

Figure 5. Binding Elements

<u>BINDING ELEMENTS:</u>
1. THE BUILDING WILL HAVE A MAXIMUM HEIGHT OF 65 FEET.
2. THE DEVELOPMENT WILL HAVE A MAXIMUM DENSITY OF 2.5 FAR.
3. THE DEVELOPMENT WILL HAVE A MAXIMUM OF 50 UNITS.
4. THE DEVELOPMENT WILL PROVIDE 12.5 % MPDUS (6 UNITS) ON SITE.
5. THE DEVELOPMENT WILL PROVIDE A MINIMUM OF 10 % PUBLIC USE SPACE
6. THE DEVELOPMENT WILL PROVIDE A MINIMUM OF 20 % ACTIVE / PASSIVE RECREATIONAL SPACE.

The applicant proposes a 71,343 square foot multi-family residential building with 48 residential units. The development plan includes six moderately priced dwelling units (12.5% of the total units) pursuant to Chapter 25A of the Montgomery County Code. The density will be approximately 74 units per acre with a total gross floor area ratio (FAR) of 2.50 on approximately .66 acres of gross tract area. This density is consistent with the Bethesda CBD Sector Plan, which recommends a maximum 2.5 FAR for the subject property.

Table 2. Development Site Area and Density

	Gross Tract Area (Area to be re-zoned)	Previous Dedication	Future Dedication	Net Lot Area	Residential Square Footage (Gross Floor Area)	FAR
Totals	28,537 sq. ft.	5,277 sq. ft.	63 sq. ft. on Montgomery Lane	23,197 sq. ft.	71,343 sq. ft.	2.50

The Development Plan project includes the required percentage of net lot area for open space (Table 3). Public use space will be provided at ground level with sidewalks. The active passive recreation spaces at the ground level include outdoor common patio areas and landscaped areas.

Table 3. Open Space

	Open Space	
	Required	Proposed for Approval
Public Use Space	2,320 sq. ft. 10% of Net Lot	2,493 sq. ft. 10.75% of Net Lot
Active & Passive Recreation	4,639 sq. ft. 20% of Net Lot	4,708 sq. ft. 20.30% of Net Lot

The proposed building is arranged in two major sections. The building will hold 48 dwelling units on six floors as shown in the application's floor plans (Attachment 2). The building will be 42 feet in height along Montgomery Lane for a depth of 98 feet, then stepping up to 6 stories in height, up to a maximum height of 65 feet as is recommended in the Sector Plan on page 39. While the proposal yields 48 total dwelling units, the development plan includes a binding element that proposes a maximum of 50 dwelling units including the location of all moderately priced dwelling units on site. The preliminary mix of units is one, two and three-bedroom units.

The proposed 2-story townhouse units fronting on Montgomery Lane will be constructed up to the west property line adjacent to Lot 28. They will have ground level entrances on the opposite side of the building facing West Lane. Above the two story units are two floors of one and two bedroom units. The fourth floor units in this section will have additional living spaces and the owners will have access to private "penthouse structures" and rooftop terraces. The property to the west of this section of the proposed building will face a long wall of approximately 138 feet in length. The second, third and fourth floors of the subject building will be recessed above a 5-foot wide terrace over the wall. The first 47 feet of the building wall does not have windows. It will be enhanced with window-like treatments. Where the building steps up to 65 feet, it will have a "mechanical penthouse" placed on the rooftop.

The project will be developed in one phase. The development plan provides 77 parking spaces (1.6 parking spaces per unit) in a two-level underground parking facility. Vehicular access is from West Lane at the north end of the property. Service access will be primarily from the same location as the garage access. These entrances are at street grade. Under the current development plan, residents can access the building by car from Montgomery Lane from a drop off area. The main entrance lobby for the residential building will be located approximately at the midpoint of the building and face West Lane. The close proximity to Metro (within 1,000 feet) will offer pedestrians easy access to the property. The applicant proposes streetscapes consistent with the recommendations of the Sector Plan along the entire property frontage of Montgomery Lane. On West Lane, the applicant proposes a modified streetscape, with a narrow 5-foot sidewalk.

