



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

**MONTGOMERY COUNTY PLANNING BOARD  
OPINION**

Preliminary Plan No.: 1-99030

Project: Friendship Place

Date of Hearing: February 4, 1999 and February 25, 1999

*Action: **APPROVAL, SUBJECT TO CONDITIONS.** (Motion by Commissioner Bryant; seconded by Commissioner Perdue; with a vote of 4 to 0; Commissioners Bryant, Richardson, Perdue and Hussmann voting in favor of the Motion. Commissioner Holmes was absent.*

**INTRODUCTION**

On February 4, 1999 and February 25, 1999, the Montgomery County Planning Board ("Board") held a public hearing to consider Preliminary Plan No. 1-99030, an application for subdivision approval (the "Application") filed by New England Development and The May Department Stores Company (the "Applicant") for property encompassing approximately 8 acres (the "Property") and zoned CBD-2 Zone/Chevy Chase Corporation Retail Overlay Zone.<sup>1/</sup> The proposed development includes 450,000 square feet of retail, 300,000 square feet of office, 150,000 square feet of hotel (approximately 223 rooms), 150,000 square feet of residential (approximately 150 units) and an optional 40,000 square foot grocery store (collectively, the "Project"). Public use and amenity spaces are incorporated throughout the Project, including but not limited to, a Major Public Park and a Community Center. The public hearing on Preliminary Plan No. 1-99030 formed a part of and was consolidated with the public hearing on an application for Optional Method of

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<sup>1/</sup> The record reflects that all parties were afforded the opportunity to testify, provide rebuttal testimony and cross-examine witnesses to the extent they chose to do so. Notice of the filing of the plan was sent out by certified mail and timely notice of the February 4, 1999 hearing was sent. Notice of the February 25, 1999 hearing was (i) announced at the February 4, 1999 hearing with the date to be later confirmed, (ii) announced at the February 11, 1999 hearing for Preliminary Plan No. 1-99039, Friendship Commons, (iii) sent by mail notifying interested parties of the February 25, 1999 hearing and (iv) listed in the Board's agenda for February 25, 1999. There also was an opportunity to submit written testimony between the two hearing dates. The Board allowed for additional time for individuals to testify, cross examine and rebut at the February 25, 1999 hearing. Only two individuals actually provided direct testimony at the February 25, 1999 hearing. The Board's counsel addressed the procedures followed at every step in the hearings and concluded that all required evidentiary laws, rules and procedures had been followed in this subdivision case.

Development Project Plan No. 9-99001 (the "Project Plan Application"). The findings and conclusions of the Board in the Project Plan opinion are adopted by the Board and incorporated herein in full by reference.

At the hearing, the Board heard testimony and received evidence submitted in the record, both supporting and opposing the Application. The testimony and evidence presented included, without limitation, all of the Preliminary Plan Application materials; the Traffic Study prepared by Barton-Aschman Associates dated October 1998, revised January 4, 1999; Traffic Memoranda prepared by Barton-Aschman Associates dated January 27, 1999, February 3, 1999 and February 18, 1999 as well as rebuttal testimony from Barton-Aschman Associates dated February 9, 1999; copies of testimony taken by civic groups, organizations and individuals regarding the Preliminary Plan Application; the Approved and Adopted Friendship Heights Sector Plan dated March, 1998 (the "Sector Plan"); the M-NCPPC Planning Department Staff Recommendation and Revision dated February 25, 1999; Community Planning Memorandum dated February 19, 1999; the M-NCPPC Development Review Division Memorandum dated February 19, 1999; the M-NCPPC Transportation Planning Division Memoranda dated January 20, 1999, revised January 28, 1999, February 4, 1999 and February 19, 1999; an additional Memorandum from Transportation Planning Staff dated February 19, 1999; a Rebuttal Memorandum from Transportation Staff dated February 9, 1999; the M-NCPPC Development Review Division Staff Report on the Project Plan Application dated January 20, 1999 and the recommendations of the Montgomery County Department of Public Works and Transportation, the Montgomery County Department of Permitting Services, the Maryland State Highway Administration, the District of Columbia Department of Public Works and public utilities companies. Based on the testimony and evidence, the Board finds Preliminary Plan No. 1-99030 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan No. 1-99030, subject to the conditions listed at the end of this opinion.

### **DISCUSSION and FINDINGS**

The Project is being developed pursuant to and in conformance with the Sector Plan approved before the Montgomery County Council in Resolution No. 13-1148 dated January 27, 1998. The Property consists of approximately 8 acres and is located within the Friendship Heights Central Business District. The Property generally is bounded by Wisconsin Avenue (a state highway) to the east, Western Avenue (a District of Columbia road) to the south, Willard Avenue (a County road) to the north and Friendship Boulevard (a County road) to the west. The Property is zoned CBD-2 and is subject to the Chevy Chase Comparison Retail Overlay Zone. The Application proposes to redevelop the Property to accommodate an optional method, mixed-use development project.

The Applicant proposes to construct the following improvements:

1. 450,000 square feet of retail.
2. A 40,000 square-foot grocery store to be built at the option of the Applicant.
3. 300,000 square feet of office space.
4. 150,000 square feet of hotel (approximately 223 rooms).
5. 150,000 square feet of residential (approximately 150 units).
6. A Community Center.
7. A Major Public Park and other public use and amenity spaces as reflected in the approved Project Plan Application.
8. An underground parking garage.

A Hecht's department store and a two level parking facility currently are located on the Property. Across Willard Avenue to the north of the Property are a number of CBD-1 zoned commercial uses including a Gap store and a bank on Wisconsin Avenue and two-story retail stores on Willard Avenue. A gas station with a car wash and tire store is located between The Hills Plaza and Friendship Boulevard. The Willoughby Condominium is located to the northwest of the Property. There are two small parcels between the northeastern corner of the Property and the intersection of Willard Avenue and Wisconsin Avenue. They are developed with two, two-story commercial buildings.

The property across Wisconsin Avenue to the east is the 12-story Chevy Chase Metro Building that is built on the air rights over the Metro bus terminal. Across Wisconsin Circle from the Chevy Chase Metro Building to the north is the Chevy Chase Center that contains retail stores and a five-story office building.

Properties across Western Avenue to the south are within the District of Columbia. They include the Mazza Gallerie on Wisconsin Avenue and a Lord & Taylor store to the west of Friendship Boulevard. Chevy Chase Pavilion is located directly across the Wisconsin Avenue/Western Avenue intersection from the Property to the southeast.

Across Friendship Boulevard to the west is the GEICO headquarters complex. The entire 26 acre property is planned to be redeveloped into a mixed-use development known as "Friendship Commons" that will include office, residential and ancillary retail uses.

There are no existing on-site streams, swales, wetlands or other hydrologic features on the Property. The Property generally is impervious (over 90%) and trees and shrubs are limited to street trees or building landscape features. There are no historic or culturally significant sites or buildings on or within 100 feet of the Property. There also are no rare, threatened or endangered species known to exist on the Property.

An underground parking garage will be constructed as a part of the Project. The entire Project will be developed in two phases as set forth in the Project Plan Application. The construction phasing will allow the existing Hecht's store to remain open and operating at all times. The first phase will include the new Hecht's store and the parking facility below the store. Upon completion of Phase I, the existing Hecht's store and associated structures will be removed to make the remainder of the Property available for development of the balance or the second phase of the Project. Streetscaping and amenities will be developed in accordance with the conditions of approval for the Project Plan Application.

County Code Section 50-35(k) (the "Adequate Public Facilities Ordinance" or "APFO") directs the Board to approve preliminary plans of subdivision only after finding that public facilities, including the transportation system, will be adequate to serve the subdivision. From a transportation standpoint, this involves predicting future demand from private development and comparing it to the capacity of existing and programmed public facilities. The Montgomery County Council delegated to the Board and its staff all necessary administrative decisions not covered by the guidelines established by the Council for the APFO in the County's Annual Growth Policy. In its administration of the APFO, the Board must consider the recommendations of the County Executive and other agencies in determining the adequacy of public facilities.

Subdivision applications may be subject to two different types of transportation tests. One is called the Policy Area Transportation Review. The other is called the Local Area Transportation Review. The Policy Area Transportation Review divides the County into policy areas. These are geographic areas for which the adequacy of public facilities is addressed on an area-wide basis. With regard to transportation, a staging ceiling may be established for each policy area. The staging ceiling for a policy area is the maximum number of jobs and residential units that can be accommodated by the existing and programmed transportation network serving the area, at an assigned level of service standard. Except for special circumstances, if a proposed subdivision is in a geographic policy area for which previously approved development exceeds the staging ceiling, then the Board must find the public facilities to be inadequate.

Pursuant to the FY99 Annual Growth Policy adopted by the Montgomery County Council as Resolution No. 13-342 on June 30, 1998, the Property is located within the Friendship Heights CBD Policy Area. This policy area has remaining staging ceiling capacity for 2,650 jobs and 800 housing units. The Board finds that the Application has



been deemed by Staff to be first in the queue within the Friendship Heights CBD Policy Area for subdivision approval. By being first in the queue, the Board further finds that the Application has certain procedural and substantive rights over those applications that are behind the Application in the queue. Based on the mix of uses provided as a part of the Project and the analysis contained in M-NCPPC Transportation Planning Staff Memoranda dated January 28, 1999, revised February 4, 1999 and February 19, 1999 and the additional February 19, 1999 Transportation Planning Staff Memorandum ("TPD Memoranda"), the Board determined the Project would result in 1,323 net new jobs and 150 housing units and would generate 771 net new A. M. peak hour trips and 1504 net new P. M. peak hour trips. The Board concludes that the Application therefore passes the Policy Area Transportation Review test.

Regarding the Local Area Transportation Review test, the Applicants submitted a detailed traffic impact study dated October 1998, Revised January 4, 1999, which was reviewed by the M-NCPPC Transportation Planning Division Staff. The Applicant also submitted a memorandum dated February 3, 1999 regarding the diversion of peak hour traffic exiting the Property away from the Village of Friendship Heights, a memorandum dated January 27, 1999 regarding Friendship Place Traffic Results using the Old Lane Use Factors, and a Memorandum dated February 18, 1999 regarding an analysis of the River Road and Little Falls Parkway intersection. The Applicant's traffic engineer also submitted rebuttal testimony dated February 9, 1999 directly addressing the issues raised by citizen questions, including, but not limited to, lane use factors, applicable peak hour periods, background developments and appropriate intersections to evaluate. The Board afforded an opportunity for citizen testimony, rebuttal and cross examination of the Applicant's traffic engineer and Transportation Planning Staff on these very same points.

In sum, the Board finds that the Applicant's traffic study and revision thereto was timely filed, afforded all parties sufficient time to review and respond, took into account all issues required to be considered under the Montgomery County Code and was, in and of itself, fully acceptable and persuasive on all requisite issues regarding the Adequate Public Facilities Ordinance, the Annual Growth Policy and the Local Area Transportation Review Guidelines dated April 1998 (the "LATR Guidelines"). Based on the Applicant's traffic study and revision as well as the various memoranda and rebuttal testimony submitted by the Applicant's traffic engineer and the analysis provided by Staff in the TPD Memoranda, and for the reasons stated therein which the Board hereby adopts as its own, the Board concludes the Project passes the Local Area Transportation Review test, if the transportation improvements identified in the TPD Memorandum are provided. The Board expressly finds that the Applicant's analyses adhere to the guidelines contained in the LATR Guidelines. These analyses meet all of the standards and requirements as set forth by the Board and the LATR Guidelines, are consistent with Board practice and are well within the bounds of professional judgment. The Board finds that the Applicant's traffic engineer and Transportation Planning Staff provided credible and convincing evidence regarding all of the issues raised concerning traffic and transportation including, but not

limited to, trip generation rates, intersection levels of service and critical movements, lane use factors, traffic growth assumptions and background traffic and applicable peak hours. Staff confirmed and the Board hereby adopts as a finding that the Applicant's traffic study, revision thereto and additional memoranda submitted by the Applicant's traffic engineer comply with all of the requirements set forth in the LATR Guidelines and are accepted by the Board. The Board further notes that there were no studies or specific evidence submitted into the record refuting the findings that were set forth by the Applicant's traffic engineer or Transportation Planning Staff regarding traffic and transportation. The Board finds that Transportation Planning Staff applied the LATR Guidelines in a manner that is entirely consistent with the way other projects in the County and Friendship Heights have been evaluated before the Board over many years.

As part of citizen testimony, an issue was raised regarding Transportation Planning Staff's decision not to include the Little Falls Parkway/River Road intersection as an intersection to be studied by the Applicant. At the hearing and in the Transportation Staff Memorandum dated February 19, 1999, Staff articulated its reasoning as to why the Applicant was not required to include the Little Falls Parkway/River Road intersection in its traffic study. The Applicant also addressed this issue as part of its rebuttal testimony. In the Transportation Staff Memorandum dated February 19, 1999, Staff determined that the Project would impact the Little Falls Parkway/River Road intersection and indicated that it would be reasonable for the Board to require the Applicant to participate equally in any necessary road improvements for that intersection. In response to Staff's recommendation and prior to the February 25, 1999 hearing, the Applicant prepared a memorandum dated February 18, 1999 analyzing the Little Falls Parkway/River Road intersection. The memorandum summarized capacity analysis performed on behalf of the Applicant at the intersection of River Road and Little Falls Parkway of the traffic impact of the Project and the Friendship Commons (GEICO site) development. This analysis illustrated that the Local Area Transportation Review requirements are satisfied with these two developments and that the recommended improvements, as set forth in the conditions below, would result in critical lane volume ("CLV") totals that are within the standard for the Bethesda-Chevy Chase Policy Area. The Board concurs with Transportation Planning Staff that the Applicant should participate equally with the applicant for the Friendship Commons project in the Little Falls Parkway/River Road improvement. The Board adopts the findings expressed in the Applicant's Memorandum and the Transportation Planning Staff Memorandum both regarding the Little Falls Parkway/River Road intersection.

The Board also finds that any differences between certain traffic studies prepared by the Applicant's traffic engineer and the studies prepared by the traffic engineer for the Applicant of Preliminary Plan No. 1-99039, Friendship Commons, have been adequately and thoroughly addressed by Transportation Planning Staff. The Board further finds that the Project, when evaluated in conjunction with Preliminary Plan No. 1-99039, meets all of the standards and requirements of the LATR Guidelines necessary to satisfy the LATR test. The Board finds that the road improvements contained in the conditions more than

adequately mitigate the impact of the Project on the road network, even when the addition of Friendship Commons traffic is added to traffic volumes that include the Project. This sequence of adding Friendship Commons traffic to traffic volumes that include the Project is a result of the Project being first in the subdivision queue.

Section 50-24(b) of the Subdivision Regulations provides that the subdividers shall also provide, in addition to any required dedication for widening existing frontage roads, such reasonable improvement to the road necessary to meet the needs of the subdivision for access and traffic. In the TPD Memoranda, Staff recommended the Applicant provide certain roadway improvements required to maintain safe travel conditions, including improvements and/or funding for turn lanes, curb radius expansion, traffic signalization and phasing, median removal, lane use changes and restriping and implementing traffic mitigation measures. These improvements are set forth in the conditions of approval below.

The Board, after considering all the evidence and testimony of record, finds the improvements and access modifications recommended by Staff (as set forth in the conditions) are necessary and adequate to serve the needs of the Project for access and traffic. The improvements will facilitate the safe and efficient traffic movements on the public roads abutting the Property. The improvements will also assure the vehicles entering and leaving the Property will be able to do so in a safe and efficient manner.

The Board further finds the proposed storm drainage improvements and the stormwater management concept plan approved by the Montgomery County Department of Permitting Services on January 20, 1999 will provide adequate control of stormwater runoff from the Property. The approved stormwater management concept consists of on-site water quality control via various Best Management Practices (to include bioretention, CSF Stormwater Treatment System, surface and structural filters and enhanced street sweeping) and an on-site underground stormwater quantity control retention facility (to be located underneath the Major Public Park). The Board also finds that the proposed storm drainage improvements are acceptable because the runoff from the developed 2-year storm event will be stored and released at the predeveloped 2-year storm event rate. The storm drainage system will be a closed system in conformance with the stormwater management concept plan approved by the Department of Permitting Services and the Subdivision Regulations.

Regarding water and sewer facilities, the Board finds that the Property is located in water and sewer service categories W-1/S-1 and that public service is available to the Property. All other utilities are available to the Property.

The Board also finds that the preliminary forest conservation plan, as reviewed and recommended by Staff, meets the requirements of Montgomery County Code Chapter 22A.

Therefore, having considered all the evidence presented and all the testimony taken, the Board finds the Preliminary Plan to be in accordance with the Subdivision Regulations of the Montgomery County Code, the applicable recommendations of the Sector Plan and the provisions of the Maryland Code Ann., Art. 28, and approves Preliminary Plan No. 1-99030 subject to the following conditions:

- (1) Prior to recording of plat(s), Applicant to enter into an Adequate Public Facilities (APF) agreement with the Board to limit development to a maximum of 300,000 square feet of office, 450,000 square feet of retail, a 40,000 square feet grocery store, 150,000 square feet hotel use, a community center and a 150,000 square foot residential building with a maximum of 150 multi-family dwelling units. The Applicant shall provide the following Local Area Transportation Review improvements as outlined in the Transportation Planning Division staff memo dated February 4, 1999 (as amended February 19, 1999):

- (a) To satisfy Local Area Transportation Review (LATR), participate equally with Friendship Commons, Preliminary Plan No. 1-99039 in a project to (a) provide separate left-turn lanes along eastbound and westbound Western Avenue at River Road, (b) if necessary or required by the District of Columbia, increase the curb radius in the southeast corner from 15 feet to 20-30 feet in accordance with plans approved by the District of Columbia Department of Public Works. To the extent possible, include a sidewalk to allow for pedestrian safety within the existing road right-of-way, and (c) change the traffic signal phasing to provide concurrent signal phasing along Western Avenue. Implementation of this condition shall be accomplished before issuance of occupancy permits for either Friendship Place or Friendship Commons with funding provided by both applicants at the time the improvement is constructed.

- (b) To satisfy Local Area Transportation Review (LATR), participate equally with Friendship Commons, Preliminary Plan No. 1-99039 in a project to (a) provide separate northbound and southbound right turn lanes on River Road at Little Falls Parkway, (b) remove the existing medians on Little Falls Parkway and change the lane use on the eastbound and westbound approaches to provide one left-turn lane and one through/right-turn lane on the eastbound approach and one right-turn lane, two through lanes and two left-turn lanes on the westbound approach of Little Falls Parkway, and (c) change the traffic signal phasing to provide concurrent phasing for Little Falls Parkway. Implementation of this condition shall be accomplished before issuance of occupancy permits for either Friendship Place or Friendship Commons with funding provided by both applicants at the time the improvement is constructed.



- (c) To satisfy Local Area Transportation Review (LATR), participate equally with Friendship Commons, Preliminary Plan No. 1-99039 in a project to improve the intersection of Friendship Boulevard/Jenifer Street and Western Avenue (a) to restripe Friendship Boulevard approaching Western Avenue within the existing curbs, and (b) modify the signal phasing to provide split phasing for Friendship Boulevard and Jenifer Street. Implementation of this condition shall be accomplished before issuance of occupancy permits for either Friendship Place or Friendship Commons with funding provided by both applicants at the time the improvement is constructed.
  - (d) Participate with the owners/developers of Friendship Commons (Preliminary Plan No. 1-99039) to fund a traffic signal at the site access (located on Friendship Boulevard) based on actual traffic generated from each primary development within one year of completion and occupancy of both projects, if deemed necessary by MCDPW&T warrant analysis.
  - (e) Participate in installing a traffic signal at the access to the site located on Willard Avenue opposite The Hills Plaza based on traffic conditions within one year of completion and occupancy of the project, if deemed necessary by a MCDPW&T warrant analysis.
  - (f) Work with MCDPW&T, Department of Permitting Services, the Village of Friendship Heights and Barlow property owners/developers as part of the site plan approval process, on a signage plan to minimize through traffic from the site through the Village of Friendship Heights to Wisconsin Avenue during the evening peak period.
- (2) Applicant to enter into a Traffic Mitigation Agreement with M-NCPPC and MCDPW&T for new construction. In conjunction with other new development, participate in the Friendship Heights Transportation Management Organization (TMO) and pay to Montgomery County the transportation management fee required by the Transportation Management District (TMD) legislation to support the TMD, regardless of whether the development included in the approved site plan is considered new or existing development by the TMD legislation. The Applicant shall also assist in attaining the objectives of the TMD, including achieving and maintaining a non-auto mode share of 39 percent of employees. The agreement shall include management strategies like those outlined in the February 4, 1999 Transportation Planning Division memo.
  - (3) Compliance with the conditions of approval of the preliminary forest conservation plan. The applicant must meet all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permit, as appropriate.



- (4) Terms and conditions of access, as required, to be approved by MCDPW&T prior to recording of plat(s).
- (5) Prior to submission for access permits to Friendship Boulevard, Applicant to coordinate with representatives of Preliminary Plan No. 1-99039 Friendship Commons and MCDPW&T to finalize driveway locations.
- (6) Provide final landscape/streetscape plans and parking facilities plan with submission of site plan application.
- (7) No clearing grading or recording of plat(s) prior to site plan approval.
- (8) Maintain dedication for 120 foot right-of-way on Wisconsin Avenue (MD 355), 90 foot on Willard Avenue between The Hills Plaza and Friendship Boulevard and 120 foot on Western Avenue.
- (9) Conditions of MCDPS stormwater management approval dated January 20, 1999.
- (10) Prior to recordation of the property, the Applicant and technical staff to make a final determination as to the total number of lots on the property. These Lot(s) shall be reflected on the final plat(s) to be recorded among the land records.
- (11) Other necessary easements.
- (12) The validity of Preliminary Plan No. 1-99030 is dependent upon the Applicant proceeding with and abiding by the conditions of approval for Project Plan No. 9-99001.
- (13) This Preliminary Plan will remain valid until June 11, 2002 (37 months from date of mailing, which is May 11, 1999). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Georgia Avenue • Silver Spring Maryland 20910-3760

**MONTGOMERY COUNTY PLANNING BOARD  
OPINION**

Site Plan Review No. 8-01010  
Project: Wisconsin Place (formerly Friendship Place)  
Date of Hearing: April 26, 2001

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*Action: **APPROVAL, SUBJECT TO CONDITIONS.** (Motion by Commissioner Bryant; seconded by Commissioner Wellington; with a vote of 5 to 0; Commissioners Bryant, Holmes, Wellington, Perdue and Hussmann voting in favor of the Motion).*

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**INTRODUCTION:**

On November 13, 2000, New England Development and The May Department Stores Company (collectively referred to as "Applicant") submitted an application for approval of a Site Plan for approximately 8 acres of land in the CBD-2 Zone with the Chevy Chase Neighborhood Comparison Retail Overlay Zone. The application was designated as Site Plan No. 8-01010 (the "Application").

After due notice, the Montgomery County Planning Board (the "Board") held a public hearing on the Application on April 26, 2001, pursuant to Division 59-D-3 of the Montgomery County Zoning Ordinance (the "Zoning Ordinance") and in accordance with the requirements of the Md. Code Ann., Art. 28 ("Regional District Act") and the Planning Board's Rules of Procedure.

