

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

**MCPB**  
**Item #**  
**Date: 02/28/08**

MEMORANDUM

**DATE:** February 15, 2008

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief, Development Review Division *RK*  
 Ralph Wilson, Zoning Supervisor, Development Review Division *→ RW*

**FROM:** Elsabett Tesfaye, Planner Coordinator (301) 495-1301 *ET*

**SUBJECT:** Local Map Amendment No. G-865 "Edgemoor at Arlington North", request for reclassification of 8,342 square feet of land from the R-60 Zone to the TS-R Zone for property known as Part of Lot 31, Block 13, Edgemoor, located at 7425 Arlington Road, Bethesda.

Development Plan Amendment No. 07-3 "Edgemoor at Arlington North" request for an amendment to an approved Local Map amendment No. G-779, 28, 443 square feet of land, zoned TS-R, located at the north east corner of the intersection of Arlington Road and Montgomery Lane, Bethesda.

**FILING DATE:** May 29, 2007  
**PLANNING BOARD HEARING** February 28, 2008  
**PUBLIC HEARING:** March 5, 2008

Staff Recommendation:

**Approval** of reclassification from the R-60 to TS-R (G-865) and the Amended Development Plan(DPA-07-3).

**Rationale**

As specified in §59-C-8.21 and §59-C-8.22, the intent and purpose of the TS-R Zone require that the zone be located in areas where multi-family residential development is recommended by the Sector Plan and where it will encourage use of transit stations. The proposed development

is both recommended for the TS-R Zone by the Sector Plan and is within walking distance (approximately 1,200 feet) of the Bethesda Metro Station.

The proposed development under G-865 and the amended Development Plan Comply with the required Development standards of the TS-R Zone. §59-C-8.41 requires a minimum lot area of 18,000 and the subject property exceeds this requirement. The proposed density of 1.8 FAR is well within the required 2.5 FAR limit. The development meets the open space requirements by providing the prescribed percentage of public open space and active and passive recreational areas. The proposed underground garage parking with 50 spaces meets the parking requirements for the TS-R Zone and the requirements under §59-E-3.7.

The design and layout of the proposed development, including the height and bulk of the building, are consistent with the recommendations of the sector plan and include amenities that will minimize any adverse impact on adjacent properties. As noted by the Community Based Planning staff, the Sector Plan rationale for “townhouse” style and scale of development along Arlington Road was based on a desire to retain a residential scale in this transitional urban area. The proposed height of 48 feet combined with the 15 feet set-back from the ultimate right-of-way of Arlington Road is consistent with the 47 feet maximum height and 15 feet setback that was approved by the council in 2001 (G-779).

As shown in the Development Plan, vehicular and pedestrian access will be safe, adequate and efficient. Pedestrian circulation is promoted by streetscape along Arlington Road and Montgomery Lane.

The proposed Development Plan (revised January 29, 2008) includes the following textual binding elements:

- 1. Land use is limited to multi-family residences.**
- 2. Maximum number of units is 31.**
- 3. Minimum building setback from Arlington Road is 15 feet for the first 3 floors. Remaining levels will be set back an additional minimum of 10 feet each.**
- 4. Maximum building height along Arlington Road is 35 feet for the first 3 floors. Total building height (excluding mechanical appurtenances) not to exceed 48 feet as measured from plaza level.**
- 5. Minimum building setback from north property line is 15 feet.**
- 6. All other elements of the DPA are considered illustrative**

## DEVELOPMENT DATA SUMMARY

<b>Location and Identification</b>	7425 Arlington Road, Bethesda, MD. Lot 28, Part of Lot 29, Part of Lot 30, and Part of Lot 31, Block 13, Edgemoor Subdivision.
<b>Site Size</b>	.84 acres (38,079 SF)
<b>Current Zone and Use:</b>	TS-R/ R-60 single-family residential
<b>Applicant</b>	Armont Development Corp, LLC
<b>Master Plan</b>	1994 Bethesda CBD Sector Plan
<b>Proposed Zone and Use</b>	TS-R Zone for a proposed construction of a 68,542 square-foot, multi-family residential building. The project include a maximum number of 31, one, two and three bedroom units, an underground parking garage with 50 spaces and a roof top recreational space.
<b>Height</b>	48 FT max
<b>Density</b> (a) Floor Area Ratio (FAR) (b) Dwelling Unit per ac.	1.8 (68,500 SF)* 36 DU/AC MAX (31 DU.)—Proposed
<b>Open Space</b> • Public use space • Active and passive recreation	10% min (2,674 SF) 20% min (5,348 SF)
<b>MPDUs</b>	12.5%
<b>Parking spaces</b>	50 underground spaces

\*The 68,000 SF figure depicted on the site plan is erroneous. The conversion of 1.8 FAR to square footage comes to 68,542 SF.

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## EXHIBITS

EXHIBIT-1: "DRAFT Amended Textual Element"

EXHIBIT-2: SHADOW STUDY (-SIMULATION VIDEO, IN FILE)

## ATTACHMENTS:

- i. Aerial
- ii. Plans and Drawings
- iii. Referral comments
- iv. Letters from the Community



**I. STATEMENT OF THE CASE**

On February 27, 2001 the Montgomery County Council granted Application No. G-779, a request for reclassification from the R-60 zone to the TS-R zone of 20,100 square feet of land known as Lot 28, Part of Lot 29 and Part of Lot 30, Block 13, Edgemoor Subdivision,



located at the northeast quadrant of the intersection of Arlington Road and Montgomery Lane, in Bethesda. The approved Development Plan for Application No. G 779 proposed a FAR of 1.2 with 12 dwelling units, 9,100 square feet of office space and an underground parking garage parking with 38 parking spaces. The development plan was never implemented.

In the current application, the applicant is proposing to amend the approved development plan to include the adjacent property (Part of Lot 31) with a combined total gross tract area (Lot 28, Part of 29, Part of 30 and Part of Lot 31) of

38,079 square feet. Part of Lot 31 consists of 9, 812 square feet of gross tract area and is currently zoned R-60. The applicant is requesting reclassification of the R-60 zone to the TS-R zone for Part of Lot 31, and approval of a Development Plan Amendment to include the additional land area. A new Development Plan has been submitted for the combined site.

**Table 1—Development Data On Previous And Current Applications**

Applications	Use	Land Area (Gross)	Height	Gross Floor Area	FAR	Number Of Units	Garage Spaces	Total Open Space
G-779 (granted 2001)	Residential /Office	28, 267 SF	47 ft	34,900 (9,000 SF Office Space)	1.2	12 (16 if the Office space changed to Residential)	38	39%
G-865/DPA-07-3 (Proposed)	Residential	38,079 SF	48 ft	64,599	1.8	31 (max)	50	30%

## II. DESCRIPTION OF PROPERTY

The subject property is located at the northeast quadrant of the intersection of Arlington Road and Montgomery Lane, approximately 1,200 feet southwest of the Bethesda Metro Station. The property is identified as Lot 28, Part of Lot 29, Part of Lot 30 and Part of Lot 31, Block 13, Edgemoor Subdivision. The property consists of 38,079 square feet of land and has approximately 227 feet of frontage on Arlington Road and approximately 112 feet of frontage on Montgomery Lane.



## III. PLANNING AND ZONING HISTORY

The site was placed in the R-60 Zone when the R-60 Zone was enacted and mapped in the 1954 Regional District Zoning. The 1958 County-Wide Comprehensive Zoning confirmed the R-60 Zoning of the site.

The subject property is located in the Bethesda Central Business District within the Transit Station Residential District plan area. Both the 1977 (G-20) and the 1994 Bethesda Sectional Map Amendments (SMA) retained the subject site in the R-60 Zone.

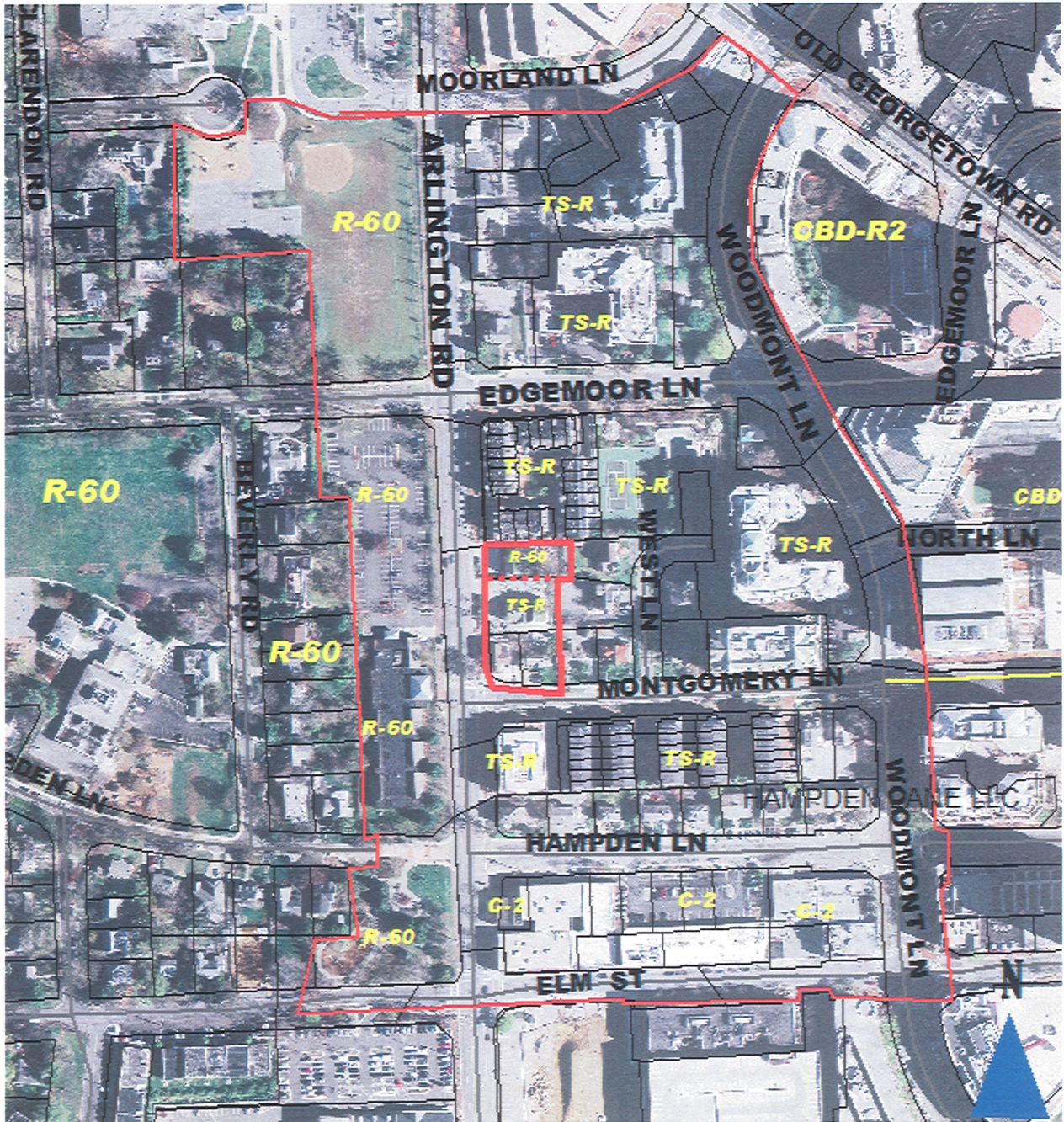
The 1994 Bethesda CBD Sector Plan reinforced the 1977 Sector Plan recommendation for the R-60 base zone for the property with a recommendation for development under



the TS-R Zone. In 2001, with the adoption of LMA-G-779, Lot 28, Lots PT 29 and PT 30 were reclassified from R-60 to the TS-R Zone.

The portion of the property that is currently zoned R-60 (Lot 31) has been housing medical practitioners' offices, and non-resident professional offices that were approved through the years by special exceptions (S-563,S-618).

#### IV. SURROUNDING AREA



The neighborhood is generally defined by the following boundaries:

North	Moorland Lane
East	Woodmont Avenue
South	Elm Street
West	Properties fronting along the west side of Arlington Road

These boundaries are consistent with the boundaries accepted by the District Council in its review of various applications in the immediate area including G-721, G-755, G-763, G-769, G-778 and G-779.

The neighborhood is characterized by a mixture of residential (high-rise, townhouses, single-family homes), institutional (public library, local park, elementary school) and retail and office uses (residential homes converted to office uses by special exceptions) in the TS-R, R-60, R-10, and C-2 zones

To the north, the subject property abuts the "Village of Bethesda" (VOB), a townhouse development approved in G-720. To the east, the property borders a development site which was recently reclassified to a TS-R Zone (G-843 Holladay at Edgemoor) for multi-family residential development. To the south, across Montgomery Lane, is located a multi-family residential building in the TS-R Zone (G-778) and to the west, across Arlington Road, is located the Bethesda Public Library and its parking lot.

## **V. PROPOSED DEVELOPMENT**

The applicant requests the TS-R Zone for a portion of the subject property and amendment of the approved development plan for the remaining portion of the property which was reclassified to the TS-R in 2001 (G-779). The proposal combines the currently R-60 zoned Lot 31 and the TS-R zoned portion of the property (Lots Pt 29, Lot Pt 30 and Lot 29) for a single, multi-family residential development.

The applicant has submitted a development plan for the entire property pursuant to §59-D-1.1. The plan proposes a 68,500 square foot multi-family building with a maximum 31 residential units, an underground garage with 50 spaces, and a roof top terrace. The development plan also provides the required total open space of 30% (10% public use and 20% active and passive recreation space), streetscape and landscape. The underground garage will have 50 parking spaces and is accessed from Montgomery Lane (southeast corner). There is no vehicular access to the property from Arlington Road (west).

The applicant proposes a floor area ratio of 1.8 and a maximum height of 48 feet. The three-story (35-foot high) portion of the building will be set back fifteen feet from the future right-of-way line along Arlington Road (after the additional dedication of right-of-way). This stepped-back treatment provides the three story massing effect



recommended in the Sector Plan with a graduated transition to the higher existing and future structures closer to the CBD core.

The applicant's development plan indicates that the proposed project will be constructed in one phase. The plan also indicates that the proposed development is not dependent on any Capital Improvements being provided by the county.

## **VI. MASTER PLAN**

The Community-Based Planning staff supports approval of the rezoning request. Upon reviewing the proposal for Master Plan consistency, the Community Based Planning staff has offered the following comments:

### **Master Plan Guidance**

This property is in the Transit Station Residential District of the Bethesda CBD Sector Plan (discussed beginning on page 80). This area is between Arlington Road and Woodmont Avenue, bordered on the north and south by Mooreland Lane and Hampden Lane. The Plan describes the area as a mix of high-rise residential buildings and residual single-family houses (usually in use as offices). The stated objectives for this District include:

1. Provide incentives for and remove barriers to high-density housing in the TS-R District.
2. Increase flexibility in the TS-R Zone to allow the district to achieve a low-rise, high-density "urban village" pattern.
3. Retain residential scale along Arlington Road.

The Plan further states the addition of high-density housing as an important objective, supporting added flexibility for development in the TS-R Zone. The concept is described as a seemingly contradictory "low-rise, high-density urban village." In practice the Plan supports a type of housing that appears to be townhouses, but is actually a three to six floor residential buildings. The stated preference of "high" density is – in the larger sense – moderate density in comparison to the densities and heights allowed in the CBD Zones located nearby. This is reflected in the zoning approvals of other buildings in the area.

The Urban Design guidelines in the Plan include the following elements pertinent to this proposal:

1. Maintain low-rise building heights which step down to three floors along Arlington Road. Heights of up to six floors are preferred near Woodmont Avenue to achieve the desired urban form.

2. Provide 25-foot building setbacks from the curb (15 feet from the Sector Plan right-of-way) along Arlington Road.
3. Design roof tops to achieve a residential image. The varied roof line is desirable to improve character and reduce the sense of bulk.
4. Locate required parking either underground or in rear decks, so as not to be seen from surrounding streets.

### **Master Plan Compliance**

The approval of the TS-R Zone for a portion of this site in 2001 (G-779) and the rezoning in 2000 of a similar building by the same developer (G-778) at the southeast corner of Arlington Road and Montgomery Lane are instructive regarding interpretation of the Sector Plan recommendations. Both of these rezoning applications were found to be in compliance with the Sector Plan.

Case G-778 proposed a 12 unit residential building with a height of 33 feet for the Arlington Road façade, set back 15 feet from the Arlington Road right-of-way. The height then increases to 46 feet at a penthouse level that is set back 10 feet from the Arlington Road façade. Case G-779 approved a year later, approved a similar building, also a 12 unit residential building with a height of 33 feet for the Arlington Road building façade, also set back 15 feet from the Arlington Road right-of-way, and with an increase to 47 feet at the penthouse level that is set back 10 feet from the Arlington Road façade. In both instances, the height of the building was established as a result of the architectural style and the need to adjust the height of the structure to the transitioning elevation of Arlington Road which rises to the north.

In the current case, the applicant has expanded the size of the site to include the lot (Lot 31) to the north, and proposed a larger building of 31 residential units. The height along the Arlington Road façade would remain 33 feet, but the maximum height would be up to 48 feet tall. The roof level will contain HVAC and other equipment, and a recreational terrace for use by residents.