2. Zoning History

a. Comprehensive Zoning

- 1) 1954 Regional District Zoning: R-60 Zone enacted and mapped.
- 2) 1958 County-wide Comprehensive Zoning: R-60 Zone re-confirmed
- 3) SMA G-20: R-60 Zone Confirmed; Adopted 10/10/1978
- 4) SMA G-711: R-60 Zone Confirmed; Adopted 10/11/1994

b. Special Exceptions

- 1) S - 2151 Private Educational Institution;
- 2) June 28, 1995S - 2152 Private Educational Institution; June 28, 1995

3. Public Facilities

The following is a summary of the public facilities proposed with this application:

a. Water and Sewer Service

- 1) The subject property will be served by public water and sewer systems, and is currently in Water Service Category W-1 and Sewer Service Category S-1.

b. Transportation Road Capacity

The applicant is proposing voluntary property dedication for Montgomery Lane in order to construct street improvements and provide right-of-way for public facilities. These public facilities must include streetscape amenities that will be consistent with the recommendations of the Sector Plan.

- 1) **Montgomery Lane:** The Sector Plan classifies Montgomery Lane as a business district street with a recommended right-of-way of 52 feet in width with 2 lanes and parking on one side (see pages 172, *Street and Highway Plan* & page 181 "*Mixed Streets*" guidelines). Montgomery Lane currently consists of two through lanes, but between West Lane and Woodmont Avenue, it is a one-way street (westward direction only). The development plan shows a pedestrian circulation network and sidewalk along Montgomery Lane. The Development Plan provides property dedication for a 52-foot right-of-way.
- 2) **West Lane:** Currently, West Lane serves the single-family dwellings and special exception commercial uses along its frontage. The street dead ends at *The Chase* development, and there is a 'hammerhead' design at its termination. It is less than 300 feet in its length. West lane is in poor condition and it is only 18 feet wide. The applicant proposed a 45-foot right-of-way (existing).

The Sector Plan does not provide specific recommendation for a right-of-way for West Lane as it does for other roads in the *Street and Highway Plan* on page 172. But the Sector Plan provides a general recommendation on page 175 that all streets, *other than those listed in Table 5.3*, "are Business District Streets."

Accordingly, technical staff recommends that the applicant implement a modified street standard for West Lane that allows for the Bethesda streetscape to be implemented and to allow for wider travel lanes than now exist.. In absence of specific direction from the sector plan, Technical staff asked the applicant to provide enough property dedication (2.5 feet) for a 50-foot right-of-way for West Lane in order to provide a streetscape that is consistent with downtown Bethesda. Such a streetscape would have a 6-foot tree panel, with 8-foot sidewalks, and some further setback of the building. The applicant has not proposed any dedication for West Lane (see Analysis). The applicant stated that the unusual configuration of the property has restricted their design options.

4. Schools

The Montgomery County Public Schools finds school capacity adequate in the Bethesda, Chevy Chase cluster, utilizing the current Growth Policy schools test (attached). The development is expected to generate five (4) elementary, three (2) middle school and three (3) high school students.

5. Preliminary Forest Conservation Plan and Stormwater Management Concept Plan

The applicant has submitted the required Preliminary Forest Conservation Plan. Technical staff has not identified any major issues with their plan.

A Stormwater Management Concept Plan has not yet been approved by DPS. Technical staff has not identified any major Stormwater management issues that will affect the proposal. The applicant will be required to submit a Stormwater Management Concept Plan to address channel protection, water quality and recharge at the time of Preliminary Plan.