At the public hearing, the Board considered the Application, listening to testimony, and receiving evidence into the record from its expert Technical Staff ("Staff"), the Applicant, and from various property owners and community representatives in the surrounding neighborhood. In presenting the Application to the Board, Staff prepared packets of information including a Staff Report dated April 20, 2001 and Revised Memorandum dated April 26, 2001, which contained Staff's expert analysis of the proposal. The Staff Report also included the recommendations of the M-NCPPC Transportation Planning Division as contained in a Memorandum dated April 19, 2001, the Montgomery

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County Department of Public Works and Transportation and the Montgomery County Department of Permitting Services (as contained in a Memorandum dated April 19, 2001), M-NCPPC Historic Preservation (as contained in a Memorandum dated April 18, 2001) and Community-Based Planning regarding the Public Art Program (as contained in a Memorandum dated April 18, 2001) and District of Columbia Department of Public Works and Transportation (Memorandum dated March 15, 2001) District of Columbia Office of Planning (as contained in a Memorandum dated April 6, 2001) and the Maryland Department of Planning (as contained in a Memorandum dated April 19, 2001) all of which the Board hereby incorporates by reference and makes a part hereof. In accordance with Section 59-D-3 of the Zoning Ordinance, the Application included all of the information required for the Site Plan.

The Property that is the subject of the Application (the "Property") encompasses approximately 8 acres in the CBD-2 Zone. The Property also is subject to the Chevy Chase Comparison Retail Overlay Zone. The Property is located within the Friendship Heights Central Business District and is bounded by Wisconsin Avenue to the east, Western Avenue to the south, Willard Avenue to the north and Friendship Boulevard to the west. A Hecht's department store and a two-level parking facility currently are located on the Property. Across Willard Avenue to the north of the Property are a number of CBD-1 zoned commercial uses. Also across Willard Avenue is the Chase Tower project (formerly known as the Barlow project) that currently is under construction. The Willoughby Condominium is located to the northwest of the Property. There are two small parcels between the northeast corner of the Property and the intersection of Willard Avenue and Wisconsin Avenue. They are developed with two, two-story commercial buildings. The property across Wisconsin Avenue to the east is the 12-story Chevy Chase Metro Building that is built on the air rights over the Metro bus terminal. Across Wisconsin Circle from the Chevy Chase Metro Building to the north is the Chevy Chase Center. Properties across Western Avenue to the south are within the District of Columbia. They include the Mazza Gallerie on Wisconsin Avenue and a Lord & Taylor store to the west of Friendship Boulevard. Chevy Chase Pavilion is located directly across the intersection from the Property to the southeast. Across Friendship Boulevard to the west is the GEICO headquarters complex.

The proposed development includes 450,000 square feet of office, 300,000 square feet of retail, 300,000 square feet of residential (up to 275 units), an optional 40,000 square foot grocery store, a 20,425 gross square foot Community Center, and a parking facility (the "Project"). The Project also includes a public arts program, park space and other public use and amenity spaces.

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The Project is being developed pursuant to and in conformance with the Approved and Adopted Sector Plan for Friendship Heights approved before the Montgomery County Council in Resolution No. 13-1148 dated January 27, 1998 and adopted by the Board in March 1999 (the "Sector Plan"). The Project also is being developed pursuant to the approved Optional Method of Development Project Plan Application No. 9-99001A, approved by the Board by Opinion dated January 17, 2001 and pursuant to the approved Preliminary Plan of Subdivision Application No. 1-99030R, approved by the Board by Opinion dated January 23, 2001.

During the hearing, individuals and certain representatives of citizens' organizations testified as to several concerns regarding the Site Plan, including but not limited to comments related to streetscaping, the drop-off along Western Avenue and operational issues related to the Community Center. At the public hearing, the Board heard testimony, received evidence and gave careful consideration to the public hearing testimony, written testimony and evidence submitted in the record on the Application.

#### **DECISION OF THE BOARD:**

Having considered all the evidence presented and testimony taken, and for the reasons detailed below, the Montgomery County Planning Board **APPROVES** Site Plan #8-01010 which consists of 1,050,000 square feet of development consisting of 300,000 square feet of retail space, 450,000 square feet of office space, 300,000 square feet of residential (up to 275 units), a parking facility with 1,649 spaces as well as a 20,425 gross square foot Community Center and an optional 40,000 square foot grocery store, subject to the following conditions:

1. Standard Conditions dated October 10, 1995, Appendix A.
2. Conditions of MCDPS storm water management concept approval dated January 24, 2001.
3. Conditions of MNCPPC Transportation Planning Division memo dated April 19, 2001.
4. Conditions of MCDPS memo dated April 19, 2001.

#### **DESIGN CONDITIONS**

Prior to signature set approval of the site/landscape plans, the following revisions shall be made and/or information provided, for review and approval by Staff:

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5. Public Art Program:

- a. Extend the art program throughout the site including elements within the Major Public Park, Minor Park, the Friendship Boulevard stairway, and the Western Avenue steps;
- b. Increase the height and scale of the obelisk element in the South Courtyard;
- c. Provide a program concept for LED obelisk messaging content;
- d. Install seating at the fountain perimeter that provides views of the fountain through partially-open seat back;
- e. Include a vertical art element or equivalent at the Community Center entrance on the East-West Pedestrian Lane, to integrate the art program 3-dimensionally and provide a view from the North Courtyard;
- f. Relocate the vertical neon structure on Willard Avenue out of the ROW, per DPS recommendation.

6. Community Center

- a. Dedicate two loading/unloading parking spaces within the parking facility for the use of Community Center events; parking spaces shall be located close to elevators that provide convenient access to the center;
- b. Provide seating near the Community Center entrance on Friendship Boulevard;
- c. Integrate landscaping and public art into the Friendship Boulevard stair design;
- d. Provide landscaping at garage entrance near the stair retaining wall on Friendship Boulevard.

7. General Streetscape

- a. Provide street trees at 4" - 4.5" caliper at the time of planting;
- b. Provide the amended soil panel for all street trees, or soil panel acceptable to staff, including both tree rows on double-row streets, except where there are existing trees to be preserved;
- c. Provide Bethesda Streetscape Standard: brick paved cross-walks across all driveways (Friendship Boulevard garage entrances), and brick pave the handicap ramps, per MCDPS recommendation;
- d. Coordinate all streetscape elements for Wisconsin Avenue and Western Avenue with design development and site plan review of Chevy Chase Center (8-01013).



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8. Pedestrian Safety

- a. Eliminate the vehicular drop-off on Western Avenue to accommodate combined continuous pedestrian and bicycle pathway, subject to the approval of DCDPWT.

9. Streetscape: Wisconsin Avenue

- a. Show on signature set the relocated pedestrian walk across Wisconsin Avenue at Western Avenue to provide shortest possible route and use of the future median in Wisconsin Avenue, per Transportation Planning Division recommendation, subject to SHA approval;
- b. Provide financing mechanism to provide future street trees for the SHA median improvement; tree species and locations to be determined in coordination with SHA, DPWT, and Site Plan conditions for 8-01013 (Chevy Chase Center);
- c. Remove bicycle racks along Wisconsin Avenue to allow pedestrian crosswalk relocation and drop-off activity; relocate bike racks throughout the public plazas and provide bicycle storage;
- d. Relocate the existing bus stop approximately 112 feet to the north, per WMATA recommendation and MCDPWT approval;
- e. Relocate the historical marker and site it within the Metro Plaza, on the actual District of Columbia boundary line;
- f. Provide steps along store frontage with 6"/15"riser/tread dimensions, subject to SHA approval;
- g. Provide the seat wall in cast in place concrete at the northwest side of the Metro escalator.

10. Streetscape: Western Avenue

- a. Redesign streetscape to provide continuous 30' width, including planting panel along curb, 15' combined pedestrian/bike path, and the double row of street trees for the entire length of the block between Friendship Boulevard and Wisconsin Avenue (eliminating the vehicular drop-off subject to DPWT); provide two tree rows of Willow Oaks; separate the rows by a distance of 25 feet (pedestrian/bike path in between); stagger the inside row so that trees are planted on either side of the path at intervals of 30 feet; provide one additional tree in each tree row from that shown on the plans, subject to DCDPWT approval;
- b. Provide unified brick paving for the pedestrian/bike path, subject to DCDPWT

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approval;

- c. Retain the existing location for the bus stop and provide bus shelter (within 10 feet) per WMATA recommendation, subject to DCDPWT approval;
- d. Provide pedestrian activating façade design, such as windows and lighting, for Hecht's building and the outdoor terrace café;
- e. Preserve the three large Willow Oaks; include with the tree protection plan a sidewalk demolition plan based on an arborist's recommendation.

11. Streetscape: Friendship Boulevard

- a. Indicate dedicated lighting at street front entry to Community Center;
- b. Provide one additional street tree at the end of the street tree row at the corner of Western Avenue and Friendship Boulevard, subject to MCDPWT approval;
- c. Provide one additional street light, spacing lights every two trees, subject to MCDPWT approval.

12. Streetscape: Willard Avenue

- a. Provide brick sidewalk and crossings for continuous pedestrian passage through the island at the taxi stand within the ROW, per MCDPS recommendation;
- b. Provide brick paving in the Willard Avenue taxi stand vehicular lanes;
- c. Provide precast-concrete and/or brick facing for the facing/cheek walls at the café and the retaining walls of the steps; coordinate with art program materials;
- d. Relocate the western-most light pole at the corner of Willard and Friendship Boulevard to complement the light pole placement on Friendship Boulevard; add one additional street light along Willard Avenue, subject to MCDPWT approval.
- e. Remove curbing at the east end of the Old Willard ROW and provide flush transition between the ROW and the Wisconsin Avenue sidewalk, per MCDPS recommendation;
- f. Provide grading, paving, and landscaping improvements to the "old Willard ROW," so that the existing sidewalk (to be removed during construction) may be replaced by the County.

13. Housing

- a. In the event that DHCA approves a relocation of some of the required MPDUs off-site, Applicant will apply for an administrative amendment of Project Plan 9-99001A to change condition # 9. Applicant shall be permitted to reduce the percentage requirement of MPDUs from 15% to 12.5% if the requirements of

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Chapter 25A of the Code are revised without seeking an administrative amendment of Project Plan 9-99001A or this Site Plan approval.

14. Other

- a. Prior to building permit, provide a program for ensuring access to surrounding streets and residences with details regarding reconstruction of the streets and/or public utilities.
- b. Provide design and work with WMATA to install Metro escalator canopy subject to WMATA approval, or use a WMATA design if WMATA, Staff and Applicant deem such a design acceptable. Provide documentation of coordination with WMATA and submit drawings for the canopy for Staff approval via a supplemental signature set by the beginning of construction of Phase II if WMATA has made a determination regarding the canopy; complete installation of selected canopy concurrent with streetscape for Phase II.
- c. Designate the North-South Pedestrian Lane (covered arcade) and the elevators at the Community Center and the Willard Stairs as part of the Public Space allocation; the Lane and the elevators (subject, however, to public safety concerns) shall be accessible for public circulation at all times.

Applicant shall provide the following supplemental drawing information in the signature set submission:

15. a. Details, specifications, design dimensions, and/or materials
- i. Handrails, fencing, guard rails throughout;
  - ii. Planting urns and bases, tree boxes;
  - iii. Elevator doors at the Community Center, North and South Courtyards;
  - iv. North-South Pedestrian Arcade entrance structures;
  - v. Steps to garage at South Courtyard;
  - vi. Garage doors on Friendship Boulevard;
  - vii. Roof garden trellis and furnishings;
  - viii. Garage opening dimensions, north entrance on Friendship Boulevard;
  - ix. Footprint and dimensions for all signage structures;
  - x. Interior noise levels to be abated to 45 dBA.
- b. Landscaping elements
- i. Plantings for all boxes, planters, pergolas, trellis, roof garden throughout (excluding seasonal).

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- c. Lighting, Power, Signage
  - i. Performance specifications for all wall mounted exterior lighting on elevations;
  - ii. Roof lighting and parapet signage details, including lighting levels;
  - iii. Performance specifications for restaurant terrace lighting fixtures;
  - iv. Performance specifications for any supplemental store-front lighting;
  - v. Specifications for lighting at exterior public elevators;
  - vi. Specifications for exterior building lighting at garage entrances and garage stairwells;
  - vii. Garage lighting photometric plans;
  - viii. Power supply for Major Public Park events.
- d. Elevations and Illustrative Plans
  - i. Elevations of all streets, including pedestrian lanes, showing building heights, windows, door openings and lighting fixture heights;
  - ii. Elevations for Hecht's, showing steps, windows and doors shall be submitted for Staff review and approval either as part of the signature set or as a supplemental signature set prior to building permit.

## OTHER CONDITIONS OF APPROVAL

### 16. Transportation

- a. Submit a Traffic Mitigation Agreement with the Site Plan Enforcement Agreement;
- b. Reconstruct the west curb of Wisconsin Avenue between Willard Avenue and Western Avenue to provide for an exclusive right-turn lane onto westbound Western Avenue as part of Phase II of the Project;
- c. Provide for a minimum 25-foot right-of-way truncation at the corner of Wisconsin Avenue and Western Avenue as part of Phase II of the Project.

### 17. Maintenance

Provide plan showing connection to Metro, and boundaries for maintenance responsibilities.

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## COMMUNITY CENTER

18. The Community Center is intended to be an amenity to serve the public and to assure full public use and access. The Site Plan Enforcement Agreement shall require the Applicant to lease the Community Center to M-NCPPC. Based on this leasehold arrangement, the following conditions shall apply to the Community Center:

- a. The Applicant shall construct on the Property a Community Center of approximately 20,425 gross square feet, which is approximately 3,200 square feet larger than required by the Project Plan approval.
- b. The Applicant, its heirs/successors and assigns, shall be responsible for ensuring that the proposed Community Center is properly maintained structurally and available for its intended uses, consistent with the Sector Plan guidelines and the conditions of the Project Plan and Site Plan, unless amendments to the Project Plan and Site Plan are approved by the Planning Board.
- c. The Applicant shall enter into a lease agreement with the M-NCPPC that defines the arrangements for managing, programming and maintaining the Community Center. It is the intention of both the Applicant and the M-NCPPC to finalize the terms of the lease within one year from the execution date of the Site Plan Enforcement Agreement. However, notwithstanding the foregoing, this condition or the absence of an operator shall not interfere with, submission and receipt of any building permits, use and occupancy permits or any other permits and/or approvals for the entire Project, including the Community Center.

If no administrative appeal is timely filed, this Site Plan shall remain valid for as long as Preliminary Plan No. 1-99030R is valid, as provided in Section 59-D-3.8 of the Zoning Ordinance. Once the Property is recorded, this Site Plan shall remain valid until the expiration of the Project's APFO approval, also as provided in Section 59-D-3.8 of the Zoning Ordinance.



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## **DISCUSSION:**

At the public hearing, the Board heard testimony from Staff, the Applicant, and neighboring property owners and representative of various community groups. Staff recommended approval of the Site Plan, subject to several conditions.

Staff described for the Board its efforts, and those of the Applicant, in upgrading the streetscape around the Property. Moreover, Staff described the features of the proposed Property itself, including intended points of access, configuration and location of buildings on the Property, the planned parking facility for the Property, truck loading/unloading configurations, pedestrian circulation, and issues related to bikeways and sidewalks.

During the hearing, a number of issues were raised regarding the Site Plan, including comments related to streetscaping, the existence of a drop-off along Western Avenue, pedestrian access and safety and operational issues for the Community Center. The Board heard testimony, received evidence and gave careful consideration to the public hearing testimony, written testimony and evidence submitted in the record on the Application. Some of the issues raised and addressed as part of the testimony included:

### **A. Size and Management of the Community Center**

Certain individuals raised concerns about the size and management of the Community Center. Some testified that the Community Center was not large enough to accommodate the prototypical Montgomery County facility. Others testified that the Community Center was too large for the immediate vicinity and would constitute a regional draw. In response to these concerns, the Applicant testified and Staff confirmed that the Applicant and Staff devoted considerable effort to address issues and concerns raised by the Board as part of the review for Project Plan No 9-99001A by reviewing the program space and operations of the Community Center to ensure public accessibility and affordability and to meet community needs. With citizen, Staff and Applicant input to the process, the revised design of the Community Center that was presented to the Board proposed an increase in the size of the Community Center by approximately 3,200 gross square feet, from the 17,200 gross square feet approved as part of Project Plan No. 9-99001A to 20,425 gross square feet. The Board unanimously concurred that the Applicant had accomplished the goal of increasing the size of the Community Center and thus approved the size of the Community Center at 20,425 gross square feet. After considerable discussion regarding operational and management issues related to the

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Community Center, the Board concluded that the Applicant should be required to lease the Community Center to M-NCPPC and that M-NCPPC would assume the responsibility for securing an operator for the facility. The Board reached this decision, in large part, recognizing that the responsibility for insuring public accessibility to the Community Center and thus selecting an operator rested with the government and not with the Applicant. In reaching this decision, the Board made clear that negotiating the terms of the lease with the Applicant and selecting an operator for the Community Center would not interfere with, delay or prohibit the submission and receipt of any building permits, use and occupancy permits or any other permits and/or approvals for the entire Project, including the Community Center.

#### **B. Vehicular Drop-Off and the Pedestrian Promenade on Western Avenue**

As part of the Application, the Applicant proposed a double-lane vehicular drop-off for the Western Avenue curb near the South Courtyard Plaza. This drop-off would be predominantly within the District of Columbia public right-of-way for Western Avenue and therefore, under the jurisdiction of the District of Columbia. Staff recommended eliminating the drop-off as a matter of pedestrian and bicycle safety to achieve the goals of the Sector Plan regarding the pedestrian promenade. Staff further recommended elimination of the drop-off to achieve the goals of the Sector Plan in providing the continuous pedestrian promenade on Western Avenue, the finding of which is required for the retail overlay zone.

Staff from the Maryland Department of Planning testified in support of the Project and also supported Staff's position to eliminate the drop-off along Western Avenue. Staff also presented letters from the District of Columbia Office of Planning and the District of Columbia Department of Transportation, both of which supported eliminating the drop-off, in addition to letters from the M-NCPPC Division of Historic Preservation and the M-NCCP Community-Based Planning Division. The Applicant testified in favor of the drop-off. The Applicant also submitted a letter from the Deputy Director of the District of Columbia Department of Transportation, informing the Applicant that a final decision on the drop-off would be rendered by the District of Columbia as part of the District permitting process. Some citizens supported eliminating the drop-off as a means of improving the pedestrian safety along Western Avenue. Another citizen spoke in favor of the drop-off, particularly since the drop-off along Wisconsin Avenue would be eliminated pursuant to the recommendations contained in the Sector Plan. Ultimately, the Board unanimously agreed to recommend the elimination of the drop-off, providing written documentation of its decision to the District of Columbia's DPWT and the Office of Planning to recommend to DCDPWT that the Project should not contain a drop-off on Western Avenue, however, recognizing that the District of Columbia would make the ultimate decision.

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**C. Other Issues Discussed**

The Board received testimony and considered other pertinent issues related to the Site Plan. Staff and the Applicant provided the Board with detailed information regarding the Applicant's public arts program that was enthusiastically approved by the Arts Council. The Board also heard testimony regarding the adequacy of the Metro entrance at the intersection of Wisconsin Avenue and Western Avenue on the Property. After due consideration, the Board concluded that access to Metro from the Property was adequate and that it was beyond the scope of the Project to require the Applicant to improve that point of access. The Board also heard testimony regarding streetscaping and bikeways, landscaping, public use and amenity space, utilities, and parking and concurred with the recommendations contained in the Staff Report, Revised Memorandum and various conditions of approval.

**FINDINGS** for Site Plan Review pursuant to Sections 59-D-3.1 and 59-D-3.4 of the Zoning Ordinance:

At the public hearing, the Board considered evidence and heard testimony on Site Plan No. 8-01010. Staff recommended approval of the Site Plan, subject to certain conditions. The Board finds the Application is consistent with approved Project Plan No. 9-99001A approved by the Board by its opinion dated January 17, 2001 and with Preliminary Plan of Subdivision No. 1-99030A, approved by the Board by Opinion dated January 23, 2001. The Application proposes development of the Property with a mix of uses at densities and locations which are consistent with the mix of uses and densities approved by the Board as a part of Project Plan No. 9-99001A and Preliminary Plan of Subdivision No. 1-99030R.

In order to approve a Site Plan, the Planning Board must make the following findings:

1. The site plan is consistent with an approved development plan or a project plan for the optional method of development, if required.
2. The site plan meets all of the requirements of the zone in which it is located.
3. The locations of buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation uses are adequate safe, and efficient.

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4. Each structure and use is compatible with other uses and other site plans and existing and proposed adjacent development.

5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation and Chapter 19 regarding water resource protection.

After a review and consideration of the evidence of record, including testimony given at the public hearing and on the Staff Report and Revised Memorandum, which is made a part hereof, the Board expressly finds:

1. The Site Plan is consistent with the approved development plan or project plan. More specifically, the Site Plan is consistent with Project Plan No. 9-00001A and Preliminary Plan of Subdivision No. 1-99030R. Several elements of the Project have been improved or enhanced from the prior approvals.

2. The Site Plan meets all of the requirements of the CBD-2 Zone and the Chevy Chase Comparison Retail Overlay Zone, in accordance with the Project Data Table and Finding #1 above:

Development Standard	Permitted/Req'd CBD-2/Overlay Zone/Sector Plan	9-99001A Project Plan	8-01010 Proposed Site Plan
Gross Lot Area	22,000 min	389,104 sf	389,104 sf
Net Lot Area	NA	347,173 sf	346,886 sf
Floor Area Ratio**	2.70	2.70	2.70
<b>Gross Floor Area</b>			
Office * #	300,000 sf	450,000 sf	450,000 sf
Retail (general) * #	450,000 sf	120,000 sf	120,000 sf
Hecht's Department Store *		180,000 sf	180,000 sf
Housing & Hotel	300,000 sf	300,000 sf	300,000 sf
<b>Total FAR sf</b>	<b>1,050,000 sf</b>	<b>1,050,000 sf</b>	<b>1,050,000 sf</b>
Grocery **	40,000 sf	40,000 sf	Optional amendment
Community Center **	12,000 sf	17,200 sf	20,425 sf
<b>Total Gross sf</b>	<b>1,102,000 sf</b>	<b>1,107,200 sf</b>	<b>1,070,425 sf</b>
<b>Density</b> (dwellings/ac)	200 units/ac	34.5 units/ac	34.5 units/ac
Dwelling Units:			<b>275 units (max.)</b>
Studio			30 units

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1-Bedroom	—	—	138 units
2-Bedroom	—	—	83 units
3-Bedroom	—	—	3 units
MPDU Studio	—	—	11 units
MPDU 1-Bedroom	—	—	10 units
<b>Green Space %</b>		14% (48,903 sf)	18.4% (63,837 sf)
<b>Public Use Space</b>			
(%net lot)	20% (69,260 sf)	50.1% (170,357 sf)	51.5% (178,960 sf)
On-Site		37.5% (126,327 sf)	38.3% (133,015 sf)
Off-Site		12.65% (44,020 sf)	13.2% (45,945 sf)
<b>Building Height</b>			
Office Buildings	143'	143'	143'
Housing	143'	117'	120'-2"
Hecht's	143'	54'	54'
Retail	143'	32'	32'
Community Center	143'	49'	49'
<b>Setbacks (from existing curb)</b>			
			40' (based on curb location before Wisconsin Avenue improvement)
Wisconsin Avenue	40'	40'	
Western Avenue	40'	40'	40'
Friendship Boulevard	20'	20'	20'
Willard Avenue	30'	30'	30'

\* Total of these uses not to exceed 750,000 sf per Sector Plan

\*\* Community Center and grocery store are excluded from FAR limit

# Applicant proposes alternate mix of retail/office to respond to market conditions, for 8,971 sf flexible office/retail interchangeable space.

