



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

DEC 26 2013

MCPB No. 13-168
 Preliminary Plan No. 11994080A
 7340 Wisconsin Avenue
 Date of Hearing: December 12, 2013

RESOLUTION

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

WHEREAS, on June 9, 1994, the Planning Board approved Preliminary Plan No. 119940800, creating one lot on 0.79 acres of land in the CBD-2 zone, located on the south side of Montgomery Lane, west of Wisconsin Avenue (MD 355) ("Subject Property"), in the Bethesda CBD Policy Area, Bethesda CBD Sector Plan ("Sector Plan") area; and

WHEREAS, on August 27, 2013, Bainbridge Wisconsin Avenue Apartments LLC ("Applicant"), filed an application for approval of an amendment to the previously approved preliminary plan to change the use from the previously approved gas station to a maximum of 192,791 square feet of multi-family residential uses, consisting of no more than 225 multi-family dwelling units (including a minimum of 15% moderately priced dwelling units ("MPDUs")), and a maximum of 15,000 square feet of non-residential use, which may include retail, restaurant, or service uses on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 11994080A, 7340 Wisconsin Avenue ("Preliminary Plan", "Amendment" 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 November 27, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 12, 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. 11994080A to change the use of the Subject Property from the previously approved gas station to a maximum of 192,791 square feet of multi-family residential uses, consisting of no more than 225 multi-family dwelling units (including a minimum of 15% MPDUs), and a maximum of 15,000 square feet of non-residential use, limited to retail, restaurant, or service uses and provided that, at a minimum, the approved building's Wisconsin Avenue frontage must include some non-residential use to be determined at site plan, subject to the following conditions:¹

- 1) All conditions imposed by the approval of Preliminary Plan No. 119940800 in the Planning Board Resolution dated July 11, 1994, are superseded by the conditions contained herein.
- 2) The Applicant must comply with the conditions of approval for Project Plan 920140010.
- 3) This Preliminary Plan is limited to a maximum of 192,791 square feet of multi-family residential uses, consisting of no more than 225 multi-family dwelling units (including a minimum of 15% MPDUs), and a maximum of 15,000 square feet of non-residential use, limited to retail, restaurant, or service uses and provided that, at a minimum, the approved building's Wisconsin Avenue frontage must include some non-residential use to be determined at site plan.
- 4) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated November 8, 2013, and hereby incorporates 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.
- 5) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 6) The Planning Board has accepted the recommendations of the Maryland State Highway Administration ("MDSHA") in its letter dated October 15, 2013, and hereby incorporates 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 MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

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 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 November 13, 2013, and hereby incorporates 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.
- 8) 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 record plat. The TMAg must include trip mitigation measures recommended by MCDOT.
- 9) 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 at the time of site plan approval. 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.
- 10) The record plat must show necessary easements.
- 11) The final number of MPDUs as per condition #3 above will be determined at the time of site plan approval.
- 12) The Planning Board has accepted the recommendations of the Montgomery County Department of Housing and Community Affairs ("MCDHCA") in its letter dated November 13, 2013, and hereby incorporates 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 MCDHCA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 13) The Subject Property is within the Bethesda Chevy Chase School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the high school level at the high-rise unit rates for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
- 14) The Applicant must provide 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 prior to building permit. The Applicant must commit to construct the units in accord

- with these design specifications, with any changes that may affect acoustical performance approved by the engineer and Staff in advance of installation.
- 15) After construction is complete and before issuance of occupancy permits, the Applicant must provide certification that interior noise levels do not exceed 45 dBA Ldn.
 - 16) No clearing, grading or recording of plats prior to certified site plan approval.
 - 17) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
 - 18) The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.

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 Subject Property is located within the Bethesda CBD Sector Plan area. The Preliminary Plan substantially conforms to the recommendations in the Sector Plan in the following ways:

- *Strengthen the Metro Core as the center of Bethesda, with greatest emphasis on and around the Metro Center and plaza.*

The Preliminary Plan will significantly strengthen the Metro Core District by replacing the prior, automobile-oriented gasoline and service station use with a mixed-use, transit-oriented, and pedestrian-friendly project. In addition, the Preliminary Plan will significantly improve and strengthen the pedestrian experience along Wisconsin Avenue, Montgomery Lane, and Hampden Lane, by providing the Bethesda streetscape improvements and the public use space adjacent to Hampden Lane, which will feature unique pavers, plantings, seating, lighting, and public artwork components.

