

FEB 2 2012



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

MCPB No. 12-01
Preliminary Plan No. 12007069A
Lot 31/31A Bethesda
Date of Hearing: January 26, 2012

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 December 20, 2007, the Planning Board approved Preliminary Plan No. 120070690, Lot 31/31A Bethesda (MCPB No. 17-184¹) for the development of two lots for 250 multi-family dwelling units, including up to 35 workforce housing units with a minimum of 12.5% moderately priced dwelling units (MPDUs), and 40,000 square feet of commercial retail with an underground parking garage containing no more than 1,480 spaces with no more than 342 private spaces on 3.07 acres of land in the TS-M zone, located in the southeast and southwest quadrants of the intersection of Woodmont Avenue and Bethesda Avenue ("Property" or "Subject Property"), in the Bethesda CBD Sector Plan area ("Sector Plan"); and

WHEREAS, on December 12, 2011, Lot 31 Development Statutory Trust and Lot 31 Joint Venture, LLC ("Applicant"), filed an application for approval of a limited preliminary plan amendment that would change the number of lots from two to one and would modify conditions of approval of Preliminary Plan No. 120070690 to reflect that change; and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan Amendment No. 12007069A, Lot 31/31A Bethesda ("Preliminary Plan Amendment" or "Application"); and

A handwritten signature in black ink, followed by the date "1/13/12".

¹ This was a Corrected Resolution to correct certain typographical errors.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

MNCPPC Legal Department
www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, Staff issued a memorandum to the Planning Board, dated January 13, 2012, setting forth its analysis and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on its January 26, 2012, Staff presented the Application to the Planning Board as a consent item for its consideration and action (the "Hearing"); and

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 50 the Planning Board APPROVES Preliminary Plan Amendment No. 12007069A to create one lot on the Subject Property, subject to the following conditions:

- 1) These conditions supersede the conditions contained in the Resolution no. 07-184, dated December 20, 2007.
- 2) Approval under this Preliminary Plan Amendment is limited to one lot for 250 multi-family dwelling units, including up to 35 workforce housing units with a minimum of 12.5% moderately priced dwelling units (MPDUs), and 40,000 square feet of commercial retail with an underground parking garage containing no more than 1,480 spaces with no more than 342 private spaces.
- 3) The Applicant must comply with the specifications and requirements of the approved Development plan for Zoning Application No. G-850.
- 4) 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.
- 5) No clearing, grading or recordation of plats prior to certification of the Site Plan.
- 6) Final approval of the final number and location of buildings, dwelling units (including MDPUs and workforce housing units), on-site parking, site circulation, sidewalks, and bikepaths will be determined by the Site Plan.
- 7) Site Plan #820070180 must be approved by the Board and signed by Staff prior to the approval of the record plat.
- 8) The Applicant must satisfy Local Area Transportation Review (LATR) by providing the following operational improvements:
 - a. Construct a left-turn lane on the eastbound Bethesda Avenue approach at its intersection with Woodmont Avenue.
 - b. Provide for an exclusive left turn and a shared through/right turn lane on westbound Elm Street at its intersection with Woodmont Avenue, if required by the Montgomery County Department of Transportation (MCDOT).

- c. The Applicant will provide channelization measures to reinforce the operational restrictions of right-in and right-out only limitation on ingress and egress for the parking garage access along Bethesda Avenue. The design of such channelization would be subject to Department of Permitting Services (MCDPS) and MCDOT approval.
- 9) The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Bethesda Transportation Management Organization (TMO). The TMAg must be signed and executed by all parties prior to certification of the site plan.
- 10) The Applicant must comply with the conditions of the MCDOT letters dated August 6, 2007, and August 10, 2007. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan Amendment approval.
- 11) Prior to Certified Site Plan approval, the Applicant must provide a vehicular, pedestrian, and bicycle circulation plan for the construction phase to MNCPPC for review.
- 12) The record plat must reflect dedication of right-of-way for Bethesda Avenue and relocated Woodmont Avenue as shown on the Preliminary Plan Amendment. The right-of-way for relocated Woodmont Avenue will be dedicated by deed instrument prior to recordation of the record plat (which deed instrument shall reserve from the dedication the area beneath the road structure that will be occupied by the private/public garage). The subsequent record plat must reference the dedication by liber/folio reference to the recorded deed instrument. Abandonment of existing Woodmont Avenue right-of-way, per Council Resolution 15-1584, shall be finalized with the recordation of the record plat.
- 13) The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan Amendment to the full width and design standards shown on the Certified Site Plan and approved by MCDOT and MCDPS.
- 14) The final number of dwelling units and MPDUs as per condition #1 above will be determined at the time of Site Plan approval.
- 15) The record plat must reflect a public use and access easement over all private streets, trails and bikepaths, and adjacent parallel sidewalks.
- 16) The record plat must depict the abandonment of the right-of-way for existing Woodmont Avenue located on the Property.
- 17) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated October 13, 2006. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan Amendment approval.
- 18) The Applicant must make the following agreed improvements to the Capital Crescent Trail located adjacent to the Subject Property:
 - a. Landscaping along the trail per Site Plan.
 - b. Bicycle parking racks to be provided and located per Site Plan.

- c. Adequate trail signage to be provided at Bethesda Avenue and at the intersection with the access trail from the bike drop-off.
- 19) The Applicant must provide a bicycle drop off along Woodmont Avenue, with a Public Improvement Easement (PIE) to allow maintenance of the drop-off facility and a paved access trail per the Site Plan within a Public Access and Use Easement along the southern boundary of the Property, from the drop off to the Capital Crescent trail. Final location and design of these facilities to be determined at Site Plan. Location and design of the intersection of the access trail with the Capital Crescent Trail per site plan.
 - 20) The record plat must reflect the location of the P.I.E. for the bicycle drop-off area, and the Public Access/Use Easement for the southern path connection with a notation that recordation of the two easements will occur prior to release of the first building permit.
 - 21) The Adequate Public Facility (APF) review for the Preliminary Plan Amendment will remain valid until January 20, 2017.
 - 22) Other necessary easements must be shown on the record plat.
 - 23) This approval will remain valid until January 20, 2015. Prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan Amendment must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

BE IT FURTHER RESOLVED, that this Amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in Preliminary Plan 120070690, and all findings in that approval remain in effect except as modified herein; and

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, the Montgomery County Planning Board FINDS, with the conditions of approval, that the size, width, shape, and orientation of the proposed lot 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 lot was reviewed for compliance with the dimensional requirements for the TS-M zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan Amendment. Therefore, the Planning Board finds that the size, shape, width, and area of the lot are appropriate for its location within the subdivision.

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

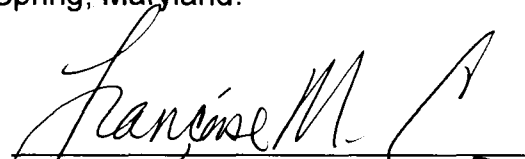
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB 2 2012 (which is the date that this Resolution is mailed to all parties of record); and

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 Dreyfuss, seconded by Commissioner Presley, 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, January 26, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board