The Board also finds that the parking requirements of the Project based on the mixed-use nature of the development and the parking analysis contained in the Revised Memorandum meets the requirements of the Project and Zoning Ordinance as set forth in Division 59-E of the Zoning Ordinance. Furthermore, for purposes of parking, the Board finds that restaurant uses may be treated as retail for purposes of the parking



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calculation. In making this finding, the Board recognizes that the Applicant has submitted an Alternate Managed Scheme to incorporate additional attendant parking for restaurant uses, if deemed necessary. The Alternate Managed Scheme shall be included as part of the Site Plan Signature Set.

3. The Board further finds the locations of the buildings and structures, the open spaces, the landscaping, recreational facilities, and the pedestrian and vehicular circulation systems are adequate, safe and efficient.

#### Location of Buildings

The Project consists of six distinct buildings: two office towers atop one or two-story retail, the new Hecht's building, a smaller retail building, the Community Center, and the apartment building.

The Board finds that the buildings, complex in their relationships, are arranged on the Property with maximum efficiency to enhance the function, visual effect, and accessibility of each use. The placement of the retail and restaurants exclusively along pedestrian intensive areas encourages activation of the streets, both internally and externally to the Property. The relationship of the two office buildings placed atop the retail at the site center, and across the North-South Arcade from each other provides a balance for the site's massing and a readily-understood pattern for the visitor navigating the Property. The location of the housing at the northwest corner uses the Property's natural topography effectively, creating the opportunity for the building to frame the major park, face the surrounding tall apartment houses, and at the same time create the urban interior (pedestrian) street that provides a critical linkage between the buildings. The placement of the Community Center on the western edge works successfully to define the new Friendship Boulevard, imparting an identifiable character to the street.

The Sector Plan urban design principles include concentrating the highest density and heights in the Metro Core and stepping down toward the surrounding neighborhoods. The Design Guidelines for the Hecht's site express this principle in relation to the height of the existing CBD-1 Zone (90 feet), recommending that commercial buildings with heights exceeding that existing standard be located on the portion of the site that is closer to the Metro stop and part of the proposed Metro Core. In conformance with the Sector Plan, the board finds that the two 143-foot office buildings proposed in the Site Plan are in the Metro Core area.

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The Board finds that the Sector Plan Design Guidelines also reflect the assumption made during the Plan process that the residential component would fit most naturally on the portion of the site that is closest to the high-rise residential buildings in the Village of Friendship Heights. The Sector Plan does not place a limit on the height of a residential building. The apartment building proposed by the Site Plan is located next to the major public park and across Willard Avenue from the Village of Friendship Heights.

#### Open Spaces

The Board finds that the open space provided exceeds the requirements of the zone. [See Data Table.] The open space consists of the major park, minor park, public plazas, the Community Center porch, and the internal pedestrian lanes. The open spaces throughout the Property provide a critical contrast to the placement of the buildings---the variety in the scale, size, solar orientation, character, and intended activity of the spaces provides an especially effective component of the Property's successful assembly.

Storm water quality and quantity control facilities are located underground at the major park and the minor park.

#### Landscaping and Lighting

The major park is intended to provide a gentle refuge from the surrounding urban environment. The design concept treats the triangular space as three connected "rooms" for a variety of visitors. The landscaping is presented as a perimeter envelope of trees and graduated plantings and ground cover that define each room yet allow privacy or participation. An interesting variety of tree species will provide attractive sitting areas, both sunny and shady, and a sense of protection from the nearby traffic. The perimeter of trees opens for an entrance on each side of the park and in front of the housing entrance.

The driveway lane and sidewalks in front of the housing are landscaped with ornamental trees and ground cover on the series of terraces. The south side of the housing, facing the East-West Lane, is landscaped as an allee, with rows of trees that break at the open courtyard along side of the Community Center.

All of the bounding streets will be landscaped with the Bethesda Streetscape standard of brick sidewalks, street trees---Willow Oaks on Western and Willard Avenues, and Green Ash on Friendship Boulevard, and London Plane trees on Wisconsin Avenue.

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Lighting for the streetscape consists of Washington Globe fixtures on all the streets; Wisconsin Avenue will feature the double lantern with colorful banners. Banners also may be included on the other streets confronting the Property at the option of the Applicant. Lighting will be used throughout the Property to provide direction and safety by installing such elements as hanging pendant fixtures within the pedestrian arcade and attractive globe lights leading on axis to the Hecht's main entrance and along the interior pedestrian lanes. Ground accent lighting will be used as part of the landscaping treatment.

### Recreation

The Board finds that the Project meets the requirements for providing adequate, efficient recreation facilities for the residents of the apartment house. The plan features an open play area in the major park, a pedestrian system and streetscape, numerous sitting areas, and an indoor fitness room and library/community room within the apartment building. The adjacent Community Center and gymnasium have not been included in assessing the recreation needs of the residents; however, the Community Center will offer recreation opportunities above the requirements that are provided for.

### Vehicular and Pedestrian Circulation

#### Vehicles

The Board finds that the vehicular circulation is thoughtfully and efficiently arranged. The design of the parking structure, with driveways that lead directly to separate levels, controls the traffic flow, distributes activity throughout the facility, and provides safe and secure access for shoppers, workers, and residents. The short term parking spaces within the parking facility provide a critical amenity in an urban area, and will become a highly used feature for daily Metro drop-off and pick-up.

#### Pedestrians

The Board finds that pedestrian circulation has been thoughtfully designed through the Property. The interior pedestrian walks, one with covering arcade, offer interesting and attractive routes through the block. The organization of the interior "streets," open spaces, and the contrasting solidity of the buildings creates a strong urban pattern that will characterize this portion of the CBD. The Board concurs with Staff that the vehicular drop-off on Western Avenue should be eliminated to achieve adequate and safe pedestrian and bicycle circulation, thus removing pedestrian/vehicular conflict, including (1) east-west pedestrian movement on Western Avenue (2) pedestrian movement from the metro to

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retail on Western; (3) movement from the plaza crossing steps; (4) eastward and westward bicycle routing; (5) especially north-south movement at crosswalks tranversing Western Avenue.

4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.

The Board finds that the buildings are expertly sited, and work together to solve the challenges of the site and the existing conditions and to respond compatibly to the unique context of the surrounding area. The dense mix of office towers, retail, the signature department store, the apartment building, and the Community Center offers substantial potential to achieve the Sector Plan goals of a mixed-use, transit serviceable, diverse, CBD community compatible with its adjacent neighborhoods. The Board further finds that by conforming to the building height limitations set forth in the underlying zones, the Project ensures compatibility with the adjacent properties.

5. The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation and Chapter 19 of the Code regarding water resource protection.

The Board finds that the Property meets the forest conservation requirements of Chapter 22A as is evidenced by the approval of a preliminary and final forest conservation plan. The Board also finds that the Project provides adequate control of stormwater runoff from the Property and thus meets the requirements of Chapter 19 of the Code. The protection of water resources is accomplished through the provision of on-site water quantity controls via underground storage and on-site water quality control via CSF Stormwater Treatment System and/or structural filters. The Project also provides erosion and sediment control measures to contain excavated material and to prevent runoff into the public rights-of-way and storm drain system during construction in accordance with the requirements of Chapter 19 of the Code.

In order to approve the Site Plan, the Board also must make the following findings related to the Chevy Chase Comparison Retail Overlay Zone:

1. The Site Plan does not conflict with the recommendation in the applicable master or sector plan.

The Board finds that the Site Plan meets all of the recommendations contained in the Sector Plan for the Property. The total development is limited to the amount set forth in the Sector Plan and the mix of uses allowed within the total development conforms to the

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recommendations of the Sector Plan.

2. The Site Plan meets all the requirements of the overlay zone as well as the applicable requirements of the underlying zone.

The Board finds that the Site Plan meets all the requirements of the overlay zone as well as the applicable requirements of the underlying CBD-2 zone as detailed in this opinion [see Data Table].

3. Each structure and use is compatible with surrounding uses and other site plans for both existing and proposed adjacent development

The Board finds that each structure and use is compatible with the surrounding uses and other site plans for both existing and proposed adjacent development.



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## **APPENDIX A**

### **STANDARD CONDITIONS OF APPROVAL DATED 10-10-95 (as applicable):**

1. Submit a Site Plan Enforcement Agreement and Development Program, for review and approval prior to approval of the signature set as follows:
  - a. Development Program to include a phasing schedule as follows:
    - 1) Street tree planting must progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
    - 2) Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development.
    - 3) Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
    - 4) Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
    - 5) Clearing and grading to correspond to the construction phasing, to minimize soil erosion;
    - 6) Coordination of each section of the development and roads;
    - 7) Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.
  - b. Site Plan Enforcement Agreement to delineate Transportation Management Program, Agreement to lease the Community Center to M-NCPPC and other conditions of approval or staff correspondence.
2. Signature set of site, landscape/lighting, forest conservation and sediment and erosion control plans to include for staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
  - a. Limits of disturbance;
  - b. Methods and location of tree protection;
  - c. Conditions of DPS Stormwater Management Concept approval (waiver) letter dated January 24, 2001;

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- d. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading;
  - e. The development program inspection schedule.
  - f. Street trees along all public streets;
  - g. Certification from a professional acoustical engineer that the building shell will attenuate current noise levels to an interior level not to exceed 45 dBA Ldn;
  - h. Protection of the historic resource, if any.
3. No clearing or grading prior to M-NCPPC approval of signature set of plans.

G:\opinions\SP8-01010 Wisconsin Place (Hecht's)MR:tk



THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

## MONTGOMERY COUNTY PLANNING BOARD OPINION

Project Plan Review No. 9-99001B, Preliminary Plan Review No. 1-99030B and Site Plan No. 8-01010A

Project: Wisconsin Place (Formerly Friendship Place)

Date of Hearing: April 10, 2003

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Action: **PROJECT PLAN: APPROVAL, SUBJECT TO CONDITIONS.** Motion was made by Commissioner Wellington, seconded by Commissioner Bryant, with a vote of 5-0, Commissioners Berlage, Robinson, Bryant, Perdue and Wellington voting in favor.

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Action: **PRELIMINARY PLAN WITH WAIVER: APPROVAL, SUBJECT TO CONDITIONS.** Motion was made by Commissioner Wellington, seconded by Commissioner Bryant, with a vote of 5-0, Commissioners Berlage, Robinson, Bryant, Perdue and Wellington voting in favor.

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Action: **SITE PLAN: APPROVAL, SUBJECT TO CONDITIONS.** Motion was made by Commissioner Wellington, seconded by Commissioner Bryant, with a vote of 5-0, Commissioners Berlage, Robinson, Bryant, Perdue and Wellington voting in favor.

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The date of this written opinion is July 22, 2003 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before August 21, 2003 (which is thirty days from the date of this written opinion).

Preliminary Plan 1-99030B will remain valid for thirty-seven (37) months from the date of mailing of this Planning Board Opinion. Prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded or a request for an extension must be filed. Site Plan 8-01010A shall remain valid for as long as Preliminary Plan 1-99030B is valid, as provided in Section 59-D-3.8

of the Zoning Ordinance. Once the Property is recorded, Site Plan 8-01010A shall remain valid until the expiration of the Project's APFO approval, also as provided in Section 59-D-3.8 of the Zoning Ordinance. Project Plan 9-99001B continues to be validated as a result of the approval of the initial Site Plan and this subsequent amendment thereto.

The Adequate Public Facility (APF) Review for Preliminary Plan 1-90030B will remain valid for one hundred forty-five (145) months from the date of mailing of this Planning Board Opinion.

## **I. INTRODUCTION**

On December 23, 2002, New England Development and The May Department Stores Company (collectively, the "Applicant") submitted applications for approval of amendments to previously approved project and preliminary plans; and, subsequently, on February 4, 2003, submitted an application for approval of amendments to a previously approved site plan for approximately 8 acres of land in the CBD-2 zone within the Chevy Chase Neighborhood Comparison Retail Overlay Zone. The applications were designated as Project Plan No. 9-99001B ("Project Plan"), Preliminary Plan No. 1-99030B ("Preliminary Plan") and Site Plan No. 8-01010A ("Site Plan")(collectively referred to as "Applications"). The Applicant seeks to subdivide the property into one or more lot(s) for the construction of a mixed-use development, which shall include retail and restaurant space, a grocery store, office, and up to 433 residential housing units, a 20,500 gross square foot Community Center, amenities, exterior public use spaces and 1749 parking spaces.

Following due notice, the Montgomery County Planning Board ("Planning Board" or "Board") held a public hearing to consider all three Applications on April 10, 2003, in accordance with the requirements of the Md. Code Ann., Art. 28 ("Regional District Act"), Montgomery County Code, Chapter 50 ("Subdivision Regulations"), Montgomery County Code, Chapter 59 ("Zoning Ordinance"), and the Planning Board's Rules of Procedure. In accordance with Section 50-34 of the Subdivision Regulations and Divisions 59-D-2 and 59-D-3 of the Zoning Ordinance, the Applications included all of the information required for the Planning Board's consideration of the Project Plan, Preliminary Plan and Site Plan.

At the public hearing, the Planning Board considered the Applications concurrently, listening to testimony, and receiving evidence into the record from its expert technical staff ("Staff"); Steven A. Robins, Esquire, David Gilmore and Robert Slattery for the Applicant; Julian Mansfield, Village Manager for the Village of Friendship Heights and Cleonice Tavani of the Friendship Heights Village Civic Association

testifying in support of the Applications; Robert Cope and David Scribner, of the Citizens Coordinating Committee for Friendship Heights generally testifying in support of the Applications, noting certain concerns expressed below; Russ Maisch, Helen Devay, Gail Hill, Henry Kahn, Charles Kaufman and Ignacio Gomez, all of the Kenwood Condominium, generally limiting their testimony to expressed concerns regarding the proposed road improvements at the intersection of Little Falls Parkway and River Road; and, in opposition to certain aspects of the Applications, James Norton and Mohammadali Sami, representing the Coalition for a Better Community Center ("CBCC"), and testifying on issues related to the size and location of the Community Center and Major Public Park. In presenting the Applications to the Planning Board, Staff prepared packets of information, including a Staff Report dated March 25, 2003, with revised conditions dated April 10, 2003, which contained Staff's expert analysis of the proposal on the Applications, and recommendations of the Transportation Planning Division, contained in a Memorandum dated March 25, 2003 and revised April 3, 2003 ("Transportation Memorandum") and recommendations of the Research Division, contained in a Memorandum dated April 3, 2003 ("Research Memorandum"). The Applicant and various citizens and civic group representatives submitted documents, in advance of and at the public hearing, including letters and memoranda, concerning the Applications. The Board hereby incorporates all of the information by reference and makes it a part hereof.

Based upon testimony and evidence presented, which includes, without limitation, testimony heard and evidence taken at the public hearing; the Staff Report; the Transportation Memorandum, the Research Memorandum; memoranda and recommendations from County Agencies, including the Montgomery County Department of Public Works and Transportation ("MCDPWT") and the Montgomery County Department of Permitting Services ("MCDPS"); and other documents and correspondence received into the record, the Planning Board finds Project Plan 9-99001B to be in accordance with the purposes and requirements of the Zoning Ordinance, Preliminary Plan 1-99030B to be in accordance with the purposes and requirements of the Subdivision Regulations and Site Plan 8-01010 to be in accordance with the purposes and requirements of the Zoning Ordinance. Therefore, the Planning Board approves Project Plan No. 9-99001B, Preliminary Plan 1-99030B (including a waiver of Section 50-20(b) of the Subdivision Regulations), and Site Plan 8-01010A based on the Findings detailed below and subject to the conditions respectively listed at the end of the Project Plan, Preliminary Plan and Site Plan sections of this Opinion.

## **II. THE SUBJECT PROPERTY**

The Property that is the subject of the Applications (the "Property") encompasses approximately 8 acres in the CBD-2 Zone. The Property also is subject to the Chevy



Chase Comparison Retail Overlay Zone. The Property is located within the Friendship Heights Central Business District (the "CBD") and is bounded by Wisconsin Avenue to the east, Western Avenue to the south, Willard Avenue to the north and Friendship Boulevard to the west. A Hecht's department store and a two-level parking facility currently are located on the Property. Across Willard Avenue to the north of the Property are a number of CBD-1 zoned commercial uses. Also across Willard Avenue is the Chase Tower project (formerly known as the Barlow project). The Willoughby Condominium is located to the northwest of the Property. There are two small parcels between the northeast corner of the Property and the intersection of Willard Avenue and Wisconsin Avenue. They are developed with two, two-story commercial buildings. The property across Wisconsin Avenue to the east is the 12-story Chevy Chase Metro Building that is built on the air rights over the Metro bus terminal. Across Wisconsin Circle from the Chevy Chase Metro Building to the north is the Chevy Chase Center. Properties across Western Avenue to the south are within the District of Columbia. They include the Mazza Gallerie on Wisconsin Avenue and a Lord & Taylor store to the west of Friendship Boulevard. Chevy Chase Pavilion is located directly across the intersection from the Property to the southeast. Across Friendship Boulevard to the west is the GEICO headquarters complex.

The Property is located within the boundaries of the Approved and Adopted Sector Plan for Friendship Heights, approved before the Montgomery County Council in Resolution No. 13-1148, dated January 27, 1998, and adopted by the Board in March 1999 (the "Sector Plan"). The Sector Plan includes recommendations specific to the Property, which is identified therein as "Hecht's Site: Parcel 2".

There are no existing on-site streams, swales, wetlands or other hydrologic features on the Property. The Property is generally impervious. There are no historic or culturally significant sites or buildings on or within 100 feet of the Property. There also are no rare, threatened or endangered species known to exist on the Property.

During the hearing, individuals and certain representatives of citizens' organizations testified as to several matters regarding the Applications, including but not limited to comments related to streetscaping, the additional residential component, the grocery store, the location of a potential drop-off along Wisconsin Avenue and the size, location and operational issues related to the Community Center. At the public hearing, the Planning Board heard testimony, received evidence and gave careful consideration to the public hearing testimony, written testimony and evidence submitted in the record on the Applications.

### **III. PROPOSED DEVELOPMENT**

The proposed amendments of the Wisconsin Place Project Plan, Preliminary Plan and Site Plan maintain the approved development square footage total while

rearranging and resizing the uses in the mix. The primary purpose for the proposed amendments is to increase the proportion of housing within the development. The additional housing will augment the previously approved housing by increasing the square footage from 300,000 to 480,000 square feet (from 275 units to 433 units). The Applications delete one of the two office buildings from the approved plan, reducing the office space from 450,000 square feet to 305,000 square feet; retain the new 180,000 square foot Hecht's department store; and reduce the storefront retail from 120,000 square feet to 85,000 square feet. The underground parking garage will be increased from 1,649 spaces to 1,749 spaces, with the addition of a vehicular entrance to the garage to serve the grocery store and office building. Three acres will be used as outdoor public spaces, which include two parks, three internal courtyards, a vehicular drop-off, and pedestrian ways. In addition, the Applicant will provide streetscape improvements on all bounding streets, a short-term parking facility, a taxi drop-off, the curb relocation for the street widening on Wisconsin Avenue and a Metro station plaza. The Community Center will continue to be the major public amenity feature. The proposed development of the Property includes the following components:

- 265,000 square feet of retail space replacing the existing 176,188 square-foot Hecht's building.
- 305,000 square feet of office space.
- Approximately 50,000 square foot grocery store, 40,000 square feet of which is not counted toward the density cap on the Property.
- 480,000 square feet of residential space, which will consist of 433 high-rise apartment dwelling units. 28 Moderately Priced Dwelling Units ("MPDU") are to be provided on site, within the building.
- A below-grade parking structure, providing 1,749 parking spaces.
- A 20,500 gross square foot Community Center.

#### **IV. THE PROJECT PLAN**

Pursuant to Section 59-D-2.4 (Action by the Planning Board) of the Montgomery County Zoning Ordinance, in reaching its decision, the Board must make certain determinations and findings. At the public hearing, the Board considered evidence and heard testimony from Staff, the Applicant and neighboring property owners and

representatives of various community groups and associations on Project Plan No. 9-99001B. Staff recommended approval of the Project Plan subject to certain conditions.

Based on the testimony and evidence presented and the Staff Report and other materials, which is made a part hereof, and pursuant to Section 59-D-2.42 of the Zoning Ordinance, the Board expressly finds with respect to the Project Plan component of the Application as follows:

**a. The Application, as conditioned, would comply with all of the intents and requirements of the zone.**

The Intent of the CBD Zones (Section 59-C-6.212 of the Zoning Ordinance)

1. *"To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the site plan or combined urban renewal project plan is approved on review by the Planning Board."*

The proposed development uses the optional method of development, which permits an increase in density and building height, as recommended by the Friendship Heights Sector Plan. The Board finds that the Application is in conformance with the Sector Plan as described in Finding (b) below and adopts the reasoning set forth in the Staff Report as a basis for its finding.

2. *"To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents."*

The Board finds that the Application proposes a mix of uses that reflects the needs of the housing, office, and retail market in this area, and also provides a Community Center for the residents, shoppers, and workers.

3. *"To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas."*

The Application proposes three high-rise buildings located near either the center of the Property or the large park. The lower masses of the retail buildings provide

a transition from the tall buildings to the streets and adjacent areas. They also form a series of public spaces of different character and functions. Connections between these spaces will encourage pedestrian circulation through the development and along the surrounding streets. The Application improves the project's relationship to the uses across Willard Avenue by increasing the street oriented uses, which are directly accessible from the sidewalk along Willard Avenue. The Board finds that the project will produce a desirable relationship between the project and the other buildings within the central business district. The Board notes that there was virtually no negative testimony regarding the character of the project or its compatibility with the surrounding buildings.

4. *"To promote the effective use of transit facilities in the central business district and pedestrian access thereto."*

The Board finds that the higher development density and the increase in residential units permitted by the optional method of development take full advantage of the Metro station's immediate proximity. The Board also finds that the proposed Metro Plaza, wide sidewalks along the adjacent streets and the internal pedestrian circulation pattern and associated streetscape will create a walking environment between the Metro station and the adjacent neighborhoods which will optimize use of the Metro by visitors and residents alike.

5. *"To promote improved pedestrian and vehicular circulation."*

The Application separates the on-site pedestrian movement from vehicular circulation. The Property is bisected by pedestrian lanes, which make it easy for people to penetrate the Property. All of the loading and parking, with the exception of the short-term parking in front of the Housing building will be located underground with four main vehicular entry points on Friendship Boulevard and Willard Avenue. The Board finds that the Application promotes improved pedestrian and vehicular circulation.

