18 retail to office with no alternatives. It was just for  
19 timing. And that's what we're doing here. The case that you  
20 mentioned, that was for a permanent change. And there is  
21 going to be a replay coming back to you, and so forth. But  
22 before you came on the Board, there were times when we came  
23 and the Board did grant us seven years alternative.

24 MR. HOLMES: But wouldn't we really be making a  
25 permanent change if we said for seven years, and nothing

1 happens during that particular period, if we just say seven  
2 years?

3 MS. PERDUE: Right. I'm a little mystified as to  
4 seven years from now, we come back to it. I assume we will  
5 have found that the office was successful. I have every  
6 reason to think it would be. And then we would be in the  
7 posture of saying, kick out those office tenants for retail  
8 tenants, and you, I expect, will be back in front of us  
9 saying, well, we could do that, but we don't know who the  
10 tenants will be. It's been very successful as office, which  
11 I'm confident it will be filled that way. And I have a hard  
12 time imagining our saying at that point, okay, kick out the  
13 office tenants, and let's see what happens. So I view this as  
14 a decision about permanent.

15 MR. METZ: Well, there would be a lease with an  
16 office tenant of only a certain period of time. What we are  
17 saying is to give us that time. We understand the vision that  
18 the staff has for this area, and so forth, but we don't think  
19 the timing is now. We think it has to, as Mark said, it has  
20 to mature more.

21 For instance, lot 31, that is at least seven to 10  
22 years away before anything happens to that. And it's just  
23 going to take some time. And that's what we're asking, for  
24 time for this area to improve, and then we come back.

25 MR. HOLMES: What would you do in the interim, Bob?



1 Let's suppose that we said, for a certain period of time, you  
2 go into office. What would you do to make it more habitable,  
3 or more attractive for the retail during that particular  
4 period? Or would we just, as I said, we put it over there, it  
5 goes over, and at the end of seven years, yeah, we are doing  
6 great. Let it stay that way.

7 MR. METZ: Well, it would be, what we are saying is,  
8 the area would be more pedestrian friendly at that time, and  
9 then perhaps the retail would be successful, and so forth.  
10 But we would have some income during this time, rather than  
11 have an empty space where Perioli's is, and the Glass Factory  
12 that is not very successful.

13 MS. PERDUE: Why seven? Why not five? Is there  
14 something? There may be some customs in leasing. I don't  
15 know.

16 MR. METZ: Yes.

17 MS. PERDUE: Why seven years?

18 MR. VIANI: I believe it was for, that tends to be  
19 the term that's a little more attractive to office tenants,  
20 with some --

21 MS. PERDUE: And 15 is more attractive still. Is  
22 there anything other than that, that is a more attractive  
23 term?

24 MR. METZ: It would give us time, because the  
25 Perioli space is a restaurant space. So there would have to

1 be time to prepare the space for office and so forth.

2 MS. PERDUE: What kind of time line is that likely  
3 to be?

4 MR. METZ: I think the lease itself would probably  
5 be closer to five years, but it would give us time to lease it  
6 and also prepare the space.

7 MS. PERDUE: It's two years to do that?

8 MR. METZ: Sure.

9 MS. WELLINGTON: So that's one of the things, you  
10 would be tearing out the restaurant to make an office, and  
11 then in seven years we would be looking at you having to put  
12 it back in shape for a retail client.

13 MR. VIANI: Well, actually --

14 MS. WELLINGTON: That's the problem with this  
15 approach.

16 MR. VIANI: May I respond to that? They are  
17 probably going to have to remove a lot of the stuff from  
18 Perioli's to begin with. It's in fairly bad disrepair.  
19 They've had a lot of, the last management wasn't very good at  
20 maintaining the kitchen facilities, at least. There has been  
21 a lot of damage to the property itself, currently from that,  
22 some of which ended up going into the Glass Gallery. Now with  
23 the tenant in bankruptcy, they are going to have to clean out  
24 that property and repair those portions of the building  
25 anyway. The equipment that's left there has really got no

1 value other than scrap value at this point.

2 MS. HUFBAUER: I do think you are identifying a  
3 concern that we have, which is that if they do go through the  
4 conversion, make it suitable for office, I think it is very  
5 unlikely that in seven years they are going to want to go back  
6 to a restaurant or other retail user. And I guess we don't  
7 quite understand the magic of the seven years either.

8 It made sense in the Metro plaza where we were  
9 waiting for the Lorenz building to come on line. I don't know  
10 what it is. If they are waiting for lot 31, actually, there  
11 is a lot of activity going on there now. It's possible that  
12 that project will get underway in the next, within the next  
13 couple of years, I think, possibly <sup>like</sup> the HOC Metropolitan  
14 project. But there is a lot of discussion going on about  
15 building on lot 31, which will provide more residents close  
16 by, more parking close by.

17 MR. PONSFORD: Could I make just a couple other  
18 clarifying points too, that go back a ways, and cover a lot of  
19 your comments?

20 First, it appears there are a number of longstanding  
21 tenants in this immediate area, which kind of weakens the  
22 argument that this is a back water. The second point would be  
23 that I just heard on the news a few days ago that 70 to 80  
24 percent of restaurants fail in the first three years. This  
25 weakens the argument that the site caused the failure of

1 Periolis, and of the two, not four or six previous  
2 restaurants.

3 That's really all there were. I think we heard  
4 originally from the applicant that there were only two  
5 previous restaurants. It sounds like in this case, from what  
6 we just heard a moment ago, that there may be some management  
7 problems with regard to this particular restaurant.