The staff supports the rezoning, as it conforms to the recommendations of the Sector Plan. The staff notes that design modifications may be necessary for the façades that face the City Homes townhome development and Montgomery Lane. The staff supports the overall design and the landscaped rooftop terrace for use by residents, although details of privacy screening from the City Homes need to be addressed at site plan.

The staff also supports improved signalization of the pedestrian crosswalk at Arlington Road and Montgomery Lane at the library (as recommended in the Sector Plan). Area residents have found that vehicles cannot be relied on to stop for pedestrians, despite a painted crosswalk. An all way stop, a blinking red light,

or a full signal, and a crosswalk that is more textured would improve safety at this location.

Overall, the staff finds that the proposed rezoning, with the modifications recommended for the development plan, will comply with the land use and zoning recommendations of the Sector Plan. The proposed development will provide required amenities – public use space, landscaping, and streetscape, consistent with the design recommendations of the Sector Plan. The proposed setbacks from Arlington Road, the location of building entrances, and the use of underground parking are also consistent with those recommendations. The street oriented design will encourage pedestrian use of the streets, vehicle access is adequate, and pedestrian circulation is further supported by streetscape along Arlington Road and Montgomery Lane.

A summary of issues to be addressed at site plan review include:

1. Limit height to 48 feet.
2. Refine design of the “ends” of the building facing City Homes and Montgomery Lane.
3. Refine design of the public use space, providing a space that the public can easily discern is available for their use. This should include steps if necessary, access from the north end of the site, and public seating on the terrace.
4. The rooftop recreational space for use by residents should include some form of “green” privacy screening at the location nearest City Homes.
5. Streetscape amenities must be comparable to what was approved for other TS-R development on Arlington Road and Montgomery Lane, and consistent with the Montgomery Lane Streetscape Guidelines.

## **VII. TRANSIT STATION DEVELOPMENT AREA (TS-R) ZONE—§59-C-8**

### **1. Intent—§59-C-8.21**

- (a) **The TS-R Zone is intended to be used in a Transit Station Development Area as defined in §59-A-2.1. However, the TS-R zone may also be used in an area adjacent to a Central Business District, within 1,500 feet of a metro transit station..**

This property is in the Transit Station Residential District of the Bethesda CBD Sector Plan. The property is located within 1,200 feet of the Bethesda Metro Station. A portion of the property has already been rezoned from R-60 to TS-R in 2001 (G-779) and the remaining portion

(Part of Lot 31), which is currently zoned R-60, is recommended for the TS-R Zone by the Sector Plan.

- (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.**

The area is developed with a mixture of high and mid-rise residential buildings, three-story townhomes and a few single-family homes that have been converted to office uses by special exceptions.

- (c) 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.**

All development will be in accordance with the plan of development meeting the requirements of The TS-R Zone.

The proposed development complies with the required development standards of the TS-R Zone as specified in §59-C-8.4. The latest revised plan proposes a maximum height of 48 feet. The proposed building is designed with a 15-foot setback from the Arlington Road right-of-way and 35 feet of height on its façade along the Road, stepping up to 48 feet of height at the penthouse level that is set back 10 feet from the building façade in compliance with the Sector Plan's specific recommendation for developments along Arlington Road for a low-rise, residential scale development. The proposed maximum 48 feet of building height is also very similar with the building height approved by the County Council (G-779) in 2001 for a proposed development on a portion of the subject site.

Adequate on-site parking is provided for the proposed development in an underground garage.

## **2. Purposes of the TS-R Zone—§59-C-8.22**

- (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.

The proposed development is consistent with the land use and zoning recommendation of the Sector Plan. The area contains high and mid rise developments and townhouses in the TS-R Zone. The proposal represents an expanded version of an already approved Development Plan in Application No. G-779. In 2001, the Council found that the design layout proposed in G-779 conforms to the height and bulk recommendation of the Sector Plan.

As it is the case with G-779, the current proposal, with FAR of 1.8, is well within the established density limit of 2.5 FAR. Moreover, the proposed maximum number of units (31) is well within the density limit of 150 dwelling units per acre. The currently proposed maximum height with additional setback from Arlington Road is similar to the 47 feet maximum height that the Council found to be acceptable in G-779 for a development proposed for a portion of the subject site.

Adequate and safe parking accommodation is provided on site to serve the development. Moreover, the location of the subject property that is within 1,200 feet of the Bethesda Metro Station promotes the use of transit and reduces vehicular traffic activities in the area.

### **3. Location—§59-C-8.24**

**The TS-R and TS-M zones are permitted only in a Transit Station Development Area defined in §59-A-2.1 and in accordance with an approved and adopted master plan or sector plan, except in areas within and adjacent to a Central Business District in accordance with §59- C-8.21(a).**

The proposed Development is located in close proximity to the Bethesda Metro Station. The 1994 Bethesda CBD Sector Plan recommends the TS-R Zone for the subject property and the adjacent properties to the north, east, and south.

**4. Public facilities and amenities—§59-C-8.25**

**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. The provision of MPDUs does not authorize a reduction in any public facility and amenity or active or passive recreation space recommended in a master plan or sector plan.**

The application implements the sector plan recommendation for the provision of public facilities and amenities. The Development Plan provides for 2,674 Square feet (10%) of area dedicated for public use space and 5,348 square feet (20%) area dedicated for passive recreational space. for a total of 8,022 square feet (30%) of net land area.

The three-story portion of the building will be set back fifteen feet from the future right-of-way line along Arlington Road (after the additional dedication of right-of-way) in accordance with the recommendations of the Sector Plan. The height of the building will step up to 48 feet with a graduated transition to the higher existing and future structures to the east and south. The roof level will feature a recreational terrace for use by residents. The HVAC and other equipment which will be occupying a portion of the roof will be screened effectively through innovative design techniques.

**5. Land uses —§59-C-8.3**

The proposed multi-family residential development is permitted, by right, in the TS-R Zone.

**6. Development Standards—§59-C-8.4**

The proposed development meets or exceeds all applicable current development standards of the TS-R Zone. The applicant's Development Plan provides the following development data:

**DEVELOPMENT STANDARD—TS-R ZONE**

<b>Current Development Standards: TS-R</b>	<b>Required/Allowed</b>	<b>Proposed</b>
<b>59-C-8.41: Minimum Lot Area</b>	18, 000	38,079 (gross tract area)
<b>59-C-8.42: Density</b> (a) Floor area ratio (b) Dwelling Unit per ac	2.5 150 du/ac max (130 du)	1.8 36 du/ac max (31 du) *
<b>59-C-8.43: Open Space</b> (a) Public use space (b) Active and passive recreation  Total Open Space	10% min (2,674 SF) 20% min (5,348 SF)  30% NLA min 8,022 SF	10% NLA min (2,674 SF) 20% NLA min (5,348 SF)  30% NLA min 8,022 SF
<b>59-E-3,7: Parking – Multi-family, 31 units</b> -8 One BR@ 1.25 sp/ du -17 Two BR@ 1.50 sp/du -6 Three BR@ 2.00 sp/du  Total	10 sp 26 sp 12 sp <hr/> 48 spaces	<hr/> 50 sp**
<b>Maximum Height</b>		48

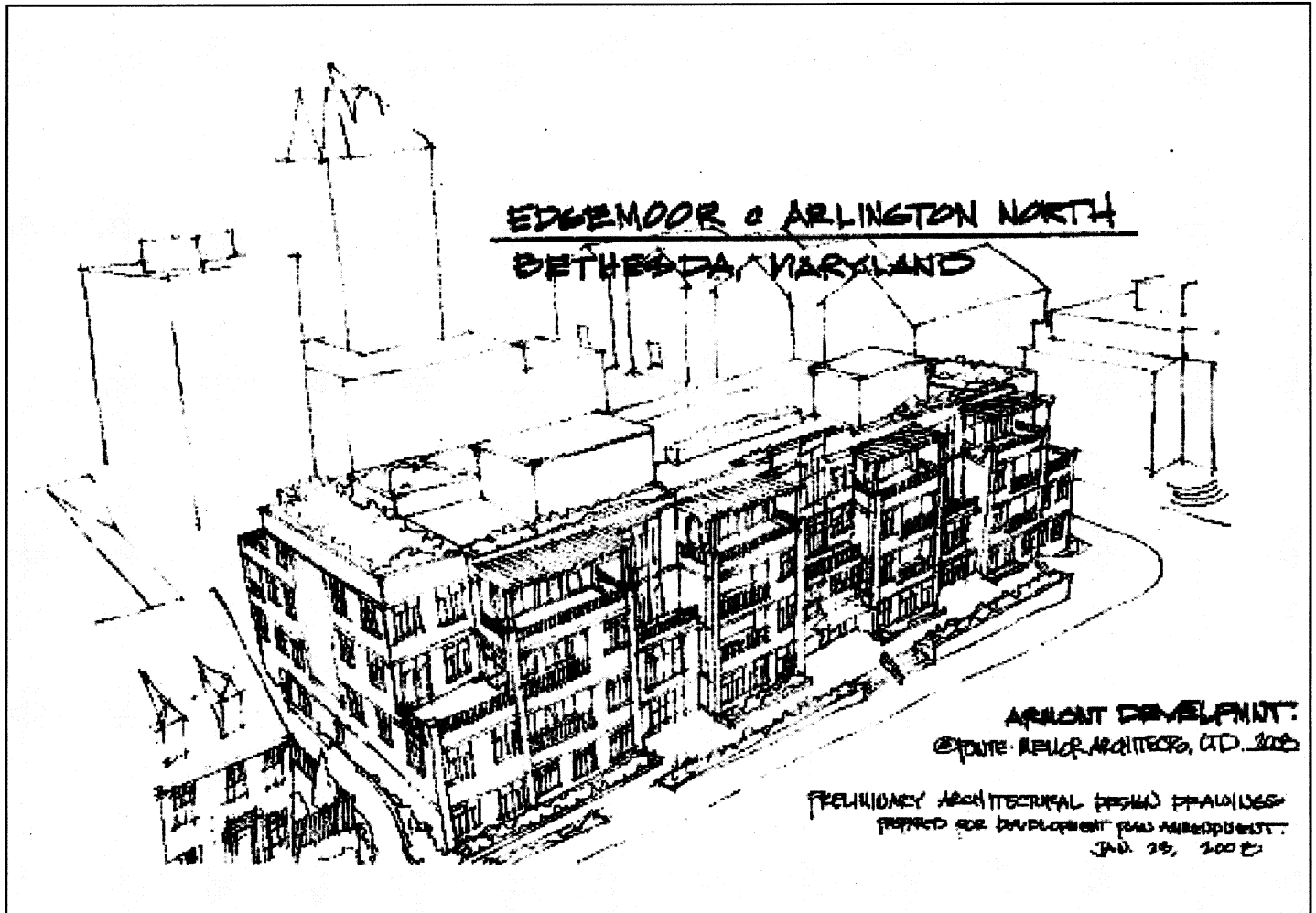
\* The development plan indicates that the minimum 12.5 % MPDUs will be provided if the number of units approved at the site plan review stage requires MPDU's.

\*\* The number of parking spaces may be reduced if fewer units are approved.

**VIII. SPECIAL REQUIREMENTS IN THE TS-R ZONE— §59-C-8.5:**

**1. Building height limit—§59-C-8.51.**

The maximum height permitted for any building shall be determined in the process of site plan review. In approving height limits the planning board shall take into consideration the size of the lot or parcel, the relationship of the building or buildings to surrounding uses, the need to preserve light and air for the residents of the development and residents of surrounding properties and any other factors relevant to height of the building.



Although the Zoning Ordinance does not set a specific height limit for the TS-R Zone, the sector plan recommends a maximum height limit of 65 feet for the Transit District Residential District with the exception of Arlington Road where a height of 35 feet is recommended. The applicant initially proposed a maximum height of 57 feet with a height of 35 feet on the building's façade along Arlington Road and with the setback of 25 feet from Arlington Road's ultimate right-of-way. In response to concerns voiced by staff and the adjoining neighbors to the north (VOB), the applicant revised the Development Plan, scaling down the maximum height to 48 feet while maintaining the 35-foot height on the building's Arlington Road façade. As noted, the proposed development is consistent with the land use and zoning recommendation of the Sector Plan and the proposed height is consistent with the established land use pattern in the immediate neighborhood through the approval of G-778 and G-779.

**2. Off-street parking—§59-C-8.52**

**Parking shall be so located as to have a minimal impact on any adjoining residential properties.**

Parking for the proposed development is provided on-site in an underground garage.

**IX. DEVELOPMENT PLAN**

The District Council must evaluate five specific areas set forth in ~~§59-D-1.61~~ of the Zoning Ordinance:

**a. Compliance with use and density recommendations of the sector plan and conformity with other County plans and policies.**

The Development Plan substantially complies with the use and density recommendations of the sector plan. The Development Plan implements the objectives of the sector plan by providing a compact well developed form of development with a maximum of 31 residential units and adequate active and passive recreational space.

The proposed development, as depicted on the last revised development plan, complies with the required development standards of the TS-R Zone as specified in §59-C-8.4. As noted, the applicant revised the Development Plan and the proposed maximum height in response to concerns from staff and the community. The community and staff were concerned that a maximum height of 57 feet would conflict with the Sector Plan's specific recommendation for developments along Arlington Road that calls for a low-rise, residential scale development. The scaled down height of 48 feet is consistent with the maximum height that was approved by the Council in G-779—the Development Plan that is being amended in the current application.

The proposed development plan indicates that the minimum 12.5 % MPDUs will be provided if the number of units approved at the site plan review stage requires MPDU's. The plan does not propose any bonus density units.

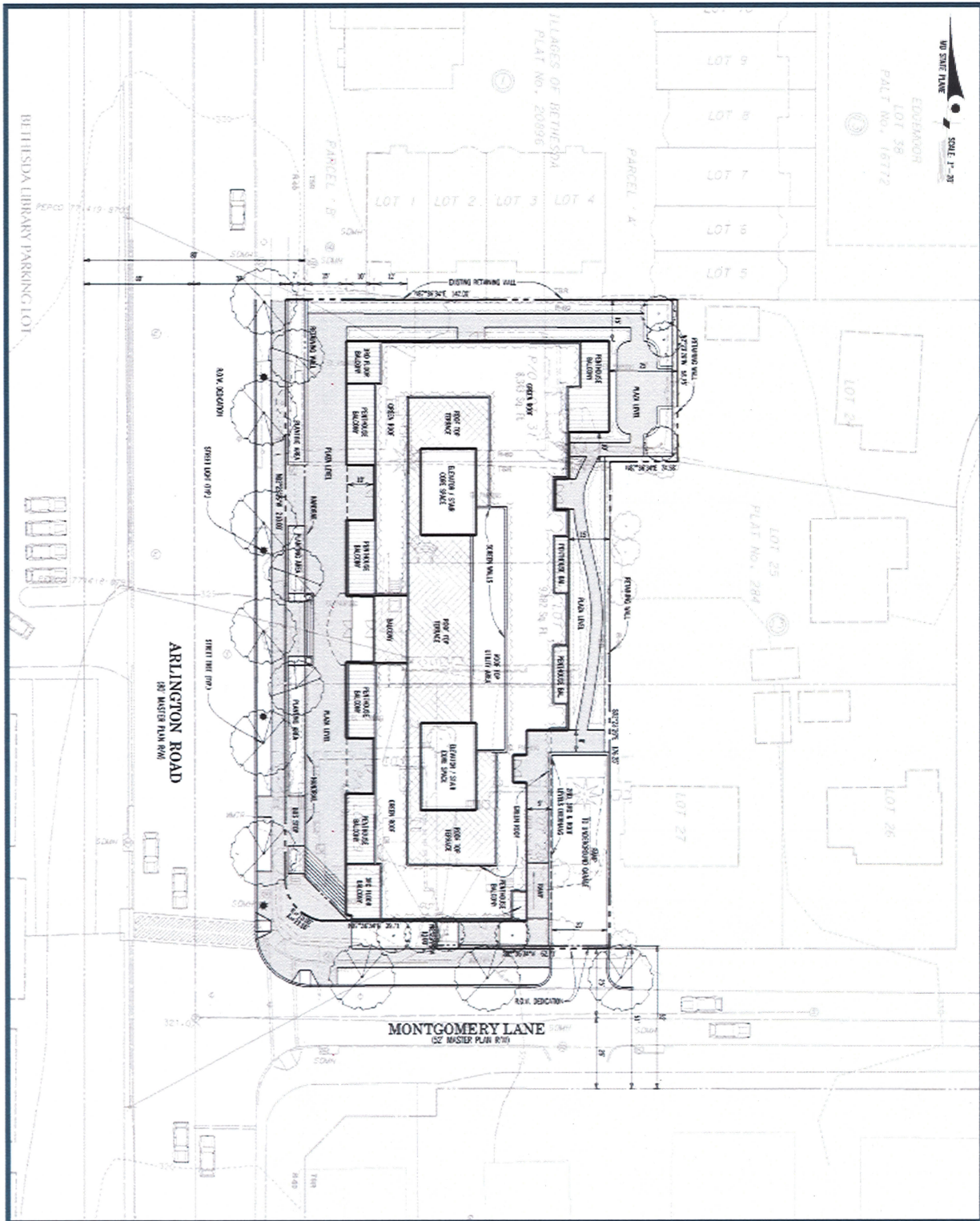
As established in the County Council's previous findings, pursuant to §59-D-1.1 of the Zoning Ordinance, development in the TS-R Zone is approved by the District Council when the property is reclassified to the TS-R zone. The Development Plan and the Land Use Plan that constitutes one of its primary parts are binding on the Applicant except where particular elements are identified as illustrative or conceptual. Illustrative elements may be changed during site plan review by the Planning Board, but the binding elements cannot

be changed without a separate application to the district council for a development plan amendment.