6. *"To assist in the development of adequate residential areas for people with a range of different incomes."*

The Board finds that the project assists in promoting adequate residential areas for people with a wide range of incomes by providing multifamily housing units. The Application increases the number of multifamily dwelling units previously approved from 275 to 433. The Applicant will provide 28 MPDUs on site and the remaining MPDUs will be addressed pursuant to the Alternative Compliance Agreement between the Applicant and the Department of Housing and Community Affairs ("DHCA") and pursuant to Chapter 25A of the Code.

Elizabeth Davidson, Director of the DHCA, has stated that her organization "will allocate the payment made by the Developer to affordable housing opportunities either within Friendship Heights or in adjacent planning areas . . . ."<sup>1</sup>

7. *"To encourage land assembly and the most desirable use of land in accordance with a sector plan."*

The Board finds that the Application incorporates many elements of the Sector Plan Concept including the creation of a hub of activity near the Metro, part of a new Town Center; improved Metro entrances; a Major Public Park, a grocery store, Community Center, and pedestrian and bicycle circulation.

Additional Intent of the CBD-2 Zone (Section 59-C-6.213 (b)(c) of the Zoning Ordinance)

*"To foster and promote the orderly development of the Central Business Districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable urban environment."*

The Board finds that the proposed mixed-use development, which includes office, retail, housing, a grocery store and public amenities (including the Community Center), will provide opportunities for recreation activities and social event for the citizens in the surrounding communities. The Board also finds that the development will further enhance the vitality of the Friendship Heights Central Business District core area. The public spaces, including, but not limited to the Community Center, will create additional recreational opportunities and facilities for the citizens in the surrounding communities, which is highly desirable.

*"To provide a density and intensity of development which will permit an appropriate transition from the cores of central business districts to the less dense peripheral areas within and adjacent to the districts"*

The Property is surrounded by a number of existing and proposed high-rise developments. The high-rise office tower will be located at the Wisconsin Avenue street front. The Housing buildings will be located within the northwest quadrant of the Property. The placement of the buildings to carefully mediate the site topography creates an appropriate transition in massing from the main street of Wisconsin Avenue westward, balanced by open space and public amenities

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<sup>1</sup> See Letter from Elizabeth B. Davidson, Director, DHCA to Derick Berlage, Chairman, Planning Board (Apr. 9, 2003).



such as the Willard Avenue grocery store and taxi stand. The Metro Plaza and the South Courtyard will also serve as both transitions and links to surrounding commercial development. The Board finds that the development is designed in such a way as to permit an appropriate transition from the cores of the Central Business District to the less dense peripheral areas within and adjacent to the districts. The Board notes that the project is located in the heart of the central business district, directly over the Metro station and away from the single-family homes located on the periphery of the central business district.

*"To provide an incentive for the development of residential uses to meet the needs of those employed within the central business districts and those who will be able to use the district transit facilities to travel to and from places of employment."*

The Housing development proposes 433 multifamily housing units and the Board find that this satisfies this intent. The project's proposed residential facility will increase the housing supply for those employed within the central business district and those who will be able to use the district transit facilities to travel to and from places of employment.

#### Requirements of the CBD-2 Zone

The Board expressly finds that the project, subject to the conditions listed below, conforms to the development standards for the optional method of development as set forth in Section 59-C-6.23 of the Zoning Ordinance and those contained in the Sector Plan and hereby adopts the Project Data Table as set forth below and as contained in the Staff Report.

#### The Purpose of the Chevy Chase Comparison Retail Overlay Zone (Section 59-C-18.16 of the Zoning Ordinance)

1. Provide an appropriate scale of development and mix of retail, service, and residential uses within the Friendship Heights Central Business District.
2. Regulate retail development to preserve a variety of retail uses and services in the Friendship Heights Central Business District to meet the needs of workers, shoppers, and residents.
3. Encourage the use of the optional method of development and the provision of street-oriented retail uses to achieve the goals of the sector plan.

The Planning Board finds that the project meets all of the purposes of the Chevy Chase Comparison Retail Overlay Zone. The Application uses the optional method of development. It proposes 265,000 square feet of retail development, which includes a

new Hecht's store (180,000 square feet) and 85,000 square feet of street front retail along with a 50,000 square foot grocery store (40,000 square feet of which does not count toward the density cap pursuant to the Sector Plan and 10,000 square feet of which is included within the retail density mentioned above). The project also includes a 433-unit multifamily residential building. The Board finds that, together, these uses will provide an appropriate mix of retail, service, and residential uses within the Friendship Heights Central Business District. The department store and street front retail will meet the needs of workers, shoppers, and residents.

**(b) The Application would conform to the approved and adopted sector plan or an urban renewal plan approved under Chapter 56.**

The Sector Plan that was adopted by the Board in March 1998 covers the Property. The Board, after reviewing the Sector Plan and carefully evaluating the testimony and evidence of record, finds that the project implements the major principles and recommendations of the Sector Plan. The project further achieves all of the objectives of the Sector Plan, including street level retail, community amenities and design standards. The Board makes this Sector Plan finding based on the analysis set forth below which analyzes the Project Plan conformance first with general Sector Plan concepts, principles and goals, secondly with the specific recommendations and guidelines for the Property and thirdly with the recommendations contained elsewhere in the Sector Plan.

**1. Sector Plan Concept, Plan Framework, Plan Goals**

The Board finds that the Project Plan incorporates many elements of the Sector Plan Concept, including the creation of a hub of activity near the Metro station that is part of a New Town Center; improved Metro entrances; a Major Public Park and Community Center, and pedestrian and bicycle circulation. The Board finds that the additional design work set forth as part of the Site Plan and ultimately the Signature Set, as recommended in the conditions, will ensure that Wisconsin Place fully realizes the Sector Plan Concept.

The Project Plan increases both office and retail employment opportunities. By creating places for people to live, work, and shop near the Metro station, and by improving Metro access, the project will promote increased use of Metro. Amenities provided under the optional method of development include a Major Public Park, a Community Center, enhanced streetscape, and several other public use spaces.

## **2. Planning and Urban Design Principles**

The Board finds that the project will help contribute to a vital diverse urban center by providing a mix of land uses. It realizes the Sector Plan principle of concentrating the highest density in the Metro Core. Such concentration, with steps down to the surrounding neighborhoods, is one of the ways in which the Sector Plan attempts to preserve the integrity of the single-family residential neighborhoods. The Project Plan will provide a lively environment for residents of both the new apartments and the existing condominiums and apartments in the Village of Friendship Heights. The Board finds that the project will help knit the diverse districts of Friendship Heights into a stronger community by providing a center of activity in place of a parking lot, with public open spaces and a Community Center where neighbors can meet.

## **3. Conformance with objectives, recommendations, and guidelines for Hecht's site**

The Board finds that the project conforms to the objectives, recommendations and guidelines for the Property as contained in the Sector Plan. The Board adopts the findings set forth by Staff in the Staff Report and summarized below:

### **a. Land Use, Density, and Zoning**

The Board finds that the Project Plan proposes land uses and densities that conform to the density figures in the Sector Plan: a total project of 1,050,000 square feet, with a maximum of 750,000 square feet of combined office and retail, and a minimum of 150,000 square feet of residential use. Rather than the 150,000 square feet of hotel that the Sector Plan contemplated but did not require, the project proposes an additional 330,000 square feet of residential use, for a total of 480,000 square feet for housing. The Project Plan also includes the optional grocery store space, 40,000 square feet of which is not required to be allocated toward the density cap if the Board finds that the grocery store is a desirable component of the project. The Board specifically finds that the grocery store space is desirable and needed for Friendship Heights and approves its inclusion in the project.

### **b. Building Location and Height**

The Sector Plan urban design principles include concentrating the highest density and heights in the Metro Core and stepping down toward the surrounding neighborhoods. The Design Guidelines for the Property express this principle in relation to the height of the existing CBD-1 Zone (90 feet), recommending that commercial buildings with heights exceeding that existing standard be located on the portion of the Property that is closer to the Metro stop and part of the proposed Metro Core. In conformance with the

Sector Plan, the Board finds that the 143-foot office building proposed in the Project Plan faces Wisconsin Avenue at the Metro Core area.

The Sector Plan Design Guidelines also reflect the assumption made during the Plan process that the residential component would fit most naturally on the portion of the Property that is closest to the high-rise residential buildings in the Village of Friendship Heights. The Sector Plan does not place a limit on the height of a residential building. The Housing building proposed by the Project Plan is located next to the Major Public Park, across Willard Avenue from the Village of Friendship Heights and along Friendship Boulevard. The Board finds that the placement of the residential building meets all of the requirements contained in the Sector Plan.

c. Street-Front Retail and Building Orientation

The Sector Plan Design Guidelines stipulate: "Provide street-front retail, restaurants, entertainment establishments, and other pedestrian-oriented uses along streets bounding the site. Include street-level entrances and shop windows at frequent intervals." The intent of this guideline is to enliven the sidewalk, a major outdoor space in urban areas.

By reintroducing the grocery store on Willard Avenue, the Board finds that the Application creates a better opportunity to provide useful community-serving street-front retail. Re-orienting the buildings so that the retail frontage of the office building parallels Wisconsin Avenue also provides a continuous façade of street-oriented retail along the major urban boulevard. The Board finds that the buildings are placed on the Property in such a way as to activate the street fronts on all of the major roadways as set forth in the Sector Plan. The Board also finds that the positioning of the Community Center, with a major entrance on Friendship Boulevard, furthers the intent of the Sector Plan to enliven the frontage along Friendship Boulevard while still relating to the Major Public Park and other recreational amenities in the surrounding area.

d. Major Public Park

The Sector Plan recommends the creation of a major public park, "approximately" one acre in size, at the Willard Avenue/Friendship Boulevard intersection. The Sector Plan, however, anticipated the complexity involved in the siting of a major public park within a very dense, mixed-use, urban parcel, which is surrounded by four heavily traveled streets. As such, the Sector Plan "[p]rovide[s] for sufficient flexibility at the time of the project plan to consider an alternative public use space that achieves Plan objectives for

the site . . . ."<sup>2</sup> Notwithstanding the ability to be somewhat flexible, the proposal has succeeded in siting a Major Public Park in precisely the location envisioned by the Sector Plan; and, moreover, the proposal provides the requisite "visibil[ity] from public streets . . . ."<sup>3</sup> Although the park is somewhat less than one acre, the project as a whole includes a multitude of landscaped and public use open spaces, including, but not limited to, a minor public park on the corner of Friendship Boulevard and Western Avenue, the Metro Plaza, the South Court, the North Court, and a green plaza at the entrance to the Community Center. The aggregate square footage of these public use spaces, among others, well exceed the minimum required public use space for the site.<sup>4</sup> The private roadway located in front of the Major Public Park has been blended into the park in such a way as to make the space usable space for many different functions and performances. The roadway can be closed for community events or other uses, allowing for significant additional space to be added to the green area of the park. The Board finds this creative use of space an addition to major public amenity space and in conformance with the Sector Plan.

Several speakers at the hearing, including residents of neighboring properties and members of civic groups, testified in favor and in opposition to the proposed major public park location and its design. The Village Manager of the Village of Friendship Heights, Julian Mansfield, testified on behalf of the Mayor and Council of Friendship Heights Village, stating, in pertinent part, that "the major public park at the corner of Friendship Boulevard and Willard Avenue . . . will serve the project and the surrounding communities well."<sup>5</sup> The CBCC testified that the major public park was not as large as the park envisioned in the Sector Plan; and, moreover, that its location, somewhat removed from the Community Center, was contrary to the intent of the Sector Plan. The CBCC offered, for the Board's consideration, an alternative location for the major public park.<sup>6</sup> Another speaker, however, compared the CBCC's alternative park proposal to a "prison compound" and testified that, in her opinion, if the CBCC park were built, "[the community] would lose the beautiful urban park [proposed by Applicant] at the corner of Friendship Boulevard and Willard Avenue."<sup>7</sup> The Board concurs with the latter speaker's sentiment that the park should be located in a highly conspicuous location, visible to as

<sup>2</sup> See Sector Plan at 56. The Sector Plan notes that such flexibility should be exercised "particularly if the property is developed in sections by multiple owners." (Emphasis added). In the Board's opinion, this language clearly does not limit such flexibility solely to the situation whereby the Property would be developed in separate sections, as CBCC suggests in its correspondence to and testimony before the Board.

<sup>3</sup> See *id.*

<sup>4</sup> See *infra* Project Data Table (located within the Site Plan portion of this opinion).

<sup>5</sup> See Hearing Transcript at 68 (remarks of Julian Mansfield, Village Manager, Village of Friendship Heights).

<sup>6</sup> See Letter from James M. Norton and the CBCC, Attachment 13, (Apr. 9, 2003).

<sup>7</sup> See Hearing Transcript at 83 (remarks of Cleonice Tavani, President Emeritus, Friendship Heights Village Civic Association).



large a segment of the community as is practicable. The CBCC alternative park location demonstrates the difficulty of the problem of siting the major public park on the Property and amplifies the merits of the design and park location proposed by Applicant's architect. In the Board's opinion, CBCC's proposal is substantially at odds with the important Sector Plan recommendation that the park be "visible from public streets"<sup>8</sup> and the vital objective of encouraging pedestrian activity on all streets surrounding the Property.<sup>9</sup>

The Applicant's proposed location of the major public park furthers two express Sector Plan objectives for the Property: the provision of a "major public open space as the focus of activity in the town center";<sup>10</sup> and the creation of "an environment on all streets surrounding the site that appeals to the pedestrian and encourages pedestrian activity."<sup>11</sup> The Board, therefore, finds that the configuration of the Major Public Park is in keeping with the Sector Plan guidelines. The Board finds that, in spite of the inherent restrictions present in the site, the proposal has succeeded in conforming with recommendations of the Sector Plan. The Board agrees with Staff that the Applicant has designed the Major Public Park in such a way as to ensure that the space is clearly public, accessible and usable.

e. Other Public Use Spaces

The project incorporates additional public use spaces on the corner of Friendship Boulevard and Western Avenue, throughout the Property with major spaces in the South Courtyard, Metro Plaza, North Courtyard and the Community Center courtyard. The Board finds that these public use spaces assist in meeting the requirements for public use space and are desirable for the project.

f. Community Center

The Sector Plan recommended that a minimum of 12,000 square feet of enclosed space be provided on the site for community use. The project includes a Community Center of 20,500 gross square feet, which the Board finds to be a significant amenity for the surrounding community. Staff noted in its report, and a speaker testified, that the Sector Plan intended that the proposed Community Center on the Property would

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<sup>8</sup> See Sector Plan at 56. CBCC's proposed location of the community center at the Friendship Boulevard/Willard Avenue intersection obscures the line of sight to CBCC's proposed major public park from both northbound and southbound vehicular traffic on Friendship Boulevard. Similarly, CBCC's proposed park is not visible to eastbound traffic on Willard Avenue. Only westbound traffic on Willard Avenue will catch a short glimpse of the CBCC park.

<sup>9</sup> See Sector Plan at 51, Objective 3.

<sup>10</sup> See Sector Plan at 51, Objective 4.

<sup>11</sup> See Sector Plan at 51, Objective 3 (emphasis added).

complement the Friendship Heights Village Center, which is a 12,000 square foot facility. It was further stated that the Sector Plan intended that the aggregate square footage of the two community centers would approximate the size of a County recreation center. The Sector Plan left the nature of the uses general while recommending that they complement those that already exist within the Friendship Heights Village Center.

Staff has noted in its staff report that the Community Center is exactly the same as the center previously approved by the Planning Board for this site. The Board finds, as it did in prior approvals, that the Sector Plan does not require the Applicant to provide a community center in the size or scale of a prototypical County recreational center (*i.e.*, 24,000 net square feet) on the Property as CBCC contends it must.<sup>12</sup> Furthermore, the Sector Plan does not suggest a need for, or require that, the site contain a county-wide aquatics and recreation center. Moreover, several speakers testified in favor of the Community Center as proposed by the Applicant.<sup>13</sup> Julian Mansfield expressed appreciation for the "willingness of the Applicant to respond to community desires by expanding the size of the center . . . [which] is well beyond the scope of the amenity that was envisioned by the Sector Plan."<sup>14</sup> The Board finds that the Community Center, as proposed, is virtually identical to the center already approved and conforms to the recommendations of the Sector Plan.

There was considerable testimony on the evolution of the Community Center. The testimony of record reflects significant dialogue and agreement between the Applicant, the community, and Staff over the proposed community space. The staff report notes that Staff sponsored two community meetings at the time of the original Project Plan to initiate a dialogue about the character and uses of the community space. Staff

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<sup>12</sup> CBCC testified at the hearing, and through its letter dated April 9, 2003, that the size of the proposed Community Center is inconsistent with Montgomery County Recreation Policy. As is stated above, however, the Sector Plan never envisioned a community recreation center of the scale that CBCC seeks at the Hecht's site. Mr. Norton quotes selectively from a Montgomery County Department of Recreation ("DOR") letter, dated March 21, 2003, from DOR to Staff to support his argument. The Board, however, observes that DOR in the same letter states that "[t]his appears to be a well thought out plan . . . [and it] would be [DOR's] recommendation that the Planning Board's Decision and Order be carried out by MNCPPC as described." As we have stated above, the community center was never envisioned as a full size community center; and, therefore, it is understandable that DOR might comment that certain aspects of the proposed Community Center do not fully comport with DOR standards.

<sup>13</sup> See generally Hearing Transcript at 75-79 (remarks of Robert Cope, Citizens Coordinating Committee for Friendship Heights) (reciting the background behind the evolution of the community center and expressing his support for its size and location); Hearing Transcript at 66-70 (remarks of Julian Mansfield, Village Manager, Village of Friendship Heights); Hearing Transcript at 83-87 (remarks of Cleonice Tavani, President Emeritus, Friendship Heights Village Civic Association) (arguing against a large community center and rebutting CBCC's claims of need for a pool in the area).

<sup>14</sup> See Hearing Transcript at 69 (remarks of Julian Mansfield, Village Manager, Village of Friendship Heights).

explained that a consensus arose for a "big box" that could accommodate active indoor recreation including basketball and volleyball and two or more "little boxes" for multipurpose uses, such as classes and meetings. Staff commented that, in response to community desires for active recreation that requires specific heights and column-free space, the Applicant proposed locating the community center in a separate, adjoined building facing Friendship Boulevard, a short walk from the park on Willard Avenue and the ballfield on the GEICO site. Although the proposed location of the Community Center is not immediately adjacent to the Major Park—which, CBCC contends, is a requirement of the Sector Plan—the Planning Board finds that its location is ideally situated near the neighboring ballfield,<sup>15</sup> abuts a green plaza, shared with the residential building, and is still in very close proximity to the Major Public Park. Furthermore, the Board finds that the location of the Community Center adds an element of interest to Friendship Boulevard, contributing to the Sector Plan goal of improving that right-of-way for pedestrians. In addition, the location of the Community Center makes available a convenient means for disabled persons to traverse the block at its mid-point, by way of the public use elevator, which serves the Community Center, and other public use spaces. The CBCC, the Village of Friendship Heights and others offered testimony on the Community Center and Major Public Park, which is described in detail in other sections of this Opinion but incorporated herein.

The Board finds that the location of the Community Center complies with the requirements contained in the Sector Plan and that the location is preferred because it has the advantage of being close to the active recreation area on the confronting GEICO site, which is designated for a baseball field. Further, the Board finds that the process used by Staff, the Applicant and community representatives to define the scope of the Community Center clearly justifies the location of the center. The Board reaffirms its approval of the Community Center.

g. Urban Boulevard and Metro Plaza

The Project Plan proposes an Urban Boulevard along Wisconsin Avenue, as specified in the Sector Plan, which eliminates the existing drop-off and maintains the required 40-foot setback from the existing curb. The Site Plan defines and reinforces the major urban boulevard with a double row of trees (one row can be in a widened median), and lighting, special paving, and other street furnishings incorporated into the final Streetscape Plan. The Board agrees with

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<sup>15</sup> See generally Hearing Transcript at 78 (remarks of Robert Cope, Citizens Coordinating Committee for Friendship Heights) (arguing in favor of Applicant's proposed location of the Community Center). The Board finds highly persuasive the reasoning of Mr. Cope that the recreation center is better suited to its proposed location immediately across Friendship Boulevard from a ballfield on the GEICO site—where the Department of Recreation would be more likely to want to run its programs from, as opposed to an urban park such as the one envisioned and proposed for the Friendship Boulevard/Willard Avenue intersection.

Staff's recommendation that the District of Columbia boundary marker should be acknowledged in the design. The Site Plan ensures that the segment of the Urban Boulevard between Western and Willard Avenues reads as part of a continuous retail-shopping street while creating a special character to reinforce the Town Center.

The evidence of record also confirms that streetscaping as proposed and conditioned conforms to the detailed standards for Friendship Heights.

h. Willard Avenue Promenade

The Project Plan includes a promenade along Willard Avenue with the double row of trees and a ten-foot sidewalk recommended by the Sector Plan. The previously approved Site Plan included additional landscaping, as well as the lighting, special paving, and street furnishings specified by the Streetscape Plan. Extending the special paving material to all pedestrian and vehicular surfaces in these areas will ensure continuity of the promenade across the taxi stand and driveway entrance leading to the residential building.

i. Western Avenue Promenade

The Project Plan includes a promenade along Western Avenue with the dimensions recommended in the Sector Plan. The Site Plan drawings show a second row of shade trees of substantial size, made possible by combining the bicycle path and the pedestrian path to increase the amount of pervious surface available for the trees. The Site Plan includes additional landscaping, as well as the lighting, special paving and street furnishings specified in the final Streetscape Plan.

j. Friendship Boulevard Streetscape

The Project Plan provides a public sidewalk for pedestrians. The plan also includes additional street trees to form a single row, single-fixture Washington Globe lights, special paving such as the existing brick, and street furnishings. The Plan ensures continuity of the sidewalk by extending the special paving across the access points to the garage, loading areas, and drive leading to the Housing building.

k. Internal Street and Pedestrian Spaces

The Sector Plan recommends an internal public or private street to provide vehicular and pedestrian access into the Property, and to create a lively, human-scale environment. The Project Plan includes a driveway between Friendship Boulevard and Willard Avenue that provides access to the parking garage and the Housing building. The Project Plan also provides an internal pedestrian network, with a north-south pedestrian lane articulated by the lighted arcade between Willard and Western Avenues, and an east-west pedestrian connection



between the North Court and the Community Center that extend to the Friendship Boulevard street frontage via the formal staircase. This pedestrian network, lined with retail on the South Court walkway and with entrances to the Community Center and apartments from the east-west lane, will create the lively, human-scale environment envisioned by the Sector Plan.

As required by the Sector Plan, the Applicant has worked to coordinate the points of vehicular access to the site from Friendship Boulevard with the proposed layout of the GEICO site. Continued coordination is needed.

l. Service Areas

The Project Plan locates all service areas internally, off a service court, in the parking level just below the main plaza level. This design feature avoids the need for visual screening on the exterior. The Board finds, after delving into this issue at the hearing with Staff and the Applicant in response to testimony, that the location of the service and garage entrances (particularly along Friendship Boulevard) are adequate and safe in relation to pedestrian and vehicular movements projected to occur on the sidewalks and roadways and particularly adjacent to the Community Center.

m. Access to Metro

The Sector Plan Guidelines for the Property requires the Applicant to provide a short-term parking area convenient to the Metro entrance for dropping off/picking up passengers. They also require a taxi stand on the Property. The Transportation Chapter of the Sector Plan includes other recommendations to improve Metro access, including high-frequency shuttle service between the neighborhoods and Metro and expanded bicycle storage.

