



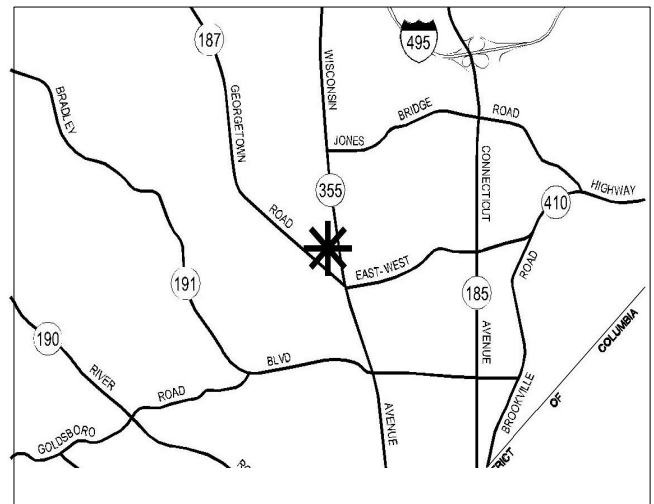
4990 Fairmont Avenue Site Plan Amendment No. 82014006A

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Staff Report Date: October 2, 2015

Description

- Consent site plan amendment to increase the maximum proportion of residential square footage within the approved maximum total of 138,052 square feet, from 131,052 square feet to 133, 511 square feet.
- Located in the eastern quadrant of the intersection of Fairmont Avenue and Old Georgetown Road.
- 0.53 acres zoned CR 5.0, C 1.0, R 4.75 and 145T in the Woodmont Triangle Amendment to the Bethesda CBD Sector Plan area;
- Applicant: 4990 Fairmont Avenue, LLC
- Filing Date: August 26, 2015
- Review Basis: Section 59-D-3.7 of 2004 Zoning Ordinance



Summary

- The Planning Board approved Site Plan 820140060 on April 3, 2014, for a total of 138,052 square feet consisting of up to 131,052 square feet of residential uses for a maximum of 72 multi-family units including 15% Moderately Priced Dwelling Units (MPDUs) and up to 7,000 square feet of non-residential uses.
- The amendment proposes only to increase the maximum residential component from 131,052 square feet to 133,511 square feet; an increase of 2,459 square feet.
- This Application is being reviewed under the CBD-2 Zone development standards in effect on October 29, 2014 as permitted under Section 59.7.7.1.B.3 of the Zoning Ordinance.
- Staff recommends approval of the consent Site Plan Amendment.
- Staff received no correspondence regarding this Amendment.

RECOMMENDATION

Staff recommends approval of Site Plan Amendment No. 82014006A, 4990 Fairmont Avenue, to increase the maximum proportion of residential square footage within the approved maximum total of 138,052 square feet, from 131,052 square feet to 133,511 square feet. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required. This amendment modifies condition 1 of Site Plan No. 820140060 as follows. All other conditions of site plan approval remain valid and binding.

1. Project Plan Conformance

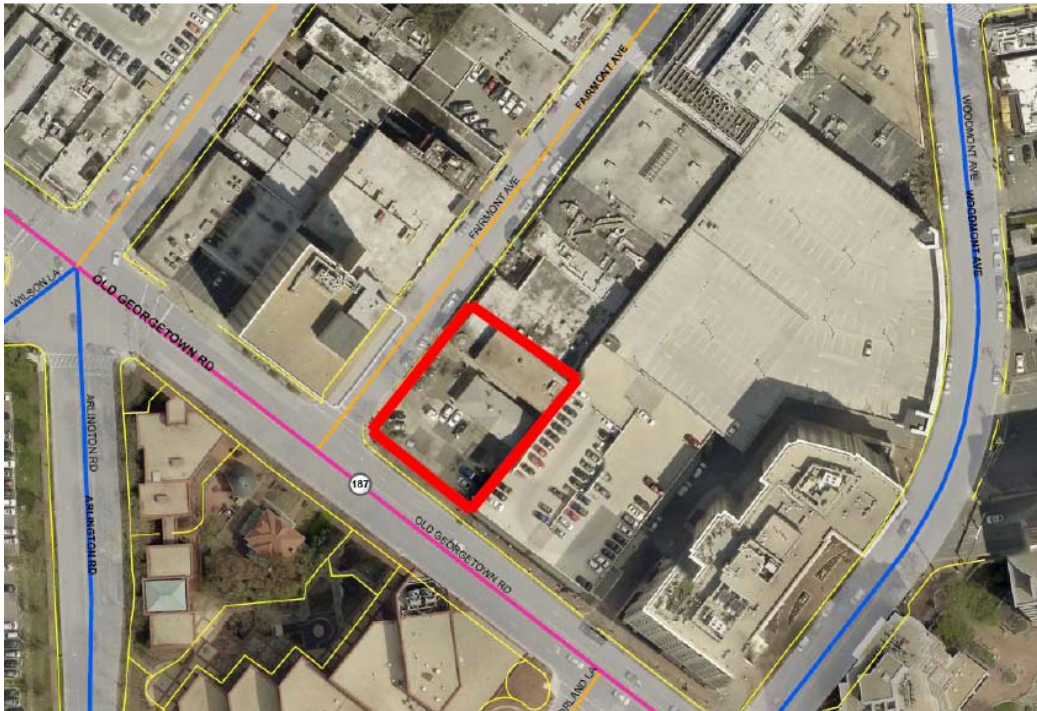
The Applicant must comply with the conditions of approval for Project Plan No. 920130070 [MCPB Resolution No. 13-107], or as amended, except for the requirement that residential density be limited to a maximum of 131,052 square feet. This condition supersedes Condition 1 for Site Plan 820140060 in its entirety.

BACKGROUND

This entire project was approved and is being developed under the standards of CBD-2 Zone which was in place on October 29, 2014. The Site was comprehensively rezoned from the CBD-2 Zone to the Commercial Residential (CR) Zone CR 5.0 C 1.0, R 4.75, H 145T through District Map Amendment (G-956) on October 30, 2014. The 2014 Zoning Ordinance allows an Applicant to amend a previously approved application under the development standards in place on October 29, 2014.

SITE DESCRIPTION

The Subject Site ("Site") is located in the eastern quadrant of the intersection of Old Georgetown Road (MD 187) with Fairmont Avenue in the Woodmont Triangle Section of Bethesda. The property is rectangular in shape and is approximately 22,884 square feet in size.



Subject Property (outlined in red)

Vicinity

The surrounding area contains a mix of land uses in the Commercial-Residential (CR) Zone, including office, commercial, and multi-family uses.

Site Analysis

Currently, the site is developed with a two-story office building and an automotive service center.

PROJECT DESCRIPTION**Previous Regulatory Approvals**

On July 18, 2013, The Planning Board approved Project Plan 920130070 and Preliminary Plan 120130230, by resolutions dated July 26, 2013, for one lot with a total of 138,052 square feet mixed-use development consisting of 131,052 square feet of residential uses for 72 multi-family units including 15% Moderately Priced Dwelling Units (MPDUs) and a maximum of 7,000 square feet of non-residential uses.

