



SEP 22 2011

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

MCPB No. 11-31
Preliminary Plan No. 12009014A
Woodmont Central
Date of Hearing: April 21, 2011

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on October 4, 2010, Donohoe Development Company ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would amend a previously approved preliminary plan to create two lots on 1.56 acres of land located on two sites, one in the southwest quadrant of the intersection of Battery Lane and Wisconsin Avenue and the other in the southwest quadrant of the intersection of Rugby Avenue and Del Ray Avenue ("Property" or "Subject Property"), in the Woodmont Triangle Amendment to the Bethesda CBD Sector Plan area ("Sector Plan"); and

WHEREAS, this preliminary plan amendment is to amend Preliminary Plan No. 120090140, which was approved on June 25, 2009, for no more than 453,109 square feet of multi-family residential use, which must not comprise more than 457 dwelling units and which must include a minimum of 15% MPDUs and 10% workforce housing, no more than 81,107 square feet of office uses, and no more than 19,556 square feet of retail uses; and

WHEREAS, Applicant's preliminary plan Amendment application was designated Preliminary Plan No. 12009014A, Woodmont Central ("Preliminary Plan" or "Application") to amend the previously approved preliminary plan by increasing the size of the Subject Property to 1.8 acres of land and amending the approved land uses by i) increasing the residential use 21,066 square feet to 474,175 square feet (if the 22 percent density bonus is used) or decreasing the residential use by 64,440 square feet to 388,669 square feet (if no density bonus is used), ii) increasing the retail use by 10,739 square feet to 30,295 square feet, and iii) deleting all workforce housing; and

Approved as to
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WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated April 11, 2011, setting forth its analysis and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on April 21, 2011, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on April 21, 2011, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Presley; with a vote of 4-0, Commissioners Alfandre, Carrier, Presley, and Wells-Harley voting in favor, and Commissioner Dreyfuss absent.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 12009014A to create two lots on 1.8 acres of land in the CBD-1 and CBD-R2 zones, located on two sites, one in the southwest quadrant of the intersection of Battery Lane and Wisconsin Avenue and the other in the southwest quadrant of the intersection of Rugby Avenue and Del Ray Avenue, in the Woodmont Triangle Amendment to the Bethesda CBD Sector Plan area, subject to the following conditions:

- 1) These conditions replace the previous conditions of approval for Preliminary Plan 120090140 in full.
- 2) Approval under this Preliminary Plan is limited to two lots for no more than 474,175 square feet of multi-family residential use, which must not comprise more than 455 dwelling units and which must include a minimum of 15% moderately priced dwelling units (MPDU); no more than 81,107 square feet of office uses; and no more than 30,295 square feet of retail uses. Alternatively, the Applicant may provide no more than 388,669 square feet of multi-family residential use, which must not comprise more than 366 dwelling units and which must include a minimum of 12.5% MPDUs; no more than 81,107 square feet of office uses; and no more than 30,295 square feet of retail uses.
- 3) The final approval of the number and location of buildings, dwelling units, commercial floor area, on-site parking, site circulation, and sidewalks will be determined at site plan.
- 4) The Applicant must comply with the conditions of approval for Project Plan No. 920090010 and Project Plan No. 92009001A.
- 5) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to

- recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable.
- 6) Prior to any land disturbing activity on the Subject Property, the Applicant must pay a fee in lieu of planting to M-NCPPC for the required 0.43 acres of afforestation.
 - 7) The Applicant must satisfy the Policy Area Mobility Review (PAMR) test by contributing \$11,300 for each trip for 13 new peak-hour trips for a total of \$146,900 prior to issuance of the office building permit. The \$146,900 should be used to fund the Montgomery County Department of Transportation's (MCDOT) Defense Base Closure and Realignment Commission (BRAC) bikepath project and, specifically, the completion of the North Bethesda Trail along Old Georgetown Road.
 - 8) The Applicant must construct the following pedestrian improvements:
 - a. At the Rugby Avenue/Auburn Avenue intersection, realign the approach lanes on Auburn Avenue and shorten the north-south pedestrian crossing distance.
 - b. At the Rugby Avenue/ Del Ray Avenue intersection, provide a pedestrian crosswalk across Rugby Avenue at the eastern intersection leg.These improvements must be under permit and bond with MCDPS prior to release of any building permit for phase 1B.
 - 9) Prior to certification of the Preliminary Plan, the Preliminary Plan drawing must be revised to show the 749-square-foot area of right-of-way dedication for Del Ray Avenue and the 426-square-foot area of right-of-way dedication for Wisconsin Avenue.
 - 10) The Applicant must dedicate and the record plat must show dedication of 426 square feet of right-of-way along the Property frontage for Wisconsin Avenue and 749 square feet of right-of-way along the Property frontage for Del Ray Avenue, as will be shown on the certified Preliminary Plan.
 - 11) The Applicant must construct all road and sidewalk improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Sector Plan and to the design standards imposed by all applicable road codes.
 - 12) The record plat must include a note referencing that the site contains public use spaces, as approved by the site plan.
 - 13) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated April 1, 2011. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - 14) The Applicant must comply with the conditions of the MCDOT letter dated April 1, 2011. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.

- 15) The Applicant must comply with the conditions of the two MDSHA letters dated June 11, 2009. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 16) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to issuance of any building permit and as required by MDSHA prior to issuance of access permits.
- 17) Before any residential building permit can be issued, the Applicant must make the applicable school facilities payment to MCDPS.
- 18) No clearing, grading or recording of plats prior to certified site plan approval. Demolition of existing buildings may proceed prior to certified site plan to prepare the site for construction.
- 19) The record plat must show necessary easements.
- 20) The certified Preliminary Plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined during the site plan process. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
- 21) For the proposed commercial office/retail building on Wisconsin Avenue and the commercial portions of the residential buildings on Rugby Avenue, the Applicant must enter into a Traffic Mitigation Agreement with MCDOT and the Planning Board to participate in the Bethesda Transportation Management District (TMD). The Traffic Mitigation Agreement must be fully executed prior to approval of any building permit.
- 22) For both the commercial site and the residential site, the Applicant must provide inverted-U bike racks near the main entrance of each proposed building and secure bike storage in the garage near the elevator in a well-lit area. The number of bike racks and size of secure bike storage and their ultimate locations will be determined at site plan review.
- 23) The Preliminary Plan will remain valid until October 11, 2016. Prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Land Records of Montgomery County, Maryland or a request for an extension must be filed.
- 24) The Adequate Public Facility (APF) review for Phases 1A and 1B of the Preliminary Plan will remain valid until October 11, 2018. The APF review for Phase 2 of the Preliminary Plan will remain valid until October 11, 2023.

BE IT FURTHER RESOLVED, that having given full consideration to 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, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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

The Planning Board found the original Preliminary Plan (120090140) in substantial conformance with the Woodmont Triangle Amendment to the Bethesda CBD Sector Plan. The proposed amendment does not affect the Application's conformance with the Sector Plan and the Planning Board's prior findings remain valid.

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

Roads and Transportation Facilities

The Application consists of two non-contiguous sites: The commercial site on Wisconsin Avenue (Phase 1A of the project) and the residential site on Rugby Avenue (Phases 1B and 2 of the project). The two sites were analyzed separately for traffic purposes, because each site has its own unique traffic patterns. Although the Applicant is seeking approval on the residential site of two different proposals, one with 15% MPDUs and 22% bonus density and the other with 12.5% MPDUs and no bonus density, the larger project was analyzed for traffic purposes in order to evaluate the greatest impact with respect to density.

Commercial Site (Phase 1A):

Local Area Transportation Review

Because this amendment makes no changes to the commercial site, the previously approved Local Area Transportation Review (LATR) for this site remains valid, and no new finding is required.

