



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

Consent Item # _____
MCPB 7/30/09

MEMORANDUM

DATE: July 20, 2009
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief *RK*
Robert Kronenberg, Supervisor *RAH*
Development Review Division
FROM: Joshua Sloan, Coordinator *JS*
Development Review Division
(301) 495-4597
Joshua.Sloan@mncppc-mc.org

REVIEW TYPE: **Project Plan Validity Period Extension**
CASE #: **920070030**
PROJECT NAME: **4900 Fairmont**

APPLYING FOR: 18 month extension of the project plan validity period.
REVIEW BASIS: Div. 59-D-2.7(b) of Montgomery County Zoning Ordinance

ZONE: CBD-2
LOCATION: Southwestern corner of the intersection of Norfolk Avenue and Fairmont Avenue
MASTER PLAN: Woodmont Triangle Amendment to the Bethesda CBD Sector Plan

APPLICANT: Fairmont Development, LLC
REQUEST DATE: June 19, 2009
HEARING DATE: July 30, 2009

Background

Project plan 920070030 was approved by the Board by an Opinion dated December 21, 2007. The project was approved for up to 118 residential units and 5,500 square feet of retail space. The site consists of 0.59 gross acres of land in the CBD-2 zone in the Woodmont Triangle Study Area of the Bethesda Central Business District.

Analysis

Section 59-D-2.7 of the Zoning Ordinance establishes the actions required to validate a project plan. Specifically, a project plan is initiated 30 days from the date of mailing of the written opinion, and "will remain valid for up to 24 months from the initiation date, provided applicant has filed a complete site plan application, as determined by the Planning Board staff within 18 months of the initiation date; and in the absence of governmental delay, received site plan approval within 6 months of the assigned complete application date. The timely approval of a

920070030, will become invalid unless a site plan application is accepted by July 20, 2009 and site plan approval is received by January 20, 2010. The Planning Board may, however, extend this period.

In this case, the Applicant is requesting an 18-month extension for the following reasons:

1. The economic downturn and resulting freezing of credit markets and
2. The current lack of residential market demand.

Staff supports the 18-month extension, which is less than the universal Adequate Public Facility extension recently approved by the County Council.

Recommendation

Staff recommends approval of an extension of the validity period for project plan 920070030, 4900 Fairmont, for 18 months. This extension would require that a site plan application be accepted by Planning Board staff by January 20, 2011, and a site plan be approved by the Planning Board by July 20, 2011.

Appendices

- A. Applicant's request letter

LINOWES
AND | BLOCHER LLP
ATTORNEYS AT LAW

June 17, 2009

C. Robert Dalrymple
301.961.5208
bdalrymple@linowes-law.com

Debra S. Borden
301.961.5250
dborden@linowes-law.com

Dr. Royce Hanson
Chairman
Montgomery County Planning Board
Maryland-National Capital Park and
Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Re: Extension of Project Plan Validity Period – 4900 Fairmont
Project Plan No. 920070030 (the “Project Plan”)

Dear Chairman Hanson:

This firm represents Fairmont Development, LLC (the “Applicant”) the developer of a project located at 4900 Fairmont Avenue in Bethesda (the “Property”). The Project Plan approved by the Planning Board on December 21, 2007, allows a maximum of 118 residential units, including 18 MPDUs, and 5,500 square feet of retail. We are requesting on behalf of the Applicant an extension of the validity period for the Project Plan pursuant to Section 59-D-2.7(c) of the Montgomery County Zoning Ordinance (the “Zoning Ordinance”). In accordance with Section 59-D-2.7(c) of the Zoning Ordinance the Project Plan initiation date is January 20, 2008. Therefore, pursuant to Section 59-C-2.7(a) of the Zoning Ordinance the Project Plan is valid until January 20, 2010, provided the Applicant files a complete site plan by July 20, 2009.

Upon receipt of the Project Plan approval, the Applicant was prepared to move forward with a site plan application. While preparations were being made to file the application, the economic downturn began, and as a result residential real estate projects have been subject to unprecedented freezing of credit markets, amid shrinking market demand. The current recession is projected to end this year, followed by the beginning of economic recovery in the first or second quarter of 2010.

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Dr. Royce Hanson

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In the midst of the current, unforeseen market conditions, the Applicant has found it infeasible to move forward with a site plan application at this time, and requests an extension of 18 months resulting in a validity period ending on **July 20, 2011** with the Project Plan to be validated by the filing of a complete site plan by **January 20, 2011**. This request ensures adequate time to prepare a complete site plan that implements the approved Project Plan. This is the only extension of the Project Plan validity period that the Applicant has requested.

The Montgomery County Executive and the County Council have recognized the unique economic climate that we face by providing an automatic 2-year extension of the validity period of Preliminary Plans approved before March 31, 2009. While this legislation does not apply to Project Plan approvals, the rationale for extending the Project Plan is similar to the rationale for extending the validity period of an entire class of Preliminary Plans. The current economic environment is simply unprecedented and was unforeseen by many in the industry, and certainly came about through no fault of the Applicant. The Applicant's request for an 18-month extension is justified and offers reasonably sufficient time to file a site plan application given the estimates of the length of the recession and prospects for recovery.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact us.

Very truly yours,

LINOWES AND BLOCHER LLP


C. Robert Dalrymple


Debra S. Borden

cc: Michael Schwartzman