- *Increase the choices and activities in the Metro Core associated with retail, restaurants, cultural programming, open space, and pathways.*

The Preliminary Plan provides up to 15,000 square feet of non-residential uses, which will be devoted to retail, restaurant, and/or service establishments. At a minimum, some non-residential use will be located along the approved building's Wisconsin Avenue frontage. In addition, the

Preliminary Plan provides multi-family residential units directly on Wisconsin Avenue, which represents a fairly unique use in this stretch of Wisconsin Avenue and helps to increase the choices and activities in the Metro Core District beyond the current office buildings. This mix of uses is essential to providing the daytime, nighttime, and weekend environment that is critical to a vibrant and successful downtown. The nearest existing significant multi-family residential buildings along Wisconsin Avenue are located approximately five blocks to the north – at the corner of Wisconsin Avenue/Fairmont Avenue (Fairmont Plaza) – and approximately five blocks to the south – at the corner of Wisconsin Avenue/Bradley Lane (The Adagio), although multi-family residential projects have been approved both north of the Subject Property in the Metro Core District at 7535 Old Georgetown Road and south of the Subject Property at 7100 Wisconsin Avenue in the Wisconsin South Corridor. In addition to activating the street through the incorporation of retail uses with residential uses, the Subject Property will improve the pedestrian experience and open space opportunities in the Metro Core District, by providing the Bethesda streetscape treatment along all three property frontages as well as the new plaza along Hampden Lane.

- *Develop a compact core that places the highest intensity in the center, provides distinctive infill buildings, and steps down to lower densities and heights near the edge of the district.*

The Preliminary Plan fulfills this Sector Plan objective by developing this former gas station site with an architecturally distinctive mixed-use project, which, at 143 feet in building height, represents a step-down in building height from the center of the Metro Core District, where 200 feet in building height is permitted in the block just to the north where the Bethesda Metro station is located. The building is a composition of three distinct volumes, one for each of the streets that define the subject property. These volumes step down from north to south, with the tallest volume on the Montgomery Lane frontage, anchoring the building to the prominent corner at the intersection at Montgomery Lane and Wisconsin Avenue. Each volume, while varied in height and scale, corresponds to the adjacent streets in a stepped volumetric expression. The second volume also supports the main outdoor rooftop amenity space and addresses Wisconsin Avenue, while the third volume steps down to scale the building to Hampden Lane. This stepping maximizes views to the exterior for the building's residents and highlights the varying building heights.

- *Emphasize employment near Metro transit to complete Metro Core development.*

While the Sector Plan's Future Land Use map (Sector Plan, page 59) recommends the Subject Property for employment uses, the Sector Plan also notes on pages 4 and 58 that optional method residential use is permitted in the Metro Core District at 5 FAR and that some new housing may be provided in the Metro Core District. These recommendations clearly leave open the possibility that residential uses may be provided, and are in fact desired, in the Metro Core District.

The Sector Plan recommends that the block containing the Subject Property be "Employment: Office: Medium to High Density" as shown on the left side of the map on page 17 of the Staff Report. The map on the right on page 17 of the Staff Report exhibits the existing development within the Metro Core. A number of properties identified for retail and mixed-use have been approved for office space, including Bethesda Center, which went from an original proposal of hotel, restaurant, and retail to hotel and 256,672 square feet of office. This demonstrates that the goals and objectives for employment in the Metro Core are being met. The map also demonstrates that within the Metro Core, the predominant land use is retail, office, and institutional/community. The few multi-family housing sites, shown in dark blue on the map of existing and approved development, are primarily on the periphery of the Core. A mix of residential and employment is needed in the District to achieve the Sector Plan's objective for a greater focus of activities and a better sense of community.

While the Sector Plan recommends employment uses for much of the Metro Core District, the office market for this area is weak, and the demand for residential living at this transit-proximate location is strong. At this time, there are very few residential uses located in the Metro Core District to satisfy the high demand, and those in existence are located on the periphery of the District. The Application represents an opportunity to place multi-family residential units near the substantial employment uses already located in the Metro Core District, creating the vibrancy of extended activity into the nighttime. Too much office use without complimentary residential uses does not promote the extended activity needed for a successful downtown.

There is also recent precedent in which a mixed-use (multi-family residential with ground-floor non-residential) project has been approved for a site located in the Metro Core District for which the Sector Plan recommends employment uses. On March 14, 2013, the Planning Board considered the 7535 Old Georgetown Road project, also known as "Bethesda Commerce"

