



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

OFFICE OF THE CHAIR

MCPB No. 13-101
Preliminary Plan No. 120130200
7100 Wisconsin Avenue
Date of Hearing: July 11, 2013

AUG 15 2013

RESOLUTION

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

WHEREAS, by resolution dated February 8, 2013, the Planning Board approved Project Plan No. 920130010 for 159,584 square feet of mixed-use development comprised of up to 145 multi-family dwelling units and a minimum of 6,000 square feet of retail, including a waiver of the gross floor area to be devoted to retail or personal service commercial uses on 0.58 acres in the CBD-R2 zone, located at 7100 Wisconsin Avenue ("Subject Property") in the Bethesda Policy Area, Bethesda CBD master plan ("Master Plan") area; and

WHEREAS, on April 17, 2013, Wisconsin Project, LLC/7120 Wisconsin LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision to create one lot with 159,584 square feet of mixed-use development for a maximum of 145 multi-family dwelling units, including 15 percent MPDUs, and 6,500 square feet of retail on the ("Subject Property"); and

WHEREAS, the application was designated Preliminary Plan No. 120130200, 7100 Wisconsin 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 1, 2013, setting forth its analysis and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on July 11, 2013, the Planning Board held a public hearing at which it received testimony and evidence on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, on motion of Commissioner Anderson, seconded by

Approved as to
Legal Sufficiency:

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Commissioner Presley, by a vote of 4-0, Commissioners Anderson, Carrier, Presley, and Wells-Harley voting in favor, and Commissioner Dreyfuss absent;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Preliminary Plan No. 120130200 to create one lot on the Subject Property, subject to the following conditions:¹

- 1) This Preliminary Plan is limited to one lot for 145 multi-family dwelling units, including at least 15% moderately priced dwelling units (MPDUs), and a maximum of 6,500 square feet but no less than 6,000 square feet of retail.
- 2) 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 the approved 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.
- 3) The Planning Board accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated June 27, 2013, and hereby incorporates them as conditions of this approval. 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 Applicant must dedicate and show on the record plat the following dedications:
 - a. Wisconsin Avenue, to the east of the site, as a six- to eight-lane divided major highway (M-6) with a minimum right-of-way width of 114 feet.
 - b. Miller Avenue, to the north of the site, as a two-lane business street with a minimum right-of-way width of 50 feet.
 - c. Woodmont Avenue, to the south of the site, as a two-lane arterial (A-68) with a minimum right-of-way width of 80 feet.
- 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 accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated October 8, 2012, and hereby incorporates them as conditions of this approval. The Applicant

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.

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.

- 7) The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the master plan and/or to the design standards imposed by all applicable road codes.
- 8) The record plat must reflect a public use and access easement over all public use space areas and adjacent parallel sidewalks.
- 9) The record plat must reflect all areas under Condominium Association ownership and specifically identify stormwater management parcels.
- 10) The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 (“Covenant”). The Applicant must provide verification to Staff prior to release of the final building permit that the Applicant’s recorded Condominium Documents incorporate the Covenant by reference.
- 11) 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 applicable unit rate for which a building permit is issued and a School Facilities Payment is applicable for a new residential unit. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
- 12) Prior to recordation of any plat, Site Plan No. 820130230 must be certified by Staff.
- 13) No clearing, grading or recording of plats prior to certified site plan approval.
- 14) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
- 15) The record plat must show necessary easements.
- 16) 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 Application substantially conforms to the goals, recommendations, and design guidelines of the Bethesda CBD Sector Plan. The Sector Plan recommends a

maximum density of 3 FAR and a maximum building height of 75 feet, which can be increased to accommodate affordable housing and associated density bonus according to the provisions of Section 59-D-2.42 of the Zoning Ordinance.

The Sector Plan recommends that the height of buildings on this site be limited to 75 feet (Pages 124 and 127). This reflects the overall Sector Plan concept for Urban Form (pages 37-40) that directs the tallest buildings to be located in the center of the CBD. Height is then to step down outward to the edges of the CBD as it approaches the adjacent existing single family neighborhoods.

The Application is for a building of up to 120 feet, primarily along the Wisconsin Avenue property frontage. The length of the building is reduced along Woodmont Avenue, effectively eliminating volume and mass in one place and shifting it to another. The building starts at a height of 45 feet, then increases to 100 feet and then to 120 feet facing Wisconsin Avenue. This creates a more compatible relationship with the existing Crescent Plaza residential building, and allows more light, air and privacy for residents of the Crescent Plaza, and of the future 7100 Wisconsin building. This configuration also allows a greater number of residents of the Crescent Plaza to maintain views to the south of nearby neighborhoods. The average height along the Woodmont Avenue frontage is 87'. Numerically, this is a modest increase.