As noted, the development plan submitted for the subject application incorporates an amendment to a previously approved Development Plan (G-779) for the portion of the subject property and a new rezoning request for the remaining portion of the property (Part of Lot 31)

The textual binding elements which are listed on the Development Plan (revised January 29, 2008) are as follows:

- 1. Land use is limited to multi-family residences.**
- 2. Maximum number of units is 31.**
- 3. Minimum building setback from Arlington Road is 15 feet for the first 3 floors. Remaining levels will be set back an additional minimum of 10 feet each.**
- 4. Maximum building Height along Arlington Road is 35 feet for the first 3 floors. Total building height (excluding mechanical appurtenances) not to exceed 48 feet as measured from plaza level.**
- 5. Minimum building setback from north property line is 15 feet.**
- 6. All other elements of the DPA are considered illustrative.**



# DEVELOPMENT PLAN

- (b) Compliance with purposes and standards of the zone; provision of maximum safety, convenience and amenity of residents; and compatibility.**

The proposal generally satisfies the applicable requirements for the TS-R zone as specified in article 59-C. The proposed development would provide for amenities and the maximum safety, convenience of the residents of the development. The proposed development would be compatible with adjacent developments. The various design elements of the building, proposed landscaping, hardscaping and streetscapes will be refined at the site plan review stage to further ensure consistency and compliance with the requirements of Division 59-C-8.

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

The development plan indicates that all parking will be located within the proposed building in an underground garage. The underground garage is accessed from Montgomery Lane (southeast corner). All pedestrian and vehicular accesses are located and designed to provide for the safe movement of pedestrians and vehicular traffic. The applicant will provide sidewalks and crosswalks for pedestrian safety. Additional measures, to be considered at site plan review, are recommended by The Transportation Planning staff (see attached Transportation Staff Memorandum) to ensure adequacy and efficiency of pedestrian and vehicular circulation and access near and at the subject property.

- (d) Prevention of Soil Erosion and Preservation of Natural Features of the Site.**

The site does not include any streams, wetlands, or floodplains. There are no steep slopes or highly erodible soils on-site. The property is subject to the Montgomery County Forest Conservation Law but exempt from submitting a Forest Conservation Plan. A Tree Save Plan is required as part of the exemption approval and is submitted to Environmental Planning for review (see Environmental Planning's comments below- item XI).

The Environmental Planning staff has indicated that the subject property is located in the Willett Branch subwatershed of the Little Falls watershed. The *Countywide Stream Protection Strategy* (CSPS) recommends supporting cost-effective stormwater quality controls on redevelopment sites, such as the subject site. The applicant has not submitted a stormwater concept plan at the time of this writing and has indicated that the plan would be submitted to the Department of Permitting Services prior to any subdivision or construction.



- (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.**

The applicant submitted illustrative Homeowners Association by-laws that indicate sufficient safeguards to assure the perpetual maintenance of recreational, common, and quasi-public areas. These documents will be required as part of site plan review and will be included as part of site plan enforcement agreement.

**X. Adequate Public Facilities.**

**(i) Water and Sewer Service**

The property is located in Water and Sewer Category W-1/S-1, and is served by public water and sewer. The Washington Suburban Sanitary Commission (WSSC) staff has indicated that the changes proposed by this application will not impact the water or sewer systems.

**(ii) Transportation**

The proposed project will have no adverse effect on the local Area Transportation Review test and will have no adverse effect on nearby roadway conditions or pedestrian facilities. The Transportation Planning staff has indicated that the proposed apartment development would generate 14 peak-hour trips within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods. A traffic study is not required to satisfy LATR because the proposed development generates less than 30 total peak-hour trips during the weekday morning and evening peak hours.

As part of the Adequate Public Facilities (APF) test for transportation requirements related to the subject rezoning case, Transportation Planning staff recommends the following:

1. The applicant must limit the development to 31 apartments.
2. The applicant must dedicate at the time of preliminary plan one more foot of right-of-way along Montgomery Lane for a total of 52 feet from the opposite right-of-way.
3. The applicant must provide at the time of site plan one inverted-U bike rack in front of the main entrance and two bike lockers in the garage near the elevator. The applicant should coordinate with Transportation Planning staff to

determine the ultimate location of the bike rack and lockers prior to approval of certified site plan.

**(iii) Schools**

The Montgomery County Public School finds capacity adequate in Bethesda/, Chevy Chase cluster (see attached). The proposed development is expected to generate approximately two (2) elementary school, one (1) middle school, and one (1) high school students.

**XI. ENVIRONMENT**

Environmental Planning staff has voiced no concern regarding the subject proposal and has offered the following comments:

**DISCUSSION**

The 0.65-acre property is located in Montgomery County at Arlington Lane and Montgomery Lane in the Bethesda CBD. The applicant proposes to amend Zoning Application G-779, approved on 2/27/2001, to include Lot 31 and develop a total of 31 multi-family dwelling units. There is no forest onsite but one specimen tree present. There are no streams, wetlands, or any associated buffers onsite. The property is within the Little Falls watershed; a Use I/I-P watershed.

**Environmental Guidelines**

The site does not include any streams, wetlands, or floodplains. There are no steep slopes or highly erodible soils on-site. This property is not within a Special Protection Area or the Patuxent Primary Management Area.

**Forest Conservation**

This property is subject to the Montgomery County Forest Conservation Law but exempt from submitting a Forest Conservation Plan, per exemption 42008066E approved on 10/05/2007. A Tree Save Plan is required as part of the exemption approval.

**Tree Save**

A Tree Save Plan was submitted with the Zoning Application and shows both on and off-site trees. There is one specimen tree on the property – 40” White Mulberry, which will be unavoidably removed as part of the development. A small stand of off-site trees, including two large Oaks, 25” and 26” will also be negatively affected by this development. No tree protection measures for these trees are proposed because the adjacent

property was also the site of a Zoning Application – G-843, and is currently under review as a Preliminary Plan and Site Plan. Between these two developments, nearly 100% of the critical root zones (CRZ) will be removed. Both developments propose underground garages that extend nearly to the property lines.

Trees are an especially valuable addition to developed areas with high percentages of imperviousness. However, in this case, staff does not believe it is possible to save any of the trees on this property. Mitigation through planting should be pursued.

#### **Stormwater Management- Chapter 19**

The Department of Permitting Services (DPS) has not approved a Stormwater Management Concept Plan for this project. An approved Stormwater Management Concept Plan is required no later than the time of Preliminary Plan approval. The applicant has indicated that part of the stormwater management requirements may be fulfilled through the provision of a green roof.

#### **Green Building**

This project is required to comply with County Council Bill 17-06, Montgomery County Green Buildings Law, if the building permit is filed after September 1, 2008. The applicant should develop a comprehensive plan now in order to achieve this requirement. LEED points can be achieved using such diverse measures as green roofs, green building materials, energy saving measures, and waste reduction plans. Regardless of applicability, the applicant is encouraged to investigate and implement green technologies and design to minimize energy use and mitigate environmental impacts of development.

#### **Water Quality**

The subject property is located in the Willett Branch subwatershed of the Little Falls watershed. The *Countywide Stream Protection Strategy* (CSPS) assesses this tributary as having poor overall conditions. The subwatershed is designated as an Urban Watershed Management Area where the CSPS recommends supporting cost-effective stormwater quality controls on redevelopment sites, such as the subject site.

## XII. COMMUNITY CONCERNS

Several residents of the Village of Bethesda (VOA—the adjacent townhouse development to the north) as well as other residents of the area, including the president of the Hampdon Square Condominium Association and the Chairman of the Planning and Land Use Committee of Montgomery County Civic Federation have written letters in opposition to the proposed project and detailing their concerns (Attachment B). Representatives of the VOA had come to MNCPPC office to discuss their concerns with the proposed application.. The following are issues and concerns identified by the residents of the VOA and other area residents:



1. The proposed Building Height is not consistent with The Sector Plan's recommendation.
2. Landscaping and Tree save
3. Proximity of proposed building to the VOB townhouses
4. Overall mass and bulk of the proposed building.



The applicant met with the homeowners of the Village of Bethesda on January 10, 2008 to discuss the concerns and issues regarding the proposed development. It appears that the two sides were not able to reach a mutual agreement on the overall projects although some initiatives in the applicant part were recognized as positive steps. The representative of the VOB



homeowners have voiced the following additional concerns on the applicant's revised Development Plan

1. The 15-foot setback on the north property line should increase to 20 feet.
2. The number of floors on the Building should be reduced.
3. To cascade the north side of the building.



The applicant has submitted a list of textual binding elements labeled "DRAFT Amended Textual Element" (Exhibit-1) that includes the above listed elements and additional elements that are crafted to address the concerns of the residents of the adjoining Village of Bethesda Town Homes Development (VOA). With the exception of item No. 6 on the list, many of the elements are already

depicted on the development plan either under the development standards or under the textual binding elements. The remaining items on the list refer to elements that need and could only be addressed at preliminary plan or site plan review stages. If the list is to be submitted in a final format, staff will not support the 2.0 FAR listed as No.6. The 1.8 FAR depicted on the Development Plan should remain unchanged. The applicant original submission (Development Plan) proposed 1.7 FAR (64, 559 SF Gross Floor Area (GFA)); latter revisions including the final Development Plan submitted on January 29, 2008 reflect a proposed 1.8 FAR (68,542 SF of GFA). The 2.0 FAR listed in the document referenced as "Draft Amended Textual Element" translates to 76,158 SF of GFA.

Staff encouraged meetings and discussions between the applicant and the community in the hopes that issues concerning height, density, bulk and amenities would be resolved through mutual understanding and mutually acceptable agreements. The scaling back of the height from 57 feet to 48 feet is a positive step that brings the proposed building within the established development pattern and is consistent with the recommendation of the Master Plan, and thereby, addressing the compatibility concerns. But the gradual increase (11,599 SF) in the building GFA, would intensify the concern regarding compatibility rather than minimizing it, and therefore, staff would not support it.

The increase in the tract area and the increase in the building GFA, while they are within the requirement are not proportional. Staff is of the opinion that further intensification

of the building GFA to 2.0 FAR could result in incompatibility with developments in the immediate area.

The applicant has also submitted a shadow study (video simulation – Exhibit 2) to show that access to light, air, and view of the adjoining VOA properties is unencumbered by the proposed building.

### **XIII. CONCLUSION**

Staff finds that the proposed Local Map Amendment (G-865) for reclassification of the R-60 Zoned Portion of the property and the proposed amendment of the approved Development Plan (DPA-07-3) are consistent with the purpose clause, all applicable standards for the TS-R Zone and applicable requirements of the Zoning Ordinance. Moreover, The requests are in accord with the land use recommendations of the 1994 Bethesda CBD Sector Plan and therefore, recommends approval of the requested reclassification and amendment of the Development Plan.

# EXHIBITS

Edgemoor at Arlington North Development Plan G-865/DPA 07-03

DRAFT Amended Textual Binding Elements

1. Land use is limited to multifamily residences.
2. Maximum number of dwelling units is 31.
3. Minimum building setback from Arlington Road right-of-way is 15 feet for the first 3 floors. Remaining levels will be set back an additional minimum of 10 feet each.
4. Maximum building height along Arlington Road is 35 feet for the first 3 floors. Total building height (excluding mechanical appurtenances) not to exceed 48 feet as measured from plaza level.
5. Minimum building setback from north property line is 15 feet.
6. The development will have a maximum density of 2.0 FAR.
7. The development will provide a minimum of 10 percent public use space.
8. The development will provide a minimum of 20 percent active/passive recreational space.
9. Vehicular entrance to below-grade garage to be accessed from Montgomery Lane.
10. The applicant will enter into a construction agreement with the Villages of Bethesda prior to the commencement of construction, which shall include underpinning provisions, crane swing provision, and an agreement to conduct pre-and post-construction evaluations of the garage and foundation of the Village of Bethesda. Any dispute of elements of the agreement will be settled by binding arbitration.
11. Minimum setback for the eastern façade of the building will vary from 15 to 25 feet from the eastern property line as shown on the Development Plan, exclusive of bay windows and other building projections.
12. Number, type and location of MPDU's to be determined at Site Plan based on the number of market rate units proposed/approved and in accordance with applicable regulations. The minimum percent of units to be MPDU's is 12.5% if the number of units approved requires MPDU's.
13. Dedications to public right-of-way will be determined at time of Preliminary Plan of Subdivision and be included on the Record Plat prior to issuance of Building Permit.
14. Declarant and/or its successors, will maintain on-site landscaping.
15. Development to conform to Chapter 8, Article VII of the County Code regarding Energy Efficiency and Environmental Design.
16. Building design to include windows on all facades.
17. Building materials will predominantly consist of masonry façade, excluding accenting details, which may include but not be limited to, brick, stone, or manufactured stone, precast and/or ceramic tiles.
18. Streetscape treatments including sidewalks, street trees, and lighting to be coordinated with adjoining properties along Arlington Road and adjoining/confronting along Montgomery Lane.
19. Applicant to demonstrate Adequate Public Facilities for the proposed use at time of Preliminary Plan of Subdivision.
20. Site design will be subject to review, public hearing and approval by the M-NCP&PC Planning Board.
21. ALL OTHER ELEMENTS OF THE DEVELOPMENT PLAN ARE CONSIDERED ILLUSTRATIVE.

These Proposed Binding Elements were drafted in an attempt to address VOB's concerns. Although Randy finds them acceptable, they are not being shown on the revised drawings we have filed with the Hearing Examiner's Office and which you will be receiving in the mail because the Binding Elements have been submitted to Planning Board staff for review and comment as to which ones they believe are appropriate as Binding Elements at time of zoning. Following their review and comment we can add those which have been deemed appropriate by Planning Board staff.

EXHIBIT NO. <u>1</u>
APPLICATION NO. <u>G-865/</u> <u>DPA-07-3</u>



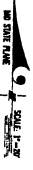
# ATTACHMENTS



# G-865/DPA 07-3 EDGEMOOR AT ARLINGTON NORTH

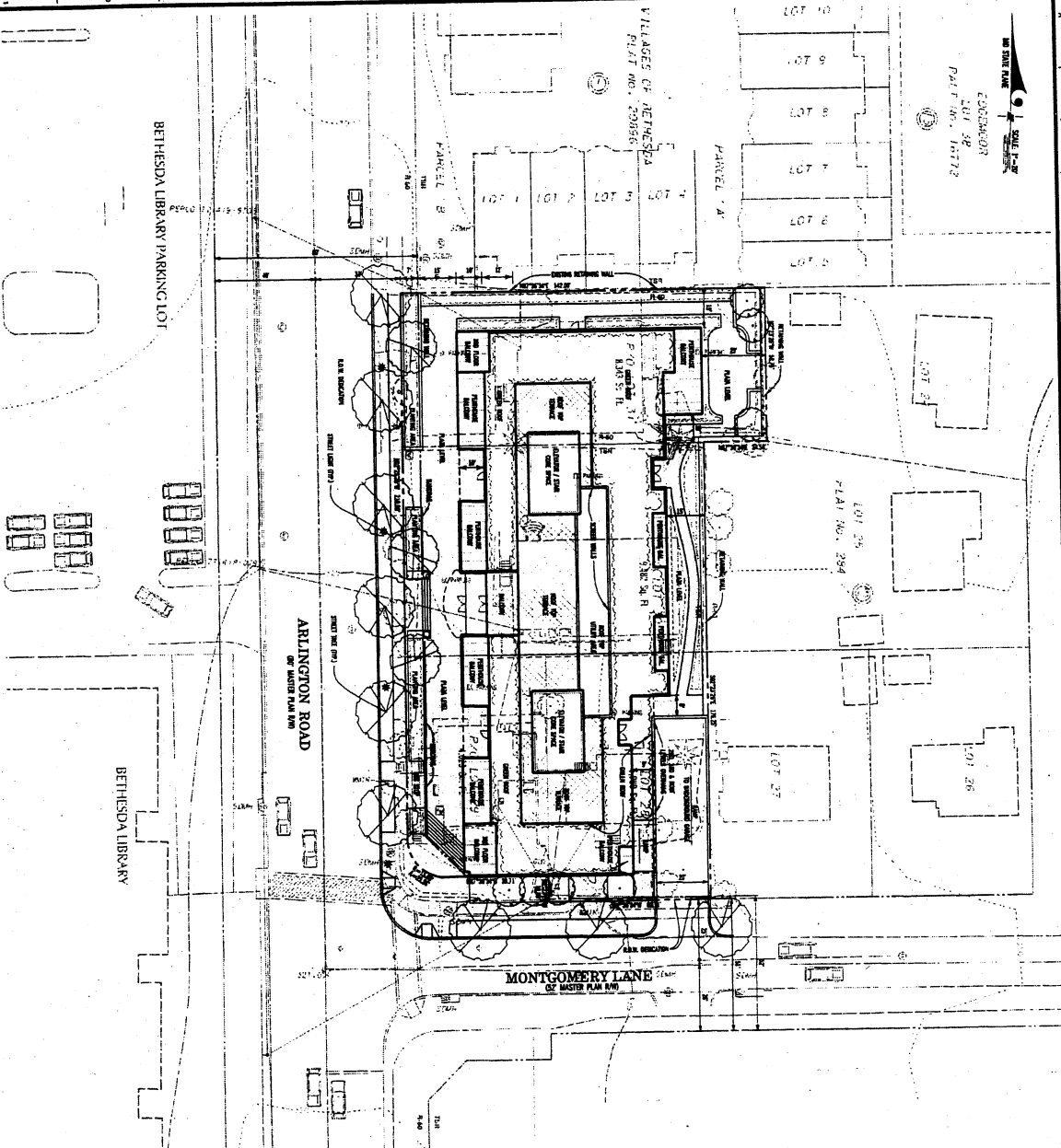




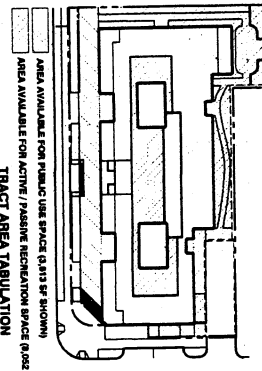


2023/06/03  
 LOT 26  
 PART NO. 161772

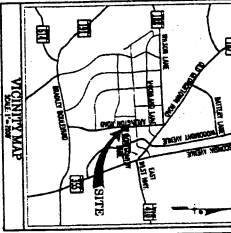
VILLAGES OF MONTGOMERY  
 PART NO. 209856



**PUBLIC USE & ACTIVE PASSIVE RECREATION SPACE EXHIBIT**



AREA AVAILABLE FOR ACTIVE/PASSIVE RECREATION SPACE (AS SHOWN)



AREA AVAILABLE FOR PUBLIC USE SPACE (AS SHOWN)

**TRACT AREA TABULATION**

TRACT AREA	AREA (SQ. FT.)	PERCENTAGE OF TOTAL TRACT AREA
Public Use Space	10,500	10.5%
Active/Passive Recreation Space	15,000	15.0%
Other	84,500	84.5%
<b>Total</b>	<b>110,000</b>	<b>100%</b>

**DEVELOPMENT STANDARDS (TS-R ZONE)**

STANDARD	REQUIREMENT
1.1	Minimum lot area: 10,000 sq. ft.
1.2	Minimum front setback: 10 feet.
1.3	Minimum side setback: 5 feet.
1.4	Minimum rear setback: 5 feet.
1.5	Maximum building height: 35 feet.
1.6	Maximum floor area ratio: 0.5.
1.7	Minimum open space: 10% of total lot area.

