



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

MCPB No. 19-019  
 Preliminary Plan No. 120170025A  
 The Claiborne  
 Date of Hearing: February 7, 2019

**MAR 19 2019**

**RESOLUTION**

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

WHEREAS, on July 27, 2017, the Planning Board, by Resolution MCPB No. 17-072, approved Preliminary Plan No. 120170250, creating 1 lot on 0.30 acres of land in the CR 3.0 C 1.0 R 2.75 H90T zone, located on the northeast corner of the Norfolk Avenue and Auburn Avenue intersection ("Subject Property"), in the Bethesda CBD Policy Area and Bethesda CBD Sector Plan area; and

WHEREAS, on October 12, 2018, 4820 Auburn Avenue, LLC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan(s) to add additional properties to the Subject Property, modify the off-site density transfers, increase the dwelling units from 58 units to 84 units, increase the non-residential square footage from 2,800 square feet to 5,000 square feet, and bring the Application in conformance with the current zoning, CR 3.0 C 3.0 R 3.0 H110', CR 3.0 C 3.0 R 3.0 H90', and 2017 Bethesda Downtown Sector Plan ("Sector Plan"); and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 120170025A, The Claiborne ("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 January 25, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on February 7, 2019, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on February 7, 2019, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Fani-Gonzalez,

Approved as to  
 Legal Sufficiency:

*Christina Scott* 2/25/19

seconded by Commissioner Dreyfus, with a vote of [4-0]; Commissioners Anderson, Dreyfus, Fani-Gonzalez, and Patterson voting in favor, with Commissioner Cichy absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120170025A to supersede the previous approval by adopting the following conditions, which replace in their entirety the conditions of Preliminary Plan No. 120170250:<sup>1</sup>

1. Approval is limited to one lot for up to 97,000 total square feet of development for up to 84 multi-family dwelling units, including 13,800 square feet of MPDU density not counted toward the Project's FAR, up to 5,000 total square feet of retail development and an allocation of 36,273 square feet of density from the Bethesda Overlay Zone.
2. The Applicant must comply with the binding elements and conditions of approval for Sketch Plan No. 302017003A and any subsequent amendments.
3. Prior to record plat, the Applicant must record all necessary density transfer instruments in the Land Records of Montgomery County, as required by the subsequent site plan. The Book and Page must be reflected on the record plat.
4. Include all applicable agency letters and the Preliminary Plan Resolution on the approval or cover sheet(s) of the Certified Preliminary Plan.
5. The Applicant must participate in the implementation of the Norfolk Avenue shared street, as recommended by the Sector Plan. The scope and details of participation will be determined at the time of Certified Site Plan.
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 November 27, 2018, and hereby incorporates them as conditions of the Preliminary Plan approval. 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.
7. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated November 30, 2018,

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<sup>1</sup> 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 amended in its letter dated, January 25, 2019, and hereby incorporates them as conditions of the Preliminary Plan 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.

8. Before the release of any above grade building permit, the Applicant must enter into a Traffic Mitigation Agreement (TMAG) with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District (TMD) and work toward the Sector Plan goal of 55% Non-Auto Driver Mode Share.
9. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
10. The record plat must show necessary easements.
11. Prior to submission of any plat, Site Plan No. 82017008A must be certified by MNCPPC Staff.
12. Final approval of the number and location of the multi-family dwelling units, on-site parking, site circulation, and sidewalks will be determined at Site Plan.
13. 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.
14. In the event that a subsequent site plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration or location or right-of-way width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment.
15. The Applicant may obtain permits for demolition and below-grade excavation and sheeting and shoring prior to the recording of plats and Certified Site Plan approval. The record plat(s) and Certified Site Plan must be submitted to MNCPPC prior to any below-grade activity occurring on site.

16. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for sixty (60) months from the date of mailing of this 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 layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The Preliminary Plan will create one lot (11,690 square feet or 0.27 acres of lot area) to allow for a maximum density of 97,000 total square feet for up to 84 multi-family residential dwelling units. This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision of Land. The lot size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations in the Sector Plan and for the type of development or use contemplated. The lot meets all requirements established in the Subdivision of Land and the Zoning Ordinance and substantially conforms to the recommendations of the Sector Plan. Access and public facilities will be adequate to serve the lot, and the Application has been reviewed by other applicable County agencies, all of whom have recommended approval of the Preliminary Plan.

