



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

MCPB No. 14-24
Sketch Plan No. 320140020
Project Name: AVA Wheaton
Date of Hearing: April 24, 2014

JUN 12 2014

RESOLUTION

WHEREAS, under Section 59-C-15.42 of the Montgomery County Code the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review sketch plan applications; and

WHEREAS, on December 18, 2013 Avalon Bay Communities ("Applicant") filed an application for approval of a sketch plan for construction of up to of 460,500 square feet of residential development on 3.7 acres of CR-4 C3.5 R3.5 H100 zoned-land, located at northeast quadrant of the intersection of Georgia and Blueridge Avenues ("Subject Property") in the Kensington-Wheaton Policy Area, Wheaton CBD and Vicinity Sector plan ("Sector Plan") area; and

WHEREAS, the sketch plan application was designated Sketch Plan No. 320140020, AVA Wheaton ("Sketch 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 April 11, 2014, setting forth its analysis of and recommendation for approval of the Application subject to certain binding elements and conditions ("Staff Report"); and

WHEREAS, on April 24, 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 binding elements and conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, by a vote 4-0, Commissioners Carrier, Anderson, Dreyfuss, and Presley voting in favor; with Commissioner Wells-Harley absent.

Approved as to
Legal Sufficiency:

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board approves Sketch Plan No. 320140020, AVA Wheaton for construction of up to 460,500 square feet of residential development on the Subject Property, subject to the following binding elements and conditions:¹

A. Binding Elements. The following site development elements are binding under Section 59-C-15.43(b)(4) of the Montgomery County Zoning Ordinance:

1. Maximum density and height;
2. Approximate location of lots and public dedications;
3. General location and extent of public use space;
4. General location of vehicular access points; and
5. Public benefit schedule.

All other elements are illustrative.

B. Conditions. This approval is subject to the following conditions:

1. Density

The development is limited to a maximum total of 460,500 square feet of residential development. The number of dwelling units will be determined at site plan.

2. Height

The development is limited to a maximum height of 50 feet.

3. Incentive Density

The development must be constructed with the public benefits listed below, unless modifications are made under Section 59-C-15.43(d). Total points must equal at least 100 and be chosen from at least 4 categories as required by Section 59-C-15.82(a). The requirements of Division 59-C-15 and the Implementation Guidelines must be fulfilled for each public benefit proposed.

- a. Transit proximity to Level 1 transit, Metrorail station (30 points);
- b. Connectivity and Mobility achieved with through-block connection (7 points) and wayfinding (5 points);
- c. Diversity of Uses and Activities achieved through dwelling unit mix (5 points) and enhanced accessibility for the disabled (6.5 points);

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

d. Quality Building and Site Design achieved through structured parking (10 points), public open space (2 points), exceptional design (2.5 points) and architectural elevations (5 points).

e. Protection and Enhancement of the Natural Environment achieved through the purchase of Building Lot Terminations (BLTs) (5 points), tree canopy (7.5 points), vegetated area (5 points), cool roof (5 points), and vegetated wall (5 points).

4. Building Lot Terminations (BLTs)

Prior to release of a building permit, the Applicant must provide proof of purchase and/or payment for the required 0.906 BLTs to the Department of Permitting Services (DPS).

5. Moderately Priced Dwelling Units (MPDUs)

The development must provide MPDUs in accordance with Chapter 25A.

BE IT FURTHER RESOLVED that, having considered the recommendations and findings of its Staff as presented at the hearing and set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record and all applicable elements of § 59-C-15.43(c), the Planning Board finds that as conditioned herein the elements of the Sketch Plan are appropriate in concept and appropriate for further review at site plan. Specifically, the Planning Board FINDS the Sketch Plan:

1. *Meets the objectives, general requirements, and standards of Division 59-C-15:*

a. The Sketch Plan meets the objectives of Section 59-C-15.2 quoted below; specifically, the development as approved will:

i. *“Implement the policy recommendations of applicable master and sector plans.”*

The Sketch Plan will transform an auto-oriented, vacant office building with surface parking into an urban residential development with diversity of units and improvements to the public realm.

ii. *“Target opportunities for redevelopment of single-use areas and surface parking lots with a mix of uses.”*

The Sketch Plan will replace a vacant office building, its associated surface parking lot and a few other small buildings with a predominately four-story residential building with structured parking. Adding residential uses at this Site will provide a mix of uses

among the existing commercial uses along Georgia Avenue.