**PARKING TABULATION (SP-S-2)**

TYPE OF PARKING	NUMBER OF SPACES
Surface	150
Garage	0
<b>Total</b>	<b>150</b>

**TRAFFIC STATEMENT**

The proposed development is located on a residential street with a traffic volume of approximately 1,000 vehicles per day. The development will generate an additional 150 vehicle trips per day, which is within the capacity of the street. The proposed development will not have a significant impact on the surrounding traffic network.

**DEVELOPMENT PROGRAM**

The development program consists of a single-story building with a total floor area of approximately 10,000 square feet. The building will be used for community center and library purposes. The development will include a parking lot, a playground, and a community garden.

**GENERAL NOTES**

- 1. All dimensions are in feet and inches.
- 2. The site is to be developed in accordance with the zoning ordinance.
- 3. The proposed development is subject to the approval of the zoning commission.
- 4. The site is to be developed in accordance with the site plan.
- 5. The proposed development is subject to the approval of the zoning commission.

**CERTIFICATION**

I, the undersigned, certify that the information provided in this exhibit is true and correct to the best of my knowledge and belief. I am a duly licensed professional engineer in the State of Maryland.

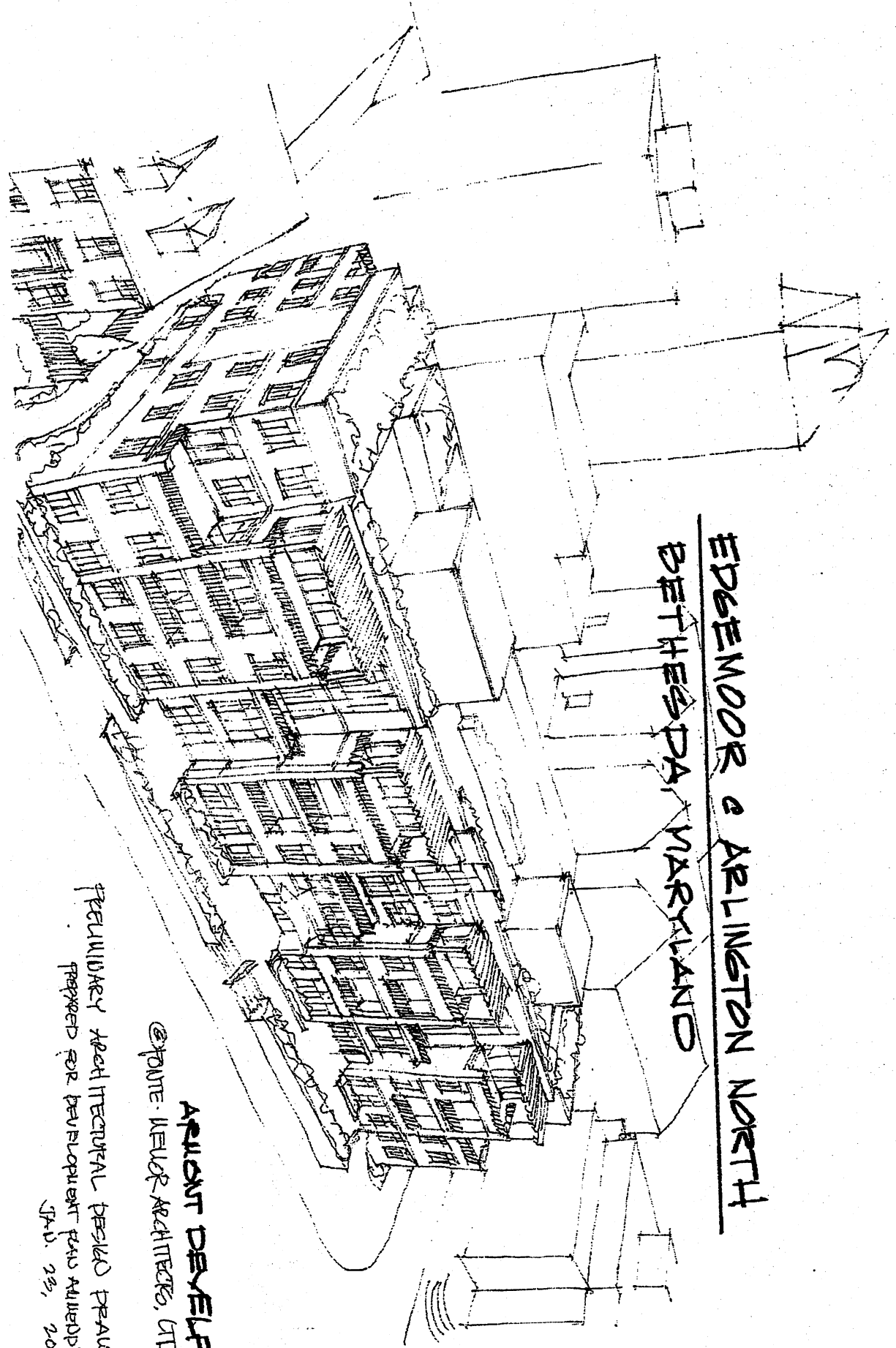


**GREENHORNE & O'MARA**  
 CONSULTING ENGINEERS  
 2810 CENTURION SQUARE, SUITE 200, GAITHERSBURG, MARYLAND 20878  
 PHONE: (301) 444-8888 FAX: (301) 444-8181

**LAND USE PLAN FOR**  
 DEVELOPMENT PLAN AND DEVELOPMENT PLAN AMENDMENT  
**EDGEWOOD AT ARLINGTON NORTH**  
 LOT 26 & PART OF LOTS 25, 26 AND 27, BLOCK 13 OF EDGEWOOD  
 7 BETHESDA DISTRICT  
 MONTGOMERY COUNTY, MARYLAND

NO.	DATE	BY	REVISION
1	06/03/2023	XXX	ISSUED FOR PERMITTING
2	06/03/2023	XXX	REVISIONS TO PERMITTING
3	06/03/2023	XXX	REVISIONS TO PERMITTING
4	06/03/2023	XXX	REVISIONS TO PERMITTING
5	06/03/2023	XXX	REVISIONS TO PERMITTING

**PROJECT TEAM:**  
 Designer: Greenhorne & O'Mara, LLC  
 Architect: [Name]  
 Landscape Architect: [Name]  
 Civil Engineer: [Name]  
 Mechanical Engineer: [Name]  
 Electrical Engineer: [Name]  
 Surveyor: [Name]



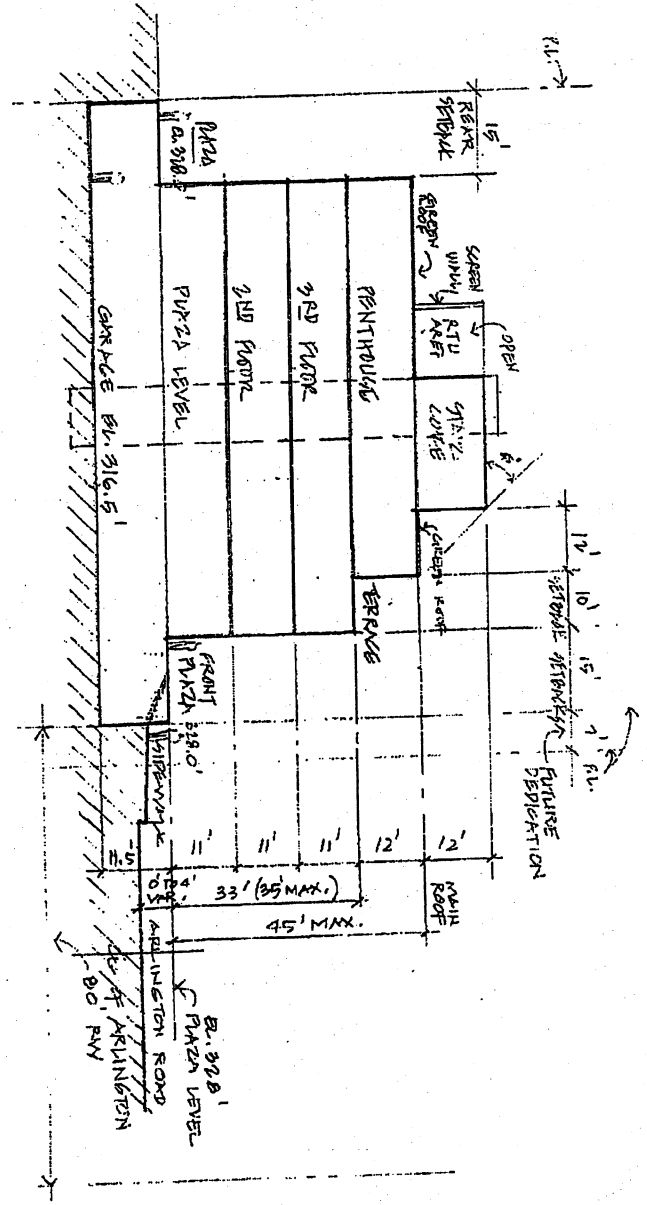
EDGEWOOD & ARLINGTON NORTH  
BETHESDA, MARYLAND

**ARCISUT DEVELOPMENT**

@POMÉ-LEWIS ARCHITECTS, LTD. 200

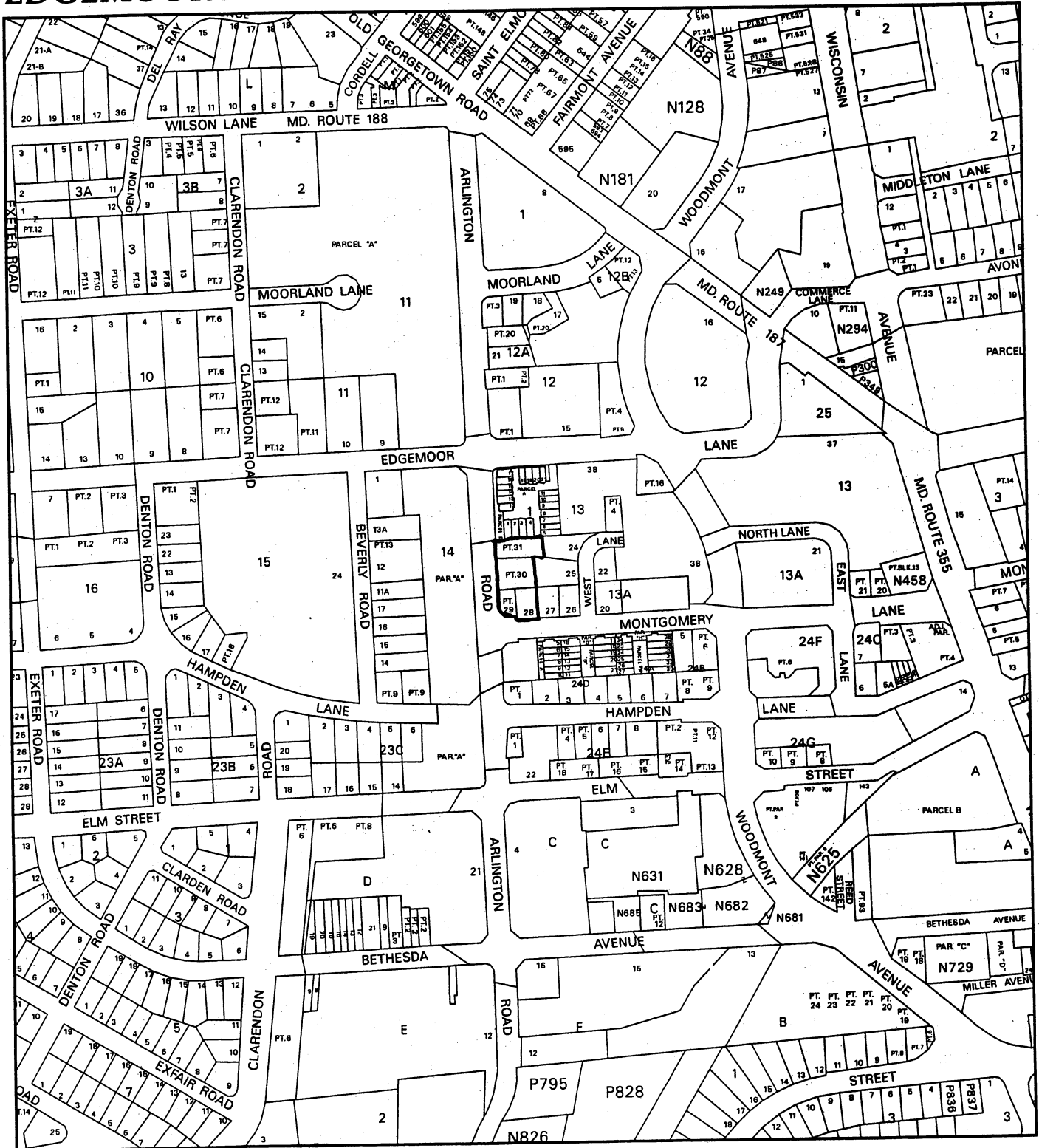
PRELIMINARY ARCHITECTURAL DESIGN PROPOSALS  
PREPARED FOR DEVELOPMENT PLAN APPLICANT  
JAN. 23, 2008

CROSS SECTION-A  
SCALE 1"=20'



EDGEWOOD AT ARLINGTON-NORTH  
 BY THE SDA MARTLAND  
 PONTÉ NEWBOR & ASSOCIATES  
 PWA 0610.02 JAN. 29, 2008

# EDGEMOOR AT ARLINGTON NORTH (DPA 07-3 & G-865)



Map compiled on August 20, 2007 at 3:17 PM | Site located on base sheet no - 209NW05

## NOTICE

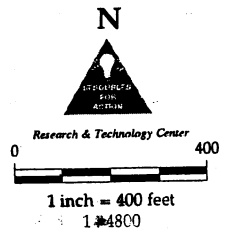
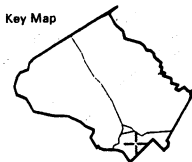
The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14,000 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright is...

**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**  
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 8787 Georgia Avenue - Silver Spring, Maryland 20910

Key Map



February 1, 2008

## STAFF MEMORANDUM

**TO:** Elsabett Tesfaye, Development Review Division - Zoning  
**FROM:** Judy Daniel, Team Leader, Bethesda-Chevy Chase Team  
**SUBJECT:** G 865 Rezoning – Edgemoor at Arlington North  
**ZONE:** R-60 to TS-R  
**MASTER PLAN:** 1994 Bethesda CBD Sector Plan

---

A portion of this site was approved for rezoning to TS-R (case G-779) in 2001 but the proposed multi-family residential project was not built. The owners have now secured an option on the adjacent house to the north and are proposing to rezone it to TS-R, to amend the existing development plan to include that lot, and to expand the residential structure to be a larger building. With the proposed expansion they will directly adjoin the City Homes townhomes.