The Project Plan removes the existing drop-off area along Wisconsin Avenue as part of the redevelopment. It provides a short-term parking area for Metro passengers at the upper level of the below-grade garage. Provision should be made for future enforcement of the time limits. In addition to parking for automobiles, the Applicant also should provide adequate, convenient, secure lockers for bicycle storage. The Project Plan provides a taxi stand on Willard Avenue.

n. Parking Requirements

The Project Plan provides all parking below grade, with the exception of a few short-term spaces in front of the residential building. The Board finds that the parking, as proposed by the Applicant, is a reasonable way to achieve the goals of the Sector Plan. All required parking is accommodated within the garage for all proposed uses.



o. Phasing

The Project Plan includes a phasing plan, which the Board finds acceptable given the complexity of the Project. The project phasing is described elsewhere in this Opinion.

**(c) Because of its location, size, intensity, design, operational characteristics and staging, the Application would be compatible with and not detrimental to existing or potential development in the general neighborhood.**

The Board finds that the Project is compatible with the surrounding general neighborhood. The record contains virtually no opposition testimony regarding the character of the project. The Property is surrounded by existing or planned commercial uses as well as high-density residential developments. As recommended by the Sector Plan, the proposed uses of the project are compatible with the existing and potential developments in the area. The higher density permitted under the optional method of development gives the developer incentive to provide a number of public amenities including a community center and public parks. The operation of the proposed residential, office, retail uses will complement the existing and future commercial as well as residential developments in the core area. The design of the development will include public spaces and streetscape elements that will enhance the character and quality of the general neighborhood.

**(d) The Application would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.**

**Local Area Transportation Review**

A traffic statement was prepared for the Applications to compare the impact of the newly proposed development with the previously approved plan. The analysis indicated that the new development generates approximately 21% fewer trips in the morning and evening peak hours. The table below shows the comparison between the two.

Trip Generation Rates and Site Generated Traffic Volumes						
Land Use and Quantity	AM Peak Hour			PM Peak Hour		
	Two-Way Rate	Percent In	Percent Out	Two-Way Rate	Percent In	Percent Out
Trip Rates	0.65	50%	50%	2.60	50%	50%
Retail per 1000 sf						
Grocery Store per 100 sf	1.22	70%	30%	6.20	50%	50%
Office per 1000 sf	1.50	85%	15%	1.50	25%	75%
Residential per unit	0.30	20%	80%	0.30	67%	33%
Proposed Plan						
Total Trips	Two-Way	In	Out	Two-Way	In	Out
Retail (255,000–176,188sf) 78,812 sf	51	25	26	205	102	103
Grocery Store 50,000 sf	61	43	18	310	155	155
Office 305,000 sf	458	389	69	458	115	343
Residential 433 DUs	130	26	104	130	87	43
Total	700	483	217	1103	459	644
Approved Plan						
Total Trips	887	665	222	1328	509	819

<sup>1</sup> 225,000 SF of proposed retail (excluding grocery store) and removal of existing 176,188 SF store (represents net increase)

When previous plans for Wisconsin Place were submitted for approval, staff evaluated 11 intersections for the impact of the proposed Hecht's site plan. All intersections, with some improvements, were operating within the congestion standard of 1800 Critical Lane Volume (CLV) for Friendship Heights, and 1650 CLV for Bethesda-Chevy Chase Policy Areas. All intersections in the area will continue to operate within the congestion standard with the new development generating 20% fewer trips.

### Policy Area Review/Staging Ceiling Analysis

The subject site is located within the Friendship Heights CBD policy area and meets the requirements for Policy Area Review as set forth in the Preliminary Plan section of this Opinion.

### **Transportation Demand Management**

The Applicant has submitted a draft traffic mitigation agreement that is subject to negotiation. The Planning Board incorporates Staff's recommendations in its staff report with specific regard to the traffic mitigation agreement. The Applicant also shall be required to participate in the Friendship Heights Transportation Management District.

- (e) **The Application would be more efficient and desirable than could be accomplished by the use of the standard method of development.**

The Board finds that the project would be more efficient and desirable than could be accomplished under the standard method of development. The use of optional method of development permits a development at a higher density near the Metro station than that could be achieved under the standard method. The higher density also allows an investment return that justifies provision of public amenities, such as a community center, which will greatly enhance the quality and opportunity of recreational activities in the area. In addition, the Board finds that the 20 percent public use space required by the optional method of development and associated streetscape and public art will improve the character of the neighborhood and achieve a better overall development.

By providing a mix of land uses and several important public amenities, the proposed development will help contribute to a vital diverse urban center as envisioned by the Friendship Heights Sector Plan. The project realizes the Sector Plan principle of concentrating the highest density in the Metro Core. The project will help knit the diverse districts of Friendship Heights into a stronger community by providing a center of activity in place of an existing parking lot, with public open spaces where neighbors can meet. The Community Center and public parks will substantially enhance the availability of recreational facilities in the local area.

- (f) **The Application will include moderately priced dwelling units in accordance with chapter 25A of this Code.**

The Board finds that the project meets the requirements of Chapter 25A of the Code. The proposed development includes 433 residential units. The Housing building will contain 28 MPDUs on-site. The remaining MPDUs will be treated through an Alternative Compliance Agreement between the Applicant and the Montgomery County Department of Housing and Community Affairs and pursuant to the requirements of Chapter 25A of the Montgomery County Code.

**(g) When a project plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from one lot to another or transfer densities within a lot with two or more CBD zones, pursuant to the special standards of either section 59-C-6.2351 or 59-C-6.2352 (whichever is applicable), the project plan may be approved by the Planning Board based on the following findings:**

1. The project will preserve an historic site, building, structure or area as shown on the Locational Atlas and Index of Historic Sites or the Master Plan for Historic Preservation; and/or
2. The project will implement an urban renewal plan adopted pursuant to Chapter 56 of the Montgomery County Code; and/or
3. The project will result in an overall land use configuration that is significantly superior to that which could otherwise be achieved.

As contemplated by the Preliminary Plan, the project may include one or more lots all under the CBD-2 zone with overlay pursuant to the Preliminary Plan for the project. In any case, under either configuration, the project will result in an overall land use configuration that is significantly superior to that which could otherwise be achieved.

**(h) Any applicable requirements for forest conservation under Chapter 22A.**

Under the requirements of Chapter 22A, Forest Conservation, this development is required to provide approximately 1.2 acres of afforestation. M-NCPPC Environmental planning staff has approved the previously approved preliminary Forest Conservation Plan for the development. The current plan proposes to meet the afforestation requirement using tree cover of proposed on-site landscaping and planting. The Board finds that the plan meets the requirements of Chapter 22A.

**(i) Any applicable requirements for water quality resource protection under Chapter 19.**

A preliminary Stormwater Management Concept for the proposed development has been reviewed and approved by the Montgomery County Department of Permitting Services (DPS) on January 20, 1999 and re-confirmed most recently on February 21, 2003. The Stormwater Management Concept consists of on-site water quantity control via underground storage and on-site water quality control via structural sand filters. The proposed storage facility will be located under the proposed public park at the intersection of Friendship Boulevard and Willard Avenue. A 72-inch storm drain located on the Property will be eliminated and a storm drain connection will be made with the storm drain that already has been constructed within the Friendship Boulevard right-of-way. The

Board finds that this Application provides adequate control of stormwater runoff from the Property and thus meets the requirements of Chapter 19 of the Code. The Board also finds that the proposed storm drainage improvements are acceptable as proposed.

Regarding water and sewer facilities, the Board finds that the Property is located in Water and Sewer Service Categories W-1/S-1, and that the public service is available to the Property. All other utilities are available to the Property.

Having considered all of the evidence presented, including the comments of the outside reviewing agencies, and all of the testimony taken, including that contained in the companion Preliminary Plan and Site Plan proceeding, the Planning Board finds Project Plan 9-99001B to be in accordance with the provisions of the Zoning Ordinance and the provisions of Article 28 of the Maryland Code Annotated; and, the Board further finds that Project Plan 9-99001B is in substantial conformance with the applicable recommendations of the Sector Plan. Therefore, the Planning Board APPROVES the Project Plan, Subject to the Following Conditions:

1. Development Ceiling  
The proposed mixed-use development is limited to 1,050,000 square feet of gross floor area, not including the community center or the "optional" 40,000 square feet attributed to the below-grade grocery store.
2. Building Height and Mass  
The height of the proposed buildings must not exceed 143 feet. One objective of the architectural design must be to break down the perceived scale of the complex.
3. Community Center
  - a. The Applicant, its heirs, successors and/or assigns must be responsible for ensuring that the proposed center will be properly maintained structurally and be usable and available for the intended uses. The obligation for capital and operational maintenance and program management of the center must be further defined at the time of Site Plan review and must be specified in the Site Plan Enforcement Agreement.
  - b. The design of the Center is addressed through the Site Plan review conditions of approval.
4. Public Use Space  
The design of the public spaces must foster the creation of a discrete character for each space within a unifying theme. The design of these spaces must be reviewed in detail at the time of Site Plan. The design must create an inviting environment that will promote public activities during the day as well as at night.



- a. The uses of the Major Public Park at the intersection of Willard Avenue and Friendship Boulevard must complement those of the public use spaces within the Chase Tower development across Willard Avenue. The park must be able to accommodate various public functions, such as festivals, performances, and other, passive recreational uses. Applicant must incorporate pedestrian amenities and traffic calming devices at the driveway serving the housing, equivalent in area, character, and pedestrian accessibility and public amenity as that last approved by the Planning Board. An objective of the architectural design should be to address the relationships between (1) the housing façade elements, including the landscaping and public sidewalk, (2) the major park, (3) the Willard Avenue drop-off, (4) the North Courtyard, and (5) the Community Center Courtyard.
- b. The Willard Avenue drop-off must be acknowledged as one of the main public amenities and gathering spaces; its design must provide functional efficiency while encouraging pedestrian and community activity. The grocery store frontage and the creation of public space that will accommodate and encourage the provision of public café tables and seating must be defined by streetscape elements such as high quality paving and landscaping.
- c. The Metro Plaza must be designed to acknowledge its gateway location between the County and the District of Columbia, and to function as the symbolic center of the Friendship Heights Metro Core area. The space must be well defined by elements such as retail storefronts, kiosks, landscaping, artwork, street trees, and special paving patterns. Historical references including the District of Columbia boundary marker should be incorporated. Applicant must work with WMATA to establish a design for the escalator canopy. The design must be approved by the Planning Board or its designee.
- d. The South Court is proposed as the main on-site public space. It must be designed to encourage people to congregate and stay. Ample seating areas, special paving, special lighting, landscaping, and elements of the public art program must be provided along with outdoor café and/or informal performance areas. Applicant must provide high quality, special brick paving for the lead walks and perimeter at the South Court and brick paving for all of the other major public spaces (the North Court, Willard Avenue Drop-off, and the small area at the Community Center entrance; Applicant may use concrete unit pavers for those areas requiring complex masonry cuts;
- e. The Applicant must consider ways to animate the pedestrian connection between the Community Center and the North Court through the implementation of public art, high quality special paving or the continuity of the overhead LED neon lighting. Public seating must be provided for the Community Center Courtyard to enhance the green space and encourage patron use of the open area.

5. Public Art

A public art program that addresses the most prominent public spaces of the project must be incorporated into the overall design of the development. The two major elements of the Public Art Program previously reviewed by the Art Panel and approved by the Planning Board have been retained for the plan amendments. The proposals for the combined Project Plan and Site Plan hearing will address the following:

- a. Features such as sculpture, water fountains, special paving inserts, special planters, or special handrails or fences must be provided on the site, as part of the public space and/or as part of the architectural design of individual buildings;
- b. The artwork must be designed and located as an integral part of the development. The artwork must present a cohesive theme throughout the development that will enhance the quality of the public spaces and enrich the pedestrian experience throughout the site, connecting the major public spaces and major pedestrian entrances on the four street fronts;
- c. The artwork must be installed upon the completion of the public space or individual buildings where the artwork is located.

6. Streetscape

The Applicant must work with other Friendship Heights developers and professional planning staff from Montgomery County and the District of Columbia to develop a coordinated Streetscape Plan with detailed standards for Friendship Heights. The Streetscape Plan must coordinate site furnishings, materials and standards consistent with retail and other uses. The Streetscape Plan must incorporate the following:

- a. Willard Avenue Promenade: Provide a double row of street trees, the streetlight recommended by the Streetscape Guidelines, special paving such as brick, adequate space for street furnishings at the grocery store entrance with pre-cast seat walls. Ensure continuity of the sidewalk across the vehicular drop-off.
- b. Western Avenue Promenade: Where feasible, retain the existing street trees (Willow Oaks); in addition, provide a second row of trees of Willow Oaks. Provide a combined sidewalk and bikeway and bicycle racks. Provide Washington Globe lights along the curb. Enhance the promenade with special paving such as brick, additional landscaping, public art, and street furnishings. All requirements are subject to approval by the District of Columbia. Applicant must consider incorporating such activating uses as storefront or engaging façade design for the retail building along Western Avenue. Any permanent structures, such as kiosks, stairs, elevator envelope at the Metro Center Plaza should reinforce the Western Avenue street edge.

- c. Friendship Boulevard: Provide a public sidewalk with brick paving. Include single-fixture Washington Globe lights, additional street trees to form a single row, and street furnishings. Ensure continuity of the sidewalk across the entrance/exit points for the garage, service area and apartment building. Final design of the garage vehicular access drives and garage openings are addressed through details of Site Plan Review.
- d. Wisconsin Avenue: Provide a row of Red Oak trees and other streetscape elements to reinforce the Urban Boulevard while providing views of street-front retail, double-fixture Washington Globe lights, special paving such as brick and other street furnishings. Ensure that the segment of the urban boulevard between Western and Willard Avenues reads as part of a continuous, retail, shopping street while creating a special place at Metro Plaza.
- e. Applicant must provide aligned crosswalks per staff recommendation in coordination with DPS and DPWT.

7. Tree Preservation

The existing street trees along Western Avenue and Friendship Boulevard must be saved, where feasible.

8. Phasing of the Public Amenity Features

The proposed public amenity features must be completed in sequential phases that are consistent with the completion and occupancy of the various buildings.

Phase I includes construction of the new Hecht's store, the two-floor retail facing Western Avenue (Retail A), and the four-level underground parking facility and vehicular service court; and temporary surface parking to serve the existing Hecht's.

Phase II includes construction of the Housing garage, one-floor retail facing the South Courtyard (Retail B), and the below grade garage underneath the office tower, the retail wrapping the office tower (Retail C); the new Hecht's, the vehicular service court, Retail A, and portions of streetscape along the Hecht's frontage are completed.

Phase III includes construction of the retail wrapping the office tower (Retail C), the Community Center, the Housing, and the Grocery Store (Retail D); Retail B and the Housing garage are complete.

Phase IV includes continuing construction of the Housing, the Grocery Store, and the Community Center; Retail C, the South Courtyard, Metro Plaza, the Western Avenue streetscape, the Housing, the Grocery Store, and the Community Center are completed as the end of this phase.

Phase V includes construction of the office tower.

Public amenity space must be completed as each adjacent building is finished and prior to the occupancy of any building included in the same phase. The currently anticipated phasing sequence is further defined as follows:

- a. The Community Center must be completed prior to the occupancy of any of the Housing;
  - b. Public amenities must be completed prior to the occupancy of the buildings associated with the amenity, subject to seasonal considerations for landscaping:
    - i. The Major Public Park and Community Courtyard must be completed prior to occupancy of the housing;
    - ii. The Metro Plaza and the South Courtyard must be completed prior to occupancy of Retail C;
    - iii. A portion of the streetscape and public amenities at the Willard Avenue drop-off, including the west stair, Grocery Store fronts (temporary or permanent), sidewalk, one seat wall, and the entire sidewalk within the public right-of-way must be completed before occupancy of the housing [See Site Plan condition 9(a)(viii) regarding signature set];
    - iv. The western portion of the North Courtyard must be completed prior to occupancy of the housing [See Site Plan condition 9(a)(viii) regarding signature set];
    - v. The Minor Park must be completed prior to occupancy of the new Hecht's;
    - vi. The short-term parking spaces for Metro users in the garage must be available for the public use prior to occupancy of Retail C;
9. Moderately Priced Dwelling Units  
Moderately Priced Dwelling Units (MPDUs) must be provided in compliance with the provisions of Chapter 25A of the Montgomery County Code as required by the Department of Housing and Community Affairs.
10. Parking  
At least 20 short-term parking spaces must be provided to the public, free of charge for 20 minutes, in the parking garage near the Metro station. At least two parking spaces must be dedicated with signage for the Community Center use, in a garage location close providing convenient to the facility.
11. Taxi, Metro, and other Access  
The following items must be incorporated into the Plan:
  - a. Convenient, secure bicycle parking for Metro and racks throughout the site for each program component;

- b. Exterior access for shuttle buses to the Community Center and general retail;
  - c. Seating at the Willard Avenue drop-off for those waiting for taxi pick-up.
12. Grocery Store  
Applicant must propose re-introduction of the 40,000 sf (non-FAR) grocery store on the first parking level, with an additional 10,000 sf of store space or alternate retail space with frontage facing Willard Avenue; the store frontage must include a public amenity area to encourage the tenant's provision with tables and chairs for public use, landscaping and lighting with seat walls that face the vehicular drop-off. Any change to the design execution or timing of construction phase must require site plan amendment.
13. Maintenance and Promotion  
The Applicant must agree to participate in Friendship Heights maintenance and programming organization, should such an organization be created. The applicant must conceptually describe the following programs:
- a. A maintenance, management, and security program for all on-site and off-site amenity areas (including public use spaces and streetscape);
  - b. An activity program for the public spaces;
  - c. For a management of the permanent maintenance and programming organization.
14. Road Rights-of-Way  
The proposed development must provide required road rights-of-way for the following streets:
- a. 120 feet for Wisconsin Avenue;
  - b. 90 feet for Willard Avenue between The Hills Plaza and Friendship Boulevard;
  - c. 120 feet for Western Avenue, including a 25-foot truncation at Wisconsin Avenue.
15. Road Improvements  
As set forth below in condition no. 16, to satisfy Local Area Transportation Review (LATR), the Applicant must provide certain road improvements at the intersection of Western Avenue and River Road, subject to approval by the District of Columbia, prior to the issuance of any occupancy permit for the proposed development.
16. Transportation
- a. Limit the development to the following:
    - i. 265,000 sf of retail space replacing the existing 176,188 sf of Hecht's building (of which 10,000 sf FAR density will be part of the grocery store);
    - ii. 305,000 sf of office building space;
    - iii. 433 high rise apartment units;
    - iv. 10,000 sf of retail for grocery store (Willard Avenue frontage) [included in 16(a)(i)];
    - v. 40,000 sf of retail for grocery store (Non-FAR);



- vi. 20,500 sf of Community Center space (Non-FAR);
  - vii. Approximately 1,749 garage automobile parking spaces.
- b. To satisfy Local Area Transportation Review (LATR), the Applicant shall participate equally with the owner/developer of Friendship Commons (PP 1-99039) and the owner/developer of Chevy Chase Center in the two road improvements listed below. The road improvements shall be completed prior to the issuance of any occupancy permit for any of the developments, with funding provided by the various applicants at the time the improvements are constructed.
- i. Provide separate left-turn lane along eastbound and westbound Western Avenue at River Road by re-striping the existing lane designation and change the traffic signal phasing to provide concurrent signal phasing along Western Avenue;
  - ii. Re-stripe the existing southbound Friendship Boulevard approach (within the existing curbs) from the existing one left-turn lane and one through/right lane to one left-turn lane, one through lane, and one through/right lane. A new signal phasing is needed at this intersection to provide split phasing for Friendship Boulevard and Jennifer Street.
- c. To satisfy LATR, the Applicant shall participate at a 40% share with the developers of Friendship Commons and Chevy Chase Center in funding the cost of:
- i. Conducting a traffic study at the time that total occupancy of the three Friendship Heights developments (i.e., Wisconsin Place, Friendship Commons and Chevy Chase Center) reaches either 600,000 square feet of office or 225,000 square feet of retail, over and above what already exists as of the date of the Transportation Planning Division memo dated March 25, 2003, revised April 3, 2003 to determine the need for improvements for River Road and Little Falls Parkway as described in paragraph ii.
  - ii. Constructing improvements to River Road and Little Falls Parkway, if warranted by the traffic study and approved by the State Highway Administration (SHA) and the Maryland-National Capital Park and Planning Commission (M-NCPPC), to add a northbound right turn lane on River Road and to widen Little Falls Parkway at the intersection by one lane on the south side within the existing right-of-way to accommodate left-turn lanes on both approaches to River Road.
- d. Participate equally with the owners of Friendship Commons (Preliminary Plan No. 1-99039) to fund a traffic signal at either or both site access points common to both projects along Friendship Boulevard based on actual traffic generated from each primary development within one year of completion and occupancy of

both projects, as deemed necessary by a Montgomery County Department of Public Works and Transportation (DPWT) warrant analysis.

- e. The Applicant shall participate in the Friendship Heights Transportation Management Organization and enter into a Traffic Mitigation Agreement (TMA) with The Maryland- National Capital Park and Planning Commission (M-NCPPC) and the Montgomery County Department of Public Works and Transportation (DPWT) to assist in attaining the objectives of the Transportation Management District, including making a best effort to achieve and maintain a non-auto driver mode share of 39 percent of employees. The TMA shall be included in the Site Plan Enforcement Agreement for the proposed development.
- f. The Applicant must, rather than "may":
  - i. Appoint a transportation coordinator to assist employees in exercising commuting options and to provide for coordination and trip reduction monitoring with the Friendship Heights Transportation Management Organization;
  - ii. Make the development available for TMD programs and marketing;
  - iii. Provide bicycle parking to meet the demand;
  - iv. Provide preferential car pool parking.

## **V. THE PRELIMINARY PLAN**

### **1. The Subdivision Criteria**

An application for subdivision requires the Planning Board to undertake its legislatively delegated authority under the Regional District Act and the Subdivision Regulations. The application should also meet the requirements of the Zoning Ordinance applicable to the subject preliminary plan.

The general provisions for lot design for a subdivision are set forth in Section 50-29 of the Subdivision Regulations. In order to be approved by the Planning Board, lot size, width, shape, and orientation must be appropriate for the location of the subdivision and for the type of use contemplated. Lots also should abut a dedicated street or public road.

Section 50-35 of the Subdivision Regulations sets forth the approval procedure for preliminary plans of subdivision. After presentation of the plan to the Planning Board, the Board must act to approve or disapprove the plan, or to approve the plan subject to conditions and/or modifications necessary to bring the plan into accordance with the Montgomery County Code and all other applicable regulations. The Planning Board's approval procedure for preliminary plans includes review pursuant to Section 50-35(k) of the Subdivision Regulations ("Adequate Public Facilities Ordinance" or

"APFO"), which directs the Planning Board to approve preliminary plans of subdivision only after finding that public facilities, including the transportation system, will be adequate to serve the proposed subdivision; Section 50-35(l), which requires a finding that the preliminary plan substantially conforms to the Sector Plan, unless events have occurred to render the relevant master plan recommendation no longer appropriate; and Section 50-35(o), which mandates that the Board ensure that all requirements of the forest conservation law<sup>16</sup> are satisfied before approving a plan.