- iii. *"Reduce dependence on the automobile by encouraging development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities."*

The Sketch Plan will provide a range of residential unit types with public facilities and amenities within a half mile of the Wheaton Metro Station and within walking distance of the Wheaton retail core, encouraging non-auto transit. The viability of retail commercial services at this Site is doubtful due to little prospects for the necessary customer volume outside the existing retail core.

- iv. *"Allow a mix of uses, densities, and building heights appropriate to various contexts to ensure compatible relationships with adjoining neighbors."*

The density and height and residential character of the Sketch Plan contribute to a compatible scale of development and mix of uses with the adjoining low-rise commercial buildings and garden apartments;

- v. *"Allow an appropriate balance of employment and housing opportunities."*

The development will provide a variety of housing options, including market-rate units and MPDUs, in close proximity to existing employment both within the immediate area and the larger Wheaton core.

- vi. *"Standardize optional method development by establishing minimum requirements for the provision of public benefits that will support and accommodate density above the standard method limit."*

The Sketch Plan will provide the required public benefits from a minimum of four categories to achieve the desired incentive density above the standard method limit.

b. The Sketch Plan meets the general requirements of Section 59-C-15.6 as follows:

i. Section 15-C-15.61 - Master Plan and Design Guidelines Conformance

The Project conforms to the Sector Plan and Design Guidelines as outlined in Finding #2 below.

ii. Section 59-C-15.62 - Bicycle Parking Spaces and Commuter Shower/Change Facility

The Sketch Plan provides the minimum required number of bicycle parking spaces for residents and visitors and commuter shower/change facilities. Details will be provided at the time of Site Plan.

iii. Section 59-C-15.63 - Parking

The approved number of parking spaces satisfies the minimum and maximum as outlined in the Zoning Ordinance. The Sketch Plan provides all parking in a structured facility. The final number of parking spaces will be determined at Site Plan based on the final number of residential units.

iv. Section 59-C-15.7 - Development Standards

The Sketch Plan meets the development standards of Section 59-C-15.7, as shown in the Data Table below:

| Project Data Table | | | |
|--------------------|--------------------------------|---------------------|------------|
| Section 59 - C | Development Standard | Permitted/ Required | Approved |
| | Gross Tract Area (sf) | n/a | 196,518 |
| 15.71 | Density (sf) | | |
| | Non-residential (C) | 687,813 | 0 |
| | Residential (R) | 687,813 | 460,492 |
| | TOTAL | 786,072 | 460,492 |
| | Maximum FAR | (4.0 FAR) | (2.34 FAR) |
| 15.71 | Building Height (feet) | 100 | (up to) 50 |
| 15.72 | Minimum Setback | n/a | n/a |
| 15.73 | Minimum Public Use Space (%) | 10 | 10 |
| 15.74 | Residential Amenity Space (sf) | | |
| | Indoor | 5,000 | 5,000 |
| | Outdoor | 5,000 | 10,000 |
| | TOTAL | 10,000 | 15,000 |
| 15.631 | Parking (spaces) | | 430 |
| | Maximum | 436 | |
| | Minimum | 225 | |

2. *Furtheres the recommendations and objectives of the Wheaton CBD and Vicinity Sector Plan.*

