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February 20, 2025

Via Electronic Mail

Mr. Demetries Oberc
Montgomery County Department of Transportation
Property Acquisition Section
100 Edison Park Drive, 4th Floor
Gaithersburg, MD 20878

Re: Abandonment No. AB-758, Character of Right-of-Way Triangle

Dear Mr. Oberc:

The purpose of this letter is to provide some follow-up information with respect to the abandonment area and references and comments made about "Kramer Park" during the abandonment hearing on February 18, 2025.

Regardless of whatever moniker may be applied to the abandonment area, it remains right-of-way. Thus, what may be referred to by some as "Kramer Park" is not, in fact, a "park." It is right-of-way. The character of the land was specifically considered, reviewed, and put to rest in the 2017 analysis of the Elizabeth Square project that proposed use of this right-of-way area as a part of the project following abandonment.

An excerpt from the Planning Board Staff Report from the 2017 approval of the current Elizabeth Square design is attached as Exhibit 20 to the Petitioner's Amended Petition, dated September 4, 2024. A duplicate copy is attached to this letter. On page 19 of that excerpt from the Report, the Planning Staff states:

"HOC and ADHC filed a joint petition for abandonment with Montgomery County for 6,693 sq. ft. of right-of-way that includes the southwest corner of the Fenwick Lane and Second Avenue intersection (Figure 3), which is currently improved as a small space informally referred to as 'Kramer Park' (not a park)."

The subject application was reviewed through all the normal processes in 2017, including referrals to different agencies, and examination by the various components of the Planning Board Staff. The abandonment area is, in fact, right-of-way, rather than parkland. The status is right-of-way was acknowledged in the 2017 Report, which was preceded by Staff reviews, including by the Parks Department.

The first phase of the Elizabeth Square project is the building now known as The Leggett. Construction of the Leggett (with 267 dwelling units), replaced the function of the aged, original Elizabeth House and its 160 dwelling units, now slated for demolition. Residents of the Elizabeth House were given the option to move into the Leggett, so that they could remain in familiar surroundings.

The Elizabeth Square project has been approved by the Planning Board, including use of the abandonment area.

As a part of the Elizabeth Square project (including the new Elizabeth House IV, which will utilize much of the abandonment area for its footprint), there is a large public plaza being provided, which will be accessed principally through the enlarged public entrance from Second Avenue. This entrance is created by rotating the Elizabeth House IV building out into the abandonment area and pulling it away from Alexander House, thus creating an entrance from Second Avenue into the Plaza that is fully open to the sky. The Plaza area itself contains approximately 25,000 sq. ft. of public space, including a large block of approximately 6,800 sq. ft. of actual green lawn area. In addition, this plaza provides the forecourt and entrance to the County's Silver Spring Recreation and Aquatics Center, which contains over 137,000 sq. ft. for recreational activities (SSRAC).

With regard to the amount of open space/green space available in the abandonment area today, setting the record straight on the areas involved and their character is important. The abandonment area totals 6,693 sq. ft. Much of that area is in hardscape to provide: (i) the vehicular entrance to the existing, original Elizabeth House garage, and (ii) the drive-thru drop off that can be used for access to the building. The abandonment area also includes several raised planter boxes and other hardscape features. There is a minimal area of actual "green space" in lawn area. Only 3,935 sq. ft. are non-vehicular areas, or areas not previously encumbered by utilities.

Thus, for either outdoor public open space in the Plaza, or indoor public recreation space for different activities in the SSRAC, the implementation of the remainder of the Elizabeth Square project will vastly increase the amount of publicly accessible space in the area. The public plaza will provide actual green space that is slightly larger than the entire abandonment area itself. This actual green space is a component of the approximately 25,000 square feet of public space that is available in the Plaza as a whole.

The 2017 Staff Report notes on page 36, as to the Sketch Plan, that the "Project substantially conforms to the recommendations of the Silver Spring CBD Sector Plan." The Report continues, on pages 36-37, to say that:

The location, size, intensity, design, and operational characteristics proposed for this Project are compatible with the existing and proposed development in the general neighborhood."