## **2. Discussion of Issues**

### **a. Lot Size, Shape, Width, and Depth**

The record for the Application includes uncontested evidence that the lot size, width, shape, depth and orientation of the subdivision are appropriate for the location of the subdivision and for the proposed uses; and, furthermore, that the proposed lot(s) front on a public road or right of way. The record also contains uncontested evidence that the depth and width of the subject lot(s) are adequate for the off-street service and parking requirements needed by the proposed development. The record also contains information regarding the Preliminary Plan's conformance with the development standards for the CBD-2 zone and the Chevy Chase Comparative Retail Overlay Zone and this too was uncontested.<sup>17</sup>

### **b. Adequate Public Facilities**

County Code Section 50-35(k) (the Adequate Public Facilities Ordinance) directs the Planning Board to approve preliminary plans of subdivision only after finding that the public facilities, including the transportation system, will be adequate to serve the subdivision. The record includes uncontested evidence that the proposed development does satisfy the Adequate Public Facilities Ordinance.

### **i. Water and Sewerage**

The record includes uncontested evidence that the proposed development has adequate sewerage and water service to accommodate the project.

<sup>16</sup> MONTGOMERY COUNTY CODE, ch. 22A.

<sup>17</sup> See *infra*, Project Plan and Site Plan Sections (demonstrating compliance with development standards of CBD-2 with Overlay zone).

ii. Policy Area Review

The Research Memorandum and Transportation Memorandum affirm that the Property is located within the Friendship Heights CBD Policy Area and that adequate staging ceiling capacity exists to approve the Preliminary Plan. The Preliminary Plan Application is approved pursuant to the "Development Capacity Transferability – Metro Station Policy Areas" provision that was added to the Annual Growth Policy by the Montgomery County Council in October 2001. The provision allows for an applicant within a Metro Station Policy Area to request the conversion of staging ceiling capacity from jobs to housing units.<sup>18</sup> As part of the conversion effort, Technical Staff is required to recommend a conversion rate between .5 to .75 jobs per housing unit for the purposes of converting jobs to housing in the Friendship Heights Policy Area. Technical Staff recommended using a conversion factor of .75 jobs per housing unit. The Board approves this conversion ratio. In this case, the Applicant proposed to forgo development of 145,000 square feet of office space and 35,000 square feet of retail space. The Annual Growth Policy uses a rate of 225 square feet per job for office space in Friendship Heights and a rate of 400 square feet per job for retail. Applying these rates, the Applicant is forgoing 732 jobs. Using the .75 jobs-per-housing-unit conversion factor, testimony shows that 732 jobs equal 976 housing units. This is significantly more than the 158 additional housing units the Applicant was requesting. Thus, the Board concludes that Policy Area Review is satisfied. There was no testimony to the contrary regarding this point.

Furthermore, as provided in the FY03 Annual Growth Policy, there exists adequate capacity in the Bethesda-Chevy Chase cluster area for the elementary, middle and public schools to accommodate the proposed development. The record was uncontested on this point and the Board finds that schools are adequate to accommodate the development.

iii. Local Area Transportation Review

The Applicant submitted a detailed Traffic Memorandum dated December 18, 2002, which was reviewed by M-NCPPC Transportation Planning Staff. The Applicant

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<sup>18</sup> See Annual Growth Policy, Fiscal Year 2003, Section TA 4.1 (Metro Station Policy Areas), which states that

[t]o further encourage housing in Metro Station Policy Areas, the Planning Board may convert jobs capacity to housing capacity on a case by case basis when existing staging ceiling capacity is not adequate to approve or amend a preliminary plan of subdivision for a development located in a Metro Station Policy Area. The Board must approve a conversion ratio in each case that is not less than .5 nor more than .75 jobs for each housing unit. The applicant must satisfy all applicable Local Area review Transportation Review requirements and show that the capacity conversion is consistent with the applicable master or sector plan.

also submitted an additional Transportation Memorandum dated April 2, 2003, addressing concerns raised by a number of citizens regarding the Little Falls Road/River Road intersection. The Board afforded an opportunity for citizen testimony, rebuttal and cross-examination regarding this transportation issue raised at the hearing – the necessity of any road improvements at the River Road/Little Falls intersection. The Transportation Memorandum, as revised, includes uncontested evidence that all of the intersections requiring analysis presently operate and—factoring in the proposed development with already committed road improvements—will continue to operate within the congestion standards of 1,800 Critical Lane Volume for the Friendship Heights CBD and 1650 for the Bethesda-Chevy Chase Policy Areas.<sup>19</sup> The Applicant's Transportation consultant concluded that the proposed development, as amended, would generate approximately 21% fewer trips in the morning and evening peak hours than the previously approved project. Technical Staff concurred with this finding, as does the Board. The latter conclusion is uncontested.

Staff commented at the public hearing that its previous recommendation to condition approval of the project on the construction of right-turn lanes on the southern and northern approaches of River Road to Little Falls Parkway was opposed by segments of the community, in particular the Town of Somerset and residents of the Kenwood Condominium. Several individuals and representatives of the Kenwood Condominium submitted correspondence and other documentation into the record expressing opposition to the latter improvements. Several speakers testified at the public hearing in opposition to the improvements. Among the concerns raised by these speakers was that the improvements would have a negative effect on the neighborhood and the environment; safety of pedestrians would be compromised; access to the Kenwood Condominium would be further impacted; increased noise and emissions pollution would result; property values would decline; and, use of public transportation would be discouraged. Certain speakers recommended other improvements that they believed would have greater benefit. Several speakers requested further detailed study of the issue and requested that the community be kept informed and included in the process.

Staff testified that because peak hour trips had been significantly reduced under the amended proposal, it had requested that the Applicant conduct a new traffic count at the intersection of Little Falls Parkway and River Road. Applicant performed the new traffic count on March 27, 2003. Staff further testified that, based on an analysis of the new count and a review of counts conducted in March and April of 2000, it has concluded that the previous requirement to add a southbound right-turn lane on River Road at Little Falls Parkway is unnecessary. Therefore, Staff recommended at the

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<sup>19</sup> When previous plans for Wisconsin Place were submitted for approval, Staff evaluated 11 intersections for impact of the proposed Wisconsin Place development.



hearing that this condition be removed from the conditions of approval. This recommendation was uncontested. The Board accepts the revised traffic analysis as submitted by the Applicant and adopts Staff's latter recommendation as a part of its approval of this Preliminary Plan.

Staff further testified concerning the need for the northbound right-turn lane on River Road at Little Falls Parkway. Staff indicated that, although the 2000 traffic study data suggested the need for such an improvement, the 2003 data count suggests that it is not needed. Therefore, Staff recommended that this condition be re-evaluated as part of the traffic study to be conducted at the time that total occupancy of the three Friendship Heights developments (*i.e.*, Wisconsin Place, Friendship Commons (GEICO) and Chevy Chase Center) reached a certain level of retail or office development, as set forth in the conditions of approval.

Staff reiterated, in response to Board members' queries, that no improvements would be performed at the intersection of River Road and Little Falls Parkway at the present time if the Board accepted Staff's recommendation. Furthermore, Staff assured the Board that the community would be informed of future studies and that the community's input would be welcomed by Staff. Staff noted that a public hearing would be required before a decision could be taken regarding such improvements to the latter intersection. The Board supports Staff's recommendation and adopts it as a part of its approval of the Preliminary Plan.

There were no other issues related to traffic or transportation raised at the hearing or contained in the record, except for the treatment of the additional lane on Wisconsin Avenue (discussed below).

#### iv. Street Access

The Planning Board finds, based on testimony and evidence in the record, that the proposed street access to the project is adequate. The Staff Report contained substantial evidence on this point.

Robert Cope, speaking on behalf of the Citizens' Coordinating Committee for Friendship Heights, expressed concern regarding the proposed improvement to Wisconsin Avenue between Willard Avenue and Western Avenue. The Applications reflect a widening of Wisconsin Avenue whereby the Applicant, as part of the Site Plan approval, is responsible for the curb reconstruction along the Wisconsin Avenue frontage of the Property. Staff testified that the Sector Plan identified a traffic safety concern with the existing vehicular pullout on the west side of Wisconsin Avenue near Western Avenue. The Sector Plan recommended that the existing pullout in front of Hecht's be removed as a condition of future development. Staff testified that the pullout

for passenger pick-up and drop-off disrupts the sidewalk area available for pedestrians and results in unsafe traffic movements into the main flow of southbound traffic on Wisconsin Avenue very close to Western Avenue. Mr. Cope advocated that the additional lane should serve as a dedicated drop-off. Staff testified that the present proposal does not change the previously approved plan for this lane. Staff informed the Board that it envisioned a multi-purpose use of the additional lane: for drop-offs to serve the Metro entrance; a right-turn lane, serving west-bound Western Avenue; and, to accommodate a bus stop. Staff advised the Board that this option would be better than closing off the lane as a dedicated drop-off area because traffic would then be required to pull into the through lanes, which was a safety concern identified in the Sector Plan. Staff also testified that "no standing" signs would be posted along the lane but that such signs do not preclude passenger pick-ups or drop-offs. Staff noted that this plan was worked out through the Friendship Heights Task Force's transportation committee before the Board's approval of the original plans for the instant project. Following consideration of the various issues, the Board adopts Staff's recommendation with regard to the right-turn lane on Wisconsin Avenue.

The Plan also provides for a new landscaped median on Wisconsin Avenue, which will extend from Willard Avenue to Western Avenue, where a new, dedicated, left-turn lane will be provided. Such landscaping will be provided by the Applicant and installed by the County.

The proposed development also includes the construction of a new, private two-way internal street accessing the Property from Friendship Boulevard, in between the Major Public Park and the residential building. Evidence in the record shows that the latter street will include construction materials and plantings that will blend in well with the Major Public Park. The Applicant testified that there will be parking along the perimeter of the internal road limited to two vehicles. The Applicant and Staff also indicated that the entrance point along Friendship Boulevard could be closed for community functions and performances in the Major Public Park. At that time, performance vehicles and trucks supporting such events or performances could use the parking spaces along the roadway. The Board concurs with Staff's finding that the internal roadway is adequate and appropriate for the project.

The evidence was uncontested regarding the acceptability of all of the access points to the development from public streets. The Board deems acceptable the locations of the parking garage access points along Friendship Boulevard and Willard Avenue, including but not limited to the Old Willard right-of-way.

c. Stormwater Management

The record includes uncontested evidence that the storm drainage improvements and stormwater management concept and other related matters for the Property is acceptable as conceptually approved by the Montgomery County Department of Permitting Services. The concept calls for the construction of an on-site underground retention facility to accommodate quantity control and the construction of various quality controls. Also, the Board finds that the proposed storm drainage improvements are acceptable as proposed. The storm drainage system will be a closed system in conformance with the stormwater management concept plan approved by the Department of Permitting Services and the Subdivision Regulations. As part of the proposal, a 72-inch storm drain, located within a storm drain easement on the Property will be removed as part of the construction of the Property. In its place, the Applicant will provide a connection to the storm drain that already has been constructed in the Friendship Boulevard right-of-way. The existing Plat for the Property and other evidence of record contemplates this arrangement. The Board finds, based on the uncontested evidence of record that the proposed stormwater management and storm drain plans adhere to the provisions of the Subdivision Regulations and are deemed adequate and acceptable.

d. Forest Conservation

The record includes uncontested evidence that the Application meets the requirements of the Forest Conservation Law.<sup>20</sup>

e. Relation to Master Plan (Sector Plan)

The Planning Board finds that the Preliminary Plan Application substantially conforms to the Sector Plan. The proposed development will achieve the general Land Use and Urban Design objectives contained in the Sector Plan as well as realizing objectives and following guidelines specific to the Property. The proposed mixed-use development will realize the stated objectives of Sector Plan as further discussed in other sections of this Opinion.

Additional features of the proposed development that establish substantial conformance with the Sector Plan include the adherence to road rights-of-way to the full width mandated by the Sector Plan. Although not specifically recommended in the Sector Plan, the Applicant will provide for the curb relocation on Wisconsin Avenue, thereby contributing to increased pedestrian safety, a general objective of the Sector Plan.

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<sup>20</sup> Montgomery County Code, Chapter 22A.

Additionally, the Preliminary Plan Application substantially conforms to the Sector Plan's streetscape and amenity recommendations. The proposed selection of brick pavers for sidewalks, paving for the bike path and street light fixtures and street tree specifications, which are consistent with recommendations in the Sector Plan, contribute to this finding as does the inclusion of the Major Public Park, open spaces and the community center. The Planning Board, therefore, finds that the Preliminary Plan Application substantially conforms to the Sector Plan Streetscape recommendations.<sup>21</sup>

f. General Items

The subdivision component of the Application, including the waiver request from Section 50-20(b) of the Subdivision Regulations, was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval.

**3. Preliminary Plan Findings**

After review and consideration of the evidence of record, including testimony given at the public hearing, the Planning Board finds that Preliminary Plan No. 1-99030B is in accordance with the Subdivision Regulations, the Zoning Ordinance and the Regional District Act. Based on the testimony and evidence contained in the record and on the Staff Report including the Transportation Planning Division Staff Report, the Planning Board further finds that, with the Conditions enumerated below: (1) the proposed lot(s) is appropriate with regard to lot size, width, shape, and orientation for the location of the subdivision and the contemplated use; (2) the proposed lot(s) abuts public roads; (3) the Preliminary Plan meets the development standards of the CBD-2 with Chevy Chase Comparison Retail Overlay Zone; (4) the Preliminary Plan substantially conforms to the Sector Plan; (5) the site is adequately served by public facilities; and (6) the application meets the requirements of the forest conservation law. In addition, the Planning Board finds that the proposed conditions will ensure the appropriate use of the Property and adequate parking, stormwater management and storm drainage, access and road improvements. Therefore, the Planning Board adopts Staff's recommendation and conditions.

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<sup>21</sup> See detailed discussion under Project Plan and Site Plan sections of the Opinion.

#### 4. Subdivision Waiver

As part of the Preliminary Plan application, the Applicant requested a waiver from Section 50-20(b) of the Subdivision Regulations to permit certain structures and buildings to cross lot lines as part of the subdivision approval. This waiver request was uncontested. The Applicant testified that they have been focusing on financing, marketing, architectural and construction related issues since the Planning Board approved the Site Plan and revised Project Plan and Preliminary Plan. Condition Number 11 of the prior approval of the Preliminary Plan reads as follows, "Prior to recordation of the property, Applicant and technical staff to make a final determination of the total number and configuration of lots on the property. These lot(s) shall be reflected on the final plat(s) to be recorded among the land records." This condition was included as part of the approval because the development needs to contain one or more lots in order to satisfy potential investor and financing needs for separately identifiable collateral. Since the prior approval, the Applicant indicated that The May Department Stores Company may own the lot that will house the new Hecht's department store and the remainder of the Property may be divided in one or more lots, including a lot for the office building (with some ground floor retail), a lot for the residential development and Community Center and a lot for some of the retail. As recognized by the conditions of approval, the exact location of these internal lot lines is to be determined prior to Record Plat.

Section 50-20 (b) states that, "A building permit may not be approved for the construction of a dwelling or other structure, except those strictly for agricultural use, which is located on more than one (1) lot, which crosses a lot line, which is located on the unplatted remainder of a resubdivided lot, or which is located on an outlot, except as follows . . ." The Applications reintroduce a full sized grocery store that already was approved by the Board as part of the prior approval. The grocery store is positioned in such a way where it is placed underneath a portion of the residential development and underneath a portion of the commercial/office development. The Board finds that the grocery store is located in a logical location on the Property and, from an architectural and design point of view, works in conjunction with the underground parking garage and also provides pedestrian access off of Willard Avenue (which is very important in activating Willard Avenue). However, as the Applicant needs to provide for a separate lot for the residential development, the location of the grocery store creates a situation where a building or structure would, of necessity, be located on more than one lot and cross a lot line. Similarly, the garage also would cross lot lines and the covered arcades that are part of the pedestrian system within the amenity and public use space also may cross lot lines.

Section 50-38(a)(1) of the Regulations permits the Board to grant a waiver from the requirements of Chapter 50, "upon a determination that practical difficulties or



unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is " 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest." The Board finds that the practical difficulties or unusual circumstances associated with dividing the Property into a number of lots, without having a building or structure cross a lot line, is apparent. The Property is located in an urban environment that is envisioned to contain a significant mixed-use development. The Sector Plan recommends that retail, office, residential, amenities and community and open space all be located on the Property. The Sector Plan also strongly encourages (as does the prior Planning Board approvals) the inclusion of the grocery store. Furthermore, the Sector Plan envisions that the grocery store will be predominantly located below grade (the Sector Plan also envisions that parking on the Property will be underground). As a result of this unique situation, the Board finds that it would not be possible to comply with the requirement that building(s) or structure(s) not cross lot lines. The Board finds that the waiver is the minimum necessary to implement the Sector Plan goals of a mixed-use development with an underground grocery store, thus serving the public interest.

Based on the testimony of record, the Staff presentation and the Applicant's submission, the Board hereby grants the waiver of Section 50-20(b) of the Subdivision Regulations so that structures on the Property identified as the underground garage and grocery store, as well as covered pedestrian arcades, shall be permitted to cross lot lines and be located on more than one lot. The Board concurs that the lot(s) shall be reflected on the final plat(s) to be recorded among the land records.

## **5. Conclusion**

Having considered all of the evidence presented, including the comments of the outside reviewing agencies, and all of the testimony taken, including that contained in the companion Project Plan and Site Plan proceeding, the Planning Board finds Preliminary Plan 1-99030B to be in accordance with the Subdivision Regulations of the Montgomery County Code and the provisions of Article 28 of the Maryland Code Annotated; and, the Board further finds that Preliminary Plan 1-99030B is in substantial conformance with the applicable recommendations of the Sector Plan. Therefore, the Planning Board APPROVES the Preliminary Plan Including Waiver Pursuant to Section 50-20(b) for Building Located Over Lot Lines, Subject to the Following Conditions:

1. Approval under this preliminary plan amendment is limited to the following:
  - a. 265,000 square feet of retail space replacing the existing 176,188 square-foot Hecht's building

- b. 305,000 square feet of office space
- c. 433 high-rise apartment units
- d. 50,000 square feet of retail for a grocery store
- 2. Maintain a 120-foot right-of-way for Wisconsin Avenue
- 3. Maintain a 90-foot right-of-way for Willard Avenue between The Hills Plaza and Friendship Boulevard
- 4. Maintain a 120-foot right-of-way for Western Avenue
- 5. To satisfy Local Area Transportation Review (LATR), the Applicant shall participate equally with the owner/developer of Friendship Commons (PP 1-99039) and the owner/developer of Chevy Chase Center in the following two road improvements. The road improvements shall be completed prior to the issuance of any occupancy permit for any of the developments, with funding provided by the various Applicants at the time the improvements are constructed.
  - a. Provide separate left-turn lane along eastbound and westbound Western Avenue at River Road by re-striping the existing lane designation and change the traffic signal phasing to provide concurrent signal phasing along Western Avenue.
  - b. Re-stripe the existing southbound Friendship Boulevard approach (within the existing curbs) from the existing one left-turn lane and one through/right lane to one left-turn lane, one through lane, and one through/right lane. A new signal phasing is needed at this intersection to provide split phasing for Friendship Boulevard and Jennifer Street.
- 6. To satisfy LATR, the Applicant shall participate at a 40% share with the developers of Friendship Commons and Chevy Chase Center in funding the cost of:
  - a. Conducting a traffic study at the time that total occupancy of the three Friendship Heights developments (i.e., Wisconsin Place, Friendship Commons and Chevy Chase Center) reaches either 600,000 square feet of office or 225,000 square feet of retail, over and above what already exists as of the date of the Transportation Planning Division memo dated March 25, 2003, revised April 3, 2003 to determine the need for improvements for River Road and Little Falls Parkway as described in paragraph b.
  - b. Constructing improvements to River Road and Little Falls Parkway, if warranted by the traffic study and approved by the State Highway Administration (SHA) and the Maryland-National Capital Park and Planning Commission (M-NCPPC), to add a northbound right turn lane on River Road within the existing right-of-way and to widen Little Falls Parkway at the intersection by one lane on the south side within the existing right-of-way to accommodate left-turn lanes on both approaches to River Road.

7. Participate equally with the owners of Friendship Commons (Preliminary Plan No. 1- 99039) to fund a traffic signal at either or both site access points common to both projects along Friendship Boulevard based on actual traffic generated from each primary development within one year of completion and occupancy of both projects, as deemed necessary by a Montgomery County Department of Public Works and Transportation (DPWT) warrant analysis.
8. The Applicant shall participate in the Friendship Heights Transportation Management Organization and enter into a Traffic Mitigation Agreement with M-NCPPC and DPWT to assist in attaining the objectives of the Transportation Management District, including making a best effort to achieve and maintain a non-auto driver mode share of 39 percent of employees. The Traffic Mitigation Agreement shall be included in the Site Plan Enforcement Agreement for the proposed development
9. Compliance 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.
10. Terms and conditions of access, as required, to be approved by MCDPWT prior to recordation of plat(s).
11. Provide landscape/streetscape plans and a parking facilities plan as part of the site plan application.
12. No clearing, grading or recording of plat(s) prior to site plan approval.
13. Conditions of MCDPS stormwater management approval dated January 20, 1999, reconfirmed by letter dated August 24, 2000, and reconfirmed by letter dated November 14, 2002 from MCDPS.
14. Prior to recordation of the property, the Applicant and technical staff will be able to make a final determination of the total number and configuration of lots on the property. Pursuant to the waiver of Section 50-20(b) of the Subdivision Regulations hereby granted by the Board, structures on the property identified as the underground garage and grocery store, as well as covered pedestrian arcades, shall be permitted to cross lot lines and to be located on more than one lot. These lot(s) shall be reflected on the final plat(s) and recorded among the land records.
15. Other necessary easements
16. The validity of Preliminary Plan No. 1-99030B is dependent upon the Applicant proceeding with and abiding by the terms and conditions of approval for Project Plan No. 9-99001B.
17. Preliminary Plan No. 1-99030B will remain valid for thirty-seven (37) months from the date of mailing of this Planning Board opinion. Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed.

The Adequate Public Facilities (APF) review for Preliminary Plan No. 1-99030B will remain valid for one hundred forty five (145) months from the date of mailing of this Planning Board opinion.

#### **IV. THE SITE PLAN**

Pursuant to Section 59-D-3.4 (Action by the Planning Board) of the Montgomery County Zoning Ordinance, in reaching its decision, the Board must make certain determinations and findings. At the public hearing, the Board considered evidence and heard testimony from Staff, the Applicant and neighboring property owners and representatives of various community groups and associations on Site Plan No. 8-01010A. Staff recommended approval of the Site Plan subject to certain conditions.

Staff described the features of the proposed Property itself, including intended points of access, configuration of buildings on the Property, the planned parking facility for the Property, amenities, truck loading/unloading configurations, pedestrian circulation, and issues related to bikeways and sidewalks.

During the hearing, a number of issues were raised regarding the Applications and the Site Plan, including comments related to the possible location of a drop-off along Wisconsin Avenue, pedestrian access and safety and sizing, locational and operational issues for the Community Center and Major Public Park. At the public hearing, the Board heard testimony, received evidence and gave careful consideration to the public hearing testimony, written testimony and evidence submitted in the record on the Application. Some of the issues raised and addressed as part of the testimony are discussed below.

##### **1. Site Plan Requirements**

At the public hearing, the Planning Board considered evidence and heard testimony on Site Plan No. 8-01010A. Staff recommended approval of the Site Plan, subject to several conditions. The Planning Board finds the Application is consistent with Project Plan No. 9-99001B and with Preliminary Plan of Subdivision No. 1-99030B. The Application proposes development of the Property with a mix of uses at densities and locations, which are consistent with the mix of uses, and densities approved by the Planning Board as a part of Project Plan No. 9-99001B and Preliminary Plan of Subdivision No. 1-99030B.

In order to approve a Site Plan, the Planning Board must make the following findings:

1. The site plan is consistent with an approved development plan or a project plan for the optional method of development, if required.
2. The site plan meets all the requirements of the zone in which it is located.
3. The locations of the buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.
4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.
5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation and Chapter 19 regarding water resource protection.

## **2. Issues Discussed**

### **a. Traffic Concerns**

As discussed above in the discussion of Preliminary Plan issues, numerous individuals from the Kenwood Condominium provided testimony focusing on the need for the previously approved improvement to the intersection of River Road and Little Falls Parkway. The majority of the testimony related to the condominium owners' concerns that the widening of River Road would create an unsafe condition in front of the Kenwood building. In response to these homeowners' concerns, Staff and the Applicant confirmed that another traffic count had been conducted and, as a result of that count, certain portions of the prior condition of approval for the improvement would be eliminated (see discussion under Preliminary Plan). The remainder of the evidence regarding traffic and transportation was uncontested, more specifically that the proposed amendments to the plan would result in fewer trips on the roadway network and create less traffic than the previously approved plan.

Also, as discussed in the discussion of Preliminary Plan issues, the Citizens Coordinating Committee for Friendship Heights addressed the need for a potential dedicated drop-off on Wisconsin Avenue. Technical Staff reiterated the need for a dedicated right turn lane that also could accommodate passenger and bus drop-offs and pick-ups. The Board, after questioning Staff on this improvement, concludes that the additional lane should remain as proposed on the Applicant's Site Plan and as previously approved as part of Site Plan No. 8-01010.



b. Pedestrian Safety Concerns

The CBCC testified that the entrance to the Community Center on Friendship Boulevard, adjacent to the service entrance of the garage, would create a hazardous situation for the general public's use and enjoyment of the Community Center. At the hearing, the Board asked the Applicant or Staff to address this issue. Staff explained the access point and testified that, in its opinion, the proximity of the service area to the entrance of the Community Center does not raise any safety concerns.

The uncontested evidence of record was overwhelmingly supportive of the Site Plan design features to further promote pedestrian accessibility both around the Property and through the Property. There was substantial testimony of record from the Applicant and Staff explaining how pedestrian accessibility was accomplished from all of the major roadways and through the internal pedestrian lane connections. The Planning Board supports the design efforts to promote pedestrian accessibility throughout the Property and particularly to the Metro station.

c. Height of Proposed Development

The uncontested evidence of record illustrated that the project's height for the various uses was entirely compatible with surrounding land uses and, furthermore that that the application conforms to the recommendations and guidelines contained in the Sector Plan and also complies with the development standards for optional method development in the CBD-2 zone.

d. The Community Center

As discussed under the Project Plan portion of this Opinion, at the time of the previously approved Site Plan, April 2001, the Applicant, Staff and the Planning Board devoted considerable effort to review of the space, program, and operations of the Community Center to ensure public accessibility and affordability, and to meet community needs. With considerable citizen input to the Applicant's development process and Staff's review process, the approved Community Center featured an increase in square footage of 3,200 square feet over the approved Project Plan (Planning Board hearing, December 2000) and 8,500 sf over the Sector Plan recommendation. The increased floor area offers additional program space for such possible uses as community meetings and short-term childcare.

In its hearing of April 2001, the Planning Board addressed the operational arrangements for the Community Center, that is, the lease agreement required between the applicant and M-NCPPC for the center space, the responsibility of the M-NCPPC to

approve an operator, and maintenance obligations required of the applicant to ensure the operating condition of the structure. The evidence of record reflects that the current Applications retain all aspects of the Community Center exactly as previously approved.

The Community Center received considerable attention from a civic group, CBCC. CBCC indicated that its only goal is "to ensure that the quality of these public amenities is equal to the quality of the Bethesda/Chevy Chase community. More specifically these public amenities should be consistent with the Friendship Heights Sector Plan and consistent with Montgomery County recreational policies."<sup>22</sup> As such, CBCC seeks to have a full-sized County aquatic center included as a public amenity within the Community Center. The record reflects that such a facility was never a component of the Community Center architectural program, which was presented to and coordinated with area residents; and, the record further reflects that an aquatic center was rejected as part of the prior approval process when the CBCC brought up this very same issue at past hearings. Neither an aquatics center nor larger Community Center was contemplated for the Property as part of the Sector Plan. With considerable attention devoted to the Community Center issues during the prior approval process, and significant expression of consensus, the Planning Board hereby reconfirms its approval of the design and operation of the center.

Julian Mansfield, Village Manager for the Village of Friendship Heights, testified in favor of the Applications and specifically indicated Village support for the Community Center, as approved. Mr. Mansfield indicated that, according to the Sector Plan, the Community Center was intended to complement the Village Center so that, together, both facilities would equal in size a typical County community center. Mr. Mansfield testified that, in the Village's view, the Community Center, as proposed, was of the right size and magnitude to complement and not detract from the Village's center. Mr. Mansfield also offered support for the location and size of the Major Public Park.

Cleonice Tavani testified on behalf of the Village of Friendship Heights Civic Association. Ms. Tavani expressed her organization's support for the Applicant's plan, including the Community Center. Ms. Tavani stated her strong opposition to the Community Center proposed by CBCC, and further expressed her opinion that additional swimming pools were not needed in Friendship Heights. David Scribner, representing the Citizens Coordinating Committee for Friendship Heights and the Green Acres-Glen Cove Citizens Association, expressed his organizations' positive reaction to the proposed development. Robert Cope, also speaking on behalf of the Citizens Coordinating Committee for Friendship Heights, testified in support of the size and location of the Community Center. In his testimony, Mr. Cope described the evolution of the Community Center, opining, among other things, that the

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<sup>22</sup> See Hearing Transcript at 45 (remarks of James Norton, CBCC).

sizing of the Community Center was geared towards a size that would complement the Village of Friendship Heights community building, *i.e.*, approximately 12,000 square feet.<sup>23</sup>

The Planning Board carefully considered evidence of record and testimony regarding the size, location and design of the Community Center and specifically finds that the Community Center as proposed complies with the requirements contained in the Sector Plan. The Sector Plan contains language that suggests that approximately 12,000 square feet of community space should be located either in or adjacent to the Major Public Park. However, in the process of working with representatives of the surrounding community, it became clear that the community desired both passive and active recreational amenity space more in line with the size of the Leland Community Center located in Bethesda. In particular, the community wanted space that could accommodate a full court basketball court/all purpose room. This space, in order to be most effective, required ceiling heights in the range of 20+ feet with column free space. This space could not effectively be located in the same structure as either a hotel or residential building but instead was more appropriately designed as its own structure. Furthermore, given the location of the GEICO ball field, the Chase Tower amenities, the Major Public Park and the Village of Friendship Heights Community Center, it became clear that the location of the Wisconsin Place Community Center worked quite well fronting on Friendship Boulevard, in close proximity to the Major Public Park. The linking of the various active and passive recreational amenities throughout Friendship Heights was further advanced by the location of the Community Center as is the provision of access for persons with disabilities, which, given the topography, required elevator access to the plaza level. The Planning Board finds that the Community Center amenity, both in quality and quantity, is significantly advanced as part of the development approval process and its location along Friendship Boulevard is very much in conformance with the guidelines and flexibilities contained in the Sector Plan. The Planning Board confirms this finding after significant and careful consideration afforded this issue.

### **MPDUs**

The record reflects that the Applicant will provide 28 of the required 55 Moderately Priced Dwelling Units on site. The remaining 27 units will be accommodated via an Alternative Compliance Agreement entered into between the Applicant and the DHCA, dated February 28, 2002. The DHCA has assured the Planning Board that it will allocate the payment made by the Developer, in lieu of providing 27 units on site, to affordable housing opportunities "either within Friendship Heights or in adjacent

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<sup>23</sup> See generally Hearing Transcript at 75-79 (remarks of Robert Cope, Citizens Coordinating Committee for Friendship Heights).

planning areas . . . .<sup>24</sup> The Planning Board finds this arrangement to be a reasonable approach for the Applicant to meet its MPDU requirement and conditions its approval of the Applications on the Applicant providing MPDUs in accordance with the provisions of Chapter 25A of the Montgomery County Code as required by the Department of Housing and Community Affairs.

#### **Public Art, Open Space, and Amenities**

As part of the previous approval, the members of the Commission's Art Review Panel reviewed the concept for the public art proposed for the Wisconsin Place Site Plan. The developer's selected artist, Athena Tacha, presented her concepts for the major public amenity areas to the art panel and to the Planning Board. The panel enthusiastically recommended approval of the art proposal for the project. The Planning Board approved the art proposal with a limited number of conditions. The record before the Planning Board indicates that the location and concepts for the artwork are uncontested.

As stated above, CBCC also offered testimony on the size and location of the Major Public Park in relation to the Community Center. CBCC suggested that a significantly larger Community Center, encompassing an aquatics center, should be located in the very same area where the Sector Plan recommends the Major Public Park and that the park should be relocated to an internal portion of the Property. The Board, while giving careful consideration to this testimony, concludes that the Community Center, as proposed by the Applicant is a significant public amenity that is larger than that even required by the Sector Plan. The Board also concludes that the location of the Community Center and Major Public Park, as proposed by the Applicant, conforms to the requirements and guidelines of the Sector Plan. The Sector Plan contains a recommendation that the Major Public Park be located at the intersection of Friendship Boulevard and Willard Avenue, as reflected in the Applications, in order to provide a transition between the project and the surrounding communities. Furthermore, the Sector Plan envisions the Major Public Park as open and inviting to the public on the periphery of the Property—not internalized to the Property.

The Board also finds that the open space and amenities contained as part of the project conforms to the requirements of the Sector Plan and are highly desirable. For a discussion on these issues, see the Project Plan portion of the Opinion.

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<sup>24</sup> See Letter from Elizabeth B. Davidson, Director, DHCA to Derick Berlage, Chairman, Planning Board (Apr. 9, 2003).

### 3. Site Plan Findings

Based on the testimony and evidence presented and the Staff Report and other materials, which is made a part hereof, and pursuant to Section 59-D-3.4 of the Zoning Ordinance, the Board expressly finds with respect to the Site Plan component of the Application, as follows:

i. The Site Plan is consistent with an approved development plan or project plan for the optional method of development, if required.

The Site Plan conforms to the proposed Project Plan application.

ii. The Site Plan meets all of the requirements of the zone in which it is located, and is consistent with an urban renewal plan approved under Chapter 56.

The Site Plan meets all of the requirements of the CBD-2 Zone with Overlay as follows:

### PROJECT DATA TABLE

Wisconsin Place (Friendship Place): Project Plan 9-99001B and Site Plan 8-01010A		
<u>Development Standard</u>	<u>Permitted/Reqd</u> CBD-2/Sector Plan	<u>8-01010A &amp; 9-99001B</u> Combined Amendments
Gross Lot Area	22,000 min.	389,104 sf
Net Lot Area	NA	347,363 sf
Floor Area Ratio**	2.70	2.70
<b>Uses</b>		
Office *	300,000 sf	305,000 sf
Retail (general) *	450,000 sf	85,000 sf
Hecht's Department Store *		180,000 sf
Housing		480,000 sf
<b>Total FAR sf</b>	<b>1,050,000 sf</b>	<b>1,050,000 sf</b>
Grocery ***	40,000 sf	50,000 sf**
Community Center ***	12,000 sf	20,500 sf
<b>Total Gross sf</b>	<b>1,102,000 sf</b>	<b>1,110,500 sf</b>
<b>Density (dwellings/ac)</b>	200 units/ac	54.33 units/ac
Dwelling Units:		433 units
Studio	-	16 units



1-Bedroom	-	211 units
2-Bedroom	-	163 units
3-Bedroom	-	15 units
MPDU Studio	-	14 units
MPDU 1-Bedroom	-	14 units
Conceptual mix is subject to revision		
<b>Public Use Space</b> (%net lot)		4.17 acres
On-Site	20% (1.59 acres)	38% (3.03 acres)
Off-Site		1.14 acres
Major Park		.80 acre
<b>Building Height</b>		
Office Building	143'	143'
Housing	143'	143' max
Hecht's	143'	54'
Retail	143'	32'
Community Center	143'	29'
<b>Setbacks</b>		
Wisconsin Avenue	40'	40' (prior to moving curblane on Wisconsin Avenue)
Western Avenue	40'	40'
Friendship Avenue	20'	20'
Willard Avenue	30'	30'
* Total of these uses not to exceed 750,000 sf per Sector Plan		
** Grocery Store uses 10,000 sf FAR retail space		
*** Community Center and Grocery are excluded from FAR limit		

## PARKING ANALYSIS

<u>Use</u>	<u>Base Requirement</u>	<u>Transit Reduction</u>	<u>Mixed Use Formula *</u>
Office (1.9 spaces/1,000 sf)	493 spaces ***	15% Share-a-Ride	50 spaces
Retail (5 spaces/1,000 sf)	1,167 spaces **	Metro Station vic	1,167 spaces
Housing	488 spaces **	15% CBD & Metro	472 spaces
MPDU Housing	16 spaces**	15% CBD & Metro	16 spaces
Community Center	44 spaces **	Metro Station vic	44 spaces
<b>Total Parking Provided</b>			<b>1,749 spaces</b>
* Per Section 59-E-3.1 of the Zoning Ordinance for Mixed Uses			
** Includes 15% credit for being within 1,600 feet of a Metrorail Station and/or within CBD			
*** Includes 15% credit for Share-a-Ride participation			

The Board also finds that the parking requirements of the project, based on the mixed-use nature of the development and the parking analysis contained in the Applications and Staff Report, meets the requirements of the project and Zoning Ordinance as set forth in Division 59-E of the Zoning Ordinance. In making this finding, the Board recognizes that the Applicant has submitted an Alternate Managed Scheme to incorporate additional attendant parking for restaurant uses, if deemed necessary. The Alternate Managed Scheme shall be included as part of the Site Plan Signature Set.

Pursuant to Chapter 56, there is no Urban Renewal Plan applicable to the Property.

iii. The location of the building, the open spaces, the landscaping, recreation facilities and the pedestrian and vehicular systems are adequate, safe and efficient.

#### Locations of Buildings

Wisconsin Place consists of five distinct building groups: the new Hecht's building, an office tower with contiguous low-rise office space atop ground floor retail, the retail cluster at the South Court, the Community Center, and the apartment complex that forms the northwest quadrant of the site.

The Board finds that the buildings, complex in their relationships, are arranged on the Property with efficiency to enhance the function and accessibility of each use and, more importantly, to allow the expansion of footprint of the housing structures on the Property. The substitution of housing density for office space has essentially shifted the massing from the Property's center to the north and south edges.

The Board finds that the office tower, shifted eastward, placed atop the retail, wrapped by associated low-rise office space, adequately and effectively establishes the vital building line on Wisconsin Avenue. The tower's profile completes a compelling triad with its companion office buildings on the adjoining sites, the Chase Tower and the Chevy Chase Center, and marks vertically, the gateway to Montgomery County. The placement of the retail exclusively along pedestrian intensive areas encourages activation of the streets, both internally and externally to the Property. The North-South Arcade provides the axial pedestrian connection through the Property, separates the Property's volumes, and establishes a readily understood pattern for the visitor navigating the Property.

The Board also finds that the location of the housing at the northwest corner uses the Property's natural topography effectively, creating the opportunity for the building to frame the major park, face the surrounding tall apartment houses, and at the same time create the urban interior (pedestrian) street that provides a critical linkage between the buildings. The augmentation of the housing structure, enlarged to form an U-shape ensemble presents a

challenging design problem, particularly with regard to preserving open space at the Major Park that may be recognized as visible, accessible public space.

The Board further finds that the placement of the Community Center on the western edge, augmented by the western wing of the Housing complex, successfully defines the new Friendship Boulevard, clearly imparting an urban character to the street.

### Open Spaces

The Board finds that the open space provided exceeds the requirements of the zone and is therefore adequate. The open space consists of the Major Park, Minor Park, the South Courtyard, the North Courtyard, the Community Courtyard and the internal pedestrian lanes. The open spaces throughout the Property provide a critical contrast to the placement of the buildings--the variety in the scale, size, solar orientation, character, and intended activity of the spaces provides an especially effective component of the site's successful assembly.

Staff and the Applicant have given much attention to the design of the open space at the Community Center. The revisions to the proposed design feature a unified central green space that mediate the internal edges of the housing footprints and provide a usable open space with attractive landscaping and comfortable grading that may be used for social events sponsored by the Community Center. The Board finds that the design solutions achieved by the Applicant design team, including alignment of the buildings, flexibility of housing unit types, and the successful resolution of the pedestrian paths provides compelling axial views of these public spaces that will encourage use of the Community Center and shopping at the stores.

The Board finds that the Major Public Park, as an amenity space is clearly identified as public, with the capacity to provide an inviting open space that encourages community participation in the activities envisioned in the Sector Plan: concerts, festivals, outdoor dining, strolling and people-watching. Speakers, including residents of the immediate area, expressed approval for the location and character of the proposed Major Park. The Board finds that the open nature of the park contributes to the safety of users of the park and pedestrians in general. The Board rejects the notion that the Major Public Park should be relocated from its present location to a place internal to the Property

Evidence in the record supports a finding that the placement of adequate stormwater quality and quantity control facilities underground at the major park and the minor park contributes to safety and is an efficient solution.

## Landscape and Lighting

### Major Public Park

The Board finds that the Major Public Park, as envisioned by the Sector Plan, is intended to create a gentle refuge from the surrounding urban environment. The design concept treats the triangular space as three connected "rooms" for a variety of visitors. The landscaping is presented as a perimeter envelope of trees and graduated plantings and ground cover that define each room yet allow privacy or participation. An interesting variety of tree species will provide attractive sitting areas, both sunny and shady, and a sense of protection from the nearby traffic. The lighting within and around the park enhances safety, providing well-balanced light levels from Washington Globe streetlights, ground level bollard lighting, and accent fixtures.

The perimeter of trees opens for an entrance on each street side of the park.

### Streetscape and Site Lighting

The Board finds that the proposed streetscaping and site lighting contributes to public safety and is in conformance with the requirements contained in the Sector Plan and consistent with the recommendations contained in the Friendship Heights Streetscaping Plan. The evidence of record is uncontested on this point.

#### d. Recreation

The Site Plan proposal includes a chart of recreational amenities that will be provided within the residential buildings. The Board finds that the recreational facilities are more than adequate for this development.

The recreational requirements for the Housing proposed will be met by high quality indoor facilities, with the outdoor pedestrian system and open spaces on the Property and the adjacent Community Center and gymnasium have not been included in assessing the recreation needs of the residents.

### RECREATION ANALYSIS

Recreation Demand for Hi Rise							
Unit Type	Quantity of Units	D1 - Tot (0-4)	D2 - Child (5-11)	D3 - Teen (12-17)	D4 - Adult (18-64)	D5 Senior (65+)	TOTAL
Hi Rise (Base Figure/100)	100	4.00	4.00	4.00	77.00	46.00	135.00
Hi Rise (Wisconsin Place)	433	17.32	17.32	17.32	333.41	199.18	584.55

Recreation Supply for Hi Rise							
Facility (On Site)	Quantity	D1 - Tot (0-4)	D2 - Child (5-11)	D3 - Teen (12-17)	D4 - Adult (18-64)	D5 Senior (65+)	TOTAL
Picnic/Sitting	8	8.00	8.00	12.00	40.00	16.00	84.00
Open Play Area	1	6.00	9.00	12.00	30.00	2.00	59.00
Indoor Fitness Room	1	0.00	1.15	1.15	44.45	19.92	66.68
Resident's Community Activity Room	1	1.15	1.73	3.46	66.88	53.11	126.15
Pedestrian System	1	1.73	3.46	3.46	150.03	89.63	248.33
<b>Recreation Supply On Site</b>		<b>16.89</b>	<b>23.35</b>	<b>32.08</b>	<b>331.17</b>	<b>180.66</b>	<b>584.15</b>
Supply/Demand Ratio On-Site		0.97	1.35	1.85	0.99	0.91	1.00
Facility (Off Site)	Quantity	D1 - Tot (0-4)	D2 - Child (5-11)	D3 - Teen (12-17)	D4 - Adult (18-64)	D5 Senior (65+)	TOTAL
Friendship Hts Village Center	2	2.31	3.46	6.93	133.36	106.23	252.29
<b>Recreation Supply Off Site</b>		<b>2.31</b>	<b>3.46</b>	<b>6.93</b>	<b>133.36</b>	<b>106.23</b>	<b>252.29</b>
Supply/Demand Ratio Off-Site		0.13	0.20	0.40	0.40	0.53	0.43
<b>Total Recreation Supply</b>		<b>19.20</b>	<b>26.81</b>	<b>39.01</b>	<b>464.54</b>	<b>286.89</b>	<b>836.45</b>
<b>Total Supply/Demand Ratio</b>		<b>1.11</b>	<b>1.55</b>	<b>2.25</b>	<b>1.39</b>	<b>1.44</b>	<b>1.43</b>

e. Vehicular and Pedestrian Circulation

Vehicles

The Board finds that the vehicular circulation is thoughtfully, safely and efficiently arranged. The design of the parking structure, with driveways that lead directly to separate levels, controls the traffic flow, distributes activity throughout the facility, and provides safe and secure access for shoppers, workers, and residents. The short-term parking spaces within the garage provide a critical amenity in an urban area, and will become a highly used feature for daily Metro drop-off and pick-up. Another garage entrance off of the Old Willard right-of-way has been added off Willard Avenue and the Board finds this access point desirable from a design and access point of view.

Pedestrians

Pedestrian circulation has been thoughtfully designed through the Property. The interior pedestrian walks, one with covering arcade, offer interesting and attractive routes through the block. The Board finds that the organization of the interior street, the



placement of the open spaces, and the contrasting solidity of the buildings creates a strong urban pattern that will identify this portion of the Friendship Heights. The proposal creatively solves one of the most problematic pedestrian challenges within the county's CBDs: the routing for pedestrians around the old Willard right-of-way. This intelligent solution, an elevated walkway that travels above the grade-level grocery garage entrance, connecting to the public elevator, provides a continuous, ADA-compliant pedestrian path from Wisconsin Avenue to Willard Avenue and the taxi stand.