6. Public Participation

The applicant has included adjacent property owners in discussions and revised the development to reflect some of the comments provided by the community. Technical staff is aware that property owners located west of the subject property are opposed to the subject development plan because of setback concerns. Specifically, the concerned parties are owners of Lots 28, P29 and P30, who are the recipients of an approved, but as of yet undeveloped, development plan (LMA G-779) (see figure 2 on page 3). Currently, there is not much distance between the existing building on Lot 27 and the building on Lot 28 (approximately 11 feet). The proposed building will shorten this distance between buildings to about 6 feet. The adjoining neighbors recommended a solution to this setback issue to the applicant (turn the 4-story units around to face the west). The applicant did not accept this solution.

ANALYSIS

The subject Development Plan will be compatible with the surrounding existing multi-family residential development, and the approved development, and it satisfies the requirements of the Montgomery County Code, and specifically those Sections of the Code in the Zoning Ordinance Division 59-C-8. "Transit Station Development Area Zones". The proposed Development Plan conforms to the Sector Plan's land use, density, zoning and urban design objectives (except for streetscape recommendations on West Lane), and it will result in a residential building that is consistent with the land use recommendations of the Sector Plan. The 1994 Bethesda CBD Sector Plan recommends and encourages a wide variety of housing types and neighborhoods with an adequate supply of affordable housing units (page 3). Several properties, including the subject property, are specifically referenced in the Sector Plan as having "redevelopment potential" (see graphic on page 24). The Sector Plan encourages affordable

housing on the properties, and the Development Plan provides housing with an affordable component.

However, the application is not in the public interest. The development plan will initiate a dedication of private property for the development of Montgomery Lane, but it will not initiate a dedication of private property for the development of West Lane.

1. Compatibility

Technical staff believes that the proposed development, including the building and proposed building heights, will be compatible with the surrounding land uses. The application preserves light and air for existing and future development. It provides publicly oriented open space (see Sector Plan page 82) and the building height along Montgomery Lane is compatible with the existing townhouses across Montgomery Lane and adjacent development such as the townhouses to the north and the adjacent buildings, which include a mix of single family uses and special exceptions commercial uses.

The building will be 42 feet in height along Montgomery Lane for a depth of 98 feet. In this section it will be 4 stories in height and will contain four 2-story-townhouses, above which are 2 floors of condominiums. The townhouse units will have ground level entrances on the east side of the building. The second major building component will be 5- 6 stories and 65 feet in height. This portion of the building will have a "mechanical penthouse" placed on the rooftop (Attachment 2). The building height proposed is at the upper limit of the "Building Height Limits" recommendation of the Sector Plan (page 39). In the TS-R Zone, the maximum height permitted for any building is ultimately determined during the process of site plan review by the Planning Board. In this case, the applicant offers to limit the building to a height up to 65 feet.

The Board must include three main factors to review when determining appropriate building heights pursuant to Section 59-C-8.5, and any "other factors relevant to height of the building." These factors are the preservation of light and air, the relationship of the building to other surrounding uses, and the size of the lot or parcel (the property). These factors are the basis for determining whether or not the proposed building is compatible with the surrounding uses.

The main compatibility consideration is with the townhouses to the north of the subject property, while other compatibility considerations should be given to the remaining adjacent development. Shading studies indicate that the adjacent development will only be minimally affected by the proposal (Attachment 4). The height of the proposed building is higher than that of the townhouses to the north and higher than the existing adjacent single-family dwellings. However, the building height proposed by the applicant height is consistent with the height limits set forth in the Sector Plan, and the plan will provide sufficient distance between the proposed building and adjacent development.

a. Adjacent and Nearby Properties

- 1) To the north are the 22 townhouses of the *Villages of Bethesda* (G-720). These three-story townhouses are developed at an approximate height of 50 feet at the

roofline. The Lot 5 townhouse, which is part of Villages of Bethesda, is the most affected townhouse because it is built on the property line adjacent to the subject property. During site plan development, the applicant addressed some compatibility issues with representatives of the townhouses by revising the Development Plan's open space patio area and by committing to adding more windows and new architectural features on the north side of the building. The adjacent property owners were concerned about the removal of trees on the subject property and the interference with light and air that the proposed building might create. A building shadow study was provided by the applicant. The shading study shows that the placement and arrangement of the building components will allow light and air between the proposed building and existing buildings. The outdoor patio area will be landscaped and will provide amenities for the residents of the proposed building. Other compatibility issues, such as the setback of the building and the proximity of future rooftop components, have moved the applicant to design an improved building façade.