The Sketch Plan is consistent with, and furtheres the recommendations of the 2012 Wheaton Sector Plan. The Site is located in the Blueridge District. The Sector Plan states that the "Blueridge District is the northern gateway to downtown Wheaton and is within walking distance of the Core, Wheaton Regional Park, and nearby neighborhoods. It is evolving into a residential neighborhood with small, neighborhood-serving retail on the ground floor and some office uses. Future development should include street-oriented businesses along Georgia Avenue and University Boulevard West, along with housing, professional offices, and neighborhood retail centered on a public space in the vicinity of Parking Lot 14" (p.49). For the Site, the Plan recommends to "Rezone Parcel C, 5, 6, and 7 from CBD-1 to CR 4.0, C 3.5, R 3.5, H 100" (p.50).

The Sector Plan highlights the Priority Retail Streets within the Blueridge District on page 22. The Sketch Plan's frontage along Georgia Avenue, Blueridge Avenue and Elkin Street are not designated Priority Retail Streets. Although the Sketch Plan does not include any retail uses, it provides some activation along Georgia Avenue and Blueridge Avenue with individual residential entrances, and by locating the lobby, fitness center and bike spa at the sidewalk level along Blueridge Avenue.

Density and Building Height

The approved density and height are within the envelope established by the Sector Plan.

Master-Planned Streets

The streets are consistent with Sector Plan recommendations and Wheaton Design Guidelines for streets.

1. Georgia Avenue (MD 97) is designated as a six-lane divided major highway, M-8, with a recommended minimum 120-foot wide right-of-way and no bikeway. However, the Countywide Transit Corridors Functional Master Plan for the Bus Rapid Transit (BRT) recommends a wider, 129-foot right-of-way between 400 feet north of Blueridge Avenue and Reddie Drive, to the south (p. 33). It states that this 129-foot width "may not include land needed for spot improvements such as turn lanes and stations." The Sketch Plan provides a total of 64.5 feet dedication from the centerline of Georgia Avenue.

2. Blueridge Avenue is designated as a two-lane business street, B-15, with the recommended 70-foot wide right-of-way and an on-street bike lane/signed shared roadway, LB-4. The existing right-of-way dedication is 35 feet from the centerline.

3. Elkin Street is designated as a two-lane residential primary street, P-31, with a 70-foot wide right-of-way and no bikeway. The existing right-of-way dedication is 35 feet from the centerline.

Pedestrian and Bikeway Network

The Sector Plan recommended two pedestrian connections for this Site: an east-west connection along the Site's northern property line between Georgia Avenue and Elkin Street and a north-south connection between the Site's northern property line and Blueridge Avenue. The Sector Plan states, "[t]he north-south pedestrian connection shown on this block ... should be designed as a safe and pleasant, direct passage, open to the public, with ample width, height and adequate lighting between Blueridge Avenue and future connection provided on the Leesborough development site to the north. Pedestrians should be able to travel from Blueridge Avenue to points north, including any future development at the underdeveloped WMATA site, the Leesborough community, the Wheaton Library, and the Wheaton Recreational Center, without obstacles and in an inviting and safe manner. This connection may also be provided as a private street." (p. 50)

The Sketch Plan provides an east-west pedestrian path along the northern property line and a modified alignment of the north-south connection illustrated on page 61 of the Sector Plan. The approved alignment is on the eastern edge of the project, between the east-west connection and Elkin Street, traversing the approved open space along Elkin Street. The modified alignment, in combination with the east-west connection, achieves the Sector Plan's intent to provide pedestrian access between Blueridge Avenue and points north without obstacles and in an inviting and safe manner.

A Signed Shared Roadway/On-Road bikeway is recommended for Blueridge Avenue (LB-4). The Sketch Plan accommodates the implementation of the recommended bikeway.

Public Use

The approved public use spaces are consistent with the Sector Plan recommendations. The Plan envisions a system of large and small, connected public use spaces, where people can gather, enjoy the outdoors, and conduct daily business (pg.29). The Sketch Plan provides a collection of

spaces around the development including a larger space designed with picnic tables, chess tables, butterfly garden and a dog waste station.