2. *The Preliminary Plan substantially conforms to the Master Plan.*
  - a) *Implement the recommendations of applicable master plans.*

The Project substantially conforms to the recommendations for the Property included in the Sector Plan.

The Property is designated as sites 231 and 22 on page 111 of the Sector Plan. The Project specifically addresses the following Sector Plan goals:

- *Incentivize expanded affordability for housing.*

The new multi-family residential apartment building will include a minimum of 15 percent Moderately Priced Dwelling Units (MPDUs) (or up to 13 units). As a result, the Project provides additional, desired affordable housing in close proximity to transit and other services.

- *Enhance Norfolk Avenue as the Main Street for the district, building on what works well and creates the unique character in Woodmont Triangle.*

The Property is located at the northern entrance to Norfolk Avenue. Given its prominent location, the Project has been designed to facilitate the pedestrian-scale retail character envisioned for Norfolk Avenue by providing step-backs along the Norfolk Avenue façade. As a result, the building will contribute to the desired lower-heights of Norfolk Avenue.

The Applicant will participate in the implementation of the Sector Plan recommended shared street improvements along their Norfolk Avenue frontage. The precise scope and manner of participation will be determined at the time of Certified Site Plan. The Applicant's participation is anticipated to be either through a monetary contribution, in an amount approved by MCDOT, or through implementation of a portion of the Norfolk Avenue shared street. The final determination of the Applicant's participation in the Norfolk Avenue shared street, as recommended in the Sector Plan, will be determined at the time of Certified Site Plan, in conjunction with MCDOT and the Department of Permitting Services.

- *Preserve low density, pedestrian scale character along Norfolk Avenue.*

The proposed building will be located directly on the street and will both define and activate the pedestrian environment. This design will promote a more pedestrian oriented streetscape experience by expanding the streetscape and providing façades with multiple points of entry. Parking and loading will be accommodated internally on site via a consolidated garage and loading access point on Auburn Avenue.

- *Increase environmental innovation, including more energy efficient buildings, better stormwater management, improved sidewalks and bicycle routes, and other measures to enhance community health and quality of life.*

The Project will result in significant improvements to the treatment of stormwater management on-site, as there are no known stormwater management facilities located on the Property. The Project is located within the High-Performance Area and will incorporate and meet the requirements in the Sector Plan and Bethesda Overlay Zone for exceeding current energy efficiency standards for buildings.

The Project is in general conformance with the Sector Plan.

- b) *Target opportunities for redevelopment of single-use commercial areas and surface parking lots with a mix of uses.*

The Project will redevelop the existing non-residential buildings with a higher-density mixed-use building.

- c) *Encourage development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities, where parking is prohibited between the building and the street.*

The Project encourages such development by proposing market-rate residential units in a variety of unit types as well as 15% MPDUs, offering housing opportunities for a range of incomes proximate to the numerous transit options of downtown Bethesda. The Project facilitates all modes of transit – pedestrian, bicycle, and vehicular – in close proximity to the Metro and bus service by improving the streetscape. The Project does not propose any parking between the building and the street frontages.

- d) *Allows a flexible mix of uses, densities, and building heights appropriate to various settings to ensure compatible relationships with adjoining neighborhoods.*

The Sector Plan identifies this area as a priority for mixed use projects and recommends that Norfolk Avenue be improved as a main street. The Project will provide a mix of uses on-site as well as a height and density that is compatible with the desired character of the Woodmont Triangle District. As a result of the streetscape improvements and step-backs, the Project helps implement recommendations set forth in the Sector Plan.

- e) *Integrate an appropriate balance of employment and housing opportunities.*

The Sector Plan identified several distinct districts within Downtown Bethesda to guide development compatibility. The Subject Property is within the Woodmont Triangle District, which is envisioned to maintain its character as an eclectic mixed-use district. The Project provides the appropriate land use mix, as recommended in the Sector Plan.

- f) *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 Project will provide the required public benefits from a minimum of four categories to achieve the desired incentive density above the standard method limit. Final determination of public benefit points will be determined at the time of Site Plan.

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

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

#### Transportation

One of the most dramatic recommendations of the Bethesda Downtown Sector Plan was the Norfolk Avenue shared street concept. The Subject Project is implementing a portion of the shared street, with the precise scope and manner of participation to be determined by the Montgomery County Department of Transportation prior to Certification of the Site Plan. The Applicant's participation in the shared street project was a critical element of staff's review of the Subject Application and will be the first time a development project in downtown Bethesda is contributing to the shared street project.

Vehicular access to the Subject Property is proposed directly from Auburn Avenue through a consolidated garage access point and loading bay (two separate, but adjacent entrances). Pedestrian and bicycle access to the Subject Property will be provided along both Norfolk Avenue and Auburn Avenue.

The Project includes a bicycle parking room to provide long-term bicycle storage for the residents. Bicyclists will access the room from via the lobby on Norfolk Avenue. The bicycle parking room will provide secure, private parking for 40 bikes and the proposed layout meets the design and capacity standards set by the Zoning Ordinance. The final number of automobile and bicycle parking spaces will be determined at Certified Site Plan based on the number of residential dwelling units.

#### *Transit Connectivity*

The immediate area is well served by transit that includes the Red Line Bethesda Metrorail Station (located within ½ mile of the site), Metrobus, RideOn, the Bethesda Circulator and future Purple Line.

#### *Master Plan Roadways and Pedestrian / Bikeway Facilities*

The 2017 *Bethesda Downtown Sector Plan* recommends the following along property frontages:

1. Auburn Avenue, along the northern site frontage, as a Business District Street with a minimum right-of-way width of 60 feet;
2. Norfolk Avenue, along the western site frontage, as a business district roadway with a minimum right-of-way width of 80' and as a shared street.

#### *Sector-Planned Transportation Demand Management*

The Sector Plan encourages a Non-Auto Driver Mode Share (NADMS) of 55%, averaged between employees and residents of downtown Bethesda. In order to meet this goal, downtown Bethesda is organized into a Transportation Demand

Management District (TMD) that strives to promote travel by means other than single occupancy vehicles. As a residential project of more than 100 dwelling units within the Bethesda TMD, the development is required to enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and Montgomery County Department of Transportation (MCDOT) to participate in the Bethesda TMD.

A transportation exemption statement, dated February 21, 2018, satisfied the Local Area Transportation Review for the Subject Application because the Project generates fewer than 50 net new peak hour person trips. The proposed development is estimated to generate 41 new morning peak-hour person trips (21 vehicle trips) and 47 new evening peak-hour person trips (24 vehicle trips) (Table 3).

**Table 3: Project Peak Hour Trip Generation**

Proposed		Vehicle Rates		Adjusted Vehicle Rates		Person Trips	
		AM	PM	AM	PM	AM	PM
High-Rise Apartments	84 Units	26	30	21	24	41	47
Ancillary Retail	5,000 SF	0	0	0	0	0	0
<b>Net New Trips<sup>1</sup></b>		<b>26</b>	<b>30</b>	<b>21</b>	<b>24</b>	<b>41</b>	<b>47</b>

<sup>1</sup>No credit taken for existing uses to be removed  
Source: Wells & Associates Transportation Statement, dated September 27, 2018.

**School Adequacy**

The Project was reviewed under the FY2019 Annual School Test, approved by the Planning Board on June 21, 2018, and effective July 1, 2018. Under the FY2019 Annual School Test, student generation is calculated by multiplying the number of dwelling units by the applicable regional student generation rate for each school level. For the purposes of this calculation, dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low- to mid-rise multifamily unit, or high-rise multifamily unit (Table 4). The Subject Property seeks to amend an approved plan for 58 high-rise multifamily units, to 84 high-rise multifamily units, resulting in a net gain of 26 units. The Subject Property is in the Bethesda-Chevy Chase High School (B-CC) Cluster in the southwest region of the County.

Based on this analysis, the Project is estimated to generate one new elementary school student, zero new middle school students, and zero new high school students (Table 5). Sufficient school capacity exists at the elementary school,



middle school and high school cluster levels to accommodate the estimated number of students generated by the Project.

*Table 4: Student Generation Rates Per Dwelling Unit – Southwest Region*

	<b>Elementary School</b>	<b>Middle School</b>	<b>High School</b>
<b>SF Detached</b>	0.193	0.111	0.147
<b>SF Attached</b>	0.191	0.094	0.124
<b>MF Low- to Mid-Rise</b>	0.146	0.063	0.083
<b>MF High-Rise</b>	0.055	0.022	0.031

*Table 5: The Claiborne Plan Amendment – Estimated Enrollment Impact*

<b>Unit Type</b>	<b>Net New Units</b>	<b>ES Generation Rates</b>	<b>ES Students Generated</b>	<b>MS Generation Rates</b>	<b>MS Students Generated</b>	<b>HS Generation Rates</b>	<b>HS Students Generated</b>
Multi-Family High Rise	26	0.055	0.022	0.031	1.430	0.572	0.806
<b>Total Units</b>	<b>26</b>				<b>1</b>	<b>0</b>	<b>0</b>

**Cluster Adequacy Test**

Student enrollment and capacity projections for the Bethesda-Chevy Chase High School (B-CC) Cluster, as established in the FY2019 Annual School Test, are summarized in Table 6. As indicated in the last column of the table, the sum of the projected future enrollment and the estimated student impact associated with the Subject Application fall below the moratorium<sup>2</sup> thresholds at all three school levels. As a result, sufficient capacity exists at the elementary, middle and high school cluster levels to accommodate the estimated number of students generated by this project.

<sup>2</sup> The moratorium enrollment threshold represents 120% enrollment utilization.

*Table 6: FY2019 Annual School Test  
Bethesda Chevy Chase High School Cluster*

School Level	Projected Cluster Totals, September 2023			Moratorium Enrollment Threshold	Projected Enrollment + Application Impact
	Enrollment	Program Capacity	% Utilization		
<b>Elementary</b>	3,690	4,043 <sup>3</sup>	91.3%	4,852	<b>3,691</b>
<b>Middle</b>	1,803	2,024	89.1%	2,429	<b>1,803</b>
<b>High</b>	2,463	2,407	102.3%	2,889	<b>2,463</b>

**Individual School Adequacy Test**

The applicable elementary and middle schools for this project are Bethesda Elementary School and Westland Middle School, respectively. Based on the FY2019 Annual School Test results, the student enrollment and capacity projections for these schools are noted in Table 7.

*Table 7: FY2019 Annual School Test  
Individual School Adequacy*

School	Projected School Totals, September 2023				Moratorium Enrollment Thresholds		Projected Enrollment + Application Impact
	Enrollment	Program Capacity	% Utilization	Surplus/Deficit	120% Utilization	Surplus/Deficit	
<b>Bethesda ES</b>	699	698 <sup>4</sup>	100.1%	-1	838	808	<b>700</b>
<b>Westland MS</b>	832	1,089	76.4%	257	1,307	1,269	<b>832</b>

Under the individual school adequacy test, a school is deemed inadequate if the projected school utilization rate exceeds 120% and if the school seat deficit meets or exceeds 110 seats for the elementary school or 180 seats for the middle school. If a school's projected enrollment exceeds both thresholds, then the school service area is placed in a residential development moratorium.

The Moratorium Enrollment Thresholds, identified in Table 7, are the enrollments at which the 120% utilization threshold and the seat deficit

<sup>3</sup> The projected cluster elementary school capacity of 3,813 has been modified to reflect the impact of a six-classroom placeholder project at Bethesda ES and a four-classroom placeholder project at Somerset ES included by the County Council in the FY 2019 Capital Budget.

<sup>4</sup> The projected Bethesda Elementary School capacity of 560 students has been modified to reflect the impact of a six-classroom placeholder project included by the County Council in the FY 2019-2024 Capital Improvements Program.

threshold are exceeded. As indicated in the last column, the projected enrollment plus the estimated impact of this application falls below both applicable moratorium thresholds for Bethesda Elementary School and Westland Middle School. Therefore, there is sufficient anticipated school capacity to accommodate the estimated number of students generated by the Project.

Other Public Facilities

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

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

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

This Application is subject to the Chapter 22A, Montgomery County Forest Conservation Law, but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(2) because the proposed activity occurs on a tract of land less than 1 acre that will not result in the clearing of more than a total of 20,000 square feet of existing forest, or any existing specimen tree or champion tree, and afforestation requirements would not exceed 10,000 square feet.

The Applicant is proposing to save one existing street tree, an 18" DBH Zelkova. As conditioned, prior to Site Plan certification, the Applicant must show the existing tree to remain accurately on the plans, as well as show and provide tree protection and details on the landscape sheets.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

The MCDPS Stormwater Management Section approved the Stormwater Management Concept on November 27, 2018 (Attachment D). According to the approval letter, the Stormwater Management Concept proposes to meet stormwater management requirements via environmental site design to the maximum extent practicable through the use of a green roof, micro-bioretenion and a partial Quality and Quantity waiver.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR 19 2019 (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 Cichy, seconded by Commissioner Fani-González, with Chair Anderson and Commissioners Fani-González and Cichy voting in favor, and Vice Chair Dreyfuss and Commissioner Patterson absent at its regular meeting held on Thursday, March 7, 2019, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board