(Project Plan 920130030). The Board ultimately approved the 15-story mixed-use project with up to 120 multi-family residential units and up to 5,000 square feet of non-residential uses. In the staff report for that application, Staff noted that the Sector Plan's targeted Stage 1 housing and employment goals have been satisfied (projections of 5,000 jobs and 2,150 housing units above the existing 1994 numbers), and that the Sector Plan sets Stage 2 and Stage 3 targets of 54,900 jobs and 8,300 housing units. Staff determined that, as of 2011, the Bethesda CBD contained 41,561 jobs and 6,793 dwelling units, indicating that the Sector Plan's targets for job/housing mix are on track. Staff noted that the Metro Core District itself contains over 19,500 jobs, a number which is anticipated to rise as the 7500 Wisconsin redevelopment comes on-line and when the 7200 Woodmont Avenue and Bethesda Center projects are constructed. Staff also noted that a number of properties in the Metro Core District identified for retail and mixed-use development have been approved for office space and employment uses instead. As a result, the Board concluded that the Bethesda Commerce project satisfies the goals of the Sector Plan for the Metro Core District, and helps to foster a preferred mix of residential and employment that is needed to both meet the needs of the Sector Plan objectives for a greater focus of activities and a better sense of community, as well as providing a sustainable future where citizens can live, work, and play in the same location.

Similarly, the Preliminary Plan represents an opportunity to place residential uses, envisioned by the Sector Plan to be included in the Metro Core District, in close proximity to the predominantly employment uses in the District. The Subject Property will represent one of the few multi-family residential projects in the Metro Core District south of the Bethesda Metro station, and will be the only such project located along Wisconsin Avenue. As found with the Bethesda Commerce site, the Application will provide an opportunity to house residents directly adjacent to employment opportunities, in conformance with the goals of the Sector Plan.

Even though the Preliminary Plan is primarily residential, there remain numerous opportunities for new employment uses in the Metro Core District. According to M-NCPPC's chart of pipeline development dated September 2013, over 1.2 million square feet of office uses have been approved in the CBD as a whole and are not yet built, representing over 5,000 jobs at the rate of one job per 225 square feet of floor area. Several of these projects are located specifically within the Metro Core District, including Woodmont 7200, 4500 East West Highway, and Bethesda Center.

- *Reinforce Metro Center as the focus of urban activity. Adjacent properties should develop in a manner that complements the activities and urban open space at Metro Center.*

The building represents a step-down in building height from the block containing the Bethesda Metro station, located one block north of the Subject Property. While the Application's architecture and public use space located along Hampden Lane will be distinctive, the Subject Property is still of smaller scale than the 200-foot tall buildings in the Metro station block and the large urban open spaces located at Metro, thus fostering the notion that the Metro Station block should be the strongest focus of urban activity. Additionally, the Subject Property's on-site public use spaces and off-site amenities (including streetscape) will foster and facilitate pedestrian movement to the Bethesda Metro station.

- *Maintain a compact development with the tallest buildings concentrated in the center. Development at perimeter locations of the Metro Core should step down in height to achieve a more gradual transition and better compatibility with the adjacent areas.*

The Preliminary Plan addresses this Sector Plan objective with a building 143 feet in height, which represents a step-down in building height from the center of the Metro Core District, where 200 feet in building height is permitted in the block just to the north that includes the Bethesda Metro Station. In addition, the Preliminary Plan establishes compatibility with nearby properties by proposing a composition of three distinct volumes, one for each of the streets that are adjacent to the Subject Property. These volumes step down from north to south, with the tallest volume appropriately located on the Montgomery Lane frontage, anchoring the building to the prominent corner intersection at Montgomery Lane and Wisconsin Avenue. The second volume supports the main outdoor rooftop amenity space and addresses Wisconsin Avenue, while the third volume steps down to appropriately scale the building to Hampden Lane.

- *Locate new open space to tie into the existing "Discovery Trail" network and to expand the pedestrian connections. Where appropriate, locate new open space in a manner that reinforces the gateways and provides a transition between districts.*

While the Subject Property is not located directly adjacent to the Discovery Trail, which comes closest to the Subject Property where it runs along the west side of East Lane, approximately one half block to the west, the Subject Property will significantly improve and strengthen the pedestrian

experience along Wisconsin Avenue, Montgomery Lane, and Hampden Lane by providing the Bethesda streetscape improvements and the Hampden Lane public use space. The Subject Property will feature unique pavers, plantings, seating, lighting, and public artwork components. Provision of the Hampden Lane public use space also begins to help transition the uses located in the Metro Core District along Wisconsin Avenue down to the TSR (Transit Station Residential) District to the west on the west side of Woodmont Avenue.

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

Roads and Transportation Facilities

Roads and transportation facilities will be adequate to support and service the Subject Property, as described below:

- a. *Access, Parking, and Public Transportation*

The Subject Property currently has three vehicular access points: one on Montgomery Lane, one on Wisconsin Avenue (MD 355), and one on Hampden Lane. The development will consolidate these existing access points to two driveways – one for loading and one for parking – that will be located at a single point of access on Montgomery Lane. As a result of the existing one-way operation of Montgomery Lane, the site access will be restricted to a right-in, right-out movement. Applicant proposed the garage access driveway to have a 20-foot-wide apron at the property line, but MCDOT has commented that the width should not be less than 24 feet to accommodate a 14-foot lane for inbound traffic and a 10-foot lane for outbound traffic. Therefore, the site plan will be conditioned to provide MCDOT's configuration. The parking garage on the Subject Property will contain 200 spaces. Pedestrian and bicyclist access to the site will be provided along each of the three frontage roadways and sidewalks.