### Summary Recommendation

The Community-Based Planning staff recommends approval of the rezoning request, as the TS-R Zone is recommended in the Sector Plan.

### Master Plan Guidance

This property is in the Transit Station Residential District of the Bethesda CBD Sector Plan (discussed beginning page 80). This area is between Arlington Road and Woodmont Avenue, bordered on the north and south by Mooreland Lane and Hampden Lane. The Plan describes the area as a mix of high-rise residential buildings and residual single-family houses (usually in use as offices). The stated objectives for this District include:

1. Provide incentives for and remove barriers to high-density housing in the TS-R District.
2. Increase flexibility in the TS-R Zone to allow the district to achieve a low-rise, high-density "urban village" pattern.
3. Retain residential scale along Arlington Road.

The Plan further states the addition of high-density housing as an important objective, supporting added flexibility for development in the TS-R Zone. The concept is described as a seemingly contradictory "low-rise, high-density urban village." In practice

the Plan supports a type of housing that appears to be townhouses, but is actually be three to six floor residential buildings. The stated preference of "high" density is – in the larger sense – moderate density in comparison to the densities and heights allowed in the CBD Zones located nearby. This is reflected in the zoning approvals of other buildings in the area.

The Urban Design guidelines in the Plan include the following elements pertinent to this proposal:

1. Maintain low-rise building heights which step down to three floors along Arlington Road. Heights of up to six floors are preferred near Woodmont Avenue to achieve the desired urban form.
2. Provide 25-foot building setbacks from the curb (15 feet from the Sector Plan right-of-way) along Arlington Road.
3. Design roof tops to achieve a residential image. The varied roof line is desirable to improve character and reduce the sense of bulk.
4. Locate required parking either underground or in rear decks, so as not to be seen from surrounding streets.

### Master Plan Compliance

The approvals of the existing rezoning for this site in 2001 (G-779 at the northeast corner of Arlington Road and Montgomery Lane) and the rezoning in 2000 of a similar building by the same developer (G-778 at the southeast corner of Arlington Road and Montgomery Lane) are instructive regarding interpretation of the Sector Plan recommendations. Both of these rezoning applications were found to be in compliance with the Sector Plan.

Case G-778 proposed a 12 unit residential building with a height of 33 feet for the Arlington Road façade, set back 15 feet from the Arlington Road right-of-way. The height then increases to 46 feet at a penthouse level that is set back 10 feet from the Arlington Road façade. Case G-779 approved a year later, approved a similar building, also a 12 unit residential building with a height of 33 feet for the Arlington Road building façade, also set back 15 feet from the Arlington Road right-of-way, and with an increase to 47 feet at the penthouse level that is set back 10 feet from the Arlington Road façade. In both instances, the height of the building was established as a result of the architectural style and the need to adjust the height of the structure to the transitioning elevation of Arlington Road which rises to the north.

In the current case, the applicant has expanded the size of the site to include the lot (Lot 31) to the north, and proposed a larger building of 31 residential units. The height along the Arlington Road façade would remain 33 feet, but the maximum height would be up to 48 feet tall. The roofline will contain HVAC and other equipment, and a recreational terrace for use by residents.



The staff supports the rezoning, as it conforms to the recommendations of the Sector Plan. The staff notes that design modifications may be necessary for the façades that face the City Homes townhome development and Montgomery Lane. The staff supports the overall design and the landscaped rooftop terrace for use by residents, although details of privacy screening from the City Homes need to be addressed at site plan.

The staff also supports improved signalization of the pedestrian crosswalk at Arlington Road and Montgomery Lane at the library (as recommended in the Sector Plan). Area residents have found that vehicles cannot be relied on to stop for pedestrians, despite a painted crosswalk. An all way stop, a blinking red light, or a full signal, and a crosswalk that is more textured would improve safety at this location.

Overall, the staff finds that the proposed rezoning, with the modifications recommended for the development plan, will comply with the land use and zoning recommendations of the Sector Plan. The proposed development will provide required amenities – public use space, landscaping, and streetscape, consistent with the design recommendations of the Sector Plan. The proposed setbacks from Arlington Road, the location of building entrances, and the use of underground parking are also consistent with those recommendations. The street oriented design will encourage pedestrian use of the streets, vehicle access is adequate, and pedestrian circulation is further supported by streetscape along Arlington Road and Montgomery Lane.

A summary of issues to be addressed at site plan review include:

1. Limit height to 48 feet.
2. Refine design of the "ends" of the building facing City Homes and Montgomery Lane.
3. Refine design of the public use space, providing a space that the public can easily discern is available for their use. This should include steps if necessary, access from the north end of the site, and public seating on the terrace.
4. The rooftop recreational space for use by residents should include some form of "green" privacy screening at the location nearest City Homes.
5. Streetscape amenities must be comparable to what was approved for other TS-R development on Arlington Road and Montgomery Lane, and consistent with the Montgomery Lane Streetscape Guidelines.



**MONTGOMERY COUNTY PUBLIC SCHOOLS**  
MARYLAND  
www.montgomeryschoolsmd.org

October 25, 2007

Mr. Dan Janousek  
Community-Based Planning Division  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

Dear Mr. Janousek:

This letter is sent in response to Zoning Application G-865. The property involved is located at 7411 Arlington Road, 7415 Arlington Road, 7425 Arlington Road, and 4905 Montgomery Lane in Bethesda, Maryland.

This rezoning would result in up to 31 multi-family dwelling units. Based on average yield factors derived from the Maryland National Capital Park and Planning Commission 2005 Census Update Survey, the impact of this project is estimated to be approximately two (2) elementary, one (1) middle, and one (1) high school students.

This property is located within the Bethesda Elementary School attendance area, the Westland Middle School attendance area, and the Bethesda Chevy-Chase High School attendance area. Enrollment at Bethesda Elementary School currently exceeds capacity and is projected to exceed capacity in the future. Enrollment at Westland Middle School currently exceeds capacity but an addition is scheduled to open in August 2008, resulting in space available beginning in 2008. Enrollment at Bethesda-Chevy Chase High School currently exceeds capacity but an addition is scheduled to open in August 2009, resulting in space available beginning in 2010. See enclosed pages from the Montgomery County Public Schools FY 2008 Educational Facilities Master Plan and the Amendments to the FY 2007-2012 Capital Improvements Program.

The current Growth Policy schools test finds capacity adequate in the Northwest cluster.

Sincerely,

Bruce H. Crispell, Director  
Division of Long-range Planning

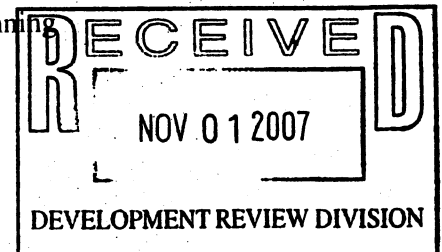
BHC:lt

Enclosure

Copy to: Mr. Bowers, Mr. Lavorgna, Ms. Turpin

Division of Long-range Planning

2096 Gaither Road, Suite 2000 • Rockville, Maryland 20850 • 240-314-4700 • Fax 240-314-4707





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

October 8, 2007

**MEMORANDUM**

TO: Elsebett Tesfaye, Planner  
Development Review Division

VIA: Shahriar Etemadi, Supervisor  
Transportation Planning

FROM: Ed Axler, Planner/Coordinator EA  
Transportation Planning

SUBJECT: Edgemoor at Arlington North  
Development Plan Amendment No. 07-3 and Local Map Amendment No.  
G-865  
Bethesda Central Business District

---

This memorandum is Transportation Planning staff's Adequate Public Facilities (APF) review for redevelopment of Lot 28 and part of Lots 29, 30, & 31, Block 13 with an existing office building and a single-family detached house into an apartment building. Development Plan Amendment (DPA) No. 07-3 is proposed to expand the area of the previously approved DPA for the Local Map Amendment (LMA) G-779 to include Lot 31, while Local Map Amendment No. G-865 is proposed to reclassify Lot 31, Block 13 from the existing R-60 zone to the Transit Station Residential (TS-R) zone.

**RECOMMENDATIONS**

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

1. The applicant must limit the development to 31 apartments.
2. The applicant must dedicate at the time of preliminary plan one more foot of right-of-way along Montgomery Lane for a total of 52 feet from the opposite right-of-way.
3. The applicant must provide at the time of site plan one inverted-U bike rack in front of the main entrance and two bike lockers in the garage near the

elevator. The applicant should coordinate with Transportation Planning staff to determine the ultimate location of the bike rack and lockers prior to approval of certified site plan.

## **DISCUSSION**

### Site Location and Access

The subject site is located in the northeast corner of Arlington Road and Montgomery Lane. Vehicular access for the residents and service vehicles is proposed from Arlington Road.

### Available Transit Service

Bethesda Metrorail Station is located approximately 950 feet to the northeast of the subject site. Ride-On routes 36 and 92 operate along the adjacent segment of Arlington Road. Transit service is not available along the segment of Montgomery Lane west of Woodmont Avenue.

### Pedestrian Facilities

The existing sidewalks along Arlington Road and Montgomery Lane will be improved to be consistent with the improvements previously required on the adjacent properties and to satisfy DPWT's requirements for street lighting.

### Master-Planned Roadways and Bikeway

In accordance with the *Bethesda CBD Sector Plan*, the adjacent roads and bikeway are as follows:

1. Arlington Road is designated as an arterial, A-82, with a recommended 80-foot right-of-way.
2. Montgomery Lane is designated as a business district street with a recommended 52-foot right-of-way and as a Biker Friendly Area (BFA), G-2. The applicant's plan shows that at the time of preliminary plan one more foot of right-of-way will be dedicated along the Montgomery Lane for a total of 52 feet from the opposite right-of-way.

The applicant will be dedicating right-of-way at the time of preliminary plan for a 25-foot truncation at the corner of Arlington Road and Montgomery Lane.

### Sector-Planned Transportation Demand Management

The site is located within the Bethesda Transportation Management District. As a residential development, the applicant is not required to enter into a Traffic Mitigation Agreement to participate in the Bethesda Transportation Management Organization.

Local Area Transportation Review (LATR)

The proposed apartment development would generate 14 peak-hour trips within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods. A traffic study is not required to satisfy LATR because the proposed development generates less than 30 total peak-hour trips during the weekday morning and evening peak hours.

EA:tc

cc: Judy Daniel  
Craig Hedberg  
Martin Hutt  
Barbara Kearney  
Chuck Kines  
John Sekerak  
Fiona Thomas

mimo to Tesfaye re Edgemoor at Arlington North DPA-07-3 & G-865.doc



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

**MEMORANDUM**

TO: Elsabett Tesfaye, Development Review  
VIA: Stephen Federline, Supervisor, Environmental Planning  
FROM: Amy Lindsey, Environmental Planning  
DATE: October 5, 2007  
SUBJECT: Zoning Application G-865  
DPA 073  
Edgemoor at Arlington North

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**RECOMMENDATION: Approval**

**DISCUSSION**

The 0.65-acre property is located in Montgomery County at Arlington Lane and Montgomery Lane in the Bethesda CBD. The applicant proposes to amend Zoning Application G-779, approved on 2/27/2001, to include Lot 31 and develop a total of 31 multi-family dwelling units. There is no forest onsite but one specimen tree present. There are no streams, wetlands, or any associated buffers onsite. The property is within the Little Falls watershed; a Use I/I-P watershed.

**Zoning Ordinance**

Development Plans must meet specific findings of Section 59-D-1.61 of the Zoning Ordinance. The required finding for environmental issues states:

*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 must also 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.*

This site was previously developed with single-family houses and there is no natural vegetation except for one large tree and several small trees. These trees have already been greatly impacted by the existing development. This application fulfills the requirements of Forest Conservation Law, Chapter 22A through the grant of an exemption and the requirement for a Tree Save Plan. Staff believes the proposed plan meets the required finding for environmental issues.

### **Environmental Guidelines**

The site does not include any streams, wetlands, or floodplains. There are no steep slopes or highly erodible soils on-site. This property is not within a Special Protection Area or the Patuxent Primary Management Area.

### **Forest Conservation**

This property is subject to the Montgomery County Forest Conservation Law but exempt from submitting a Forest Conservation Plan, per exemption 42008066E approved on 10/05/2007. A Tree Save Plan is required as part of the exemption approval.

### **Tree Save**

A Tree Save Plan was submitted with the Zoning Application and shows both on and off-site trees. There is one specimen tree on the property – 40” White Mulberry, which will be unavoidably removed as part of the development. A small stand of off-site trees, including two large Oaks, 25” and 26” will also be negatively affected by this development. No tree protection measures for these trees are proposed because the adjacent property was also the site of a Zoning Application – G-843, and is currently under review as a Preliminary Plan and Site Plan. Between these two developments, nearly 100% of the critical root zones (CRZ) will be removed. Both developments propose underground garages that extend nearly to the property lines.

Trees are an especially valuable addition to developed areas with high percentages of imperviousness. However, in this case, staff does not believe it is possible to save any of the trees on this property. Mitigation through planting should be pursued.

### **Stormwater Management- Chapter 19**

The Department of Permitting Services (DPS) has not approved a Stormwater Management Concept Plan for this project. An approved Stormwater Management Concept Plan is required no later than the time of Preliminary Plan approval. The applicant has indicated that part of the stormwater management requirements may be fulfilled through the provision of a green roof.

### **Green Building**

This project is required to comply with County Council Bill 17-06, Montgomery County Green Buildings Law, if the building permit is filed after September 1, 2008. The applicant should develop a comprehensive plan now in order to achieve this requirement. LEED points can be achieved using such diverse measures as green roofs, green building materials, energy saving measures, and waste reduction plans. Regardless of applicability, the applicant is encouraged to investigate and implement green technologies and design to minimize energy use and mitigate environmental impacts of development.

### **Water Quality**

The subject property is located in the Willett Branch subwatershed of the Little Falls watershed. The *Countywide Stream Protection Strategy* (CSPS) assesses this tributary as



having poor overall conditions. The subwatershed is designated as an Urban Watershed Management Area where the CSPS recommends supporting cost-effective stormwater quality controls on redevelopment sites, such as the subject site.

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TESFAYE LETTER RE ROTHSTEIN DEVELOPMENT CASE # G-865/DPA#  
07-03 DATED February 3, 2008

Ms. Elsabett Tesfaye, Principal Planner  
Zoning Section  
Development Review Division  
Montgomery County Planning Department  
8787 Georgia Ave  
Silver Spring MD 20910-3780

Dear Ms. Tesfaye;

Greetings.

The purpose of this letter is to express the deep concern of the Villages of Bethesda (VOB) about the Applicant in an upcoming case coming before a Planning Board Hearing. The concern is that if the Applicant receives Planning Board Approval for TSR Rezoning in the Application's PRESENT FORM, the Applicant may sell that TSR Re-Zoned property to an alternative investor. That potential resale of a property which has significant compatibility issues with the VOB would put the VOB at the risk of dealing with alternative investors owning a building that is NOT compatible with the VOB.

The Application in question is Case # G-865/DPA # 07-03, commonly referred to as the Rothstein Development. The VOB is a 21 unit townhouse development abutting the Rothstein Development on Arlington Road in Downtown Bethesda.

The Applicant's written plans are to construct up to 31 Building Units, although representatives of the Applicant's Development Team have orally indicated to the VOB that there will be only 19 Building Units. Please note that 19 Building Units is beneath the current threshold requirement for MPDU Units.

The VOB has had various meetings with the Applicant's Development Team attempting to convince the Applicant to make modifications to the Rothstein Development which would make that Development more compatible with the VOB and the Bethesda Sector Plan (BSP). The VOB is noted for its positive attempts to work with Developers of nearby properties as evidenced by the VOB's recent negotiations with the Holladay West Lane Development (Case # G 843). In addition the VOB's Land Use Chair received the prestigious Community Hero Award from the Montgomery County Civic Federation in recognition for his efforts to engage Developers in defining the New Downtown Bethesda.

While the Applicant has made some minor adjustments in response to the 17 individual letters of concern sent to Planning Board Staff about the Rothstein Development, those concessions do not adequately address the Rothstein Development's lack of compatibility with the VOB, its adjacent neighbor. The VOB is most appreciative for those minor adjustments and looks forward to working with the Rothstein Development Team in making more substantive adjustments.

Of prime concern to the VOB are the closeness, height and mass of the Rothstein Development building, particularly on the building's North Side. The building's design in the Applicant's present written plan would have a significant negative impact on the light and air of the VOB. The light and air standard for adjacent housing is an important standard in determining compatibility. Adjustments which the Applicants could make to help mitigate the closeness, height and mass effects of its Building on the VOB include the following:

- 1) providing a 20 Foot setback on the North Property Line. The Applicant's present setback on the North Property Line is 15 Feet. Please note that the equivalent set back for the Holladay West Lane Development is 20 feet.
- 2) reducing the number of floors on the Building so that it is in greater conformity with the height restrictions of properties being developed on Arlington Road.
- 3) cascading the North Side of the building.

In the Planning Board's deliberations to determine whether it should recommend Approval, Approval with Conditions, or Denial of the Application in ITS PRESENT FORM; the VOB would greatly appreciate the Planning Board's consideration of both the short term and long term ramifications of that decision. The short term ramification is dealing with an Application that is NOT compatible with the spirit and intent of meeting compatibility standards for in-fill developments within the Bethesda TSR Zone. The long term ramification is granting TSR-Rezoning to an Application where representatives of the Applicant's Development Team have orally indicated that there is NO INTENT to develop the property for at least 8 (EIGHT) years. If the Applicant does NOT plan to develop the property for at least Eight years, what is the compelling reason for gaining TSR -Rezoning at this time? Many things can happen over an Eight year time period. The Applicant might wish to consider withdrawing its Application at this time for later submission much closer to the actual construction date.