Finally, in findings on the companion Site Plan, the Report notes on page 52 that the application "substantially conforms with the recommendations of the Sketch Plan," thereby incorporating the finding of Sector Plan conformance into the Site Plan, as it was approved.

Attached are several drawings that illustrate the points above:

Attachment 1 -- Excerpt from the 2017 Planning Staff Report.

Attachment 2 -- The approved 2017 CR Zone Plan that is operative today, showing the overall plan of the Plaza.

Attachment 3 -- A rendering looking over a portion of the Plaza, showing the lawn area and other hardscape and softscape areas, and also showing the visual linkage to Second Avenue.

Attachment 4 -- Diagram of the abandonment area, showing the 3,935 sq. ft. that are available as non-vehicular areas, unencumbered by previous utility locations.

Attachment 5 -- Diagram of the approved plaza (25,271 sq. ft.) and its 6,881 sq. ft. of contiguous green lawn area.

As a result, the abandonment and reuse of the abandonment area will have a positive effect on public open space and green space in this area of Silver Spring.

Please contact me if you have any questions on this matter.

Very truly yours,

LERCH, EARLY & BREWER, CHTD.

William Kominers

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Enclosures

WK/bp

cc: Mr. Jay Shepherd
Mr. Robert Graham
Christopher M. Ruhlen, Esquire



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

MCPB
Item No.
Date: 12/7/2017

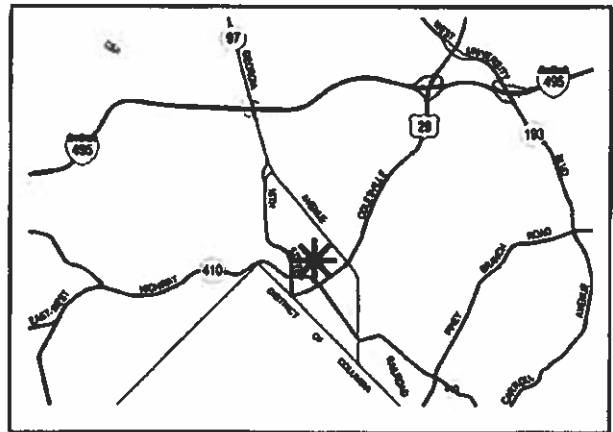
Elizabeth Square, Sketch Plan No. 320170090, Preliminary Plan Amendment No. 12015003B and Site Plan No. 820170140

- SD** Stephanie Dickel, Planner Coordinator, Area 1, Stephanie.Dickel@montgomeryplanning.org, 301.495.4527
- Mat** Matthew Folden, Planner Coordinator, Area 1, matthew.folden@montgomeryplanning.org, 301.495.4539
- E** Elza Hisel-McCoy, Supervisor, Area 1, Elza.Hisel-McCoy@montgomeryplanning.org, 301.495.2115
- R** Robert Kronenberg, Chief, Area 1, Robert.Kronenberg@montgomeryplanning.org, 301.495.2187

Completed: 11/27/2017

Description

- Sketch Plan: Construction of up to 996,109 square feet of total development including up to 853,510 square feet of residential development, up to 5,451 square feet of non-residential uses, and 137,148 square feet of publicly owned or operated facilities;
- Preliminary Plan: Combine 5 existing lots into 1 2.68-acre lot (net area);
- Site Plan: Construction of up to 853,510 square feet of residential development with up to 906 dwelling units, up to 5,451 square feet of non-residential uses, and 137,148 square feet of publicly owned or operated facilities;
- Current use: two high-rise multi-family residential buildings, the Elizabeth House and the Alexander House and three two-story commercial buildings, Fenwick Professional Park;
- Located at the at northwest quadrant of the intersection of Second Avenue and Apple Avenue;
- 3.62 acres zoned CR 3.0: C 2.0, R 2.75, H 90T and CR 5.0: C 4.0, R 4.75, H 145T in the *Silver Spring CBD Sector Plan*;
- Applicant: The Housing Opportunities Commission of Montgomery County, Alexander House Development Corporation, and Acorn Storage No. 1 LLC;
- Acceptance date: June 28, 2017.



Summary

- The Elizabeth Square project is a public-private partnership, mixed-use optional method of development project that will provide 25% MPDUs or other MCDHCA approved Affordable Housing (234 units) and 120,058 square feet for a regional recreation and aquatic center within the Silver Spring CBD in close proximity to the Silver Spring Metro.
- The Elizabeth Square project includes the full-size South County Regional Recreation and Aquatic Center (SCRRAC).
- In accordance with Section 59.7.3.4.C of the Zoning Ordinance, the Sketch Plan received two Planning Board extensions to the public hearing date, postponing the hearing date from September 27, 2017 to November 16, 2017 and from November 16, 2017 to December 15, 2017.
- In accordance with Section 59.7.3.4.C of the Zoning Ordinance, the Preliminary Plan Amendment and Site Plan received a Planning Director extension to public hearing, postponing the hearing date from October 26, 2017, to November 16, 2017 and a Planning Board extension postponing the hearing date from November 16, 2017 to December 15, 2017.
- The Applicant is requesting an extension of the APFO validity period in accordance with Section 50.4.3.J.5.b. of the Subdivision Regulations.
- The Applicant originally requested a waiver from the required number of vehicular parking, which has been withdrawn per compliance with Section 59.6.2.10 of the Zoning Ordinance.

ATTACHMENT #1.

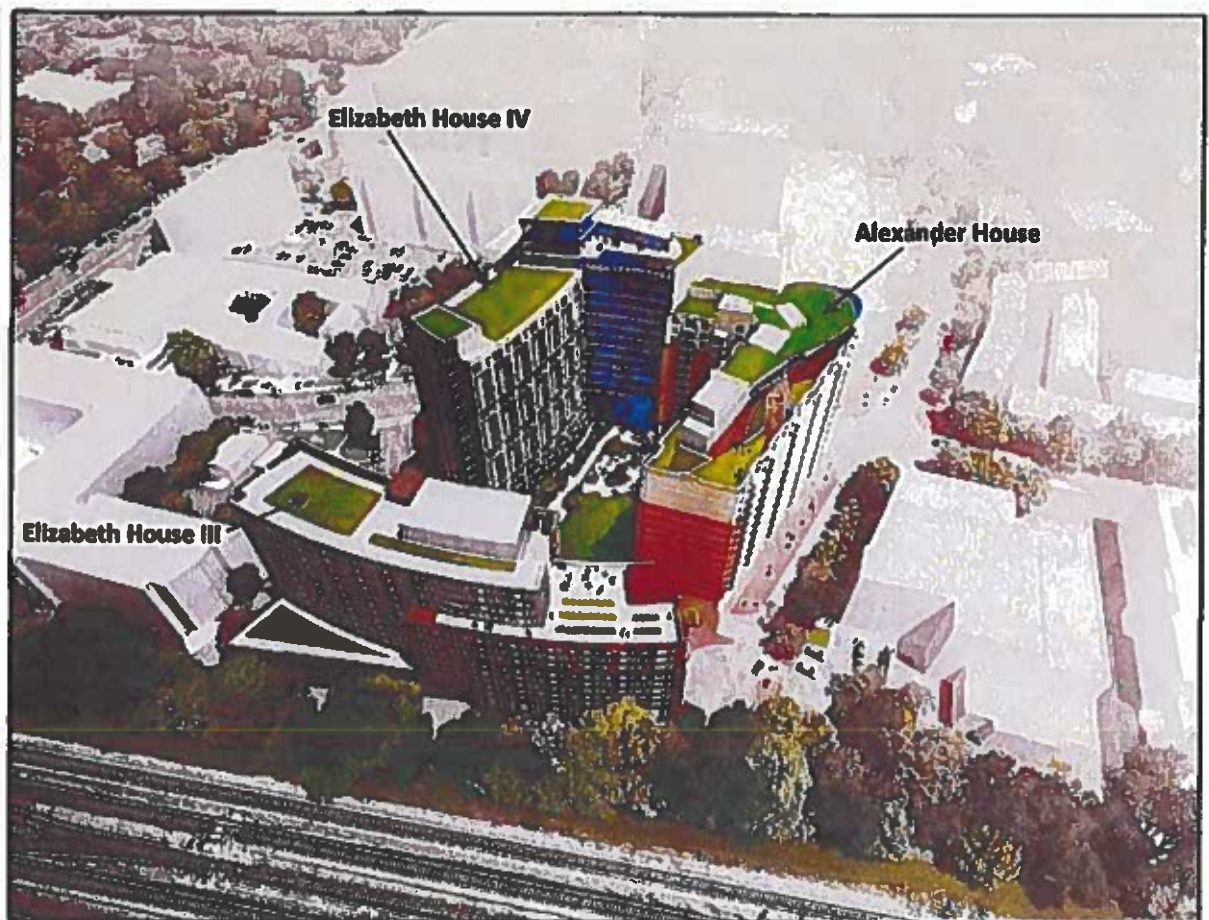


Figure 2-Approved Project Plan (Aerial View Looking East)

The CBD Project was approved to be a phased, mixed-use development for the construction of up to 772,078 square feet of total development, including 766,046 square feet of residential development. The residential portion of the development was approved for up to 907 dwelling units, including a minimum of 15% moderately priced dwelling units and 10% workforce housing units as approved by the Montgomery County Department of Housing and Community Affairs, and "other affordable" units under other guaranteed programs. The non-residential portion of the development was approved for up to 6,032 square feet of non-residential use, and an additional 63,896 square feet of indoor public use space that will be a government-operated recreation and service facility that would include an indoor pool and associated public spaces to be operated by the HOC, and the Wellness Center through a partnership with Holy Cross Hospital. The CBD Project ultimately would be located on one lot comprised of 3.12 acres of land.

Proposal

After the Previous Approvals were obtained, representatives from the Montgomery County Department of Recreation (MCDR) met with the Applicant to propose locating a full-size South County Regional Recreation and Aquatic Center (referred to as SCRRAC) in lieu of the previously approved public recreational indoor pool and related facilities. After meetings with various County officials, the CBD Project was redesigned to incorporate the larger SCRRAC and additional land area, described below, was incorporated into the revised project.

On April 12, 2017, HOC and ADHC filed a joint petition for abandonment with Montgomery County, designated AB 758, (Attachment B) to the Montgomery County Council for 6,693 square feet of right-of-way that includes the southwest corner of the Fenwick Lane and Second Avenue intersection (Figure 3), which is currently improved as a small space informally referred to as "Kramer Park" (not a park). As conditioned, the Phase II subdivision cannot proceed unless the County Council abandons the right-of-way subject to Petition AB 758. If the Council denies the abandonment petition or abandons any portion less than the full extent described in the petition, the Applicant must seek an amendment to the subject Preliminary Plan.

Staff supports the Applicant's right-of-way abandonment petition because the subject right-of-way is no longer necessary for public use. As a result, Staff recommends that the Planning Board issue a letter to the County Council recommending abandonment of the right-of-way.