Environment

The Sector Plan envisions the area as growing “greener through redevelopment by creating a sustainable community that conserves energy and uses roofs and green spaces to filter stormwater and purify air” (p. 73). Minimization of carbon emissions, minimization and mitigation of impervious surface, and increasing tree canopy are some of the Plan’s environmental goals. The Sketch Plan features vegetated wall, cool roof, and vegetated planting areas throughout the development along with bio-filters and stormwater vaults. At Site Plan, the Applicant will be required to demonstrate in greater detail how the Plan’s sustainability recommendations will be achieved.

Wheaton Design Guidelines

While the Design Guidelines do not provide specific recommendations for the Site, the Sketch Plan furthers the goal of supporting an identifiable center (Guidelines p. 10) by enhancing Georgia Avenue as an urban boulevard around the Core through wider sidewalks. It also establishes the corner of Georgia and Blueridge Avenues with a distinctive design treatment that will mark it as the gateway.

The Sketch Plan provides appropriate transitions (Guidelines p. 25) by stepping the building height down in relation to the topography and retaining the existing open space along Elkin Street. These two design elements minimize the impact on adjacent and confronting properties.

The Sketch Plan improves the public realm (Guidelines p. 30) by enhancing pedestrian access along the street and by providing the east-west pedestrian connection through the site.

As recommended by the Sector Plan, the Design Guidelines call for pedestrian through-block connections to shorten walking distances, to create connections between open spaces, and to promote additional retail activity (p. 24). The Sketch Plan provides an east-west connection along its northern property line and provides for a future connection to points north.

- 3. Achieves compatible internal and external relationships between existing and proposed nearby buildings, open space, and uses.*

The approved building and open spaces are compatible with existing nearby buildings, open spaces and uses. This compatibility is achieved through:

- Building heights similar to those of office buildings and garden apartments adjacent or close to the Site;
- Emphasis on the public realm through a continuous street wall along Georgia and Blueridge Avenues;
- Articulated façade design that complements the adjacent building;
- The use of façade treatments and vegetated wall to mask the visible levels of the parking structure;
- Replacement of surface parking with structured parking creating a stronger relationship between buildings, sidewalks, and streets;
- Provision of units accessed directly from the sidewalks along Georgia and Blueridge Avenues; and
- Preservation of the open space along Elkin Street.

4. *Provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading.*

The Sketch Plan provides satisfactory circulation, parking, and loading for cars, trucks, pedestrians, and bicyclists. Specifically, this Sketch Plan provides:

- Expanded sidewalks and new pedestrian paths to facilitate safe, pedestrian movement throughout the Site;
- Off-street loading areas for the residential units, alleviating congestion on Georgia and Blueridge Avenues;
- Increased parking for bicycles and sufficient vehicular parking in a structured facility; and
- Vehicular turning movements into the garage that aligns with those of the confronting public parking lot.

5. *Includes public benefits that support the approved incentive density.*

The Application includes public benefits that address the general incentive and density considerations required by Section 59-C-15.83. The public benefits:

- a. Take into consideration “the recommendations, objectives, and priorities of the applicable master or sector plan” by providing the diversity of housing, general sustainability measures, and connectivity improvements;
- b. Meet “the CR Zone Incentive Density Implementation Guidelines and any design guidelines adopted for the applicable master plan area” by providing the proper calculations and criteria for each public benefit and by proposing public open space, structured parking, and through-block connections as recommended in the Design Guidelines;
- c. Are appropriate for “the size and configuration of the tract.” By providing all required parking spaces in a structured facility, the development makes room for public open space within walking distance of Metro;

- d. Adequately address “the relationship of the site to adjacent properties” by designing the building at an appropriate scale for its context, retaining existing areas of open space and creating a façade design that complements the existing character of the area;
- e. Consider “the presence or lack of similar public benefits nearby” through the provision of environmental benefits, and pedestrian connections that are currently lacking in this area; and

| Public Benefits Calculations | | | |
|---------------------------------------------------------------------------|---------------------------------|------------------|-----------------|
| Public Benefit | Incentive Density Points | | |
| | Max Allowed | Requested | Approved |
| 59-C-15.852: Transit Proximity | 50 | 30 | 30 |
| 59-C-15.853: Connectivity and Mobility Options | | | |
| Through Block Connection | 20 | 10 | 7 |
| Wayfinding Signage | 10 | 5 | 5 |
| 59-C-15.854: Diversity of Uses and Activities | | | |
| Dwelling Unit Mix | 10 | 5 | 5 |
| Enhanced Accessibility | 20 | 6.5 | 6.5 |
| 59-C-15.855: Quality of Building and Site Design | | | |
| Structured Parking | 20 | 10 | 10 |
| Public Open Space | 20 | 2 | 2 |
| Exceptional Design | 10 | 5 | 2.5 |
| Architectural Elevations | 20 | 10 | 5 |
| 59-C-15.856: Protection and Enhancement of the Natural Environment | | | |
| Building Lot Terminations | 30 | 5 | 5 |
| Vegetated Wall | 10 | 5 | 5 |
| Tree Canopy | 15 | 7.5 | 7.5 |
| Vegetated Area | 15 | 5 | 5 |
| Cool Roof | 10 | 5 | 5 |
| TOTAL | 260 | 111 | 100.5 |

Transit Proximity

The property is within ½ mile of the Wheaton Metro Station, which allows the development to be eligible for Level 1 transit as defined in the Zoning Ordinance. The Planning Board grants the full 30 points as suggested in the 2012 Commercial/Residential Zones Incentive Density Implementation Guidelines (CR Guidelines).

Connectivity and Mobility Options

Through-Block Connection: The Applicant requests 10 points for providing a safe and attractive pedestrian connection between streets. Per the CR Guidelines, 10 points are appropriate for connections that are open-air, at least 15 feet wide, and open to the public at least between 8:00 a.m. and 9:00 p.m. The path is 5 feet wide and the connection ranges from over 24 feet to a minimum of 12.3 feet, which is less than the prescribed minimum width. The Planning Board granted 7 points for this request. Final detailed plan of circulation and site layout will be approved at Site Plan.

Wayfinding Signage: The Applicant requested 5 points for the design and implementation of a wayfinding system orienting pedestrians and cyclists to major open spaces, cultural facilities, and transit opportunities in Wheaton. Per the CR Guidelines, an incentive density of up to 5 points is appropriate for installing wayfinding signage in proposed open spaces and other public spaces. The Applicant has provided a wayfinding plan to install signs with maps and information. The Planning Board granted this request. Final design and layout will be approved by applicable agencies prior to permits.

Diversity of Uses and Activities

Dwelling Unit Mix: The Applicant requested 5 points. Per the CR Guidelines, 5 points are appropriate for providing the minimum residential mix with at least 7.5% efficiency units, 8% 1-bedroom units, 8% 2-bedroom units, and 5% 3 or more bedroom units. The Applicant's initial estimate of providing 15% efficiency units, 37% 1-bedroom units, 43% 2-bedroom units, and 5% 3-bedroom units meets the requirement. Final layout, design and location to be approved at Site Plan. The Planning Board granted this request.

Enhanced Accessibility for the Disabled: The Applicant requests 6.5 points for constructing 7 dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard. The CR Guidelines recommends each percent of units is worth 3 points. Final location and area of the units are to be approved at Site Plan. The Planning Board granted this request.

Quality of Building and Site Design

Structured Parking: The Applicant requests 10 points for structured parking facilities. This incentive is granted on a sliding scale based on the percentage of spaces provided above and below ground. The initial estimate of 410 spaces in an above-grade facility yields a total of 10 points. Final parking counts will be determined at Site Plan. The Planning Board granted this request.