8 Third point, no alternative amenity has been  
9 proposed. And in this case, the retail was named as an  
10 amenity. According to the staff report, the major amenity on  
11 site includes construction of a through block connection, and  
12 public open space between Hampden Lane and Elm Street. This  
13 amenity area includes a fountain, landscaping steps, and the  
14 entrance to the office building and specialty shops.

15 The 15 years that the project has been waiting for  
16 the vision of the master plan to be realized have been tough.  
17 We have to admit that the area has only come alive in the last  
18 few years. And we have to admit that because these two  
19 blocks, the streets slope on both Hampden and Elm, that much  
20 of the retail frontage which would have been available if this  
21 street had been horizontal, much of that display window area  
22 and door area are half way between an upper area and a lower  
23 level. And that's why it turns out to be blank walls. So it  
24 isn't the best retail frontage on either of those two streets,  
25 we have to admit.

1           But times have changed. The map that has all this  
2 green and blue on it is a wind shield survey done just this  
3 morning of where all the retail and restaurant activity are --  
4 on the map off the top -- is in Bethesda now. And most of  
5 that is happening just down to the south. And you can see the  
6 plaza there that's in question in bright red there. So all  
7 this stuff to the southwest of that is the current development  
8 pattern that is happening, as someone said, is the happening  
9 area.

10           At Metro Center, also, we didn't name in the  
11 reviews, didn't name the retail itself as an amenity, as we  
12 did in this particular case. So it was easier, in a sense,  
13 for us to postpone or to temporarily remove the requirement  
14 for the retail in Metro Center.

15           MS. PERDUE: Just getting to your comment, Allison,  
16 I want to, from a precedential point of view, two things  
17 concern me. One is what seems to me to be giving up a piece  
18 of the amenity without at least even a theory as to what the  
19 alternative is. And I just, I can't accept the notion that  
20 converting it to office is an amenity. I can accept the  
21 notion that retail is, because there is an expectation that  
22 there is now, there may be an element of subsidy in order to  
23 make it work. That's why it's on the amenity list, rather  
24 than what would happen anyway.

25           So it makes me uncomfortable as a general

1 proposition, not talking about this case in particular, as a  
2 general proposition to say, okay, this amenity has proved hard  
3 so just wipe it off. If the fountain turns out to be a pain  
4 in the neck to maintain, okay, well, just tear the fountain  
5 down. Take that off the list. Or if the trees are really  
6 hard to maintain, just take landscaping off the list. I'm not  
7 comfortable, as a general matter, without at least some theory  
8 as to what the --

9 MR. BRYANT: What the exchange is.

10 MS. PERDUE: -- what the exchange is. The other  
11 piece of that, as I indicated is, I think that, and it is the  
12 thing that makes it hard, that is the reason why we have to be  
13 careful about including things like retail or restaurants as  
14 amenities, that I think in fact frequently will require a  
15 subsidy. I mean, we've heard this in other projects where  
16 we've said, there has got to be a restaurant so people don't  
17 drive too far. We've had that in very different situations.  
18 We have some rate at which I can afford a restaurant, but not  
19 at the rate at which I would otherwise lease office space.  
20 And that's right, but we've said that's the amenity, then  
21 there is an element of expectation that that's a part of the  
22 package.

23 It seems to me that subsidy becomes even greater  
24 once you move into an area that has boomed, through an area  
25 that was depressed. You could find all sorts of crumby little

1 cheap stores that would move in there for crumby little cheap  
2 rents. But that's not Bethesda. So Bethesda is high office  
3 rents, because it's a very attractive place to be. And there  
4 is some rent at which a retail store could be successful, but  
5 it's probably quite different than the rent at which an  
6 office, for an office.

7 MR. HOLMES: It seems as if we are coming to the  
8 point of saying that we are not willing to turn to office  
9 space without some --

10 MR. BRYANT: Exchange.

11 MR. HOLMES: -- exchange, or some methodology  
12 saying, some proposal here that would give us an indication  
13 that we are going to try to replace the amenity, or are going  
14 to have it in a position to become retail again. And I don't  
15 see that anything has been done along that line. So, what is  
16 our pleasure here looking at the staff recommendation?

17 MS. WELLINGTON: Well, I guess, really, at this  
18 point there is no proper amenity, so we have to --

19 MR. METZ: Excuse me. If I might, if you would like  
20 us to consider that, because we really hadn't had an  
21 opportunity to talk about alternatives and exchange with  
22 staff, and so forth, let us consider that and then come back.

23 MR. BRYANT: Is that the same thing as asking for a  
24 deferral?

25 MR. HOLMES: You ask for a deferral?

1 MR. METZ: Yes.

2 MR. BRYANT: That's smart.

3 MS. WELLINGTON: I will move approval of their  
4 request for deferral. Do we need a motion?

5 MR. BRYANT: Second.

6 MR. HOLMES: All in favor?

7 (Whereupon, a chorus of ayes was heard.)

8 MR. HOLMES: Thank you.

9 MR. METZ: Thank you very much.

10 (Whereupon, at 3:45 p.m., the hearing was  
11 concluded.)

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CERTIFICATE

I certify that the foregoing is a correct transcription of the electronic sound recording of the proceedings in the above-entitled matter.

*Teresa S Hinds*

*March 7, 2001*

Teresa S. Hinds

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