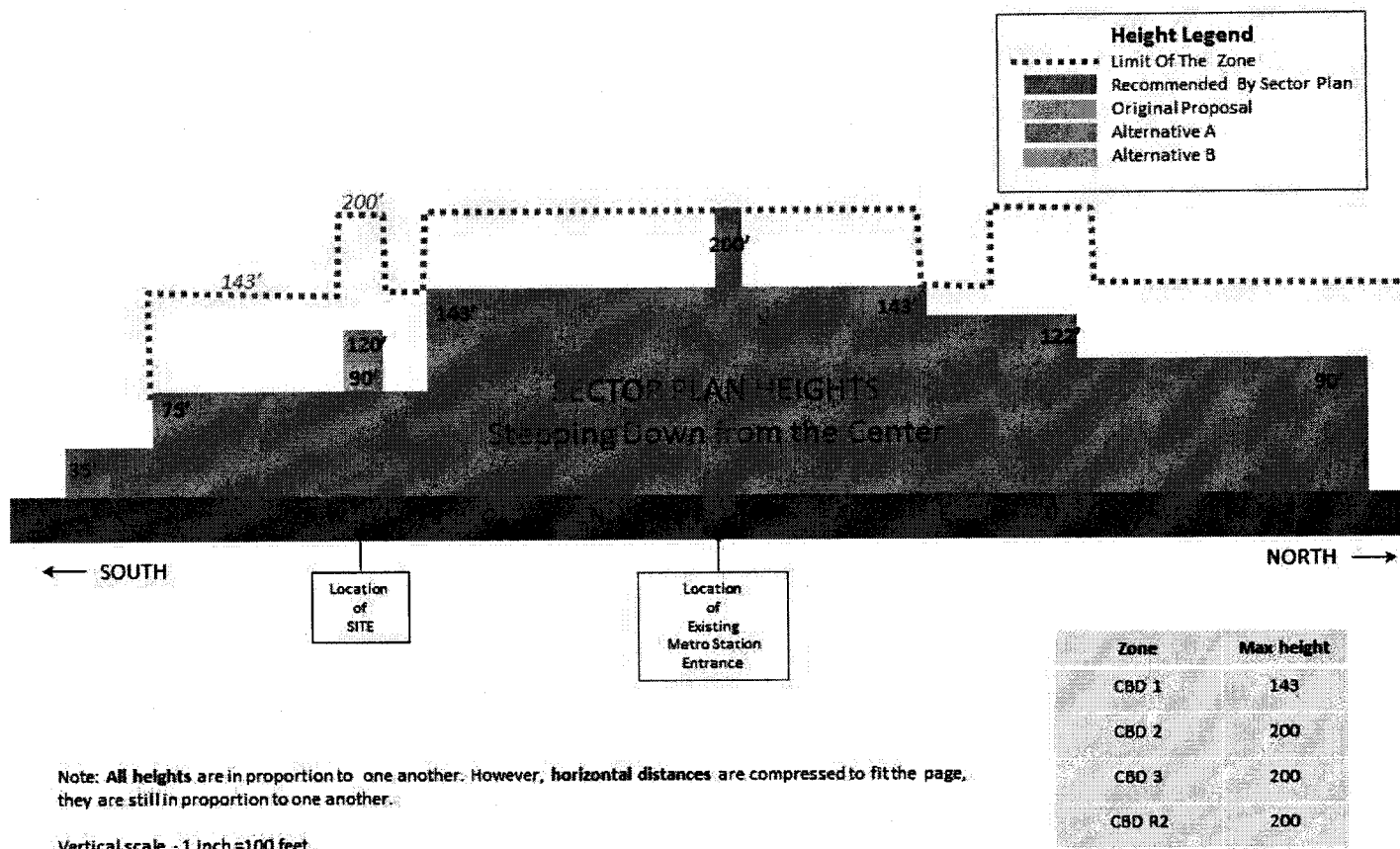


Image showing the Sector Plan Height limits (purple) and the zoning height limits (blue dots). The location of the proposed building is in brown.

This configuration successfully achieves the intended goals and objectives of the Sector Plan; however, it is not a strict interpretation of the Sector Plan recommendation for height. The Sector Plan recommends 75 feet for several blocks along south Wisconsin Avenue, in order to step down from core to the edge. The building height still achieves a general stepping down. Its tallest portions are close to the core and its taller heights. Its lowest portions are closest to the existing one-family neighborhood outside the CBD diagonally across Woodmont Avenue. The Application achieves greater compatibility with the Crescent Plaza next door by rearranging the same yield using different volumes. The proposal therefore still provides just as much residential use including 15% MPDUs, which contributes to housing choices.

While the Application exceeds both the height and density limits in the master plan, Section 59-D-2.42 of the zoning ordinance allows an increase in both FAR and height above a master plan recommended limit to accommodate Moderately Priced Dwelling

Units and bonus density.² In this case, the approved height and density are necessary to accommodate the 15% approved MPDUs and the associated 0.63 FAR of bonus density.