On April 3, 2014, the Planning Board approved Site Plan 820140060, by resolution dated April 14, 2014, for a total of 138,052 square feet of mixed-use development consisting of 131,052 square feet of residential uses for a maximum of 72 multi-family units including 15% Moderately Priced Dwelling Units (MPDUs) and 7,000 square feet of non-residential uses.

Proposal

The amendment proposes only to increase the maximum residential component from 131,052 square feet to 133,511 square feet, an increase of 2,459 square feet.

ANALYSIS AND FINDINGS

Pursuant to Section 7.7.1.B.3 of the 2014 Zoning Ordinance, this Application was reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014. Section 59-D-3.7 (c) and (d) of that code outline the procedures for amending an approved site plan which require the Planning Board to approve any proposed modifications. The proposed Amendment for increased residential square footage is a minimal increase of 2,459 square feet or 2% over the approved residential square footage of 131,052 for this project. The total approved square footage for this project remains unchanged at 138,052 square feet under this Application. This Amendment does not increase the approved density or the building height and it continues to all other elements of the approved Site Plan.

The proposed modification does not alter the intent of the original Site Plan (820140060) approved by the Planning Board and will not generate any new vehicular trips. Consistent with this Amendment, Staff also recommends modifying Development Condition #1 of the original Site Plan to require conformance to all conditions of the associated Project Plan except for the Project Plan's limit on the maximum residential square footage. This modification will not affect the compatibility of the development with respect to the surrounding neighborhood, and does not alter the development standards of the original Site Plan approval. This Amendment continues to conform to development conditions of the approved Preliminary Plan and Site Plan.

COMMUNITY OUTREACH

The Applicant sent a notice regarding the subject Site Plan Amendment to all parties of record on August 28, 2015. The notice gave interested parties 15 days to review and comment on the Site Plan Amendment. To date, Staff has not received any correspondence regarding either notice for this Amendment.

CONCLUSION

The proposed Amendment is consistent with Section 59-D-3.7 for Plan Amendments. The Amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in its review of the originally approved Site Plan. The terms and conditions of all applicable prior regulatory approvals and agreements, including the approved 820140060, remain in full force and effect, as modified by this Amendment. Staff recommends approval of Site Plan Amendment 82014006A.

APPENDIX

- A. Project Plan Resolution MCPB 13-07
- B. Preliminary Plan Resolution MCPB 13-108
- C. Site Plan Resolution MCPB 14-17



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

MCPB No. 13-107
Project Plan No. 920130070
4990 Fairmont Avenue
Date of Hearing: July 18, 2013

JUL 26 2013

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-2, the Montgomery County Planning Board is authorized to review project plan applications; and

WHEREAS, on May 1, 2013, 4990 Fairmont, LLC ("Applicant") filed an application for approval of Project Plan No. 920130070 for a mixed-use development of 138,052 square feet of space, consisting of 7,000 square feet of ground floor retail/restaurant uses and artist incubator space and 131,052 square feet of residential space for 72 multi-family dwelling units at 4990 Fairmont Avenue, located in the northeast quadrant of the intersection of Fairmont Avenue and Old Georgetown Road ("Subject Property") on 0.52 acres of land comprised of three CBD-2 zoned lots located in the 2006 Woodmont Triangle Amendment to the 1994 Bethesda Central Business District ("CBD") Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920130070, 4990 Fairmont Avenue ("Application" or "Project Plan"); and

WHEREAS, following review and analysis of the Application by Planning Board Staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 5, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 18, 2013, the Planning Board held a public hearing on the Application, and at the hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

Approved as to
Legal Sufficiency:

Christina Sorenson 7/11/13

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board APPROVES Project Plan No. 920130070, 4990 Fairmont Avenue, for a mixed-use development consisting of no more than 138,052 square feet of gross floor area, including 7,000 square feet of retail uses with a minimum of 2,000 square feet for artist incubator space and 131,052 square feet of residential uses consisting of no more than 72 dwelling units, including 15% MPDU's and on the Subject Property, subject to the following conditions:¹

1. Development Ceiling

The development is limited to a maximum of 138,052 square feet of gross floor area with a maximum 6.03 FAR consisting of the following uses:

- a) A maximum 7,000 square feet of retail uses inclusive of a minimum of 2,000 square feet for artist incubator space
- b) A maximum 131,052 square feet of residential uses for a maximum 72 residential multi-family dwelling units.

2. Housing

The Applicant must provide on-site a minimum of 15% of the total number of units as Moderately Priced Dwelling Units, consistent with the requirements of Chapter 25A.

3. Building Height and Mass

The development is limited to the building footprint as delineated in the Project Plan drawings submitted to MNCPPC dated June 19, 2013, unless modified at Site Plan review. The development is limited to a maximum building height of 174 feet as determined by the Department of Permitting Services approved building height measurement point.

4. Architecture

The exterior architectural character, proportion, material, and articulation must be substantially similar to the schematic elevations shown on Sheets A1.01-A1.06 of the submitted architectural drawings, as determined by Staff, unless modified during Site Plan review.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

5. Public Use Space and Amenities

- a) The Applicant must provide a minimum of 2,937 square feet of public use space (20% of net lot area) on-site, including a minimum 2,000 square feet for artist incubator space.
- b) The Applicant must provide public art on-site, integrated into the overall site design.
- c) The Applicant must present final public art concepts to the Art Review Panel for review and comment that will be available to the Planning Board prior to scheduling the Planning Board hearing for the site plan application.
- d) Final design of the public art must be determined by Certified Site Plan.
- e) As a public amenity, the Applicant must provide streetscape improvements per the Bethesda CBD Streetscape Standards, or as amended, including the undergrounding of public utilities, along the Property's frontage on Fairmont Avenue and Old Georgetown Road.
- f) The Applicant must provide the agreement between the Bethesda Urban Partnership and the Applicant for the management of the artist incubator public use space component with the initial site plan submittal.

6. Staging of Amenity Features

- a) The development must be completed in one phase. A detailed development program will be required prior to approval of the certified Site Plan.
- b) The Applicant must complete the on-site public use space improvements prior to issuance of use and occupancy permits unless modified by the Site Plan development program.
- c) The Applicant must install the landscaping no later than the next growing season after completion of the building and site work.

7. Building Design

The Applicant must provide to Staff alternative design considerations for the columns located at the southern corner of the building, for the purposes of greater visibility and accessibility to the public use space in this location.

BE IT FURTHER RESOLVED that all elements of Project Plan No. 920130070, 4990 Fairmont Avenue, stamped received by The M-NCPPC on June 19, 2013, are required except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference (except as modified herein) and having considered the entire record, all applicable elements of § 59-D-2.43, and the relevant provisions of Section 59-D-2.42, the Planning Board, with the conditions of approval, FINDS:

(a) The development complies with all of the intents and requirements of the CBD-2 zone as applied comprehensively to the Project.

The Subject Property is zoned CBD-2. Section 59-C-6.212 of the Montgomery County Zoning Ordinance establishes the CBD-2 Zone, and this section outlines the description, intent and general requirements of the zone.

The proposal for 72 residential units (including 15% MPDUs) results in a residential gross floor area of 131,052 square feet and residential FAR of 5.73. When the 7,000 square feet of street front retail/artist incubator space is added to the residential square footage to arrive at the overall 138,052 square feet of gross floor area, the total FAR is 6.03. The maximum FAR permitted in the CBD-2 zone is 5.0, however, Section 59-C-6.215(b) states that the maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site. Since the Applicant is providing 15% MPDUs on-site, a 22% residential density bonus is allowable under the MPDU Law outlined in County Code Chapter 25A-5. The baseline allowable residential gross floor area is 107,420 square feet, and with a 22% density bonus, 131,052 square feet is permissible.

The Project Plan Application includes a building with a maximum height of 174 feet, which exceeds the 143 feet maximum in the CBD-2 zone. Section 59-C-6.2 footnote 11, on Zoning Ordinance page C6-43 allows the Planning Board to approve a height that exceeds 143 feet, but not 200 feet in the CBD-2 zone under the optional method of development process if:

(ii) the additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan or the property is within a revitalization area designated in the applicable sector plan and is located fully or partially within 800 feet of an entrance to a metro station.

A building height of 174 feet is specifically recommended for the Property in the Woodmont Triangle Amendment to the Bethesda CBD Sector Plan on pages 22 and 24 as follows:

This project is in "Block 45."

- "There are parcels in Block 45, zoned CBD-1, that could redevelop and may be able to use the transfer of density option. In order to encourage residential redevelopment, this Amendment recommends changing the CBD-1 properties to CBD-2 ...The Amendment recommends a FAR of 5.0 for all properties in these blocks and a height limit of 143 feet or 174 with a 22 percent MPDU bonus."

This project includes 15% MPDUs and therefore is receiving a density bonus of 22 percent.

More specifically, Section 59-C-6.212 outlines the intent of the CBD zones:

- (a) To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the Site Plan or combined urban renewal Project Plan is approved on review by the Planning Board.
- (b) To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers, and residents.
- (c) To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas.
- (d) To promote the effective use of transit facilities in the central business district and pedestrian access thereto.
- (e) To promote improved pedestrian and vehicular circulation.
- (f) To assist in the development of adequate residential areas for people with a range of different incomes.
- (g) To encourage land assembly and the most desirable use of land in accordance with a sector plan.

The density and amenities achieved through the optional method of development enable the realization of the recommendations of the Bethesda CBD Sector Plan, as described in Finding b) below. Until recently, a BP gas station operated on the

Subject Property which was a use that did not take full advantage of the site's close proximity to mass transit facilities and the employment opportunities in the Bethesda CBD. The Applicant acquired the property with the intent of assembling the lots to construct an optional method, mixed use project that offers retail and artist incubator space with residential units above at a prominent corner location within the Bethesda CBD. Much of the development adjacent to the Property is commercial in nature, although residential development is located approximately 150 feet southeast of the site at the intersection of Woodmont Avenue and Old Georgetown Road. Removing the current gas station vehicular access points from Old Georgetown Road to have only one access point to the Property will minimize vehicular traffic that interferes with the pedestrian realm in this area.

(b) The development conforms to the Sector Plan and the Master Plan.

The Application is consistent with the 2006 Woodmont Triangle Amendment to the 1994 Bethesda CBD Sector Plan. The Goals of the Plan include a housing goal to increase the supply of housing for a variety of income levels; a small-scale retail goal to provide opportunities to retain existing business and expand opportunities for new businesses; an arts and entertainment goal to enhance the existing public arts program in the Bethesda CBD and provide opportunities for both the visual and performing arts, and a public space goal to focus on improving the safety and character of the existing streets and increase the flexibility in providing the public use space through the Optional Method of Development.

For housing, the project includes up to 72 multi-family residential units, with 15% on-site MPDUs, in a variety of unit sizes so that persons at a range of income levels can reside in the Woodmont Triangle Area. For small-scale retail, the project provides street level space for retail, restaurant or service use. For the Arts and Entertainment District, this project offers approximately 2,000 square feet of new studio space for artists in the visual arts on a street level arts alley, an important contribution to the A&E District. This is a high priority to the community and has proved challenging to achieve in the past. For public spaces such as safe and attractive streets, this project improves the continuity of pedestrian routes by closing driveways from Old Georgetown and consolidating them on Fairmont. The Bethesda streetscape will be installed and the existing public alley will be enlivened. Entrances to street oriented retail and the residential lobby will enliven the street as well. In terms of on-site public amenities, the studio space for artists that is open to the public is highly desirable, and widening the current alley width to 11 feet will increase visibility and

accessibility for the adjacent public alley which can be used to walk to side entrance to Garage 11.

Furthermore, the "arts alley" that the arts incubator space will create contributes to a variety of public spaces in the area. Similar narrow linear spaces in the Woodmont Triangle include the Imagination Stage Intermission Terrace which is a through block connection, the Monty/Bainbridge public use space as a through block connection to Fairmont Avenue, and the future Fairmont Avenue pedestrian connection to Garage 11. This will be the first such space in the Woodmont Triangle that is oriented to Old Georgetown Road, and will be the first space lined with glass walled artist's studios on one side and a projected light display on the off-site wall on the other side.

Building height limits and density are also addressed on pages 11 and 12 of the Sector Plan. A step down concept is encouraged to protect the neighborhoods at the edge of the CBD and to concentrate the tallest buildings near the Metro Station. The specific heights recommended in the Sector Plan provide flexibility while supporting that general concept. This project is consistent with the Sector Plan recommendation for this site which allows a maximum of 174 feet for projects that include MPDUs. Properties may develop to the density permitted in the CBD-1, CBD-2 and CBD-R2 zones. In order to encourage residential development, the recommended increase in density up to the maximum allowed is for residential development, and all CBD zoned parcels within the study area will be limited to a FAR of 1.0 for non-residential development. This Project Plan is in the CBD-2 Zone and according to the Sector Plan may develop to the density permitted in the zone. As previously discussed, the Zoning Ordinance permits the FAR to increase above 5.0 to accommodate MPDUs. This Project Plan includes a residential FAR of 5.73 in order to accommodate MPDUs. It is consistent with the intent of the Sector Plan because the additional density is for residential development. Non-residential development on the site is less than 1.0 FAR at a 0.40 FAR, consistent with the intent of the Sector Plan.

(c) Because of its location, size, intensity, design, operational characteristics and staging, the development would be compatible with, and not detrimental to, existing or potential development in the general neighborhood.

The location, size and intensity of the Project Plan are compatible with the existing and potential development in the general neighborhood. The building's orientation responds to the surroundings. The majority of the ground floor retail has entry and

exit points from Old Georgetown Road where visibility and pedestrian activity will be greatest. The garage entry and loading dock entry is located off of Fairmont Avenue to minimize vehicular and pedestrian conflicts on Old Georgetown Road. The garage of the building is located on the first four floors of the structure to correspond with the 40 foot tall public parking garage height. The treatment of the garage ends at the fifth floor where balconies are present on the top 12 floors but the stone or precast treatment of the garage is partially extended to the top floor of the building to provide subtle continuity. The block in which the building is located is the closest in the Woodmont Triangle Amendment area to the Bethesda Metrorail station. Redevelopment potential exists to construct additional buildings to a similar height within the block. The building will be the same height as the approved Monty project (Site Plan No. 820090110, The Monty), located north of the Subject Property on the opposite side of Fairmont Avenue, and the same height as the approved 4900 Fairmont Avenue project (Site Plan No. 820120120), located northeast of the Site on the same side of Fairmont Avenue; the building will, therefore, be consistent with the emerging redevelopment pattern in the general neighborhood. Ground floor retail and the artist incubator space will draw pedestrians to this section of Old Georgetown Road, replacing a vehicular-oriented gas station use. Additional residents in this location will enliven the block at night and on weekends when the surrounding commercial buildings are primarily vacant.

