



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

Consent Item #
MCPB 5-10-07

MEMORANDUM

DATE: April 27, 2007
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief *RK*
 Development Review Division
FROM: Robert A. Kronenberg, Acting *RAK*
 Supervisor
 Development Review Division
 (301) 495-2187



REVIEW TYPE: Site Plan Amendment
CASE #: **82006036A**
PROJECT NAME: **8400 Wisconsin Avenue**
APPLYING FOR: Amendment to correct the typo in the data table for building setbacks and reduce the number of parking spaces from 378 to 373

REVIEW BASIS: Div. 59-D-2.6 of Montgomery County Zoning Ordinance for Minor Plan Amendments

ZONE: CBD-1 Zone
LOCATION: Located on Wisconsin Avenue in the northwest quadrant of Battery Lane
MASTER PLAN: Bethesda CBD
APPLICANT: Crimson 8400 Bethesda, LLC
FILING DATE: December 14, 2006
HEARING DATE: May 10, 2007

STAFF RECOMMENDATION: Approval of the proposed amendments to Site Plan 820060360 and approval of the attached draft Planning Board Resolution for the Site Plan 82006036A.

BACKGROUND

Project Plan

The Project Plan (920060060) for 8400 Wisconsin Avenue was presented to the Planning Board on December 22, 2005 (Planning Board Opinion dated March 7, 2006) for 415,825 gross square

feet of development, including a maximum of 200 multi-family dwelling units, of which 25 were MPDUs, and 2,000 square feet of artists' studio space in the CBD-1 Zone.

Preliminary Plan

The Preliminary Plan (12006040) for 8400 Wisconsin Avenue was presented to the Planning Board on December 22, 2005 (Planning Board Opinion dated March 7, 2006) for 415,825 gross square feet of development, including a maximum of 200 multi-family dwelling units, of which 25 were MPDUs, and 2,000 square feet of artists' studio space in the CBD-1 Zone.

Site Plan

The Site Plan (820060360) for 8400 Wisconsin Avenue, was presented to the Planning Board on June 23, 2006 (Planning Board Opinion dated August 22, 2006) for approval of a 9-story, 198 unit residential project composed of three building towers on a slab over a three and one-half level underground garage, along with a public plaza and approximately 2,000 square feet of artists' studio space in the CBD-1 Zone. The Certified Site Plan has not yet been approved.

PROPOSED AMENDMENT

An amendment was filed on December 14, 2006, along with a public notice to adjacent and confronting property owners, that outlines specific changes to the approved site plan. The Applicant submitted the amendment specifically to change exterior conditions of the Site Plan. The proposed amendment requests the following modifications:

1. Correct the typo in the data table for building setbacks
2. Reduce the number of parking spaces from 378 to 373

The data table on the Certified Site Plan must reflect the following revision:

	Zoning Ordinance Development Standard	Approved on Site Plan 820060360	Proposed for Site Plan Amendment 82006036A
Setbacks (ft.)			
Wisconsin Ave.	0 feet	4 feet from Property line; 20 feet from curb	3 feet from property line, 20 feet from curb
Parking	288*	378	373

*Based upon unit mix. Site is within the parking lot district and is not required to provide parking spaces

PUBLIC NOTICE

A notice regarding the subject site plan amendment was sent to all parties of record by the Applicant on December 22, 2006. Staff has not received any correspondence regarding this application for amendment.

STAFF REVIEW AND RECOMMENDATION

The proposed amendment is consistent with the provisions of Section 59-D-2.6 of the Montgomery County Zoning Ordinance for Minor Plan Amendments. The amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board for the originally approved site plan.

Modifications to the building footprint and the resulting physical limitations to the parking structure are consistent with the proposed reduction of 5 parking spaces. The typographical error does not change the location of the building with respect to the street, which was an important consideration during the initial review and approval in order to maintain a pedestrian friendly environmental and the Bethesda Streetscape standards. The 20 feet from the curb (Wisconsin Avenue) is still being maintained with this amendment. The change from 4 feet to the property line to 3 feet is still in conformance with the zoning ordinance since the CBD zones do not require setbacks for optional method projects. The modifications to the site do not change the amount of public use space previously approved for this project. The reduction of parking spaces is due to physical limitations within the subsurface parking garage and continues to exceed the required amount of spaces as prescribed in the zoning ordinance. Staff notes that the site is within the parking lot district and is not required to provide parking spaces; however, the applicant has chosen to provide spaces to satisfy market demands. This amendment did not go to DRC but was circulated to departmental staff for review and comment. Staff indicated approval of the amended items specified in the Applicant's request.

Staff recommends **APPROVAL** of the Minor Site Plan Amendment for 8400 Wisconsin Avenue (Site Plan No. 82006036A) for modifications to the approved site plan.

ATTACHMENT

- A. Vicinity Map
- B. Letter from Applicant
- C. Draft Planning Board Resolutio

ATTACHMENT A

PROJECT DESCRIPTION: Site Vicinity

The 1.99-acre property was previously part of lots 19 and 20, Block 2 of Northwest Park, located between Woodmont and Wisconsin Avenues north of Battery Park. The property is located on the west side of Wisconsin Avenue at the northern edge of the Bethesda Central Business District. The site is bordered by Battery Lane Park to the south and Woodmont Avenue to the east. The NIH campus and green space are contiguous to the northern property line. A townhouse development abuts the property to the east, with a mixture of residential office, retail and service stations to the west and south.

The current site is a hotel located on Wisconsin Avenue with a surface parking lot on the western boundary parallel to Woodmont Avenue. Primary access to the site is from Battery Lane.



ATTACHMENT B

December 14, 2006

William Kominers
301 216 6610
william.kominers@hklaw.com

Susan M. Reutershan
301 664 7622
susan.reutershan@hklaw.com

Dr. Royce B. Hanson, Chairman
and Members of the Planning Board
The Maryland-National Capital
Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Minor Site Plan Amendment
8400 Wisconsin Avenue; Site Plan No. 820060360

Dear Chairman Hanson and Members of the Planning Board:

The purpose of this letter is to request a minor amendment to Site Plan No. 820060360. The property that is the subject of this request is located at 8400 Wisconsin Avenue (the "Property"). The Property is zoned CBD-1 and has been approved for development under the Optional Method of Development. The Site Plan was approved on July 6, 2006, pursuant to MCPB Resolution No. 06-70, and was mailed on August 22, 2006.

This minor amendment encompasses two elements of the approved Site Plan -- (1) correcting a "typographical" error in the Data Table for the building setback from the property line; and (2) revising the number of parking spaces because space limitations arising during the preparation of the detailed construction plans have caused a relocation of the stormwater management facilities internal to the building in the garage area.

The reasons for this request are as follows:

1. There is a typographical error contained in the Data Table that was filed as part of the application package for the certified site plan (consistent with the approved Site Plan).

On the drawing entitled: "Site Plan Cover Sheet and Local Vicinity Plan," "Table 1, 8400 Wisconsin Avenue Data Summary Table," under the subheading "Building Setback," the minimum building setback from Wisconsin Avenue (under the column titled "Proposed for Site Plan") is listed as **"4' from property**

line/ROW; 20' from curb" (a copy of Table 1 is attached as Exhibit "1" to this letter). The dimension of four (4) feet is incorrect (shown in bold).

To correct the typographical error, that same column on Table 1 should read "**minimum 3.04'** from the Property line/ROW; 20' from curb." (The text in bold is the new text.)

As shown on the overall site plan, and as shown on Exhibits "4" and "5" to the Waiver Request (dated March 31, 2006) attached to that site plan, the setback from the curb of Wisconsin Avenue to the building is clearly shown as 20'-0". This complies with the setback called for in the Sector Plan. The distance from the curb to the property line is clearly shown as $\pm 17'-0"$. The difference between these two numbers (20'-0" minus $\pm 17'-0"$) is $\pm 3'-0"$, which represents the distance that the building is set back from the property line. The proposed correction to the setback on the Data Table (3.04 feet or the equivalent of 3 feet 0.48 inches) is within this difference and within the range of tolerance contemplated by " $\pm 3'-0"$."

The 3.04' dimension (and the $\pm 3'-0"$) is further supported by entries on "Table 2, Removable Architectural Amenity Features Table," on the "Site Plan Cover Sheet and Local Vicinity Plan," under the subheading "Architectural Element – Canopy; Setback from Wisconsin Avenue." Under the column titled: "Approved at Site Plan," the setbacks for the canopy provide "May project up to 4 feet across property line/ROW; may project up to 7 feet into building setback." The difference between these two dimensions (7 feet minus 4 feet) is 3.0' which represents the distance between the building setback and the property line. This is further evidence that the 4.0' dimension (as discussed above) is merely a typographical error.