Policy Area Mobility Review

Although no new trips are being generated for the Policy Area Mobility Review (PAMR), as compared to the previously approved preliminary plan, the approval includes a modified PAMR condition (as compared to the previous approval) because the PAMR fee was adjusted for CIP in July 2010. The current fee is \$11,300 per PAMR trip; the previous fee was \$11,000 per PAMR trip.

Residential Site (Phases 1B and 2):

Local Area Transportation Review

Compared with the previously-approved land uses, the number of multi-family units is reduced and the square footage of retail space is increased for the proposed land uses on the Rugby Avenue site.

The proposed land uses generate eight fewer new peak-hour trips within the weekday morning peak period than the previously approved land uses. Within the evening peak period, the number of new peak-hour trips generated by the existing land uses exceeds the trips generated by the proposed land uses. Thus, an updated traffic study for the proposed land uses was not required to satisfy the LATR test in accordance with the LATR and PAMR Guidelines.

For the previously approved land uses, a traffic study was submitted to satisfy the LATR test because those land uses generate 30 or more peak-hour trips within the weekday morning and evening peak periods. All critical lane volume (CLV) values for all analyzed intersections were less than the 1,800 CLV standard for the Bethesda CBD Policy Area and, thus, the LATR test is satisfied.

Policy Area Mobility Review

Under the current Growth Policy, the PAMR test requires that the Applicant mitigate 30% of the net new peak-hour trips generated by the proposed land uses within the weekday morning and evening peak periods. A site located in proximity to two Metrorail Stations and in the Bethesda CBD has an inherent PAMR trip reduction credit because the availability of transit services and Metrorail Stations results in lower trip generation as compared to other parts of the County. The resultant trip reduction is the difference between the "starting base" of vehicular peak-hour trips calculated using the higher countywide trip-generation rates and the trips calculated using the lower Bethesda CBD rates. All new peak-hour trips within the weekday morning peak period can be satisfied for PAMR simply by being located in the Bethesda CBD Policy Area with Metrorail service.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as

police stations, firehouses, schools, and health services, are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the Property. With respect to public schools, the Planning Board found the original preliminary plan (120090140) to be adequately served. The current amendment does not add any additional dwelling units and is still under a valid APF approval, and, therefore, does not affect the adequacy of public schools. The Planning Board's prior findings remain valid. Electrical, telecommunications, and natural gas services are also available to serve the Subject Property.

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

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the CBD-1 and CBD-R2 zones as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in those zones. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan. In addition, the Application is in compliance with the density transfer provisions of Section 59-C-6.2355 of the Zoning Ordinance

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

The Subject Property contains no streams, wetlands, floodplain, forest or other environmentally sensitive areas. However, the project is subject to the requirements of the Forest Conservation Law. Accordingly, the project must fulfill a 0.43-acre afforestation requirement. The Applicant is proposing to meet the planting requirement through an in-lieu fee payment.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the site on April 1, 2011. The stormwater management concept includes meeting environmental site design to the maximum extent

practicable by the use of a green roof and micro-retention biofilters. This is supplemented with use of two proprietary biofilters to accommodate stormwater runoff from the streets. Due to onsite constraints the channel protection volume cannot be provided, and a waiver has been granted by MCDPS. Recharge has been waived since this is redevelopment and since the majority of the site is covered by sidewalks, a building, and a garage.

BE IT FURTHER RESOLVED, that 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; and

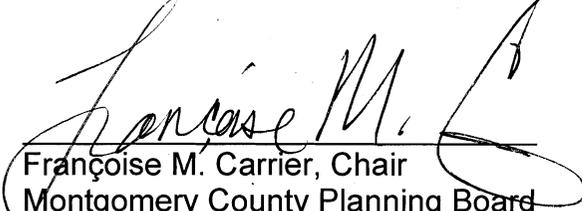
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 22 2011 (which is the date that this Resolution is mailed to all parties of record); and

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).

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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 Presley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, September 8, 2011, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board