(d) As conditioned, the development would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, is subject to a traffic mitigation agreement that meets all the applicable requirements.

The Project Plan Application will not overburden existing public facilities and services nor those programmed for availability. The Application for the residential and commercial development satisfies the transportation requirements of the Adequate Public Facilities (APF) review. The Subject Property is located within a transportation management district, therefore, the Applicant is required to enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and Montgomery County Department of Transportation. The project is located within the Bethesda-Chevy Chase High School Cluster. The 72 condominium units are subject to the Annual School Test effective for FY14. A School Facilities Payment is required at the high school level in this cluster.

(e) The development is more efficient and desirable than could be accomplished by the use of the standard method of development.

The Applicant proposes to develop the site using the optional method of development, which is more efficient and desirable than the standard method of development. The optional method allows greater densities at key locations, such as proximity to mass transit, in exchange for greater public amenities and facilities. Construction of a standard method project would yield a building constructed to a maximum of 2.0 FAR with a maximum 60 foot building height. For a site located in the Bethesda CBD, a building constructed to standard method requirements would have little public amenities or open space, and would be insufficient to reach the critical mass and density envisioned for the Woodmont Triangle Area of Bethesda and areas within close proximity to a Metrorail station. Additionally, the greater number of affordable housing units provided far exceeds what could be achieved under the standard method. Given the recommendations of the Master Plan and the Subject Property's proximity to transit, employment, and services, the optional method of development is much more desirable and efficient for this particular site.

(f) The development will include moderately priced dwelling units in accordance with Chapter 25A of the Montgomery County Code.

The total number and bedroom mix of MPDUs provided on site has been reviewed and approved by the Montgomery County Department of Housing and Community Affairs. The Application provides 11 MPDUs, or 15% of the total number of units, as MPDUs, consistent with the requirements of Chapter 25A, and as approved by the Montgomery County Department of Housing and Community Affairs.

(g) The development satisfies applicable requirements for forest conservation under Chapter 22A of the Montgomery County Code.

There are no onsite wetlands, floodplains, streams or their associated buffers on the Property. There is neither onsite forest nor specimen trees onsite. The Applicant applied for an exemption from submitting a forest conservation plan. Exemption 42013105E was confirmed on January 16, 2013 because the Property is less than 1.5 acres in size. This Property qualified for an exemption under section 22A-5(s)(1) of the Montgomery County Forest Conservation Law, where an activity occurring on a tract of land less than 1.5 acres with no existing forest or existing specimen or

champion trees, and the afforestation requirements would not exceed 10,000 square feet.

(h) The development satisfies applicable requirements for water quality resources protection under Chapter 19 of the Montgomery County Code.

The stormwater management concept approved on June 11, 2013, meets the required stormwater management goals by the use of Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP) with the use of a green roof and micro-bioretenion/planter box. A waiver for structural treatment is granted since full treatment of ESD volume is not possible due to the existing shallow storm drain and onsite constraints.

(i) Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the applicable master or sector plan and serves the public interest better than providing the public use space or public facilities and amenities on-site.

The Application does not include public use space and amenities off-site, other than the improvements to the Subject Property frontages for Fairmont Avenue and Old Georgetown Road.

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 Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board, and that the date of this Resolution is JUL 26 2013 (which is the date that this Resolution is mailed to all parties of record); and

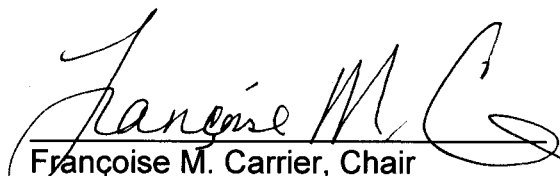
BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 18, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board



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

JUL 26 2013

MCPB No. 13-108
Preliminary Plan No. 120130230
4990 Fairmont Avenue
Date of Hearing: July 18, 2013

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review preliminary plan applications; and

WHEREAS, on May 1, 2013, 4990 Fairmont, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 0.52 acres of land in the CBD-2 zone, located in the northeast quadrant of the intersection of Fairmont Avenue and Old Georgetown Road ("Subject Property") in the 2006 Woodmont Triangle Amendment to the 1994 Bethesda Central Business District ("CBD") Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120130230, 4990 Fairmont Avenue ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 5, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 18, 2013, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120130230 to create one lot on the Subject Property, subject to

Approved as to
Legal Sufficiency:

Christina Sewert 7/11/13

4990 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
M-NCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

the following conditions:¹

- 1) This Preliminary Plan is limited to 1 lot for a maximum of 138,052 gross floor area for 72 residential units including a minimum 15% Moderately Priced Dwelling Units (MPDU's), and 7,000 square feet of retail uses inclusive of artist incubator space.
- 2) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated June 11, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 3) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated June 26, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for 85 months from the date of mailing of the Preliminary Plan Resolution.
- 5) The Subject Property is located in the Bethesda-Chevy Chase High School Cluster. Pursuant to the FY2014 Annual School Test, the 72 dwelling units are subject to a School Facilities Payment at the high school level. The rate of the tax or payment due is the rate in effect when the tax or payment is paid and must be made in accordance with Chapter 52, Article VII, Section 52-50(l), of the Montgomery County Code.
- 6) Short term public bicycle parking for up to six bikes (inverted "U" racks) must be installed along the retail frontage and near the art incubator space. Exact locations of the rack to be determined at the time of Site Plan.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

- 7) The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District and must execute the TMAg prior to approval of the Certified Site Plan. The TMAg must include trip mitigation measures recommended by MCDOT.
- 8) The Applicant must show on the final record plat the following right-of-way dedications, Public Improvement Easement (PIE), or public access easements consistent with the 1994 Approved and Adopted Bethesda CBD Sector Plan and Montgomery County Code Chapter 50 Subdivision Regulation requirements:
 - a. Fairmont Avenue: No dedication is necessary because this street is currently at its master planned minimum future right-of-way width.
 - b. Old Georgetown Road (MD 187): No dedication is necessary because this street currently exceeds its master planned minimum future right-of-way width.
- 9) The Applicant must provide a noise analysis at the time of the initial site plan submittal. The noise analysis must include exhibits showing existing and 20 year projected 60, 65 and 70 dba Ldn noise contours. Prior to issuance of the first building permit, an engineer specializing in acoustics must certify that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The builder must commit to construct the units in accord with these design specifications, with any changes that may affect acoustical performance approved by the acoustical engineer in advance of installation.
- 10) Prior to site plan submittal, the Applicant must satisfy all Montgomery County Fire and Rescue Service ("MCFRS") requirements and obtain written approval from MCFRS.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the Hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Master Plan.*

The Preliminary Plan Application substantially conforms with the 2006 Woodmont Triangle Amendment to the 1994 Bethesda CBD Sector Plan. The Goals of the Sector

Plan include a housing goal to increase the supply of housing for a variety of income levels; a small-scale retail goal to provide opportunities to retain existing business and expand opportunities for new businesses; an arts and entertainment goal to enhance the existing public arts program in the Bethesda CBD and provide opportunities for both the visual and performing arts; and a public space goal to focus on improving the safety and character of the existing streets and increase the flexibility in providing the public use space through the Optional Method of Development.