The immediate area is well served by transit that includes the Red Line Bethesda Metrorail station (approximately 500 feet away), Metrobus, RideOn, and the Bethesda Circulator. Future transit in the area includes a proposed Purple Line station and new Metrorail station entrance, located approximately 300 feet to the south. Specific transit routes near the Site include:

1. RideOn Bus Routes 29, 30, 32, 33, 34, 36, 47, 70
2. WMATA Metrobus Routes J2, J3, and J4

b. *Master Plan Roadways and Pedestrian/Bikeway Facilities*

The Sector Plan and 2005 Countywide Bikeways Functional Master Plan recommend the following facilities along the Subject Property frontage:

1. Wisconsin Avenue (MD 355), along the eastern site frontage, as Major Highway (M-6), between Bradley Boulevard and the northern limits of the Central Business District, with a minimum right-of-way width of 115 feet.
2. Hampden Lane, along the southern site frontage, as a Biker Friendly Area and Business District Street with a minimum right-of-way width of 60 feet.
3. Montgomery Lane, along the northern site frontage, as a Business District Street with a minimum right-of-way width of 70 feet.

Because all three roads currently meet the recommended minimum right-of-way widths, no right-of-way dedications are required. Additionally, there are no specific master planned bikeway recommendations applicable to the Subject Property.

c. *Local Area Transportation Review*

A traffic study, dated July 25, 2013, was submitted for the Application per the LATR/TPAR Guidelines, since the development was estimated to generate more 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.

A site trip generation summary for the development, provided in the Staff Report, shows that the Subject Property will generate 78 peak-hour trips during the weekday morning peak period and 107 peak-hour trips during the weekday evening peak period. Since the existing site, a former gas station, is vacant, the Applicant is claiming zero trip credits.

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis for the weekday morning and evening peak-hour periods, presented in the Staff Report, shows that the total (Build) condition will remain within the policy area congestion standard of 1,800 CLV. Based on the analysis presented in the traffic study, the Application satisfies the LATR requirements of the APF test.

d. *Transportation Policy Area Review*

Since the development is within the Bethesda CBD, a Metro Station Policy Area ("MSPA"), the Subject Property is adequate under the roadway test and exempt from the transit test set forth in the 2012-2016 Subdivision Staging Policy. As a result of these findings and the development's location in a MSPA, the development is not required to make a payment to satisfy the TPAR requirement.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the development. The Subject Property will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service, which determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the Subject Property. The Subject Property is within the Bethesda Chevy Chase High School cluster area, which is currently operating between 105-120% of capacity at the high school level, and a school facilities payment is required. Electrical, telecommunications, and gas services are also available to serve the Subject Property.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The Preliminary Plan does not create any new lots. Rather, the purpose of the Preliminary Plan is to conduct an APF test for the change in use from the previously approved gas station to the mixed-use building. Nonetheless, the existing lot has been evaluated, and the lot size, width, shape, and orientation are appropriate for the location of the subdivision taking into account the recommendations included in the Sector Plan, and for the type of development or use contemplated. The Sector Plan does not make any specific recommendations regarding the size of lots. However, the Sector Plan does recommend that the Subject Property be developed with mixed-use development, as has been approved on the site. As evidenced by the Preliminary Plan, the site is sufficiently large to efficiently accommodate the approved mix of uses.

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

The Application was granted an exemption from submitting a forest conservation plan per section 22A-5(s)(1) on June 12, 2013. The Subject Property was eligible for an exemption, because it is smaller than 1.5 acres with no existing forest, specimen trees, or champion trees, and the afforestation requirements would not exceed 10,000 square feet.

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

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The MCDPS Stormwater Management Section approved the stormwater management concept on November 13, 2013. According to the approval letter, the stormwater management concept meets stormwater management requirements via environmental site design to the maximum extent possible through the use of a green roof and micro-bioretenion planter box. The remaining volume will be treated in a structural proprietary filter.

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

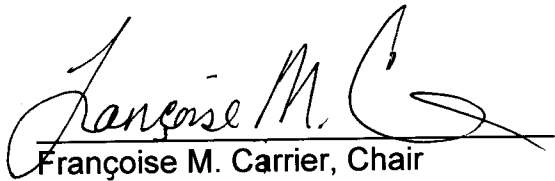
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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

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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 Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, December 12, 2013, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board