Public Open Space: The Applicant requests 2 points for open space in addition to the minimum public use space required. Points for this incentive are granted on a sliding scale based on the percentage of the net lot area. The conceptual layout with 4,769 square feet of open space above the required public use space yields a total of 2 points. Final detailed plan and site layout will be approved at Site Plan. The Planning Board granted this request.

Exceptional Design: The Applicant requested 5 points for building or site design that enhances the character of the setting. Per the CR Guidelines, incentive density of 5 points is appropriate for development that meets at least four of the guideline criteria. The Applicant asserts that the Sketch Plan provides innovative solutions in response to the immediate context; enhances the public realm in a distinct and original manner; creates a sense of place and serves as a landmark; and introduces materials, forms, or building methods unique to the immediate vicinity or applied in a unique way.

The Planning Board found the Sketch Plan only meets the latter two criteria and granted 2.5 points.

The articulation of the building corner at Georgia and Blueridge Avenues along with the entry plaza will create a sense of place that would be easily identifiable by material and the angular façade. The façade treatment of the exposed parking garage on the north side would represent the application of a building technique that is unique to the other garages in the immediate vicinity. The use of mullions in the openings of the garage with color accent panels creates a façade that screens the parking areas and mirrors the façades of the residential units. The Planning Board was unable to conclude that the Sketch Plan provides innovative solutions in response to the immediate context or enhances the public realm in a distinct and original manner.

Architectural Elevation: The Applicant requested 10 points for providing elevations of architectural facades and agreeing to be bound by particular elements of design that affect the perception of mass or pedestrian comfort, or enhance neighborhood compatibility. The CR Guidelines provide up to 10 points for showing particular elements of the façade, including minimum amount of transparency on the first floor, minimal spacing between operable doors; and design priorities of the applicable master plan or implementing design guidelines. The Planning Board granted 5 points for this benefit.

Minimum Amount of Transparency:

The Applicant has agreed to be bound to the provision of 35% transparency of the ground floor of the Georgia Avenue building façade and a minimum of 40% transparency for the ground floor of the Blueridge Avenue façade. Ground-floor transparency enhances pedestrian comfort by providing a sense of safety and security and adds visual interest. While the Applicant has worked with Staff to increase ground-floor transparency along Blueridge, the Sketch Plan does not accomplish ground-floor transparency on the Elkin Street façade abutting the open space. Therefore, the Planning Board granted partial credit for this subcategory.

Minimal Spacing between Operable Doors:

The Applicant has agreed to provide a number of direct entrances for first floor units along Georgia and Blueridge Avenues. Along Georgia Avenue, entrances will be clustered in groups of three with spacing 15 and 20 feet between each group. Along Blueridge Avenue, in addition to the main building entrance, there are four direct entrances for first floor units with spacing between 13 and 22 feet. While the provision of entrances for ground floor units is a significant enhancement to the Sketch Plan, it is not equivalent to neighborhood-serving retail and professional offices as envisioned by the Sector Plan to encourage activity on the sidewalk. Therefore, the Planning Board granted partial credit for this subcategory.

Design Priorities of the Applicable Master Plan or Guidelines
The Design Guidelines fold the Sector Plan's design elements into the following three broad goals: creating an identifiable center, creating appropriate transitions, and improving the public realm. The binding of architectural elements would advance two of these goals. The combination and application of materials (including cementitious panel, metal panel, face brick and aluminum railing) supports the goal of Wheaton as an identifiable center. Creation of

appropriate transitions, as defined by the Design Guidelines, focuses on protecting existing single-family neighborhoods from potential negative impacts from new development. Although the Sketch Plan is not in the immediate vicinity of single-family structures, the brick façade will help to integrate the building into its context.