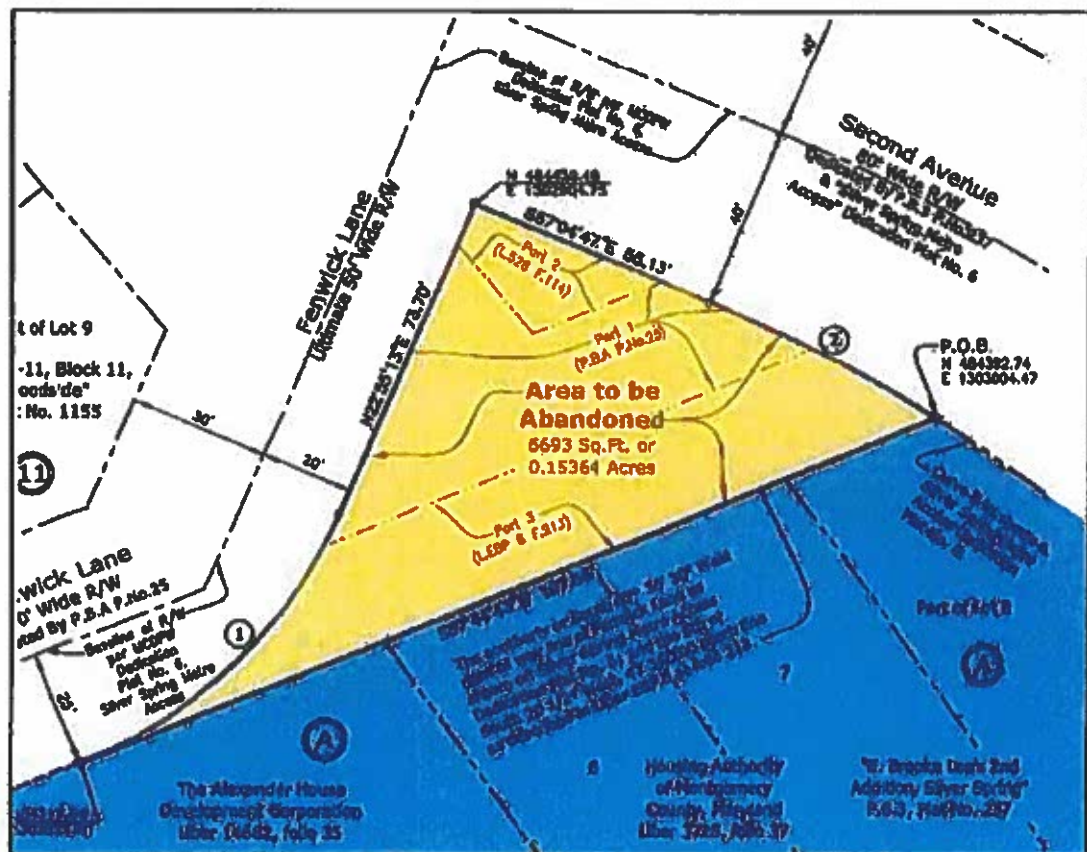


Figure 3 – Area Subject to Right-of-Way Abandonment Petition AB 758
(Abandonment area shown in Orange; Site shown in Blue)

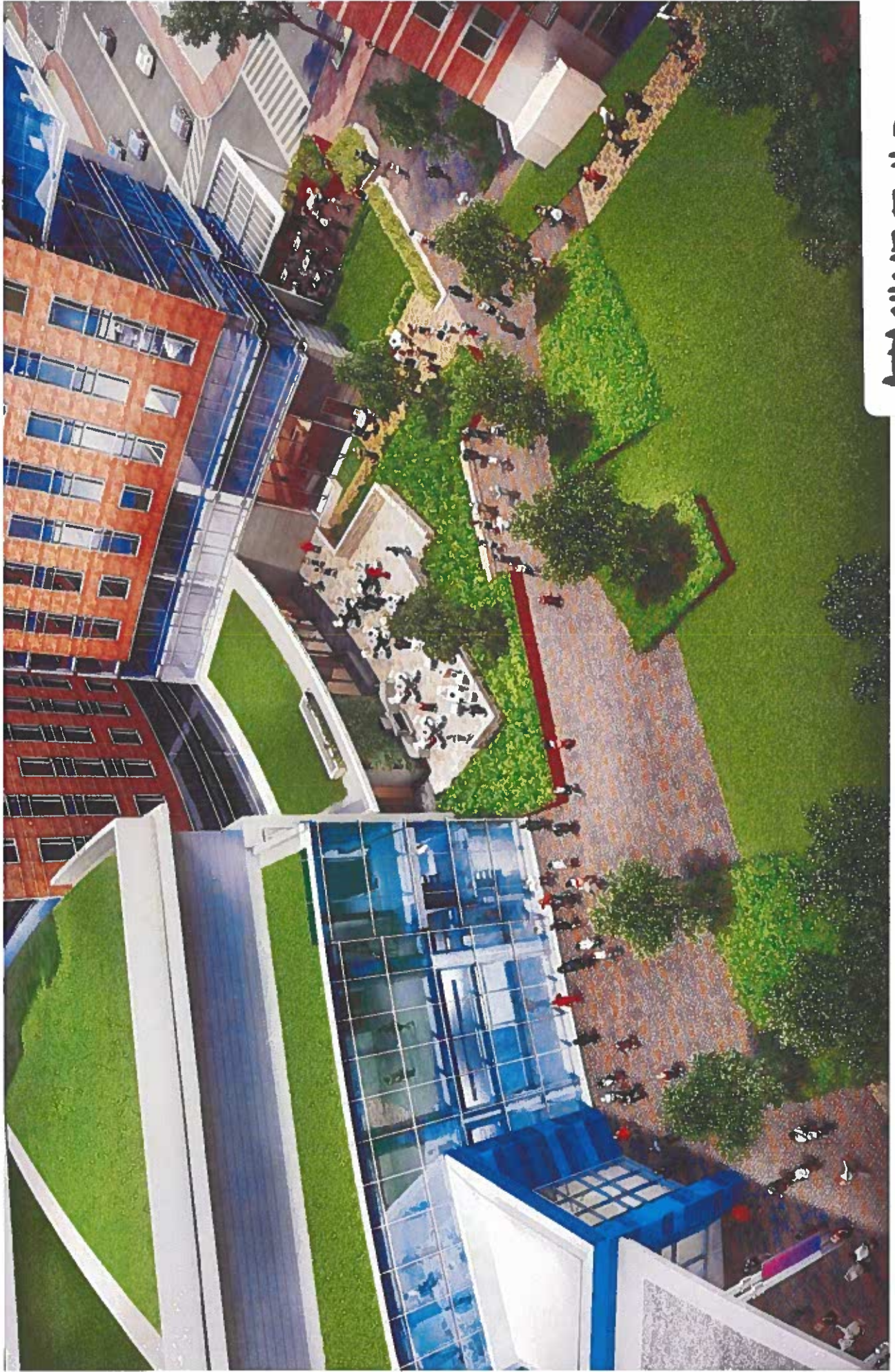
Subdivision

The Preliminary Plan Amendment (Attachment C) will create one lot consisting of 2.84 acres (123,502 square feet) for a maximum development density of 996,109 square feet. This density will be comprised of up to 853,510 square feet of residential uses (up to 906 high rise residential dwelling units), up to 5,451 square feet of non-residential uses, and up to 137,148 square feet of public owned or operated facilities including 120,058 square feet for a regional recreation and aquatic center.



ATTACHMENT #2.

2017 SITE PLAN



2017 SITE PLAN SHOWING PLAZA ,SILVER SPRING RECREATION & AQUATIC CENTER

4. # 123456789

**EXISTING
OPEN SPACE
EXHIBIT**

RODGERS
CONSULTING
10057 Century Boulevard, Suite 200, Centurions, Maryland 20814

**1436 FENWICK LANE
SILVER SPRING, MARYLAND**

[illegible]