For housing, the project includes up to 72 multi-family residential units, with 15% on-site MPDUs, in a variety of unit sizes so that persons at a range of income levels can reside in the Woodmont Triangle Area. For small-scale retail, the project provides street level space for retail, restaurant or service uses. For the Arts and Entertainment District, this project offers approximately 2,000 square feet of new studio space for artists in the visual arts on a street level arts alley, an important contribution to the Arts & Entertainment District. For public spaces such as safe and attractive streets, the project improves the continuity of pedestrian routes by closing driveways from Old Georgetown Road and consolidating them to one access area on Fairmont Avenue. The Bethesda streetscape will be installed and the alley along the eastern side of the building will be enlivened. Entrances to street oriented retail and the residential lobby will enliven the street as well. In terms of on-site public amenities, the studio space for artists that is open to the public is highly desirable, and widening the current alley width to 11 feet will increase visibility and accessibility for the adjacent alley which can be used to walk to the side entrance of Garage 11.

Building height limits and density are also addressed on pages 11 and 12 of the Sector Plan. The project is consistent with the building height and density recommendations of the Sector Plan, where a 174 foot tall building and 5.73 residential FAR in this location will not adversely affect adjacent properties, but are appropriate given the provision of 15% MPDUs in a location that is 1,500 feet from the Bethesda Metrorail station. Non-residential development on the Subject Property is calculated to be 0.40 FAR, which is less than 1.0 FAR and consistent with the intent of the Sector Plan.

2. Public facilities will be adequate to support and service the area of the approved subdivision.

The site currently has access points on Old Georgetown Road (two full-movement driveways) and Fairmont Avenue (one full-movement driveway). Vehicular ingress and egress to and from the on-site private residential garage and loading space will be limited to two full-movement driveways off Fairmont Avenue on the north corner of the Property. Pedestrian and bicyclist access to the site will be provided along both Old Georgetown Road and Fairmont Avenue, although Fairmont Avenue provides the more comfortable bicyclist experience due to its lower vehicular speed and volume.

The immediate area is well served by transit that includes the Red Line Bethesda Metrorail Station (located approximately 0.3 mile or 1,500 feet to the south of the site), Metrobus, RideOn, and the Bethesda Circulator. Future transit in the area includes a proposed Purple Line station. Specific transit routes near the site include: RideOn Bus Routes 29, 32, 30, 34, 36, 40, 47, 70, and WMATA Metrobus Routes J2, J3, J4, J7, and J9.

Sector Plan Roadways and Pedestrian/Bikeway Facilities

The 1994 *Bethesda CBD Sector Plan* has the following facilities along Property frontage:

1. Fairmont Avenue, along the northern site frontage, as a Biker Friendly Area and Mixed Street with a minimum right-of-way width of 60 feet. Mixed Streets are described in the Sector Plan as streets that accommodate higher levels of pedestrian activity.
2. Old Georgetown Road, along the southern/western site frontage and between St. Elmo Avenue to the north and Woodmont Avenue to the south, as a major highway (M-4) with a minimum right-of-way width of 82 feet.

Fairmont Avenue will remain a low-volume street, and the Applicant is required to update and improve the streetscape along Fairmont Avenue (and Old Georgetown Road). These two factors support the Sector Plan recommendation for a mixed street that safely accommodates bicyclists and pedestrians. The Applicant is not required to dedicate any right-of-way for Old Georgetown Road because this street currently exceeds its sector planned minimum future right-of-way width.

Adequate Public Facilities Review

A traffic statement (dated June 17, 2013) was submitted for the subject Application per the *LATR/TPAR Guidelines* since the development was estimated to generate less than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods.

Trip Generation

A site trip generation summary shows that the development will generate fewer vehicular trips than the site's current use as an office and filling station. As a result of the change of use to residential and retail, the site will generate 18 fewer trips during the morning peak period and 15 fewer trips during the evening peak period.

Local Area Transportation Review

Since the development will generate fewer than 30 peak hour trips, the project is not subject to the LATR. Exemption from the LATR was documented in the Applicant's traffic statement, dated June 17, 2013. No further analysis is necessary to satisfy LATR requirements.

Transportation Policy Area Review

The Application is within the Bethesda CBD Policy Area, and as a result, the project is exempt from both the roadway and transit tests set forth in the 2012-2016 Subdivision Staging Policy. Therefore, the Applicant is not required to pay transportation impact tax to satisfy the TPAR requirement.

The Preliminary Plan Application satisfies the *LATR and TPAR requirements* of the APF review and will provide safe, adequate, and efficient vehicular and pedestrian access.

Other public facilities and services are available and will be adequate to serve the Subject Property. The building will be served by public water and sewer systems. Local lines exist, and they are of adequate size to serve the number of units in the development. Electrical and telecommunications services are available to serve the Property. Local health clinics, police stations and fire stations are all operating within acceptable levels as established by the Subdivision Staging Policy. The project is located in the Bethesda-Chevy Chase High School Cluster. The 72 condominium units are subject to the Annual School Test effective for FY14. A School Facilities Payment is required at the high school level in this cluster.

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision.*

The lot will have frontage on a public street. The size, width, shape and orientation of the lot is appropriate for the location of the subdivision. The lot size is appropriate, for it accommodates a single building with a mix of uses. The width of the lot is suitable given the various points of access necessary to accommodate pedestrian movements and the single point of access necessary to accommodate the residential parking garage and required on-site loading. The shape of the lot is appropriate, for the consolidation creates a more rectangular lot which is suitable for the corner orientation of the Property.

- 4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

There are no onsite wetlands, floodplains, streams or their associated buffers on the Subject Property. There is neither onsite forest nor specimen trees onsite. The

Applicant applied for an exemption from submitting a forest conservation plan. Exemption 42013105E was confirmed on January 16, 2013. This Property qualified for an exemption under section 22A-5(s)(1) of the Montgomery County Forest Conservation Law, where an activity occurring on a tract of land less than 1.5 acres with no existing forest or existing specimen or champion trees, and the afforestation requirements would not exceed 10,000 square feet.

As part of the site plan submittal, the Applicant will be required to provide a noise analysis, which must include exhibits of existing noise contours and 20 year projection, and certification from an engineer specialized in acoustics that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The project must also comply with County Council green building legislation, by achieving a LEED certification (26-32 points). LEED points can be achieved using diverse measures such as green roofs, green building materials, energy saving measures and waste reduction plans. If the Applicant is unable to achieve a silver rating, they will have to provide information on what would need to be done to achieve that standard.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.*

The stormwater management concept approved on June 11, 2013, meets the required stormwater management goals by the use of Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP) with the use of a green roof and micro-bioretenion/planter box. A waiver for structural treatment is granted since full treatment of ESD volume is not possible due to the existing shallow storm drain and onsite constraints. This Preliminary Plan Application complies with Section 50-24(j), which requires that stormwater requirements be satisfied as part of the Preliminary Plan review.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

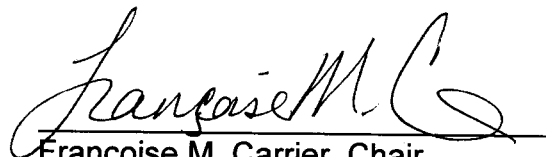
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 26 2013 (which is the date that this Resolution is mailed to all parties of record); and

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

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 18, 2013, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board



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

MCPB No. 14-17
Site Plan No. 820140060
4990 Fairmont Avenue
Date of Hearing: April 3, 2014

APR 14 2014

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on October 30, 2013, 4990 Fairmont LLC ("Applicant"), filed an application for approval of a site plan for a mixed use building 138,052 gross square feet in size, including 7,000 square feet of non-residential space and 131,052 square feet of residential space with 23% on-site public use space; a maximum of 72 residential dwelling units including 15% MPDUs on 14,685 square feet of CBD-2 zoned land, located at 4990 Fairmont Avenue, at the eastern corner of the intersection of Old Georgetown Road and Fairmont Avenue ("Subject Property"), in the 2006 Woodmont Triangle Amendment to the 1994 Bethesda Central Business District Sector Plan ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820140060, 4990 Fairmont Avenue; and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated March 21, 2014, setting forth its analysis of, and recommendation for, approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 3, 2014, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the Hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

Approved as to
Legal Sufficiency

Christina Smith 3/27/14
6789 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820140060 for a mixed use building 138,052 gross square feet in size, including 7,000 square feet of non-residential space and 131,052 square feet of residential space with 23% on-site public use space; and a maximum of 72 residential dwelling units including 15% MPDUs, subject to the following conditions:¹

Conformance with Previous Approvals

1. Project Plan Conformance

The Applicant must comply with the conditions of approval for Project Plan No. 920130070 [MCPB Resolution No. 13-107], or as amended.

2. Preliminary Plan Conformance

The Applicant must comply with the conditions of approval for Preliminary Plan No. 120130230 [MCPB Resolution No. 13-108], or as amended.

Environment

3. Noise Attenuation

- a) Prior to issuance of the first building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer that specializes in acoustical treatment that the building shell for residential dwelling units to be constructed within the projected 65 dBA Ldn noise contour is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.:
- b) If any changes occur to the Site Plan which affect the validity of the noise analysis dated September 27, 2013, acoustical certifications and noise attenuation features, a new noise analysis will be required to reflect the revised plans, and new noise attenuation features may be required.
- c) The Applicant/developer/builder must certify that they will construct the noise impacted units in accordance with the recommendations of the engineer that specializes in acoustical treatments.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

Public Use Space, Facilities and Amenities

4. Public Use Space, Facilities, and Amenities

- a) The Applicant must provide a minimum of 3,400 square feet of public use space (23% of net lot area) on-site. Interior studio space must be provided on site for the specific use of an arts incubator space to be managed by the Bethesda Urban Partnership (BUP) as specified in the agreement dated December 9, 2013 between BUP and the Applicant.
- b) As a public amenity, the Applicant must construct the streetscape improvements, including the undergrounding of utilities, along the property's frontage on Fairmont Avenue and Old Georgetown Road, consistent with the Bethesda Streetscape Standards.
- c) All public use space areas on the Subject Property must be completed prior to issuance of use and occupancy permits for the residential development.

5. Recreation Facilities

- a) The Applicant must meet the square footage requirements for all of the applicable recreational elements and demonstrate on the Certified Site Plan that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b) The Applicant must provide the following recreation facilities: indoor community space, picnic/sitting area, pedestrian system, and an indoor fitness facility.

6. Transportation

- a) The Applicant must limit future development on the Subject Property to 72 high rise dwelling units and 7,000 square feet of general retail space.
- b) Short term public bicycle parking for up to six bikes (inverted "U" racks) must be installed along the retail frontage and near the art incubator space. Exact locations of the racks must be determined prior to certification of the Site Plan.

- c) Prior to issuance of any building permit, the Applicant must enter and execute a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District. The TMAg must include traffic mitigation measures recommended by MCDOT.
- d) The Planning Board has accepted the recommendations of the Maryland State Highway Administration ("MDSHA") in its letter dated November 27, 2013, and does hereby incorporate them as conditions of the Site Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Site Plan approval.
- e) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") in its memorandum uploaded to ProjectDox on March 20, 2014, and does hereby incorporate them as conditions of the Site Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS provided that the amendments do not conflict with other conditions of the Site Plan approval.

Density & Housing

7. Moderately Priced Dwelling Units (MPDUs)

The Applicant must comply with the Department of Housing and Community Affairs ("DHCA") letter dated February 20, 2014. An MPDU agreement that is in compliance with Chapter 25A must be executed between the Applicant and DHCA prior to the release of any residential building permits.

Site Plan

8. Site Design

The exterior architectural character, proportion, materials, and articulation for the building must be substantially similar to the schematic elevations shown in the Certified Site Plan set, as determined by M-NCPPC Staff. Any modifications made that result from a change of ownership or architect must be consistent with the renderings in ProjectDox dated January 30, 2014.

9. Landscaping

- a) Provide all landscape structures, including walls, fences, railings, paving, etc. per sheets LP-1 through LP-4.
- b) Provide all trees, shrubs and groundcovers in accordance with landscape drawings, sheets LP-1 through LP-4.
- c) The Applicant must construct the streetscape improvements, including the undergrounding of utilities, consistent with the Bethesda CBD Streetscape standards.

10. Lighting

- a) The lighting distribution and photometric plan with summary report and tabulations must conform to the Illuminating Engineering Society of North America standards for residential/commercial development.
- b) All onsite down light fixtures must be full cut-off fixtures.
- c) Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the rooftop fixtures abutting the adjacent properties.
- d) The final lighting plan submitted as part of the Certified Site Plan must show light fixtures for the rooftop level. The height of the rooftop light poles shall not exceed 8 feet including the mounting base and must be directed downward. Alternatively, if bollards are proposed, the light fixtures must not exceed 4 feet and must be directed downward.

11. Surety

Prior to issuance of the first above-grade building permit, the Applicant must provide a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a) Applicant must provide a cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.

- b) The amount of the bond or surety shall include plant material, on-site lighting, paving/streetscaping, recreational facilities, site furniture, and entrance piers.
- c) Prior to issuance of the first building permit, exclusive of the sheeting and shoring permit for the structured parking, the Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.
- d) Bond/surety shall be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.

12. Development Program

The Applicant must construct the development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a) Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- b) On-site amenities including, but not limited to, indoor community space, picnic/sitting area, rooftop terrace, pedestrian system, and an indoor fitness facility including all paving, lighting, site furnishings, benches, trash receptacles and bicycle facilities must be installed prior to final use and occupancy permit for the residential units.
- c) Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Sediment Control Plan.

13. Certified Site Plan

Prior to approval of the Certified Site Plan, the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the final forest conservation exemption, stormwater management concept approval, development program, inspection schedule, and Site Plan Resolution on the approval or cover sheet.
- b) Modify recreation table to reflect summary totals enumerated in the Staff Report.
- c) Lighting at the back of the alley in front of the art incubator space along the east side of the building must be provided and clearly identified on the lighting plan. Adequate lighting must also be provided at the rooftop level but must be full cutoff to ensure compatibility with surrounding developments.
- d) Ensure consistency of all details and layout between Site Plan and landscape plan.

BE IT FURTHER RESOLVED, that all site development elements as shown on 4990 Fairmont Avenue drawings received by the M-NCPPC on March 10, 2014, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

Neither a development plan, diagrammatic plan nor a schematic development plan was required for this Application.

The Site Plan is consistent with Project Plan No. 920130070 in terms of design layout, development standards, density and conditions of approval.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

The Subject Property is zoned CBD-2. Section 59-C-6.212 of the Montgomery County Zoning Ordinance establishes the CBD-2 Zone, and this section outlines the description, intent and general requirements of the zone.

The Application for up to 72 residential units (including 15% MPDUs) results in a residential gross floor area of 131,052 square feet and residential FAR of 5.73. When the 7,000 square feet of street front retail/artist incubator space is added to the residential square footage to arrive at the overall 138,052 square feet of gross floor area, the total FAR is 6.03. The maximum FAR permitted in the CBD-2 zone is 5.0, however, Section 59-C-6.215(b) states that the maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site. Since the Applicant is providing 15% MPDUs on-site, a 22% residential density bonus is allowable under the MPDU Law outlined in County Code Chapter 25A-5. The baseline allowable residential gross floor area is 107,420 square feet, and with a 22% density bonus, 131,052 square feet is permissible.

The Application includes a maximum building height of 174 feet, which exceeds the 143 feet maximum in the CBD-2 zone. Section 59-C-6.2 footnote 11, on Zoning Ordinance page C6-43 allows the Planning Board to approve a height that exceeds 143 feet, but not 200 feet in the CBD-2 zone under the optional method of development process if:

(ii) the additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan or the property is within a revitalization area designated in the applicable sector plan and is located fully or partially within 800 feet of an entrance to a metro station.

A building height of 174 feet is specifically recommended for the Subject Property in the Woodmont Triangle Amendment to the Bethesda CBD Sector Plan on pages 22 and 24 as follows:

This project is in "Block 45"

- "There are parcels in Block 45, zoned CBD-1 that could redevelop and may be able to use the transfer of density option. In order to encourage residential redevelopment, this Amendment recommends changing the CBD-1 properties to CBD-2. The Amendment recommends a FAR of 5.0 for all

properties in these blocks and a height limit of 143 feet or 174 with a 22 percent MPDU bonus.”

This project includes 15% MPDUs and therefore is receiving a density bonus of 22 percent.

More specifically, Section 59-C-6.212 outlines the intent of the CBD zones:

- (a) To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the Site Plan or combined urban renewal Project Plan is approved on review by the Planning Board.
- (b) To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers, and residents.
- (c) To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas.
- (d) To promote the effective use of transit facilities in the central business district and pedestrian access thereto.
- (e) To promote improved pedestrian and vehicular circulation.
- (f) To assist in the development of adequate residential areas for people with a range of different incomes.
- (g) To encourage land assembly and the most desirable use of land in accordance with a sector plan.

The Planning Board finds the density and amenities achieved through the optional method of development enables the realization of the recommendations of the Sector Plan by providing street level space for retail, restaurant or service use; approximately 2,000 square feet of new studio space for artists in the visual arts on a street level arts alley, an important contribution to the Arts & Entertainment District; improving the continuity of pedestrian routes by closing driveways from Old Georgetown and consolidating them on Fairmont; and installing the Bethesda streetscape and enlivening the existing public alley. Until recently, a BP gas station operated on the Subject Property, which was a use that did not take full advantage of the site's close proximity to mass transit facilities and the employment opportunities in the Bethesda CBD. The Applicant acquired the Subject Property with the intent of assembling the lots to construct an optional method, mixed use project that offers retail and artist incubator space with residential units above at a prominent corner location within the Bethesda CBD. Much of the development adjacent to the Subject Property is commercial

in nature, although residential development is located approximately 150 feet southeast of the Subject Property at the intersection of Woodmont Avenue and Old Georgetown Road. The Application's reconfiguration of the current gas station vehicular access points from Old Georgetown Road to only one access point to the Subject property will minimize vehicular traffic that interferes with the pedestrian realm in this area.

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the CBD-2 Zone.

Project Data Table for the CBD-2 Zone (Optional Method of Development)

Development Standard	Zoning Ordinance Permitted/ Required	Approved by the Planning Board and Binding on the Applicant
Site Area (square feet)		
Gross Tract Area	18,000 sf	22,884 sf
Less Dedication for Public ROW	n/a	8,199 sf
Net Lot Area	n/a	14,685 sf
Density		
Max. Total FAR	5.0	6.03
- residential		5.73 ¹
- commercial		0.30
MPDUs [Chapter 25A]	12.5%	15%
Min. Public Use Space		
On-Site	20%	23%
Off-Site Amenity Space	n/a	25%
Min. Building Setbacks (ft) [59-C-10.3.8]		
Front (Fairmont Ave)	0	6 ft
Rear	0	0
West Side (Old Georgetown Rd)	0	2 ft
East Side	0	0
Max. Building Height (ft)		

	143 ft	174 ft ²
Vehicle Parking (number of spaces)		
Retail	30	18
Residential	88	80
Total spaces	118	98
Bicycle Parking		
Number of spaces	6	6
Motorcycle Parking		
Number of spaces	2	2
Footnotes ¹ Pursuant to §59-C-6.215 (b) the maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site. ² Pursuant to §59-C-6.2, footnote 11, of the Montgomery County zoning ordinance, height may be increased to 174 feet if specifically recommended in the Master Plan. The Woodmont Triangle Amendment to the Bethesda CBD Master Plan recommends 174 feet as long as 15 percent MPDUs are provided. ³ The Subject Property is located within the Bethesda Parking Lot District; therefore, the applicant can meet the requirement by providing spaces on-site and/or pay a tax to the Parking Lot District to utilize spaces off-site.		

3. *The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. **Buildings and Structures**

The locations of the buildings and structures are adequate, safe, and efficient. The Applicant will construct this mixed use building so that it fronts both Fairmont Avenue and Old Georgetown Road. The first four floors of the building above the street level retail will contain predominately parking which is comparable to the above grade parking garage adjacent to the site. Vehicular access to the loading docks and parking garage is limited to Fairmont Avenue. Consolidating vehicular and loading access to one area of the site along Fairmont Avenue, as far from the intersection with Old Georgetown Road as possible, will minimize conflicts with pedestrians and vehicles traveling along Old Georgetown Road, which contains the greater volume of vehicular and pedestrian traffic of the two roads. The entrance to the residential units will also be located from Fairmont Avenue and access to the retail storefronts of the building will be located along both Fairmont Avenue and Old Georgetown Road. The artist incubator space will be accessed from the side alley of the building, therefore activating all visible facades.

b. Open Spaces

The open spaces provided are adequate, safe, and efficient. The CBD-1 Zone has a 20% public use space requirement for optional method projects. Applicants provide public use space on-site, off-site, or a combination of the two. The public use space is calculated over the net tract area. When calculated over the net tract area for the Subject Property, the Applicant meets this requirement on-site. The Applicant is providing 23% of the net lot area as public use space on-site, which includes the extension of streetscape and alley areas from the provided streetscape improvements within the right-of-way, as well as the enclosed artist incubator space that will be managed by the Bethesda Urban Partnership. This studio space for artists that is open to the public is highly desirable, and widening the current alley width to 11 feet will increase visibility and accessibility for the adjacent public alley which can be used to walk to the side entrance to Garage 11.

For the residential portion, there are additional on-site amenities specifically for future residents of the building. An indoor community space and indoor fitness facility will be available as amenities for residents of the building. Private open spaces including a picnic/sitting area and pedestrian system are also included. The picnic/sitting area is located on the private rooftop space and will be a respite and social gathering area for residents. The pedestrian system is located along the front of the lot in accordance with the Bethesda CBD Streetscape standards.

The diversity of open spaces is adequately dispersed throughout the Subject Property to provide safe and convenient access to all residents while efficiently providing relief from the density.

c. Landscaping and Lighting

The landscaping plan submitted as part of the Site Plan is adequate, safe, and efficient. The landscaping measures serve several purposes. It provides adequate canopy coverage and shade for public areas along the Subject Property's Fairmont Avenue and Old Georgetown Road frontages. It efficiently defines open spaces and amenity areas by creating an edge or boundary, and adding interest on the rooftop terrace area.

The lighting is adequate, safe, and efficient. As part of the Certified Site Plan, lighting at the back of the alley in front of the art incubator space along the east side of the building must be provided and clearly identified on the lighting plan.

Adequate lighting must also be provided at the rooftop level but must be full cutoff to ensure compatibility with surrounding developments.

d. Recreation Facilities

The recreation facilities provided are adequate, safe and efficient. The recreation facilities provided within the building, which are included in the recreation calculations, include: indoor community space, picnic/sitting area, pedestrian system, and an indoor fitness facility. Because of the urban nature of the site, the Applicant is taking credit for an off-site supply of amenities located at Bethesda Elementary School and Battery Lane Park.

e. Vehicular and Pedestrian Circulation

The pedestrian and vehicular circulation systems are safe, adequate, and efficient. The Subject Property currently has access points on Old Georgetown Road (two full-movement driveways) and Fairmont Avenue (one full-movement driveway). Vehicular ingress/egress to/from the on-site private residential garage and loading space will be limited to two full-movement driveways off Fairmont Avenue on the north corner of the Subject Property. Pedestrian/bicycle access to the Subject Property will be provided along both Old Georgetown Road and Fairmont Avenue, although Fairmont Avenue provides the more comfortable bicyclist experience due to its lower vehicular speed and volume.

The immediate area is well served by transit that includes the Red Line Bethesda Metrorail Station (located approximately 0.3 miles or 1,500 feet to the south of the Subject Property), Metrobus, RideOn, and the Bethesda Circulator. Future transit in the area includes a Purple Line station. Specific transit routes near the Subject Property include:

1. RideOn Bus Routes 29, 32, 30, 34, 36, 40, 47, 70
2. WMATA Metrobus Routes J2, J3, J4, J7, and J9

Master Plan Roadways and Pedestrian/Bikeway Facilities

The Sector Plan identifies master plan facilities along the property frontage, which are listed below. Since these roadways currently meet the minimum right-of-way requirements no additional dedication is required for this Application.

1. Fairmont Avenue, along the northern site frontage, as a Biker Friendly Area and Mixed Street with a minimum right-of-way width of 60 feet. Mixed Streets are described in the Sector Plan as streets that accommodate higher levels of pedestrian activity.

2. Old Georgetown Road, along the southern/western property frontage and between St. Elmo Avenue to the north and Woodmont Avenue to the south, as a major highway (M-4) with a minimum right-of-way width of 82 feet.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The Planning Board finds the location; size and intensity of the uses on the Subject Property are compatible with the existing and potential development in the general neighborhood. The building's orientation responds to the surroundings. Access to the residential units will be from Fairmont Avenue. The majority of the ground uses have entry and exit points from Old Georgetown Road where visibility and pedestrian activity will be greatest. The garage entry and loading dock entry is located off of Fairmont Avenue to minimize vehicular and pedestrian conflicts on Old Georgetown Road. The garage of the building is located on the first four floors of the structure to correspond with the existing 40 foot tall public parking garage height. The treatment of the garage ends at the fifth floor where balconies are present on the top 12 floors but the stone or precast treatment of the garage is partially extended to the top floor of the building to provide subtle continuity.

The block in which the building is located is the closest in the Woodmont Triangle Amendment area to the Bethesda Metrorail station. Redevelopment potential exists to construct additional buildings to a similar height. The building will be the same height as the approved Monty project (Site Plan No. 820090110, The Monty), located north of the Subject Property on the opposite side of Fairmont Avenue, and the same height as the approved 4900 Fairmont Avenue project (Site Plan No. 820120120), and located northeast of the Subject Property on the same side of Fairmont Avenue. Therefore, the building will be consistent with the emerging redevelopment pattern in the general neighborhood. Ground floor retail and the artist incubator space will draw pedestrians to this section of Old Georgetown Road, replacing a vehicular heavy gas station use. Additional residents in this location will enliven the block at night and on weekends when the surrounding commercial buildings are primarily vacant.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The Subject Property is located in the Bethesda CBD. There are no onsite wetlands, floodplains, streams or their associated buffers on the Subject

Property. There is neither forest nor specimen trees onsite. The Subject Property is located in the Willett Branch watershed which is a tributary to Little Falls Branch Stream, a Use I-P watershed.

The Applicant applied for an exemption from submitting a forest conservation plan. Exemption No. 42013105E was confirmed on January 16, 2013 because the Subject Property is less than 1.5 acres in size. Therefore, the Subject Property qualified for an exemption under section 22A-5(s)(1) of the Montgomery County Forest Conservation Law, for an activity occurring on a tract of land that is less than 1.5 acres in size and has no existing forest or existing specimen or champion trees, and the afforestation requirements would not exceed 10,000 square feet.

The stormwater management concept approved on June 11, 2013, meets the required stormwater management goals by the use of Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP) with the use of a green roof and micro-bioretenion/planter box. A waiver for structural treatment is granted since full treatment of ESD volume is not possible due to the existing shallow storm drain and onsite constraints.

The Applicant submitted a noise analysis with the Site Plan, which included certification from an engineer specializing in acoustics that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.

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

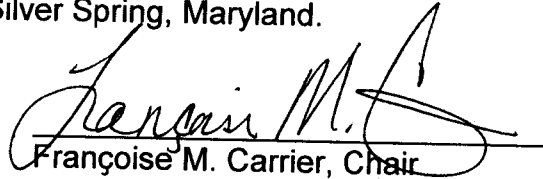
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is ~~APR 14 2014~~ (which is the date that this Resolution is mailed to all parties of record); and

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 Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Presley voting in favor, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, April 3, 2014, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board