The critical dimension for purposes of this Site Plan is the setback from the Wisconsin Avenue curb. That 20'0" dimension has always established the location of the building face along Wisconsin Avenue. The location of the property line is functionally immaterial, provided that the building remains at least 20'0" back from the Wisconsin Avenue curb.

The location of the property line has not changed nor has the building location changed from what was presented in the Site Plan. The $\pm 3'-0"$ (i.e., 3.04') dimension has been the dimension to the property line.

This proposed amendment corrects the inadvertent inclusion of the erroneous dimension in the Data Table. No other quantities on the Site Plan change, as they have always used the correct $\pm 3'-0"$ dimension.

2. As a result of minor architectural modifications addressing space limitations within the garage related to the construction documents, relocation of the internal stormwater management facilities is required. This results in the loss of some parking spaces. The number of parking spaces has been reduced by a total of five spaces from the 378 spaces indicated on the Site Plan Cover Sheet to the 373 spaces proposed as part of this minor amendment. The revised number of parking spaces continues to exceed the minimum number required in the CBD-1 Zone for the use proposed in the Site Plan.

The following materials are submitted in support of this request:

1. A check for the \$2,250 filing fee;
2. This letter describing the problem to be corrected, the change to be made, and the reasons therefor (a copy of which will be sent with the Notice Letter referenced in number 9 below);
3. One copy of the approved drawing(s) identifying the error(s) to be corrected and the five parking spaces to be deleted;
4. Five copies of corrected drawing(s);
5. One copy of the Approved Preliminary Plan;
6. One copy of the complete signature set (as currently pending approval with the Staff);
7. One copy of the Resolution approving the Site Plan;
8. A copy of the letter dated March 31, 2006 (that is referenced herein) that is part of the record of Site Plan No. 820060360;
9. A list (in label format) and one set of labels for: (a) adjoining and confronting property owners, and (b) civic associations and other groups/individuals within a one mile radius (the latter obtained from the Planning Board Staff); and
10. One copy of the Notice Letter being sent to adjoining/confronting owners, civic associations and other groups/individuals (which Notice would include a copy of the letter describing the problem and correction).

Dr. Royce B. Hanson, Chairman
and Members of the Planning Board
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Thank you for your consideration of this request.

Very truly yours,

HOLLAND & KNIGHT LLP



William Kominers



Susan M. Reutershan

Enclosures

cc: Ms. Rose Krasnow
Mr. Leonard O'Donnell
William S. Glading, Esquire
Mr. Thomas Bermingham
Mr. Robert Fields
Mr. J. Erik Harrison
Mr. R. Kim McCary
Mr. Murray Walker

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

MCPB No. 07-35
 Site Plan No. 82006036A
 Project Name: 8400 Wisconsin Avenue
 Hearing Date: May 10, 2007

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, on December 14, 2006, Crimson 8400 Bethesda, LLC ("Applicant"), filed a site plan amendment application designated Site Plan No. 82006036A ("Amendment") for approval of the following modifications:

1. Correct the typo in the data table for building setbacks.
2. Reduce the number of parking spaces from 378 to 373.

The data table on the Certified Site Plan must reflect the following revision:

	Zoning Ordinance Plan Development Standard	Approved on Site Plan 820060360	Proposed for Amendment 82006036A	Site
Setbacks (ft.) Wisconsin Ave.	0 feet	4 feet from Property line; 20 feet from curb	3 feet from property line, 20 feet from curb	
Parking	288*	378	373	

*Based upon unit mix. Site is within the parking lot district and is not required to provide parking spaces

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staffs of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated April 27, 2007 setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

David B. [Signature]

Approved for legal sufficiency
 M-NCPPC Office of General Counsel

WHEREAS, on May 10, 2007, Staff presented the Amendment to the Planning Board as a consent item for its review and action (the "Hearing"); and

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts the Staff's recommendation and analysis set forth in the Staff Report and hereby approves Site Plan No. 82006036A; and

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this site plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this written resolution is _____ (which is the date that this opinion is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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