BT	DATE
BASE DATA	
ACCOUNT	
PHONE	
ADDRESS	
NO	
NO	

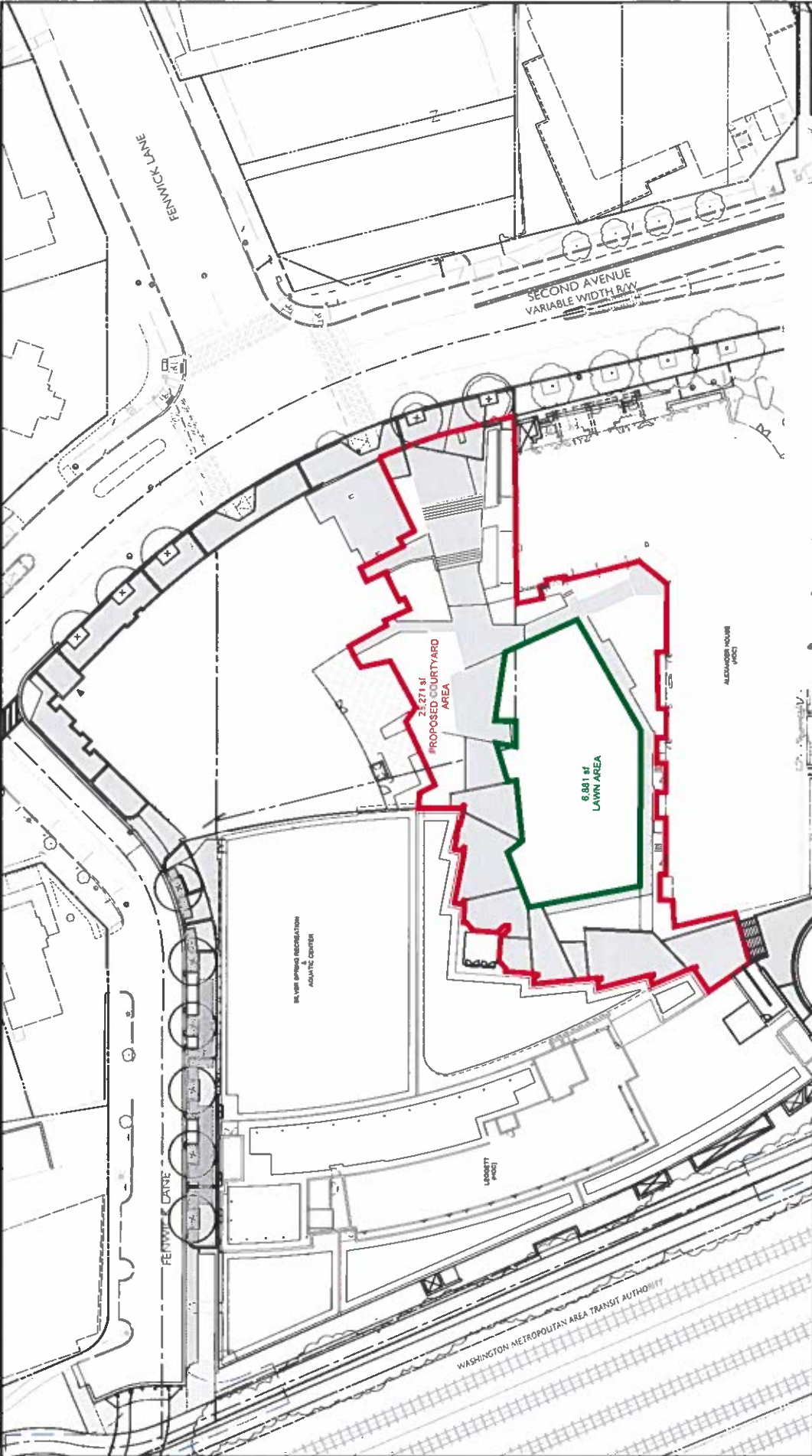
FOR OFFICE CONTACT

RELEASE FOR ☐

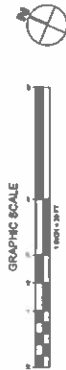
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GRAPHIC SCALE





ATTACHMENT #5.



1436 FENWICK LANE SILVER SPRING, MARYLAND		RODGERS CONSULTING 1436 Fenwick Lane, Silver Spring, MD 20910 Tel: 301.584.0000 Fax: 301.584.0001 www.rodgersconsulting.com		PROPOSED OPEN SPACE EXHIBIT	
DATE: 12/1/2011		BY: JLD		CHECKED: JLD	
PROJECT: 1436 FENWICK LANE		SHEET: 1 OF 1		RELEASE FOR: []	
DRAWN: JLD		DATE: 12/1/2011		SCALE: AS SHOWN	
PROJECT: 1436 FENWICK LANE		SHEET: 1 OF 1		RELEASE FOR: []	
DRAWN: JLD		DATE: 12/1/2011		SCALE: AS SHOWN	