- 2) The owners of three adjacent properties to the west of the subject property at 7415 and 7411 Arlington Road, and 4905 Montgomery Lane, are the subject of an approved, yet undeveloped plan (G-779). In staff's opinion, the subject Development Plan will not negatively affect these adjacent properties. The subject proposal is for a condominium building to be built on the western property line, which will be very close to the existing single-family dwellings at 7415 Arlington Road (a special exception use) and 4905 Montgomery Lane (a single family use on Lot 28). In staff's opinion, while the development plan will be very close to existing adjacent buildings, the proposed development plan will not interfere with use of the adjacent property and will not interfere with the coordinated, harmonious and systematic development of the area within proposed zones.
- 3) The owners of 4828 West Lane on Lot 22, located at the east of the subject property and separated by West Lane, are concerned about the garage entrance and loading dock that would be accessed from West Lane. They recommend moving this entrance to Montgomery Lane. In fairness to the residents, technical staff considered this issue and recommended to the applicant that the vehicle entrance be moved to Montgomery Lane or a more central location on West Lane. Staff's main concerns are the conflicts that might occur between traffic entering the garage and traffic using the street. West Lane is in poor condition and it is only 18 feet wide. The applicant proposed a 45-foot wide right-of-way. Technical staff is of the opinion that a 50-foot wide right-of-way is needed in order to accommodate an adequate streetscape and travel lanes (see analysis of the development plan).
- 4) The owners of 4828 West Lane are also concerned about parking on West Lane and the building setback on West lane. On-street parking on West Lane is not proposed with this application. Regarding the concern about the building setback, the applicant is not bound by any setback requirements of the Zone. Technical staff is of the opinion that the building envelope proposed by the applicant will be

consistent with nearby urban development if the full 50-foot right-of-way is provided by the applicant.

Further, the owners of 4828 West Lane believe that the proposed east building façade is not broken up enough and includes projections that they believe will not be compatible. Technical staff has the responsibility to review and recommend changes to specific building features at site plan, which are not binding to the applicant at the time of zoning. The applicant does not propose binding elements that would regulate the façade of the building. Technical staff believes that these issues can be thoroughly addressed by the applicant at site plan. Technical staff believes that the proposed development plan, including the building and proposed building heights, will be compatible with the surrounding land uses.

2. Sector Plan Recommendations for Land Use & Density and Zoning Ordinance Requirements

The proposal includes a residential building that is consistent with the land use recommendations of the Sector Plan. The preferred land use for the area, as specified in the Sector Plan (Page 82), is a “low-rise, high-density “Urban Village.” The Sector Plan recommends minimum residential density of 45 units per acre for residential development in the Transit Station Residential District (Pages 56; 80-86), of which the subject property is part. This land is recommended for the TS-R zone (page 81). As a first step, the Development Plan satisfies the “Development standards” for the TS-R Zone pursuant to Section 59-C-8.4, including the 18,000 square foot minimum area requirement of 59-C-8.41, the “Density of Development” requirements of 59-C-8.42, and the “Open Space” requirements of 59-C-8.43. The maximum permitted in the TS-R Zone is 150 dwelling units per acre. The applicant proposes a density of 81.5 units per acre. The Zoning Ordinance allows residential density up to 2.5 FAR in the TS-R Zone with additional density allowed exclusively for the provision of MPDUs in accordance with Chapter 25A and pursuant to Sections 59-C-8.42 and pursuant to Section 59-D-1.61. The applicant does not seek additional density. The residential density proposed is 2.5 FAR.