Although the Principal Investor of the Rothstein Development has orally indicated his present intent to become both the Developer and a Resident in the Rothstein Development, there is a distinct possibility that the Investors may choose NOT to be the Developer of the Property but rather sell the property as a High Density TSR-zoned property to alternative investors.

Thus the Planning Board might wish to assure that the Application be modified to be more Compatible with the VOB. In addition the Planning Board may wish to suggest measures that would protect VOB compatibility with a subsequent purchaser of the property should the property be "flipped" to an alternative investor. Such protection measures might include Binding Elements and Written Assurances that would convey to a subsequent purchaser.

Ms. Tesfaye, thanks in advance for appropriately integrating this letter into the upcoming Staff Report for this Case.

Please note that I will be sending a SIGNED ORIGINAL copy of this letter to you by US Postal Service Express Delivery. I will also send a SIGNED ORIGINAL copy of this letter to the Hearing Examination Office via US Postal Service Express Delivery.

Sincerely, Bernie Fisken  
Chair, VOB Land Use Committee

Bernard Fisken  
7437 Arlington Road  
Bethesda MD 20814

HOME TEL #: 301-907-6757  
E-MAIL: [fiskco@fisken.com](mailto:fiskco@fisken.com)

CC: Francois Carrier, Director  
Office of Zoning and Administrative Hearings  
Stella Werner Office Building, 2<sup>nd</sup> Floor  
100 Maryland Avenue  
Rockville, Maryland 20850

Subj: **Rothstein Dev. Application #DPA 07-03, #LMA G-865**  
Date: 10/10/2007 2:43:34 PM Atlantic Standard Time  
From: Cyrus817  
To: elsabett.tesfaye@mncppc.mc.org

October 10, 2007

Ms. Elsabett Tesfaye  
Principal Planner, Zoning Section  
Development Review Division  
Montgomery County Planning Department  
8787 Georgia Avenue  
Silver Spring MD 20910-3760

Re: Rothstein Development Applications  
Case numbers: #DPA 07-03, #LMA G-865

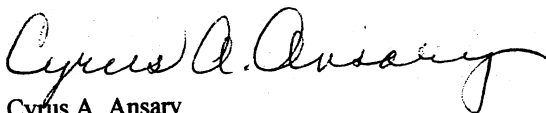
Dear Ms. Tesfaye:

I am writing as a resident of the Villages of Bethesda with some serious concerns about the proposed Rothstein Development. I believe that the Rothstein Development in its present form would be incompatible with the Villages of Bethesda townhomes -- at essentially an unbroken five stories, it is far larger than buildings called for in the current zoning plan, and it would significantly decrease the light and air available to our townhomes.

I am also concerned that construction for the Rothstein Development could endanger the Villages of Bethesda's fragile platform. A Construction Agreement with the Villages of Bethesda should be made a Binding Element in the Rothstein Development's Development Plan.

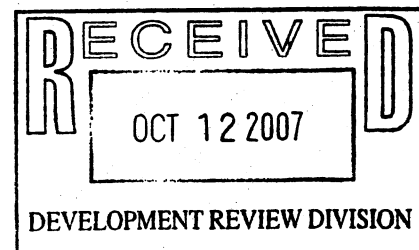
In addition, a Landscaping Plan acceptable to the Villages of Bethesda should be made a Binding Element in the Rothstein Development's Development Plan.

Sincerely,



Cyrus A. Ansary  
7465 Arlington Road  
Bethesda, MD 20814

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Dear Ms. Tesfaye,

I have reviewed the application for the Rothstein Development. As a Bethesda native, I am very supportive of its growth and development. However, I am also very concerned about preserving the pedestrian neighborhood feel.

My girlfriend and I have purchased a home in the VOB just this past March. We are also owners of a condominium in downtown Bethesda. We have chosen to invest in two homes within this concentrated area due to its preserved neighborhood feel with plenty of nature and home feel, despite its recent growth.

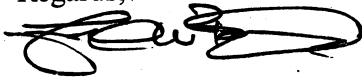
With that said, I am going to list a few concerns. Of the gravest concern is the party room on the top fifth floor that abutts my daughters rooms. My daughters are 6 and 8 years old. It is of utmost importance that they feel at home in their room without the disruption and noise of parties going on outside of their windows.

Other concerns are as follows:

- The solid brick wall facing the VOB without any architectural consideration for the existing neighbors.
- The lack of action and acknowledgement of neighbor concerns.
- The loss of greenery and 100 year old tree(s).
- The stark structure from the Arlington Road view.
- The lack of continuity from the beautiful land across the street on Arlington, including the library, public, park and elementary school, to this stark 5 story brick building.

I wanted to make sure that my voice and the voice of my two daughters are heard. Thank you very much for providing me this forum for addressing my issues, and taking them into considerations.

Regards,



Frank W. Boyle

## Tesfaye, Elsabet

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**From:** Caris, Ted [tcaris@CSA.com]  
**Sent:** Friday, October 12, 2007 10:00 AM  
**To:** Tesfaye, Elsabet  
**Subject:** FW: Rothstein Development

Dear Ms Tesfaye

I am a resident of the villages of Bethesda located opposite the library on Arlington Rd in Bethesda. Doubtless you are familiar with our modest and pointedly residential enclave, one I like to believe that, not only ornaments the neighborhood it is located in, but does it on a human and aesthetic scale your organization has zealously tried to maintain for this area.

To my considerable dismay and regret the current plan for the development of the Rothstein property is grossly incompatible with the architectural and aesthetic nature of our neighborhood. I include the allegedly matching building called The Little Edgemoor on the opposite corner as well as the rows of townhomes behind it. It's no surprise that the developer of the property next door to us wants to maximize the benefits available to him in such an undertaking. But those benefits should not come at the cost of a radical departure from norms and standards that ensure development in the area does not get out of hand.

I am therefore counting heavily on your experience and professional judgment in such matters to ensure that this undertaking is subjected to the most rigorous scrubbing possible to ensure it is compatible in every detail with planning agency requirements and in perfect harmony with its neighbors. The specifics have been singled out for you by others in my community so I won't belabor the obvious except to underline the fact that without the earnest intercession of authorities like yourself to protect the interests of beleaguered minorities--- not to mention to enforce the standards of the County--- we risk a slide into the abyss or worse--- making a mess of what otherwise could be an ornament to our community.

October 18, 2007

Ms. Elsabett Tesfaye  
Planner, Development Review Section  
Montgomery Planning Department, MNCPPC

Re: DPA 07-03 and LMA G-865, Rothstein Project, Arlington Road, Bethesda

This letter is to comment on the Rothstein Project as referenced above. I was out of the country and missed the October 2 meeting to review and discuss the above project and am only now able to respond to this important matter.

As a homeowner in the Villages of Bethesda subdivision adjacent to the subject project, and as the current President of the Villages of Bethesda Homeowners Association, I am deeply disturbed by what I see as an overreaching of good zoning and urban planning. As Chairman of the Advisory Committee of the Bethesda Transportation Solutions (an organization devoted to improving transportation in downtown Bethesda by encouraging commuters to find alternative forms of transportation than private automobiles), I am keenly interested and involved in what is right for Bethesda.

Seven years ago my wife and I moved from the Edgemoor community just across Arlington Road exchanging suburban living for an urban environment and have not regretted it. What we have regretted are the incursions and inroads into the well-thought-out and progressive Master Plan for Downtown Bethesda.

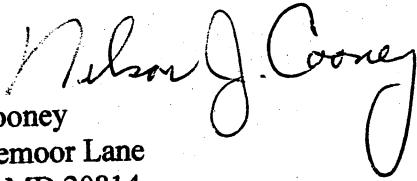
First, there was Federal Realty's attempted overreaching at Arlington and Elm Street which took years to resolve. During that time, the "Edgemoor" Cooperative at Arlington and Montgomery Lane was allowed to be built a story higher than allowed by the Master Plan. And now the Rothstein Project, which will replace the current single-family detached homes used primarily for commercial purposes, at 7411, 7415 and 7425 Arlington Road, is seeking to go way beyond the reasonable height limitations of the Master Plan.

Please stick to the 1994 Bethesda Central Business District Sector Plan which established a 3 story, 35 foot height for the subject properties in the Transit Station Residential District of Bethesda. Do not allow a building which includes 4 stories of residential units with usable square footage in the form of a roofed party room in addition to mechanical appurtenances, such as elevator housings, on a 5th level, as proposed in DPA 07-03.

Coming north on Arlington Road from Elm Street, you will see that the development along Arlington Road becomes less commercial, lower in height, and lower in density and mass. The oversized Rothstein Project as currently proposed will take something away from the wonderful urban streetscape envisioned along Arlington Road by the Master Plan, whereas a change in the Rothstein proposal to a more reasonable structure would be compatible with the Master Plan and with the 3 story, 35 foot height of the adjacent Villages of Bethesda town homes.

We bought into our community because we believed the county would protect us from overbuilding. We felt we had security from overly aggressive builders and developers because of the Master Plan. I urge the Planning Board to recommend to the County Council that they not approve DPA 07-03 or LMA G-865 as proposed and remand them back to the Board for revision.

Sincerely,

A handwritten signature in cursive script that reads "Nelson J. Cooney". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Nelson Cooney  
4912 Edgemoor Lane  
Bethesda, MD 20814

## Tesfaye, Elsabet

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**From:** Hywel Davies [hywelmd@verizon.net]  
**Sent:** Friday, October 12, 2007 12:15 AM  
**To:** Tesfaye, Elsabet  
**Subject:** Rothstein Development (#DPA 07-03 and #LMA G-865)

Dear Ms. Tesfaye and other members of the Planning Department,

I am writing on behalf of myself and my wife, Dr J. Mari Davies, to express our concerns regarding the proposed, referenced development. We live at 7433 Arlington Road in that block of the Villages of Bethesda (VOB) which would be overshadowed and overpowered by the bulk of the Rothstein Development.

As we listened to the development team and architect describe the proposed structure, it became clear that this structure is five floors and more. (The a/c, elevator cap, roof garden, social room, etc., can't be ignored from consideration.) We ask you to just look at the elevation of this development, which also shows the VOB to the north and the "Little Edgemoor" to the south, as viewed from Bethesda Library and adjacent parking lot directly across Arlington Road! The overwhelming impression is that this is a "battleship" given its outline and mass; and it clearly does not conform to the "line of sight" requirements envisaged in the various planning documents relating to this portion of Arlington Road. We will not allow the sort of development that has occurred on Woodmont Avenue to creep over to Arlington Road. Putting up a building which goes up the requisite 35 foot and then steps back on an 8, 10 or 12 foot balcony, and then goes up a further one, two, or three more floors, shows the callous disregard that the developer has for the various planning documents. Witness the "Little Edgemoor" where the fourth floor setback balconies are becoming more and more like "outdoor rooms." I have no doubt that the next step there will be to replace the pergola with a roof! Regardless of any future development, it is already a four not a three floor building on Arlington Road.

If we at VOB were to look at the completed North Wall of the Rothstein Development, we would see an unrelenting facade of brick which is not stepped back, leaving our patios and much of the rear wall of our house in complete shadow.

These are the main issues to be addressed first. Afterwards there are numerous other concerns relating to landscaping, old growth trees, setbacks, etc., waiting to be discussed. These I will take up after the fundamental issues of height and bulk are addressed.

Yours sincerely,

Hywel M. Davies



**Michael Dougherty**

---

**From:** Michael Dougherty [michael@mjdpc.com]  
**Sent:** Monday, October 08, 2007 9:19 AM  
**To:** Elsabett Tesfaye  
**Subject:** case numbers # DPA 07-03 and # LMA G-865

Dear Ms. Tesfaye:

The purpose of this E-Mail is to express my concerns(s) about the ROTHSTEIN DEVELOPMENT Applications for the property adjacent to my small development - The Villages of Bethesda (VOB). The specific case numbers are # DPA 07-03 and # LMA G-865.

My first concern was that the proposed Building was 5 stories. This is not compatible with the height limitations that I thought were envisioned for Housing Developments along the East Side of Arlington Road. Specifically the 1994 Bethesda CBD (Central Business District) Sector Plan calls for 3 story 35 foot height to development along the East Side or Arlington Road.

The source documentation language used is "Maintain low-rise building heights which step down to three floors along Arlington Road. Heights up to six floors are preferred near Woodmont Avenue to achieve the desired urban form". Reference is Urban Design guidelines from Chapter 4 - Land Use and Zoning Plan, Section 4.2-The Transit Station Residential District, 1994 Sector Plan. In addition, the Building Height Limits Map on page 39 of the 1994 Sector Plan, Figure 3.2 notes a 35 height limit for properties East of Arlington Road from Old Georgetown Road on the North to the Northern Side of Hampden Lane.

A Building of this height will have a significant negative impact on the light, air and quality of life in my community of VOB. One of my true passions at this point in my life is gardening and landscaping. A five story building will interfere with the amount of sunlight that now floods our beautiful gardens in the summer months and melts the ice and snow on our walkways during the winter. A high-tech shadow study prepared by the Rothstein Development Team indicates the material affect that the proposed Rothstein building would have on the light presently coming into the VOB.

I am also concerned for my neighbors whose back yards border along this joint property line. The long, solid wall that they will be force to look at is quite unattractive and the roof common open area for the Rothstein Condo is too close to the VOB. The noise, smoking fumes and evening light generated from the roof common area would undoubtedly have a particular negative impact on those four VOB homes. Besides, the "fifth floor" party room would directly face the third floor of the VOB Townhouses having patios abutting the Rothstein. The third floor of these Townhouses is typically used as Bedrooms for resident or visiting young children.

Before anything is approved by the county I would like to see a Construction Agreement between the Rothstein Development and VOB as a Binding Element in the Applicant's DEVELOPMENT PLAN. This agreement would be similar to the Construction Agreement in place between the Holladay West Lane Development and VOB Although the Rothstein Development Team has expressed interest in a Construction Agreement with a VOB, To date there has been no Binding Element for a Construction Agreement.

A Landscaping Plan acceptable to the four VOB Townhouses whose patios presently abut the Morrison Dental Practice VOB focusing on the area between the Rothstein Building and the VOB, specifically the lot presently occupied by the Morrison Dental Practice. This Landscaping Plan should be part of the Agreement above. The adjacent Holladay West Lane Development did enter into a Landscaping Plan with the VOB that was a Binding Element in the Holladay West Lane DEVELOPMENT PLAN. Thus far there has been no Binding Element for a Landscaping Plan presented by the Rothstein Development Team.

I understand that the Report prepared by the Rothstein Development Team for MPPC staff dated 5 September 2007 making its case for COMPATIBILITY failed to include the adjacent VOB which is just 15 feet away. As COMPATIBILITY examples the report used the Big Edgemoor and the yet-to-be built Holladay Development,

neither of which is on Arlington Road. Developments on Arlington Road have significant restrictions on height.

I think it is still very important to SAVE THE SPECIMEN TREES that span the Rothstein/ Holladay Developments. While the Holladay property has been approved for Re-Zoning, the site plan for the Holladay property has not yet been approved. Thus the SAVE THE TREES effort could be back on the discussion table.

The Developer is trying to make the case that the Rothstein Development is a companion (or sister) building to the Little Edgemoor on Arlington Road. It is not! If he wants to pit a exact copy of that building on his site I would agree to that provides it was far enough away from VOB so as not to cause the problems mentioned above by his current plan.

Thank you for your consideration of my concerns and for your efforts to guide the development of our county.

Sincerely,

Michael Dougherty

4910 Edgemoor Lane

Bethesda, MD 20814

## Bernard Fisken

---

From: Bernard Fisken [fiskco@fisken.com]  
Sent: Sunday, October 07, 2007 8:12 AM  
To: 'Tesfaye, Elsabet' ; 'Krasnow, Rose'; 'elza.hisel-mccoy@mncppc-mc.org'; 'joshua.sloan@mncppc-mc.org';  
Cc: 'Daniel, Judy'  
Subject: ROTHSTEIN DEVELOPMENT Bernie Fisken concerns

Dear Ms. Tesfaye;

Greetings.

The purpose of this letter is to express my specific concerns about the Rothstein Development Applications # DPA 07-03 and # LMA G-865. My home is adjacent and confronting property to the proposed Rothstein Development. My home is one of the homes most affected by the proposed Rothstein Development.

It is important to note that I am a party of record for Hearing Examination purposes in this case. Also I am Chair of the Villages of Bethesda (VOB) Land Use Committee. The VOB is a 21 unit Townhouse Development abutting the Rothstein property.

Basically I have 3 major concerns: the evolving standards for Re-Zoning Approval in the Bethesda Transit Station Residential (TSR) Zone, the loss of old growth trees, and the drifting away from the vision of Bethesda being an Urban Village. Each of these concerns is treated below.

1) Evolving standards for Re-Zoning Approval in the Bethesda TSR:

I must confess that 2 years ago I knew virtually nothing about Montgomery County Land Use matters. Once I learned that an Application had been submitted for a large new Housing Development adjacent to my Townhouse, I made a commitment to learn as much as possible about the Montgomery County Land Use matters. That two year learning journey has taught me that the Re-Zoning Approval Standards for the Bethesda TSR Zone have undergone considerable positive change.