Protection and Enhancement of the Natural Environment

Building Lot Termination (BLT): The Applicant requests 5 points for the purchase of 0.906 BLT easements. Points are granted by the calculation of BLTs as provided in Section 59-C-15.87(a) of the Zoning Ordinance. The Planning Board granted this request.

Tree Canopy: The Applicant requests 7.5 points for tree canopy coverage at 15 years of growth of at least 25% of the on-site open space. The CR Guidelines finds 7.5 points appropriate for development that meets the requirements of the Zoning Ordinance. The Planning Board granted this request.

Vegetated Area: The Applicant requests 5 points for the installation of plantings in a minimum of 12 inches of soil, covering at least 5,000 square feet. The CR Guidelines recommend 5 points for development that meets the Zoning Ordinance requirements vegetated area outside of the required public use space or open space. Area within stormwater management easements may not be counted, either. The Planning Board granted this request.

Cool Roofs: The Applicant requests 5 points for constructing roof area that is not covered by a vegetated roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12. Per the CR Guidelines, an incentive density of 5 points is appropriate for sites greater than one acre. The Sketch Plan proposes 90% cool roof on available roof area throughout the 3.7-acre site. The Planning Board granted this request.

- 6. Establishes a feasible and appropriate provisional phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.*

The proposed development will be constructed in one phase.

BE IT FURTHER RESOLVED that at the time of site plan, the Planning Board may approve changes to this Sketch Plan under certain circumstances. If the Applicant proposes to change a condition of approval or binding element, or agrees to a change proposed by another party, the proposed change must satisfy the requirements for approval of a sketch plan and site plan, including Section 59-C-15, Section 59-D-3.4, and the Sector Plan. If Staff proposes to change a condition of approval or binding element, however, the Board may approve the change if necessary to ensure conformance with Section 59-C-15, Section 59-D-3.4, or the Sector Plan. In other words, for the Board to approve an Applicant-proposed change of a binding element it must find consistency with applicable standards; for the Board to approve a modification to a Staff-proposed binding element that the Applicant has not agreed to, the Board must find that the proposed change is necessary to meet the site plan approval standards, including conformance with zoning or Sector Plan requirements.

Moreover, based on detailed review of a site plan, the Board may find that any element of the approved Sketch Plan, including a binding element, does not meet the requirements of the zone, Sector Plan, or other findings necessary to approve a site plan, and deny the site plan application.

The Board's review of sketch plans is governed by Section 59-C-15.43, which provides that "in approving a sketch plan" the Board must find that certain elements of the plan are "appropriate in concept and appropriate for further detailed review at site plan." Because the Board's approval of a sketch plan is in concept only and subject to further detailed review at site plan, it necessarily follows that the Board may find, based on detailed review of a site plan, that any element of a sketch plan does not meet the requirements of the zone, master plan, or other requirements for site plan approval. The Board does not have the authority at the time of sketch plan to predetermine that any element of the Sketch Plan will satisfy all applicable requirements for site plan approval. As a practical matter it would be unwise for it to do so, due to the limited detail contained in a sketch plan and the sketch plan's unlimited validity period.

Although the Board does not have the authority to provide complete certainty about the conditions of approval or binding elements of a sketch plan, this does not mean that the Board should or will require changes to an approved sketch plan without good reason. To do so would be inefficient and unfair to Applicants and community members whose expectations about the future shape of development will be formed by what the Board approves in a sketch plan; and

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 all elements of the plans for Sketch Plan No. 320140020, AVA Wheaton, stamped received by M-NCPPC on March 7, 2014 and March 19, 2014 are required except as modified herein; and

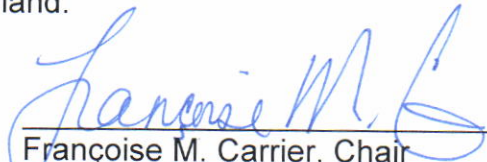
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 12 2014 (which is the date that this Resolution is mailed to all parties of record); and

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, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, May 1, 2014, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board