3. Requirements of the TS-R Zone

The zoning requirements of the transit station zones are found in Division 59-C-8 of the Zoning Ordinance. The relevant provisions are evaluated in the following paragraphs.

Section 59-C-8.2. Intent, Purposes and General Requirements

59-C-8.21. Intent. *The TS-R and TS-M zones are intended to be used as follows:*

- a. Both the TS-R and TS-M zones are intended to be used in transit station development areas as defined in section 59-A-2.1, and the TS-R zone may also be used in areas adjacent to central business districts, within 1,500 feet of a metro transit station.*
- b. The TS-R zone is intended for locations where multiple-family residential development already exists or where such development is recommended by an approved and adopted master plan.*

- c. *The TS-M zone is intended for locations where substantial commercial or office uses already exist or where such uses are recommended by an approved and adopted master plan.*
- d. *In order to facilitate and encourage innovative and creative design and the development of the most compatible and desirable pattern of land uses, some of the specific restrictions which regulate, in some other zoning categories, the height, bulk and arrangement of buildings and the location of the various land uses are eliminated and the requirement substituted that all development be in accordance with a plan of development meeting the requirements of this division.*

Analysis: The proposed zone and Development Plan proposal meet the intent of the TS-R zone. The subject properties are specifically recommended for the TS-R Zone in the Sector Plan (Page 81). The property is within 1,000 feet of the Bethesda Metro rail station and is near a substantial amount of existing residential development that includes a mix of townhouses and apartments. Commercial and office development exists in the Central Business District, east of the subject property.

Section 59-C-8.22 Purpose of the TS-R Zone

- a) *To promote the effective use of the transit station development areas and access thereto;*
- b) *To provide residential uses and certain compatible non-residential uses within walking distance of the transit stations;*
- c) *To provide a range of densities that will afford planning choices to match the diverse characteristics of the several transit station development areas within the county; and*
- d) *To provide the maximum amount of freedom possible in the design of buildings and their grouping and layout within the areas classified in this zone; to stimulate the coordinated, harmonious and systematic development of the area within the zone, the area surrounding the zone and the regional district as a whole; to prevent detrimental effects to the use or development of adjacent properties or the surrounding neighborhood; to provide housing for persons of all economic levels; and to promote the health, safety, morals and welfare of the present and future inhabitants of the regional district and the county as a whole.*

Analysis: The density and residential land use in the Development Plan is consistent with the recommendations of the Sector Plan and will stimulate the coordinated, harmonious and systematic development of the area within the proposed zone, the area surrounding the proposed zone and the regional district as a whole. The development is transit-oriented and it will promote walking and general health for future residents because it is near the Central Business District of Bethesda and within 1000 feet of the Bethesda Metro transit station. The building will incorporate architectural design features and building elements to enhance its compatibility with the existing buildings in the surrounding neighborhood.

Section 59-C-8.24. Location - *These zones are permitted only in the transit station development areas described in section 59-A-2.1 and in accordance with an approved and adopted master*

plan or sector plan, except in areas adjacent to central business districts as set forth in section 59-C-8.21(a).

Analysis: The proposed Development is located within 1000 feet of the nearest Metro station. The Sector Plan specifically recommends the TS-R Zone for this property and for adjacent properties.

Section 59-C-8.25. Public Facilities and Amenities - A development must conform substantially to the facilities and amenities recommended by the approved and adopted master or sector plan, including and granting such easements or making such dedications to the public as may be shown thereon or are deemed necessary by the Planning Board to provide for safe and efficient circulation, adequate public open space and recreation, and insure compatibility of the development with the surrounding area, and assure the ability of the area to accommodate the uses proposed by the application

Analysis: The application and Development Plan is not in the public interest because it does not substantially conform to the recommendations in the Sector Plan for dedications for public streets. Dedication is needed for West Lane for road width, streetscape improvements and proper building setback, but this dedication of land is not provided by the applicant (See analysis of Section 59-D-1.61. on page 16-17).

The applicant is dedicating land for Montgomery Lane, which is needed to establish a full public right-of-way of 52 feet. The dedication will facilitate the establishment of new public facilities and sidewalks to promote safe and efficient circulation. The dedication will allow streetscape sidewalks recommended in the Sector Plan to be developed (Page 187) in order to provide for the “greening” of Bethesda and to encourage walking and assure the ability of the area to accommodate the uses proposed in the application.

Section 59-C-8.3. Land Uses - No use is allowed except as indicated in the use table:

Analysis: The proposed residential dwellings are permitted in the TS-R Zone.

Section 59-C-8.4. Development Standards - The proposal will satisfy the development standards and regulations of the TS-R Zone as outlined in the table below and on the subject development plan. Public use space and active and passive recreational space requirements may be met by providing the required space as a percentage of the net area included within the development plan.

Analysis: The development plans include the required percentage of open space to be provided on multiple terraces, courtyards, sidewalks and small open spaces.

Table 4. TS-R Zone Development Standards

	Required/ Allowed	Requested Property
59-C-8.41. Minimum Area Minimum area required for any development	18,000 sq. ft.	28,537 sq. ft. Gross Tract
59-C-8.42. Density of Development a) Floor Area Ratio (Residential) b) Dwelling units per acre (gross tract area)	2.50 150	2.50 74
59-C-8.43. Open Space (a) Minimum percentage of net area devoted to public use space:	10% (2,320 sq. ft.)	10% (2,326 sq. ft.)
(b) Minimum percentage of net area devoted to active and passive recreational purposes:	20% (4,639 sq. ft.)	20% (4,668 sq. ft.)
Total minimum open space requirement (percent):	30% (6,959 sq. ft.)	30.33% (7,041 sq. ft.)

*Pursuant to 59-D-1.6.

59-C-5.82. Off-Street Parking - Parking shall be located as to have a minimal impact

Analysis: A 77 space parking facility will be located under the building. The parking garage on the property and will not impact adjoining properties. Access for parking is located along West Lane and will have a minimal impact on the area. A 24-foot wide driveway will be required to provide safe and adequate access to the parking garage.

4. Adequacy of the Development Plans

Section 59-D-1.61. Approval by the District Council - Before approving an application for classification in any of these zones, the district council must consider whether the application, including the development plan, fulfills the purposes and requirements set forth in article 59-C for the zone. In so doing, the district council must make the following specific findings, in addition to any other findings that may be necessary and appropriate to the evaluation of the proposed reclassification:

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

Analysis: There is no conflict with General Plan. The Development Plan application is in substantial compliance with the use and density recommendation in the Sector Plan. The application includes the provision of moderately priced dwelling units on site and conforms to the County Council's policy of providing a range of housing opportunities in Metro station areas as described in the document Housing Montgomery. The applicant is dedicating property for Montgomery Lane to meet the specific Sector Plan recommendation of 52 feet of right-of-way (Page 82). The applicant will enhance the streets with streetscape amenities consistent with the urban streetscape in the Transit Station Residential District specified in the Sector plan in downtown Bethesda.

The applicant is not in substantial compliance with the Sector Plan recommendation for the West Lane right-of-way, which is 60 feet for West Lane. Staff recommended a right-of-way of 50 feet for West Lane. The current cross section width of 45 feet is insufficient to include tree panels, sidewalks and adequate travel lanes. Technical Staff is of the opinion that West Lane, even though it dead ends, is a downtown street with connection to Montgomery Lane and therefore it should be held to a similar streetscape standard as other streets in downtown Bethesda. The applicant has not offered to dedicate the approximately 2.5 feet of additional land to meet the technical staff recommended *compromise* between the Sector Plan recommendation and what staff believes is adequate and sufficient dedication for West lane. A 50-foot right-of-way, which technical staff sees as a compromise between the Sector Plan recommendation of 60 feet (a business street pursuant to Section 49-34), and the applicant proposal of 45 feet, will allocate enough space for an adequate streetscape to be constructed on West Lane, similar to Montgomery Lane. To staff's knowledge, there is no direct conflict between the application and the current County's capital improvements program, because West Lane is not currently scheduled for a County DPWT Facility Planning Study or CIP improvement project. However, future development will impact this roadway. Staff is of the opinion that a street with a minimum right-of-way of 50 feet (similar to Montgomery Lane) is needed to provide enough space at the time of site plan for sufficient travel lanes, curb and gutter, 6-foot tree panels (per DPWT) and sufficiently wide sidewalks.

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

Analysis: The application and proposed Development Plan satisfy the purposes and standards of the TS-R Zone as set forth in Section 59-C of the Zoning Ordinance. The development will be compatible with the adjacent developments. The location of the buildings and public use space will provide new pedestrian connections, amenities, and circulation for maximum convenience of the residents. Circulation would be further enhanced if West Lane was improved to a minimum of 50 feet of right-of-way.

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

Analysis: All parking is to be located within the building. Primary and service vehicular access to the property is from West Lane. All entrances are located along West Lane in

such a way that they will provide for the safe and adequate movement of pedestrians and vehicular traffic. The applicant will provide sidewalks and crosswalks for pedestrian safety. However, the technical staff recommended right-of-way of 50 feet is needed in order for the proposed external access to provide for the maximum adequacy of pedestrian movement.

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

Analysis: The topography is such that it slopes upward from the southwest to the northeast side of the property. Proposed stormwater management is to be located in an underground structural filtering device and will be reviewed during preliminary plan approval. The applicant at site plan will meet the County forest conservation requirements.

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

Draft association documents for the Development Plan have not been included in the application to provide for the future maintenance of all areas of the project. This is proposed condominium.

5. Transportation

a. Public Facilities

Analysis: The development plan conforms with the recommended right-of-way for Montgomery Lane in the Sector Plan, which is 52 feet (Page 82). In terms of Montgomery Lane, it is in compliance with the Sector Plan's objective to ensure a pedestrian-friendly environment (Pages 198-99). The Development Plan will provide sufficient road right-of-way for sidewalks, street trees and other "Level Four" streetscape amenities as specified in the Streetscape Plan (Pages 262-63).

The development plan will interfere with technical staff's recommended right-of-way for West Lane (50 feet).

6. Environment

a. Forest Conservation

Analysis: The applicant provided a preliminary forest conservation plan that is acceptable to technical staff. There are no existing forested areas on the property.

b. Stormwater

Analysis: A Stormwater Management Concept Plan for the Development Plan has not been approved by DPS. The applicant will be required to submit a Stormwater Management Concept Plan at the time of Preliminary Plan, which is required to consolidate the properties. There are no known stormwater management access or location issues.

7. Schools

Analysis: The development is expected to generate four (4) elementary, two(2) middle school and three (3) high school students. The Montgomery County Public Schools finds school capacity adequate in the Bethesda, Chevy Chase cluster, utilizing the current Growth Policy schools test.

CONCLUSION

Staff finds that the proposed local map amendment and Development Plan (G-843) is in substantial compliance with the land use and zoning recommendations of the Bethesda CBD Sector Plan; is in compliance with the purposes, standards and regulations of the TS-R Zone; and it will be compatible with the surrounding uses. The plan satisfies all of the stated general regulations, development standards and specific requirements of the Zone. However, technical staff is of the opinion that the reclassification is not in the public interest because it does not provide sufficient dedication of right-of-way for West Lane, as is recommended by technical staff. Therefore, staff is recommending that the Board recommend DENIAL of the subject application for the TS-R Zone, unless the applicant provides the technical staff recommended right-of-way for West Lane, which is 50 feet.

Attachments:

- A.** Transportation Division Technical Staff Report
Montgomery County Public Schools Letter

- B.** Relevant Information
 - 1. Development Plan
 - 2. Landscape Plan
 - 3. Context Elevations
 - 4. Shading Study