Thus the ROTHSTEIN Applications should be reviewed in light

of the present higher standards for MPPC staff review.

It is my humble view that the initial ROTHSTEIN application for Re-Zoning ( Case G-779) filed in June 1999 and approved by County Council in February 2001 would NOT have met the higher review MPPC standards presently in place. The Applicant's community outreach efforts were minimal. The quality of the Application was rather poor. Unfortunately that Application was approved, perhaps giving the Rothstein Development Team the impression that the new Rothstein Development Applications would easily pass through the MPPC Review Process without much vetting.

Further, while the Rothstein Development Team went through the motions of Community Outreach as now required on the Development Review Check List, the specific written commitments made by Rothstein Development Team to the VOB have been lacking.

A very critical point to make is that the MPPC review standards should be higher for "IN-FILL" Projects in the Bethesda TSR. The Bethesda TSR Zone is no longer the "wide open spaces". There are more neighboring Housing Developments in place, raising an increased number of INCOMPATIBILITY issues with adjacent neighborhood housing.

Therefore the ROTHSTEIN Applications should be subject to the highest standards or review for an IN FILL project on Arlington Road.

## 2) Loss of old growth trees:

The Bethesda Sector Plan (BSP) envisioned the New Bethesda as a "garden". Unfortunately the limited number of old-growth trees in the Bethesda TSR Zone are subject to razing in the name of development. Such a grove of old growth trees exists on the property line between the Rothstein parcel and Holladay West Lane parcel. Apparently those trees are approximately 100 years old and are classified as Specimen Trees.

The Bethesda LOT 31 Development Team has engaged a creative Landscape Architect who plans for large trees to be a part of that project, despite the challenges of a tree root system over

an underground garage. MPPC staff could make a significant contribution to the Greening of the New Bethesda by further exploring the possibility of SAVING THE GROVE OF OLD GROWTH TREES on the 2 parcels adjacent to the VOB.

3) Drifting away from the vision of Bethesda being an Urban Village:

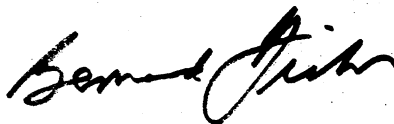
It is both ironic and fitting that a small Housing Development called "The Villages of Bethesda" (VOB) is opposing the Rothstein Development Application in its present form. The VOB is an exemplary prototype of housing in the Urban Village.

The BSP envisioned the TSR Zone as a tent with its lowest height at Arlington Road and the tent gently rising as it approaches the Bethesda Metro Station. The 3 story VOB is true to that gently rising tent concept as envisioned in the BSP. The 5 story Rothstein Development with its "Party Room" on the fifth floor does NOT conform to the BSP vision. In addition the Rothstein Development is NOT COMPATIBLE with the VOB, which is just 15 feet away from the Applicant Parcel.

Ms. Tesfaye, thanks for your consideration of these concerns.

Please note that I will be sending you a SIGNED hard copy print-out of this E-Mail via conventional US Postal Service delivery, so that it becomes part of the official record in this case.

Sincerely, Bernie Fisken  
VOB Town Owner and VOB Land Use Chair



Bernard Fisken  
7437 Arlington Road  
Bethesda MD 20814

TEL: 301-907-5178



**FAX: 301-907-6772**

**E-MAIL: fiskco@fisken.com**

**Kate Fisken**

**From:** Kate Fisken  
**Sent:** Wednesday, October 17, 2007 3:29 PM  
**To:** 'elsabett.tesfaye@mncppc-mc.org'; 'elza.hisel-mccoy@mncppc-mc.org'; 'joshua.sloan@mncppc-mc.org'; 'rose.krasnow@mncppc-mc.org'  
**Cc:** 'Bernard Fisken'  
**Subject:** Rothstein Development- Concerns  
**Importance:** High

Dear Ms. Tesfaye:

I am sending you this e-mail to express my deep concerns regarding the Rothstein Development Applications #DPA 07-03 and #LMA G-865 on Arlington Road in Bethesda, Maryland. Since I own a home adjacent to this proposed development and am a "party of record", I have studied the plans of this development and am compelled to convey my findings to you.

My findings are:

- 1) **The mass and bulk of the proposed building is NOT compatible** with the Bethesda Sector Plan (BSP). In the BSP, all new development along Arlington Road is required to be much smaller in building mass and bulk than buildings developed further east towards Woodmont Avenue, otherwise referred to as the "tent" effect. In Rothstein's proposed development plan, their building design is a huge long bulky mass that will dwarf its north and south neighbors, as well as the Montgomery County Library, located to the west, across the street on Arlington Road.
- 2) **The height of the proposed building is NOT compatible** with the BSP. In the BSP, all new development along Arlington Road is required to be no more than 4 stories. In the Rothstein proposed development plan, their proposed building is designed to have 5 stories. They are calling the 5<sup>th</sup> story a "penthouse party room and patio", but this is a guise. It is a 5<sup>th</sup> floor and must not be allowed by the Planning Board.
- 3) **The proximity of the proposed building to the Villages of Bethesda is NOT compatible.** The Rothstein proposed building is designed to be only 15 feet from the Villages of Bethesda's southern property line. Given the development's bulk, mass, height and proximity to the VOB, the VOB neighbors whose homes face the southern property line will:
  - a) Loose significant **sunlight** on the entire back side of their homes;
  - b) Loose the present **enjoyment of their patios** due to the building's height & overpowering mass smashing down upon them;
  - c) Loose their present **high quality of life** by the building's overshadowing "battleship" design.
- 4) **The proposed building is NOT compatible with the overall Arlington Road Master Plan in the BSP.** The present Rothstein building design does not compliment or harmonize with the existing development along Arlington Road. The Rothstein proposed development should be required to "fit-in" with the present Arlington Road development envisioned in the BSP. When Mr. Rothstein applied in 2001 for TRS zoning for the land on the corner of Montgomery Land and Arlington Road, there was NO community input...the application, Case G-779, was never "vetted". Now 6 years later, other developments have occurred populating Arlington Road with new active citizenry deeply committed to the BSP and the spirit of TSR zoning. The Rothstein Development Plan must address valid community concerns and change its development plan to fit into the existing Arlington Road environment, before TSR zoning is granted.
- 5) **The Rothstein and Holladay Development will destroy an important grove of very old Bethesda trees.** These irreplaceable trees are among the very few remaining in downtown Bethesda. Since the BSP envisioned the "new Bethesda" to become garden-like, doesn't the BSP dictate that these trees should be saved for future generations? These trees ( 5 pin oaks, 1 black walnut and 1 specimen mulberry) have survived to their present height and beauty because committed private citizens invested in their upkeep and well being. I have been told that it is impossible to save any of these trees during construction—it would not be cost effective for the developers. When are we as a community going to realize that "good and thoughtful development" does not operate by greed alone? I urge the Planning Board to save these "old growth" trees.

I appreciate your consideration of my concerns and findings.

10/17/2007

Regards, Kate Fisken

VOB Townhouse Owner at 7437 Arlington Road, Bethesda, MD. 20814



**Kathleen Curtis Fisken**  
**Principal,**  
**Director of Client Services**

*Gelman, Rosenberg & Freedman, CPAs*  
*4550 Montgomery Avenue, Suite 650 N*  
*Bethesda, MD 20814*

*Phone: (301) 951-9090*

*Fax: (301) 951-3570*

*E-mail: [kfisken@grfcpa.com](mailto:kfisken@grfcpa.com)*

*Web: [www.grfcpa.com](http://www.grfcpa.com)*

***Where Personal Attention Will Never Become Obsolete!***

Dear Ms. Tesfaye,

It was good to have the opportunity to meet with you last week. I wanted to take this opportunity to outline my specific concerns as they apply to the Rothstein Development.

As you know, my homelife is directly impacted by the outcome of this development. After learning more about the proposed development, I wanted to express my deep concerns regarding the impact on me, Frank and his children.

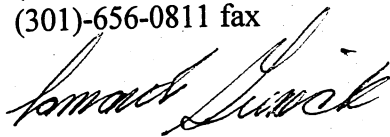
Most importantly, there is a proposed party room, which is essentially a fifth floor. This party room has an extended outdoor rooftop deck that faces my property. It specifically is planned to face the top bedrooms where Frank's children will be sleeping. This is of grave concern to me.

Furthermore, the proposed architectural blue prints, call for a brick building that is the height of a 5 story building, with no softness or wall breaks facing our property. Since the property is a mere 15 ft. from my patio, that is very impacting on our air and light. It also appears to me that a landscaping effort would also help address the closeness of the Rothstein and VOB properties.

From a neighborhood perspective, I also want to highlight some issues that effect the downtown Bethesda area. The potential loss of established trees and walkability is greatly impacted. On Arlington Road, you would be going from a library with extensive greenery on one side, to a blocky tall brick structure on the other.

All of these issues will greatly effect the quality of life that drew me and my family into purchasing a home in this neighborhood. As homeowners in the proposed Bethesda TSR zone, thank you so much for your time and efforts.

Regards,  
Samantha Gumenick  
MGM Enterprises, Inc.  
7910 Woodmont Avenue  
#810  
Bethesda, MD 20814  
(301)-656-0152  
(301)-922-2511 cell  
(301)-656-0811 fax



Dear Ms. Tesfaye,

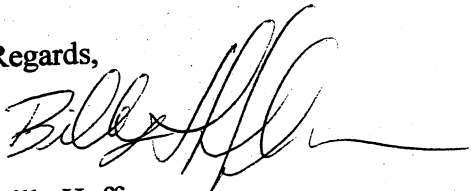
I am writing this letter with regard to the Rothstein Development Applications #DPA 07-03 and # LMA G-865.

My wife and I are residents and homeowners in Downtown Bethesda. It has been brought to my attention that the Rothstein Development is proposing a structure that is not compatible with our existing neighborhood. The following concerns are worth noting:

1. The structure does not have the same look and feel of the existing properties along Arlington Road and is a drastic change from the existing charm of the properties currently on the lot of the proposed structure.
2. The noise and lack of safe feel and comfort from an outside rood deck is not in line with the family makeup across the street (park, library and elementary school).
3. The loss of more nature, especially very precious and old trees will drastically impact the quality of this neighborhood. It will also go against what I the intent and planning of this zone.

Thank you for allowing me to communicate my concerns for the long term preservation of this rare and dynamic neighborhood.

Regards,

A handwritten signature in black ink, appearing to read "Billy Hoffman", with a long horizontal flourish extending to the right.

Billy Hoffman

Dear Ms. Tesfaye,

My name is Brad Hoffman. I own an owner within the Christopher Condominiums in downtown Bethesda. I am writing with regards to the Rothstein Development Applications #DPA 07-03 and # LMA G-865.

As a resident/owner within downtown Bethesda, I am very interested in preserving the standards that the rezoning Approval Standards for the Bethesda TSR zone had set. I am interested in maintaining Bethesda as a pedestrian friendly neighborhood, suited for urban living amongst trees and nature. The unique coexisting of development and charm is what will continue to set us apart from other pockets of growth, such as the expected development at White Flint Mall and Tysons Corner.

Specifically, I have concerns about the height of the building, which is actually 5 stories including the party room and roof deck. It appears that the building was not made to fit in? with the existing look and feel of the neighborhood. It is a stark brick building with no cascading levels or softness to the structure. Arlington road is a daily walkway for me and the other residents of the Christopher. The ability of the existing development does not overshadow the beautiful library, park and elementary school that we pass by on our way to the shopping area. It appears that this would not longer remain the case with the application as it stands today.

Also, I would like to be sure that the trees that affect that parcel of land be maintained, as they are very old and rare to find in this urban setup.

Lastly, assurances that more landscaping will be utilized to retain the charm of that existing lot would be very helpful.

It is of utmost importance to me that the integrity of this neighborhood is maintained. Please let me know anything further that I can do to be an active voice in this process.

Regards,

*Brad Hoffman*

Brad Hoffman





DATE: October 17, 2007

TO: Elsabett Tesfaye  
Planner, Development Review Section  
Montgomery Planning Department, M-NCPPC

FROM: Jim Humphrey  
Chair, Planning and Land Use Committee, Montgomery County Civic Federation  
(301)652-6359 / email - theelms518@earthlink.net

SUBJECT: DPA 07-03 and LMA G-865 - Rothstein project, Arlington Road, Bethesda

We file this submission because homeowners in the Villages of Bethesda subdivision adjacent to the subject properties have brought to our attention their concerns about the height of the building being planned for what has been referred to as the Rothstein project, a multi-family condominium building being proposed for lots currently containing single-family detached home structures, allowed for commercial use, at 7411, 7415 and 7425 Arlington Road, Bethesda.

The Civic Federation has a position of record in support of the County's master plans and, therefore, we share the concern of adjacent residents that the **building height proposed** for the project that is the subject of DPA 07-03 and LMA G-865 **is not in compliance with the applicable master plan**, in this case the 1994 Bethesda Central Business District (CBD) Sector Plan.

We are aware of language in the County Code which states that the maximum height of a building proposed for a property zoned in the Transit Station-Residential (TS-R) zone category shall be determined by the Planning Board in the process of Site Plan review--

**Sec. 59-C-8.5. Special requirements in the TS-R zone.**

**59-C-8.51. Building height limit.**

The maximum height permitted for any building shall be determined in the process of site plan review. In approving height limits the planning board shall take into consideration the size of the lot or parcel, the relationship of the building or buildings to surrounding uses, the need to preserve light and air for the residents of the development and residents of surrounding properties and any other factors relevant to height of the building.

However, we are also aware that in practice the allowable height, as well as maximum number of dwelling units, minimum square footage of public use space, and other standards are established as part of the approval process for a Development Plan. And so we believe it is appropriate to address allowable height in the context of considering DPA 07-03 and LMA G-865.

The 1994 Bethesda CBD Sector Plan establishes a 3 story, 35 foot height for the subject properties in the Transit Station Residential District of Bethesda--

"Maintain low-rise building heights which step down to three floors along Arlington Road. Heights up to six floors are preferred near Woodmont Avenue to achieve the desired urban form." [1994 Bethesda CBD Sector Plan, p. 85 - Urban Design Guidelines, Chapter 4-Land Use and Zoning Plan, Section 4.2-The Transit Station Residential District]

the Building Height Limits map in the Sector Plan specifies a 35 foot height limit for properties along the east side of Arlington Road, from Old Georgetown Road on the north to Hampden Lane on the south, including the properties which are at issue in DPA 07-03 and LMA G-865 [1994 Bethesda CBD Sector Plan, p. 39]

There is no height limit established for the TS-R zone category in the language of the Zoning Ordinance in the County Code; instead, the height of individual TS-R zoned properties is set forth in the applicable master plan--in this instance, a 3-story 35 foot height. We understand that the building proposed in DPA 07-03 includes 4 stories of residential units, and usable square footage in the form of a roofed party room in addition to mechanical appurtenances, such as elevator housings, on a 5th level. We assert that the height of the building proposed in DPA 07-03 is not in substantial compliance with the sector plan or with the height standard of the TS-R zone as set forth for the subject properties in the sector plan. Instead, a building with 3 stories of residential units and a rooftop open space for use by residents of the development for recreational purposes would not only be in compliance with the sector plan but would also be compatible with the 3 story, 35 foot height of the adjacent Villages of Bethesda townhomes.

In addition, we assert that the Edgemoor at Arlington, a 4-story multi-family building on a TS-R zoned property also on the east side of Arlington Road but across Montgomery Lane from the subject site, should not be accepted as having set a precedent for approval of the 5 story building height requested in DPA 07-03. We believe that a previous project approval which was violative of the area master plan should instead be viewed as an example of a mistake not to be repeated, rather than a precedent to justify further violation of the sector plan.

In approving a Development Plan, the County Council must find that the project as proposed is in substantial compliance with the applicable master plan. Therefore, we urge the Planning Board to recommend to the County Council that they not approve DPA 07-03 or LMA G-865 as proposed, but remand them back to the Board for revision.

Elaine Economides Joost  
4801 Hampden Lane - Apt. 803  
Bethesda, MD 20814  
301-657-1690 [econojoost@msn.com](mailto:econojoost@msn.com)

October 8, 2007

Ms. Elsabett Tesfaye  
Principal Planner, Zoning Section  
Development Review Division  
Montgomery County Planning Department  
8787 Georgia Avenue  
Silver Spring Md. 20910-3760

SUBJECT: Rothstein Development Applications # DPA 07-03 and # LMA G-865

Dear Ms. Tesfaye:

As President of the Hampden Square Condominium Association, I am writing to express my concerns about Rothstein Development Applications # DPA 07-03 and # LMA G-865. Although Hampden Square, located on Hampden Lane between Woodmont and East Lane, is not adjacent to the proposed development site, it is located within sufficient proximity that the decisions made by the Maryland Parks and Planning Commission (MPPC) with respect to the subject applications, would serve as precedent for developments that might be proposed on adjacent lots. Because MPPC decisions in this matter have the potential for significant impact on the 37 unit owners in Hampden Square, I am going on the record in this proceeding to endorse the views expressed by the representatives of the Villages of Bethesda, the homeowners most directly affected by the proposed development.

Before I begin, I would like to commend the many committed public servants and elected officials who have worked so hard over the years to develop and maintain compliance with the urban plans that have made downtown Bethesda a vibrant urban village. One need only look across the river to Roslyn, Virginia, to see the results of urban growth unrestrained by long-term strategies. Just as killing the goose that lays the golden eggs is a poor strategy, so is it a bad idea to change the rules that created a livable city to permit the type of development that destroys the quality of life therein. That's why I am urging the MPPC to deny the rezoning request in the subject applications.

I submit that the subject applications propose the erection of a building that is both incompatible with its neighboring structures and inconsistent with the requirements of the 1994 Bethesda CBD Sector Plan. Thus, the applicants are asking the MPPC to abandon both the letter and the spirit of the urban plan for the Bethesda transit station residential (TSR) zone.

The Sector Plan called for building heights to sweep downward from the highest roofs (on Wisconsin Avenue) to the lowest (on Arlington Road). Besides assuring light and air to all

buildings, it provided for a graceful transition to the low-rise library and houses on the other side of Arlington Road. More specifically, the 1994 Sector Plan states:

Maintain low-rise building heights which step down to three floors along Arlington Road. Heights up to six floors are preferred near Woodmont Avenue to achieve the desired urban form. (*Urban Design guidelines from Chapter 4 - Land Use and Zoning Plan, Section 4.2-The Transit Station Residential District*)

Lest there be any debate on what constitutes "three floors," the Building Height Limits Map (Figure 3.2) on page 39 of the 1994 Sector Plan, notes a 35-foot height limit for properties east of Arlington Road from Old Georgetown Road on the north to the northern side of Hampden Lane.

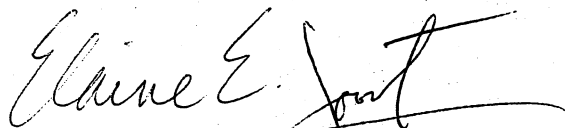
To recap, the 1994 Sector Plan which has been so successful in shaping the growth of a model urban village, calls for a graduated line of rooftops declining from 6 stories near Woodmont to 35 feet on Arlington Road. The building proposed in the subject applications is essentially a 5-story building, notwithstanding the applicants' intent to exclude the large party room on the roof from their calculation of the building's height.

**There is no public policy justification for permitting the applicants to deviate from the 35-foot height requirement specified in the 1994 Bethesda CBD Sector Plan.** It will not improve air quality, traffic flow, noise levels, or quality of life in the sector. In fact, there is no public interest that would be advanced by the requested change. For that reason alone, it should be denied.

When making the case for their development's compatibility with the neighborhood, the Rothstein Développement Team's report (dated Sept 5, 2007) made reference to the Holladay Development, which has not yet been built, but not to the Villages of Bethesda (VOB), which not only exist but are immediately adjacent to the proposed development. By failing to address the impact of their proposed development on the parties who would be most affected, the applicants create a reasonable inference that doing so would undermine their case for rezoning. In view of this apparently deliberate attempt to avoid discussing the impacts of their proposed development on the VOB, **the MPPC should provide for enforceable protection of VOB's interests by requiring the inclusion of the following binding elements in the applicants' Development Plan: (1) a construction agreement between Rothstein Development and VOB; and (2) a landscaping plan acceptable to VOB.**

Thank you for the opportunity to submit comments for the record in the matter of Rothstein Development Applications # DPA 07-03 and # LMA G-865.

Sincerely,



Elaine E. Joost, President  
Hampden Square Condominium Association

Bob Koran  
7453 Arlington Road  
Bethesda MD 20814.  
October 9, 2007

Ms. Elsabet Tefaye, Zoning Section  
Development Review Division  
Montgomery County Planning Department  
8787 Georgia Avenue  
Silver Spring, MD 20910

Dear Ms. Tefaye,

I live in the Villages of Bethesda, and I am concerned about the proposed Rothstein Development that would abut my community to the south.

I am concerned that this 5-story development will encroach on the sunlight and air that I enjoy in my community and as I bike and walk in the neighborhood. This part of Bethesda is a special place with human-scale buildings and walker-friendly walkways. Just a few blocks away to the east and to the south (where new construction is going up) building heights climb and with them the noise and tension. But right here and right now we enjoy a little urban village.

I understand that the Bethesda Sector Plan sets a three-story height limit on development along the east side of Arlington Road. I also understand that the reason for this is to preserve the appeal of Bethesda as a welcoming place for residents and visitors who walk to the library, grocery and other retail businesses.

I ask that the Planning Board respect the Bethesda Sector Plan and approve only developments that conform to it. The Rothstein Development, as currently proposed, does not conform, and would have a negative impact on my neighborhood.

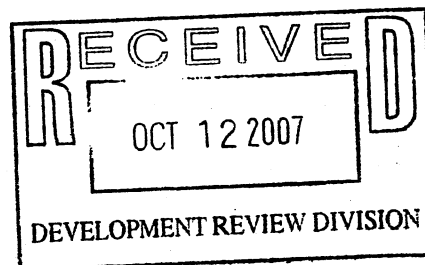
I am also concerned that this development, just 15 feet from VOB's property line, could jeopardize our own construction. We are built on a platform that includes an underground parking garage. Construction of such a large development this close to us could undermine our structure.

Thank you for weighing my interests as you review the Rothstein application. I also ask that you include me as a "person of interest" in this proceeding and provide me with relevant notices and filings.

Sincerely,



Bob Koran



Nancy Koran  
7453 Arlington RD  
Villages of Bethesda  
Bethesda MD 20814.  
October 7, 2007

Ms. Elsabet Tesfaye, Principal Planner, Zoning  
Development Review Division  
Montgomery County Planning Department  
8787 Georgia AVE  
Silver Spring MD 20910-3750

Dear Ms. Tesfaye,

It was a pleasure to meet you and your colleagues on Oct. 2 to discuss the Rothstein Development. I am writing as a Villages of Bethesda homeowner to document my concerns about the Rothstein Development application (case numbers DPA 07-03 and LMA G-865).

I realize, of course, that development is inevitable. But I am writing to suggest that the proposed Rothstein Development will jeopardize Arlington Road as a pedestrian-friendly corridor and a people-friendly residential community.

One of the strengths of this neighborhood is its sense of place. Even as local automobile traffic increases, along Arlington Road residents and visitors still walk to the library, the school, the Giant, Strosnider's hardware store, retail shops and to restaurants. They travel on sidewalks that, at present, still afford light and air and mature trees. I travel that route almost daily—along with hundreds of my neighbors—some of them in wheelchairs. We chose to live there because it IS pedestrian-friendly.

When I walk up the steps to my townhouse with a bag of groceries, I look to my right and see blue sky and the majestic old trees on the Rothstein/Holladay property line. Fine old-growth trees shelter birds and squirrels, and yes, people with an almost spiritual presence that "landscaping," no matter how sensitively designed, cannot duplicate.

The Bethesda Sector Plan recognizes that development can jeopardize the light and air, the sense of place that has made Bethesda attractive to residents, visitors and shoppers. The BSP calls for three-story development along the east side of Arlington Rd. The Villages of Bethesda, with its 21 town homes and green central courtyard, is a three-story community.



Yet the Rothstein Development, with its rooftop party room, is a five-story structure. Its upper stories step back along Arlington Road and Montgomery Lane, but the development presents its full, extensive, unbroken height to the Villages of Bethesda. It will loom above us, block our view of the blue sky and trees (if any remain), reduce our light and air, and cast its shadow on our homes and our modest green courtyard.

Our three-story community has a right to expect that our new neighbor will also be no taller than three stories in keeping with the provisions of the Bethesda Sector Plan. For these reasons I respectfully ask that the Planning Commission deny the Rothstein Development proposal. I also respectfully request that whoever develops this property be required to preserve the old-growth tree grove on the site.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Koran". The signature is written in dark ink and is positioned below the word "Sincerely,".

Nancy Koran

October 12, 2007

MS. ELSABETT TESFAYE  
PRINCIPAL PLANNER, ZONING SECTION  
DEVELOPMENT REVIEW DIVISION  
MONTGOMERY COUNTY PLANNING DEPARTMENT  
8787 GEORGIA AVENUE  
SILVER SPRING MD. 20910-3760

Dear Ms. Tesfaye:

I am writing to express my concerns about Rothstein Development Applications # DPA 07-03 and # LMA G-865. I happen to be President of the Council of Unit Owners of the Edgemoor Condominiums [4821 Montgomery Lane] and a founding member of the Bethesda Civic Coalition. Our building is on the same side of the block on Montgomery Lane and is very close to this development. Because MPPC decisions in this matter have the potential for significant impact on the 54 unit owners in the Edgemoor, I endorse the views expressed by the representatives of the Villages of Bethesda, the homeowners most directly affected by the proposed development.

The applications propose the erection of a building that is both incompatible with its neighboring structures and inconsistent with the requirements of the 1994 Bethesda CBD Sector Plan. Thus, the applicants are asking the MPPC to abandon both the letter and the spirit of the urban plan for the Bethesda transit station residential (TSR) zone.

The Sector Plan called for building heights to sweep downward from the highest roofs (on Wisconsin Avenue) to the lowest (on Arlington Road). Besides assuring light and air to all buildings, it provided for a graceful transition to the low-rise library and houses on the other side of Arlington Road. More specifically, the 1994 Sector Plan states:

Maintain low-rise building heights which step down to three floors along Arlington Road. Heights up to six floors are preferred near Woodmont Avenue to achieve the desired urban form. (*Urban Design guidelines from Chapter 4 - Land Use and Zoning Plan, Section 4.2-The Transit Station Residential District*)

Lest there be any debate on what constitutes "three floors," the Building Height Limits Map (Figure 3.2) on page 39 of the 1994 Sector Plan, notes a 35-foot height limit for properties east of Arlington Road from Old Georgetown Road on the north to the northern side of Hampden Lane.

To recap, the 1994 Sector Plan which has been so successful in shaping the growth of a model urban village, calls for a graduated line of rooftops declining to 35 feet on Arlington Road. The building proposed in the subject applications is essentially a 5-story building, notwithstanding the applicants' intent to exclude the large party room on the roof from their calculation of the building's height.

**There is no public policy justification for permitting the applicants to deviate from the 35-foot height requirement specified in the 1994 Bethesda CBD Sector Plan.** It will not improve air quality, traffic flow, noise levels, or quality of life in the sector. In fact, there is no public interest that would be advanced by the requested change. For that reason alone, it should be denied.

When making their case for their development's compatibility with the neighborhood, the Rothstein Development Team's report (dated Sept 5, 2007) made reference to the Holladay Development, which has not yet been built, but not to the Villages of Bethesda (VOB), which not only exist but are immediately adjacent to the proposed development. The Edgemoor Condominiums were not referenced as well. By failing to address the impact of their proposed development on the parties who would be most affected, the applicants create a reasonable inference that doing so would undermine their case for rezoning.

In view of this apparently deliberate attempt to avoid discussing the impacts of their proposed development on the VOB, **the MPPC should provide for enforceable protection of VOB's interests by requiring the inclusion of the following binding elements in the applicants' Development Plan: (1) a construction agreement between Rothstein Development and VOB and the Edgemoor; and (2) a landscaping plan acceptable to VOB and the Edgemoor.**

Any consideration of further development on Montgomery Lane that adds cars must also address the traffic light problem on Montgomery Lane governing access to Arlington Road. Presently, it borders on impossible to make a left turn onto Arlington Road during times of high traffic volume.

The process for approving multiple individual projects in downtown Bethesda is broken and in need of fixing. I am concerned about Montgomery County's process of approving of one project at a time instead of evaluating the combined impact on our community, traffic, and schools of multiple projects occurring simultaneously. Residents of downtown Bethesda worry about the schedule for roll out of the four projects on Montgomery and Hampden Lanes coupled with those for Lot 31, Thyme Square, and Metro Center, and their impact on the quality of life in downtown Bethesda given changes in pedestrian and auto traffic patterns.

Why do I say that? Testimony has been presented to the Planning Board and Hearing Examiner for some of these smaller projects stating that they will have little or no impact on the schools or traffic. However, when you add the smaller projects, such as this one, to the larger ones, like Lot 31, Thyme Square and Thyme Square, you can see it. The additional impact on traffic, schools, and the lives of those who live in the downtown is obvious. Another vital issue is the amount of dust and particulate matter in the air if multiple projects are being built during the same time frame. Clearly, the Planning Board, the hearing examiners, and the County Council must address these issues. Something must be done to establish a sane schedule for rollout of these developments.

Thank you for the opportunity to submit comments for the record in the matter of Rothstein Development Applications # DPA 07-03 and # LMA G-865. A signed copy of this letter is being mailed for inclusion in the record.

Sincerely,

  
Jon Weintraub

4821 Montgomery Lane  
Bethesda, MD 20814

October 8, 2007

Ms. Elisabeth Tesfaye  
Principal Planner, Zoning Section  
Development Review Division  
Montgomery County Planning Department  
8787 Georgia Avenue  
Silver Spring, MD. 20910-3760

Dear Ms. Tesfaye,

Thanks again to you and your colleagues for meeting with our Villages of Bethesda group. As I noted at the outset of the meeting, I've been impressed over the years with the willingness of MNCPPC staff to listen to all sides of an issue and to judge it with a sense of fairness and balance. That is all we at VOB ask. We understand the right of owners to develop their property. We ask only that the rules by which this is done be fair and that everyone plays by the rules to the benefit of all concerned.

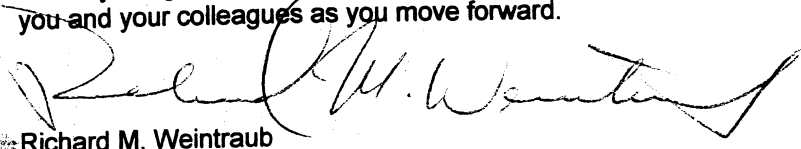
The Rothstein Development, case numbers DPA 07-03 and LMA G-865, fails to meet this standard. As currently proposed, it is incompatible with the broader community welfare as well as the specific interests of VOB, which the project abuts, although one would be hard-pressed to find any recognition of this in the documents presented by the project's proponents.

As we all know, there is very significant development under way in this section of Bethesda and that this parcel will do a great deal to determine the future character of Arlington Road. While it is a busy route for cars, buses and trucks, Arlington Road also is a very significant pedestrian thoroughfare. Children walk to Bethesda Elementary. People of all ages walk to the Bethesda Library. Residents and visitors to the area walk to the business districts that abut Arlington Road and into which it feeds. In short, it is everything this urban residential district is meant to be and that is in no small part because the Planning Commission is enforcing the plan, which requires that structures along Arlington conform to a certain height and mass. Today, Arlington road is an inviting thoroughfare along which to walk. There is a distinct sense of openness that it is essential to maintain. Living by the development rules would do that. Exceptions to those rules inevitably would lead to a canyon effect that none of us wants.

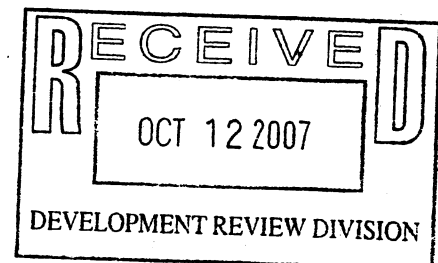
While the sector plan calls for a 35-foot, three-story height limit along Arlington Road, this project proposes a five-story height, with the top floor housing both mechanicals and a fully developed party room. In short, this is four stories of full-use housing plus a fifth story designed fully for recreational use of the building's inhabitants. While its Arlington Road facade steps back somewhat in the upper floors, it still presents a massive presence and the side facing VOB (with a minimal separation) is a looming wall of brick affecting both the neighbors in our complex AND anyone walking along Arlington Road. I invite you to look at the wall nearest Hampden Lane of the neighboring "Little Edgemoor" development to see the intrusive effect of such a facade of brick. Compare this to the stepped back effect of the rest of that building along Arlington Road and Montgomery Lane.

These are fundamental design issues with this building. Further, given its very close proximity to VOB, it is essential that we have a Construction Agreement in place prior to any project approvals. Our complex is built over a full underground garage that extends to the property line and is vulnerable to nearby construction.

Thank you again for your time and attention. Please do not hesitate to call if I can be of any assistance to you and your colleagues as you move forward.

  
Richard M. Weintraub  
7463 Arlington Road  
Bethesda, MD

301-654-2579



## Tesfaye, Elsabett

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**From:** Hutt, Martin J. [mjhutt@lercheary.com]  
**Sent:** Friday, January 25, 2008 11:33 AM  
**To:** Tesfaye, Elsabett  
**Subject:** G-863 and DPA  
**Attachments:** img-125111311.pdf

<<img-125111311.pdf>>  
January 25, 2008

Elsabett:

As we discussed last week, we are removing the community room off of the roof top for the above referenced local map amendment and DPA as well as making changes to the building facades to address community concerns as to building mass and scale. Attached are revised floor plan drawings and a 3 dimensional drawing depicting such change. I will drop off larger scale drawings for you. John Sekerak will be sending you additional drawings depicting revisions.

Martin J. Hutt  
3 Bethesda Metro Center, Suite 460  
Bethesda, Maryland 20814-5367  
301.657.0170 (Direct Phone)  
301.347.1774 (Direct Fax)

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**From:** Hutt, Martin J.  
**Sent:** Friday, January 25, 2008 11:23 AM  
**To:** Hutt, Martin J.  
**Subject:** Emailing: img-125111311.pdf

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