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

The site currently has access points on Miller Avenue (one full-movement driveway), Wisconsin Avenue (two right-turn in/right-turn out driveways; southbound direction only), and Woodmont Avenue (two full-movement driveways). Vehicular ingress/egress to/from the proposed on-site private residential garage will be limited to a right-turn in/right-turn out driveway off Woodmont Avenue located on the southwest corner of the property. Pedestrian/bicyclist access to the site will be provided primarily along Wisconsin Avenue and Woodmont Avenue. The immediate area is well served by transit and includes the Red Line Bethesda Metrorail Station (located approximately 0.3 mile or 1,700 feet to the north of the site) served by Metrobus, RideOn, and the Bethesda Circulator. Future transit in the area includes a proposed Purple Line station and a second entrance to the Metrorail station, both of which are located to the north of the Site. RideOn Route 34, between Wheaton Metro Station and Friendship Heights Metro Station, currently runs along Wisconsin Avenue and has stops adjacent to the Site.

Master Plan Roadways and Pedestrian/Bikeway Facilities

The 1994 *Bethesda CBD Sector Plan* has the following master-plan facilities along property frontage:

1. Wisconsin Avenue, to the east of the site, as a six- to eight-lane divided major highway (M-6) with a minimum right-of-way width of 114 feet.
2. Miller Avenue, to the north of the site, as a two-lane business street with a minimum right-of-way width of 50 feet.
3. Woodmont Avenue, to the south of the site, as a two-lane arterial (A-68) with a minimum right-of-way width of 80 feet.

Immediately to the southwest of the Site, the 2005 Approved and Adopted *Countywide Bikeways Functional Master Plan* recommends bike lanes along Woodmont Avenue (BL-6) between Battery Lane to the north and Strathmore Street to the south and along Strathmore Street from Woodmont Avenue to Bradley Boulevard. The Capital Crescent Trail (SP-44) is to the north (along Bethesda Avenue) and to the west of the site.

² Section 59-D-2.42

Adequate Public Facilities Review

A traffic study (dated April 23, 2013) was submitted with the Application per the *LATR/TPAR Guidelines* since the proposed development was estimated to generate 30 or more 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. The traffic study evaluated the scope of the proposed development and determined traffic-related impacts on nearby roadway intersections during the weekday peak periods.

Trip Generation

The peak-hour trip generation estimate for the 7100 Wisconsin Avenue development was based on Bethesda CBD trip generation rates included in the *LATR/PAMR Guidelines*. The maximum density on the site will generate 40 net new peak-hour trips during weekday morning peak period and 49 net new peak-hour trips during weekday evening peak period.

Local Area Transportation Review

The CLV values for intersections in the study area following project build-out are estimated to be well below the Bethesda CBD 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.

Policy Area Mobility Review

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

The development 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

Public facilities and services are available and will be adequate to serve the development. The property is served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service, which has determined that the 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 property. The subject property is within the Bethesda-Chevy Chase School Cluster, which currently requires a school facilities

payment at the high school level. Electrical, telecommunications, and gas services are also available to serve the 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.*

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 lot was reviewed for compliance with the dimensional requirements for the CBD-R2 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 plan.

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

A forest conservation exemption was confirmed for the property on June 14, 2012 and is still valid for the project as currently proposed. The project qualifies for a small property exemption under section 22A-5(s)(1) of the Montgomery County Forest Conservation Law for an activity occurring on a tract of land less than 1.5 acres with no existing forest, or existing specimen or champion tree, 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," Sections 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 October 8, 2012. According to the approval letter, the stormwater management concept meets stormwater management requirements using environmental site design to the maximum extent practicable. The full volume of environmental site design is provided using permeable pavement, micro-bioretenion, planter boxes, bio-swales, and dry wells.

6. Other Findings

The Applicant requested a Public Improvement Easement (PIE) in lieu of truncation at the intersection of Woodmont and Wisconsin Avenues in order to facilitate the underground parking structure and hold the building nearest the corner at the street edge as appropriate in urban settings. A PIE provides the same public benefit by allowing the development to maintain the urban setting while accommodating sight distance, visibility, traffic controls and pedestrian improvements to compliment the streetscape.

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

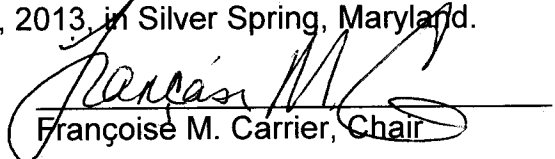
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 5 2013 (which is the date that this Resolution is mailed to all parties of record); and

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 Casey Anderson, seconded by Commissioner Amy Presley, with Chair Carrier, and Vice Chair Wells-Harley present and voting in favor of the motion, and Commissioner Norman Dreyfuss (absent) at its regular meeting held on Wednesday, July 31, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair