



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

Item #
 MCPB 10/16/08

MEMORANDUM

DATE: October 6, 2008
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief
 Development Review Division
FROM: Robert A. Kronenberg, Supervisor *RAK*
 Planning Department Staff
 (301) 495-2187
 Robert.Kronenberg@mncppc-mc.org



PROJECT NAME: The Fairmont
CASE #: 9200700110
REVIEW TYPE: Project Plan

ZONE: CBD-2
APPLYING FOR: Request for Extension for 40 multi-family dwelling units, including 6 MPDUs on 0.21 acres

LOCATION: Lot 644, Woodmont
 Property is located on Fairmont Avenue, approximately 250 feet northeast of the intersection with Old Georgetown Road, in the Woodmont Triangle area of Bethesda

MASTER PLAN: Bethesda CBD 1994, Woodmont Triangle Amendment 2006

REVIEW BASIS: Division 59-D-2.11 of the Zoning Ordinance requires submission of a Project Plan as part of the application for the use of optional method of development for a CBD zoned property.

APPLICANT: Fairmont, LLC
FILING DATE: November 29, 2006
HEARING DATE: October 16, 2008

The Applicant filed the subject Project Plan application for The Fairmont on November 29, 2006. Section D-2.2 of the Zoning Ordinance provides that the Planning Board shall hold a public hearing no later than 90 days after the filing of a project plan. The Planning Board, however, can extend this time period.

Four extensions of the Project Plan have been granted by the Planning Board at the request of the Applicant to address the public use space requirements, access and loading issues for the application. The most recent extension was granted on April 17, 2008 in response to the Applicant's request for additional time to allow the County Council to complete its deliberations on a pending Zoning Text Amendment (ZTA 07-10) – Public Use Space. Once approved, the Applicant would like to take advantage of the provisions of the Zoning Text Amendment with regard to their public use space requirement.

The Council approved the ZTA; however, an implementation program has not been approved by the Planning Board to specifically quantify the calculation process and the amount necessary to satisfy the on- and off-site public use space requirements.

The Planning Board was clear during the April 17, 2008 hearing that the previous extension was the last one that should be granted and allowed the Applicant 6-months in-lieu-of the recommended 90 day extension in order for the Applicant to prepare revised plans.

In their letter dated September 17, 2008, (attached hereto) the Applicant has requested an additional 90-day extension of the review period to January 15, 2009. Staff does not support the extension of the review period, based upon inactivity by the Applicant and a lack of interest to move the project forward. Staff was contacted in September by the Applicant stating their interest in extending the review period once again, and their intent to tap into the amenity fund, but had concerns as to how the amenity fund fees would be applied to the project. The Applicant has since resubmitted the Project Plan for review of a new concept for a building that holds closer to the street edge and eliminates the majority of the on-site public use space. The agencies have not reviewed the proposal, nor has a fee been reviewed and calculated to determine the offset of required on- and off-site public use space.

If the Board approves the 90-day extension request, the plans must proceed to public hearing prior to the January 15, 2009 date; which might be difficult given the number of issues that remain unresolved. If the extension request is denied, the Project Plan is withdrawn by default and any future applications on this site must abide by the submittal requirements and any new requirements that have been enacted since the acceptance of this application. Most notably, a new submittal would require the provision of workhouse housing.

Staff recommendation: Denial of the Extension Request

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

RECEIVED

SEP 17 2008

DEVELOPMENT REVIEW

September 17, 2008

Todd D. Brown
301.961.5218
tbrown@linowes-law.com

By Hand Delivery

Dr. Royce Hanson, Chair
and Members of the Montgomery County
Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: The Fairmont (Project Plan No. 920070110) – Submission of Revised Project Plan Materials and Request for Extension of Project Plan Review Period

Dear Dr. Hanson and Members of the Planning Board:

On behalf of the Applicant, Fairmont, LLC, the purpose of this letter is to submit revised application materials for Project Plan No.920070110 (“Project Plan”). This letter also requests a 90-day extension of the Project Plan review period to allow Staff to review the revised materials, prepare a Staff recommendation and present the Project Plan to the Board for its consideration.

Revised Project Plan Materials

The project is located in the Woodmont Triangle in Bethesda and proposes development of 40 residential units, including 6 (15%) MPDUs. The project would contribute an Amenity Fund payment instead of providing 100% of the public use space requirement on site. The estimated amount of the Amenity Fund contribution is about \$198,451. This figure is based on the formula used by the Planning Board in its approval of the *The Veneto* project plan on July 10, 2008.

The Applicant met with Staff on several occasions to discuss the project and the on-site public use space requirement. Various concepts were explored. But eventually, despite what the Applicant believed was a very forward-thinking concept, we understood Staff did not wholly support the creation of an indoor/outdoor public WI-FI environment as the project’s public use space. Interestingly, since that time, the Applicant became aware of the Bethesda Urban Partnership’s efforts to promote its own WI-FI hotspots in Bethesda.

While discussions among the Applicant, MNCPPC and County agency staff were taking place, the County Council was considering ZTA 07-10 which, if adopted, would allow payment into an Amenity Fund in lieu of providing public use space on site. On April 17, 2008, the Board approved the most recent of several extensions of the Project Plan review period until October 16, 2008 to allow the Council to take final action on the ZTA and the Applicant to revise its

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plans to take advantage of the Amenity Fund. The revised Project Plan materials are enclosed in accordance with the Board's action.

To create a consistent and strong street edge, the revised plans conform the proposed building setback to the building setback of recently completed adjacent development. In this respect, the building footprint has been extended toward the right-of-way to meet the front façade of the adjacent building. Thus, by utilizing the Amenity Fund payment option, the project avoids creating a "gap" in the streetwall that would otherwise result if the public use space requirement were met on site. The result can be an improved streetscape and pedestrian environment for the Project and the Woodmont Triangle.

The revised plans have also been modified to include alternative plans (Option A and Option B) concerning on-site loading space. The Applicant believes on-site loading space should not be required for this small project. The inclusion of on-site loading would unnecessarily compromise the pedestrian environment by increasing the driveway width and garage-door portion of the building façade by about 10 feet each. A similar issue was also raised in *The Veneto* project plan review, and it is believed the loading requirements for the Fairmont can also be met by loading from the curb. Alternative plans have been included for approval that show the project, both including and excluding on-site loading space.

Extension of Project Plan Review Period

This letter also requests a 90-day extension of the Project Plan review period. Pursuant to Section 59-D-2.2, the Planning Board is required to hold a public hearing on the Project Plan not later than 90 days after it is filed. As noted above, the Board granted an extension of this review period until October 16, 2008 to allow the County Council to take final action on ZTA 07-10 and to provide additional time for the Applicant to utilize the Amenity Fund authorized by the ZTA. With the filing of the revised project plan materials, Staff can now complete its review and schedule the Project Plan for hearing. Since considerable work has already been accomplished through prior meetings with MNCPPC staff and the staff of other County agencies, we believe 90 days will be sufficient to complete the review process and present the plan to the Board for action.

As noted in the Staff report for *The Veneto* referred to above, Section 59-D-2.31 directs the Planning Board to develop and approve guidelines to implement the Amenity Fund provisions, including methods of calculation, collection and distribution of payment amounts. This process

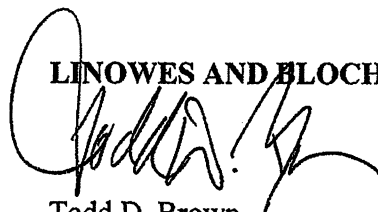
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is still underway. *The Veneto* Staff report also noted that although projects making payments into the Amenity Fund must identify the associated off-site improvement to be benefited, the development by the Planning Board and Staff of a list of amenities for this purpose, has also not yet been completed. Finally, we note that although the Board considered and approved *The Veneto* project on July 10, 2008, to our knowledge its Resolution approving the project plan has not yet been issued.

In this case, the Applicant pursued to the extent possible a design that incorporated the public use space on-site, while at the same time preserving the ability to use the Amenity Fund option, once adopted by the County Council, through its requests to the Board for extension of the Project Plan review period. The Board granted these requests, but has not finalized the guidelines for administering the Amenity Fund. This uncertainty notwithstanding, the Applicant is prepared to move forward utilizing the Amenity Fund and has submitted revised Project Plan materials accordingly. The review of the revised application materials can now be completed. Under the circumstances, a 90-day extension for the review to be completed and the hearing scheduled is reasonable. This is particularly true since no prejudice will result if the extension is granted.

Thank you for your consideration.

Sincerely,


LINOWES AND BLOCHER LLP
Todd D. Brown

cc: Mr. Lewie Bloom
Ms. Stella Kestell
Mr. Robert Kronenberg
Ms. Rose Krasnow
DRC Members
Mr. Bill Landfair
Mr. Marius Radulescu