The Board finds that the access and pedestrian connectivity to be adequate for approval. The redesign provides for a widening of the lead sidewalk from Friendship Boulevard and providing the visible pedestrian connection between the Housing and the Major Park to encourage the community's use of the public space, and to accommodate the public events that may be programmed for the parks.

At the hearing, a question was raised regarding pedestrian safety on Friendship Boulevard, primarily for users of the Community Center. The Board addressed this issue via questioning to Staff. Staff confirmed that the issue had been evaluated as part of the design and review process. The Board concludes that pedestrian access and safety has been thoroughly and adequately reviewed and addressed.

iv. The structure is compatible with other uses and other site plans and with existing and proposed adjacent development.

The Board finds that the buildings are expertly sited, and work together to solve the challenges of the site and the existing conditions and to respond compatibly to the unique context of the surrounding area. The dense mix of the office tower, low-rise professional space, street front and second story retail, the signature department store, the apartment complex, and the Community Center offers substantial potential to achieve the Sector Plan goals of a mixed-use, transit serviceable, diverse, CBD community compatible with its adjacent neighborhoods.

v. The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation and Chapter 19 regarding water resource protection.

The Board finds that the Site Plan meets the forest conservation requirements of Chapter 22A as is evidenced by the approval of the preliminary and final forest conservation plans. The Board also finds that the project provides adequate control of stormwater runoff from the Property and thus meets the requirements of Chapter 19 of the Code. The protection of water resources is accomplished through the provision of on-site water quantity controls via underground storage and on-site water quality control via CSF Stormwater Treatment System and/or structural filters. The project also provides erosion and sediment control measures to contain excavated material and to

prevent runoff into the public rights-of-way and storm drain system during construction in accordance with the requirements of Chapter 19 of the Code.

In order to approve a Site Plan, the Board also must make the following findings related to the Chevy Chase Comparison Retail Overlay Zone:

1. *The site plan does not conflict with the recommendation in the applicable master or sector plan.*

The Board finds that the Site Plan meets all of the recommendations in the Friendship Heights Sector Plan for the Property. The total development is limited to the amount set forth in the Sector Plan and the mix and location of uses allowed within the total development conforms to the recommendations of the Sector Plan. For additional information refer to the discussions above related to conformance with Sector Plan.

2. *The site plan meets all the requirements of the overlay zone as well as the applicable requirements of the underlying zone.*

The Board finds that the Site Plan meets all the requirements of the overlay zone as well as the applicable requirements of the underlying CBD-2 zone [see Data Table].

3. *Each structure and use is compatible with surrounding uses and other site plans for both existing and proposed adjacent development*

The Board finds that each structure and use is compatible with the surrounding uses and other site plans for both existing and proposed adjacent development. Refer to Section 3. iv., above, for additional information.

#### **4. Planning Board Action on Site Plan No. 8-01010A**

Having considered all of the evidence presented and all of the testimony taken, including that discussed in the companion Preliminary Plan and Project Plan proceedings and Opinion, the Montgomery County Planning Board APPROVES Site Plan 8-01010A, which consists of 265,000 square feet of retail space replacing the existing 176,188 square-foot Hecht's building, 305,000 square feet of office space, 433 high-rise apartment units including 28 on-site MPDUs, 50,000 square feet of retail for a grocery store (40,000 square feet of which is not counted toward the density cap), approximately 1,749 parking spaces and a 20,500 gross square foot Community Center and other public amenities subject to the following conditions:

1. Stormwater Management (SWM)  
Conditions of MCDPS storm water management concept approval dated January 20, 1999 and re-confirmed on January 24, 2001 and February 21, 2003, including: Stormwater management (SWM) concept approval will remain valid if a sediment control permit is issued prior to July 1, 2003 per Montgomery County Code section 19-32, (Transition for approved plans) Bill 45-01.
2. Transportation
  - a. Submit a Traffic Mitigation Agreement with the Site Plan Enforcement Agreement;
  - b. Reconstruct the west curb of Wisconsin Avenue between Willard Avenue and Western Avenue to provide for an exclusive right-turn lane onto westbound Western Avenue, as per the previous site plan approval; the required 40-foot setback shall be measured from the existing curb;
  - c. Provide for a minimum 25-foot right-of-way truncation at the corner of Wisconsin Avenue and Western Avenue.
3. Zoning Conformance
  - a. [See additional condition 15(i) under Phasing.]
4. Public Art Program:
  - a. Extend the art program throughout the site including elements within the Major Public Park, Minor Park, the Friendship Boulevard stairway, the Community Center Courtyard, the Willard Avenue drop-off, and the Western Avenue steps;
  - b. Provide a program concept for LED obelisk messaging content.
  - c. Install seating at the fountain perimeter that provides views of the fountain through partially-open seat back;
  - d. Include a vertical art element, special paving, lighting, or equivalent at the Community Center entrance on East-West Pedestrian Lane, to integrate the art program 3-dimensionally and provide a visual cues to the Community Center from the North Courtyard;
  - e. Relocate the vertical neon structure on Willard Avenue out of the ROW, per DPS recommendation.
5. Community Center Operation  
The Community Center is intended to be an amenity to serve the public and to assure full public use and access. The Site Plan Enforcement Agreement shall require the Applicant to lease the Community Center to M-NCPPC. Based on this leasehold arrangement, the following conditions shall apply to the Community Center:
  - a. The Applicant shall construct on the site a Community Center of approximately 20,500 gross square feet;
  - b. The Applicant, its heirs/successors and assigns, shall be responsible for ensuring that the proposed Community Center is properly maintained structurally and available for

its intended uses, consistent with the Sector Plan guidelines and the conditions of the Project Plan and Site Plan, unless amendments to the Project Plan and Site Plan are approved by the Planning Board;

- c. The Applicant shall enter into a lease agreement with the M-NCPPC that defines the arrangements for managing, programming and maintaining the Community Center. It is the intention of both the Applicant and the M-NCPPC to finalize the terms of the lease within one year from the execution date of the Site Plan Enforcement Agreement. However, notwithstanding the foregoing, this condition or the absence of an operator shall not interfere with, submission and receipt of any building permits, use and occupancy permits or any other permits and/or approvals for the entire Project, including the Community Center.

6. Community Center Design

- a. Provide column-free space to the greatest extent possible for the fitness and aerobics space within the Community Center, as per Sector Plan recommendations; shift stairwell or realign services (i.e., restrooms, lockers) to eliminate free-standing stairwell at the entry lobby;
- b. Dedicate two loading/unloading parking spaces within the underground garage for the use of Community Center events; parking spaces shall be located close to elevators that provide convenient access to the center;
- c. Provide seating near the Community Center entrance on Friendship Boulevard;
- d. Integrate landscaping and public art into the Friendship Boulevard stair design; provide special paving or arcade lighting from the North Courtyard to the Community Center entrance;
- e. Provide landscaping at garage entrance near the stair retaining wall on Friendship Boulevard.

7. MPDUs

Moderately Priced Dwelling Units (MPDUs) must be provided in compliance with the provisions of Chapter 25A of the Montgomery County Code as required by the Department of Housing and Community Affairs.

8. Other

- a. Provide a program for ensuring access to surrounding streets and residences with details regarding reconstruction of the streets and/or public utilities at the time of building permit;
- b. Provide design and install Metro escalator canopy subject to WMATA approval or use a WMATA design if staff and Applicant deem such a design acceptable; provide documentation of coordination with WMATA; [See Site Plan Condition 15(i),
- c. Designate the North-South Pedestrian Lane (covered arcade), the Lane connection from the North Courtyard to the Community Center, and the elevators at the Community Center and the Willard Avenue Stairs and street front as part of the Public

Space allocation; the Lane and the elevators shall be accessible for public circulation at all times and covered by a public access easement.

9. Signature Set

Prior to signature approval of the site/landscape/lighting plans the following revisions shall be made and/or information provided, subject to staff review and approval:

a. Site Plan Information

Elevations

- i. Provide elevations (1/16" scale) for the North-South Lane and elevator lobby, the North Courtyard, the Community Center Courtyard, the East-West Lane and arch, the Willard Avenue drop-off and Grocery Store entrance, and the Housing entry, showing building heights, windows, door openings and exterior mounted lighting and fixture heights, and materials;

Plans and Sections

- ii. Show ROW (rights-of-way) and centerlines for streets and driveways on each drawing sheet;
- iii. Show existing and proposed bus stops, bus shelter, and on-street parking;
- iv. Provide traffic direction and signage plan;
- v. Provide plan and section (1/16" scale) for each of the major public spaces, i.e., South Courtyard, Minor Park, North Courtyard, Community Center Courtyard, Major Public Park, Wisconsin Avenue steps and ROW, and Willard Avenue drop-off; provide accompanying details, label dimensions and materials;
- vi. Indicate utility lines to be undergrounded on site plan;
- vii. Provide architectural plans showing location, design and dimensions of residential recreation amenities; label activities for each space and patron capacity;
- viii. Provide site plan and section showing the portions of the streetscape and public amenities for Willard Avenue and the North Courtyard to be completed as part of Phase IV (Housing) and the remaining areas to be completed with Phase V (Office Building). [See Project Plan Condition 8(b)(iv) and 8(b)(v).]

b. Landscape Plan Information

- i. Show ROW (rights-of-way) and centerlines on each drawing sheet;
- ii. Show top and bottom elevations for all retaining walls;
- iii. Provide plan (1/16" scale) for South Courtyard, Minor Park, North Courtyard, Community Center Courtyard, Major Public Park, Wisconsin Avenue steps and ROW, and Willard Avenue drop-off Wisconsin Avenue frontage, Willard Avenue drop-off;
- iv. Methods and locations of tree protection;



- v. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading;
    - vi. Street trees as shown on all public streets;
    - vii. Environmental setting protecting the historic resource.
  - c. Signature Set Details  
Applicant shall provide the following supplemental drawing information in the signature set submission:  
Details, specifications, design dimensions, and/or materials:
    - i. Handrails, fencing, guard rails, steps (with riser/tread dimensions), materials, etc.;
    - ii. Planting urns and bases, tree boxes; show planting depth to minimum three feet of soil with adequate drainage;
    - iii. Elevator doors at the Community Center, North and South Courtyards;
    - iv. North-South Pedestrian Arcade entrance structures, including lighting;
    - v. Steps to garage at South Courtyard;
    - vi. Garage doors on Friendship Boulevard;
    - vii. Footprint and dimensions for all signage structures;
    - viii. Interior noise levels to be abated to 45 dBA;
    - ix. Seating and planting details for the major public spaces such as the South Courtyard, North Courtyard, Willard Avenue drop-off;
    - x. Details for the pedestrian stairway canopy in the South Courtyard;
    - xi. Details for bus shelters.
    - xii. Details for the pergola at the Community Center Entrance.
  - d. Supplemental Signature Set  
Submit the following as part of a supplemental signature set for staff review and approval prior to building permit:
    - i. Elevations for Hecht's, showing steps, windows, door, and materials;
    - ii. Elevations for storefront retail facing Western Avenue, and Retail A, B, and C.
- 10. Site Design
  - a. General Site Design
    - i. Provide crosswalks at 90-degree angles to curb lines; verify placement for striping across Wisconsin Avenue, Western Avenue and Friendship Boulevard;
    - ii. Provide high quality special brick paving for the lead sidewalks and perimeter of the South Court, the entire North Court, the entire Willard Avenue drop-off pedestrian ways, the cross walks at the Major Public Park driveways and turn-about. Applicant may use concrete unit pavers for those areas requiring complex masonry cuts.

b. Western Avenue

- i. Provide window storefronts or vitrines for display for retail stores facing the Western Avenue;
- ii. Utilize placement of kiosks and vender stations to reinforce the street line of Western Avenue.

c. Friendship Boulevard

- i. Provide window storefronts or vitrines for display for retail stores facing the Western Avenue;
- ii. Provide formal entrance to Hecht's and/or public vestibule from the street to the garage;

d. Willard Avenue

- i. Reduce the width of the travel lane of the vehicular drop-off to 22 feet; widen the sidewalk to better accommodate café tables and chairs at the grocery store façade;
- ii. Provide two seat walls in precast concrete on both sides of the grocery store façade.

e. North-South Pedestrian Lane

- i. Provide plans and elevations to demonstrate compatibility between the retail and housing.

f. South Courtyard and Metro Plaza

- i. Realign steps between Western Avenue and the South Court to reinforce the street edge and integrate features of the Public Art program and provide more compatible geometry;
- ii. Provide seating in pre-cast concrete; label seating capacity.

g. Major Public Park

- i. Reduce the dimensions of the private terraces facing the Major Public Park into public open space and landscaping amenities;
- ii. Reduce the dimensions of the parallel parking along the curb of the entry drive from Friendship Boulevard to 22 feet in length and 7 feet in width;
- iii. Reduce the width of the drive aisle to 18 feet; reduce the throat of the entrance drive to 20 feet at the crosswalk;
- iv. Reduce the width of the drive aisle at the turn-about to 22 feet;
- v. Provide a cross walk near the turn-about for safe pedestrian passage;
- vi. Match the tree planting beds on the south side of the drive aisle with those on the north side;
- vii. Increase the width of the lead sidewalk from Friendship Boulevard to the Housing entrance to eight feet minimum clear sidewalk area;

11. Landscape Design

a. Landscaping elements

Provide shade trees internal to the site at 3-inch caliper at the time of planting.

- b. Major Public Park
  - i. Provide high quality special paving for the entry drive from Friendship Boulevard, the turn about, and the drive way connection to Willard Avenue;
  - ii. Create visual and pedestrian connections between the park and the north façade of the housing as per the previously approved site plan to strengthen the public character of the amenity space; provide substantial landscaping at the front of the Housing for the planting beds (Condition 10(g)(2)); plant all shade trees lining the entrance drive in landscape strip (no tree boxes);
  - iii. Provide shade tree in the turn-about island and on the south side of the turn-about.
- 12. General Streetscape Design
  - a. Provide street trees at 4-4.5" caliper at the time of planting, including the trees funded by the applicant for the MD355 median;
  - b. Provide the amended soil panel for all street trees, or soil panel acceptable to staff, including both tree rows on double-row streets, except where there are existing trees to be preserved;
  - c. Provide Bethesda Streetscape Standard: brick paved crosswalks across all driveways (Friendship Boulevard garage entrances), and brick pave the handicap ramps, per DPS recommendation;
  - d. Coordinate all streetscape elements for Wisconsin Avenue and Western Avenue with design development and site plan review of Chevy Chase Center (8-01013) with staff and DPS.
- 13. Specific Streetscape Design
  - a. Streetscape: Wisconsin Avenue
    - i. Coordinate lighting specifications, including pole and banner height with DPS; clearance below banners must be at least eight feet;
    - ii. Provide financing mechanism to provide future street trees for the SHA median improvement; tree species and locations to be determined in coordination with SHA, DPWT, and site plan conditions for 8-01013 (Chevy Chase Center);
    - iii. Relocate the existing bus stop approximately 112 feet to the north, per WMATA recommendation and MCDPWT approval;
    - iv. Clean and restore the historical marker; submit restoration plan to M-NCPPC Historic Preservation staff for review; relocate the historical marker and site it within the Metro Plaza, on the actual DC boundary line;
    - v. Provide steps along store frontage with 6"/15"riser/tread dimensions, subject to SHA approval;
    - vi. Provide Red Oak for the street trees on Wisconsin Avenue, per guidelines coordinated with Chevy Chase Land development;

- vii. Provide the seat wall in pre-cast concrete at the northwest side of the Metro escalator.
- b. Streetscape: Western Avenue
    - i. Provide unified brick with composite materials paving for the pedestrian/bike path, subject to DC DPWT approval;
    - ii. Retain the existing location for the bus stop (within 10 feet) and provide a bus shelter, per WMATA recommendation, subject to DC DPWT approval;
    - iii. Provide pedestrian activating façade design, such as windows and lighting, for Hecht's building and the retail storefronts;
    - iv. Preserve the three large Willow Oaks; include with the tree protection plan a sidewalk demolition plan based on an arborist's recommendation; verify root zones and soil depth for the second row of Willow Oaks.
  - c. Streetscape: Friendship Boulevard
    - i. Indicate dedicated lighting at street front entry to Community Center;
  - d. Streetscape: Willard Avenue
    - i. Provide brick sidewalk and crosswalks for continuous pedestrian passage through the island at the taxi stand within the ROW and at the grocery store frontage, per MCDPS recommendation;
    - ii. Provide special unit pavers in the Willard Avenue taxi stand vehicular lanes;
    - iii. Provide precast-concrete and/or brick facing for the walls at the grocery store façade and the retaining walls of the steps; coordinate with art program materials.
14. Lighting, Power, Signage
- a. Performance specifications for all wall mounted exterior lighting on elevations;
  - b. Roof lighting and parapet signage details, including lighting levels;
  - c. Performance specifications for restaurant terrace lighting fixtures;
  - d. Performance specifications for any supplemental storefront lighting;
  - e. Specifications for lighting at exterior public elevators;
  - f. Specifications for exterior building lighting at garage entrances and garage stairwells;
  - g. Garage lighting photometric plans;
  - h. Utility supply and locations within the public spaces;
  - i. Show exterior mounted lighting fixtures for the Community Center Friendship Boulevard façade, the Community Center Courtyard façade and entrance; the Willard Avenue retail and seating areas; the North-South Pedestrian Lane, the East-West Pedestrian passage.

15. Phasing

Public amenity space must be completed as each adjacent building is finished and prior to the occupancy of any of the buildings included in the same phase, subject to seasonal considerations for landscaping.

- a. The Community Center must be completed prior to the occupancy of any of the buildings of the Housing.
- b. The Major Public Park and the Community Courtyard must be completed prior to occupancy of the housing;
- c. The Metro Plaza, the Metro canopy, and the South Courtyard must be completed prior to occupancy of Retail C;
- d. A portion of the streetscape and public amenities at the Willard Avenue drop-off, including the west stair, Grocery Store fronts, sidewalk, seat wall, and the entire sidewalk within the public right-of-way must be completed before occupancy of the housing [See Site Plan condition 9(a)(viii) regarding signature set];
- e. The North Courtyard must be completed prior to occupancy of the housing;
- f. The Minor Park must be completed prior to occupancy of the new Hecht's;
- g. The short-term parking spaces for Metro users in the garage must be available for public use prior to occupancy of Retail C.
- h. If any phase of development does not commence within six months of its schedule, the Applicant shall submit a revised phasing plan showing alternative design for that phase. The revised phasing plan shall be approved by the Planning Board or its designee.
- i. The drawings for the Metro canopy must be submitted for staff approval via a supplemental signature set by the beginning of construction of Phase IV; complete installation of selected canopy concurrent with streetscape and amenities for Metro Plaza (Phase IV), prior to occupancy of Retail C.

16. Site Plan Enforcement Agreement

Submit a Site Plan Enforcement Agreement, Development Review Program and Homeowner Association Documents for review and approval prior to approval of the signature set as follows:

Development Program to include a phasing schedule as follows:

- i. Streets tree planting must progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets;
- ii. Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development;
- iii. Landscaping associated with each parking lot and building must be completed as construction of each facility is completed;



- iv. Pedestrian pathways and seating areas associated with each facility must be completed as construction of each facility is completed;
- v. Clearing and grading to correspond to the construction phasing, to minimize soil erosion;
- vi. Coordination of each section of the development and roads;
- vii. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, or other features;
- b. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and DPS issuance of sediment and erosion control permit.
- c. No clearing or grading prior to M-NCPPC approval of signature set of plans.

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THE MARYLAND-NATIONAL CAPITAL PARK &amp; PLANNING COMMISSION

**MEMORANDUM**

DATE: October 25, 2005  
 TO: Rose G. Krasnow *R.G.K.*  
 VIA: Michael Ma, Supervisor  
 Development Review Division  
 FROM: Mary Beth O'Quinn, Planner *MBO*  
 Development Review Division  
 (301) 495-4595



**REVIEW TYPE:** Site Plan Amendment  
**CASE NUMBER:** 8-01010B  
**PROJECT NAME:** Wisconsin Place  
**APPLYING FOR:** Administrative Approval of  
 Site Plan Amendment to include  
 305,000 square feet Office Space  
 265,000 square feet Retail Space  
 480,000 square feet Housing  
 21,500 square feet Community Center (non-FAR)  
 50,000 square feet Grocery Store (10,000 sf FAR storefront and 40,000 sf non-FAR)  
 432 Residential Units, including 28 MPDUs on site  
 1,769 Parking Spaces on site

**REVIEW BASIS:** Montgomery County Zoning Ordinance §59-D-2.6(a),  
 Minor Plan Amendment

**ZONE:** CBD-2 and Chevy Chase Comparison Retail Overlay Zone  
**LOCATION:** West side of Wisconsin Avenue (MD355) between Willard Avenue and Western Avenue in  
 Friendship Heights  
**MASTER PLAN:** Friendship Heights Sector Plan

**APPLICANT:** WP Project Development, c/o New England Development  
**FILING DATE:** March 31, 2005  
**HEARING DATE:** No Public Hearing

**STAFF RECOMMENDATION:** Approval of Administrative Review of Site Plan Amendment.

### Summary

The applicant seeks administrative approval of a site plan amendment encompassing minor design changes to the ancillary retail structures, the office building, and the public use space that comprises the North Court. The changes are prompted by the refinement of building design pursuant to development of construction documents.

It should be noted that the proposed amendment maintains exactly the uses, density, number of structures, building types, recreation amenities, and general disposition of public use space as the plans approved by the Planning Board in its most recent approval, 8-01010A, dated April 10, 2003.

The comprehensive list of design changes has been certified by the applicant for inclusion in the signature set, including final design of the Community Center, the public use space and recreation amenities. [See discussion below and list of proposed changes provided by the applicant, attached.] The revised design for the office building entry comprises the most significant change, increasing the retail frontage on Wisconsin Avenue with an enlarged entry terrace and widened public sidewalk generated by the realignment of the western curb line.

### Background: First Approvals

The Wisconsin Place (formerly Friendship Place) Project Plan 9-99001A, filed under the Optional Method, was initially approved by the Planning Board on December 1, 2000. The Planning Board approved the subsequent Site Plan, 8-01010 on April 26, 2001.

The program approved by the Planning Board provided the maximum density, as envisioned in the Sector Plan: 450,000 square feet of office space, 120,000 square feet retail, 180,000 square feet for the new Hecht's building, and 300,000 square feet devoted to housing construction of 275 residential units. [See also, Comparative Data Table, attached.]

Planning Board hearings for Project Plan and Site Plan addressed Optional Method amenities, which included on-site undergrounding of utilities, the Friendship Heights Streetscape, the option for a grocery store, and, significantly, a Community Center. The approved plans included monumental public use space as realized in the South Court, Metro Plaza, Willard Avenue crescent (and vehicular drop off), and the Major Public Park at Willard Avenue. Unique elements of public art anchor the site on its north and south ends. These sculptural centerpieces, designed by Athena Taka and including the obelisk within the South Court, the lighted arcade covering the North-South Lane, and the lighted sculptural tower that defines the Willard Avenue crescent, define the major pedestrian spaces.

### Summary of Previous Planning Board Amendments

Amendments to the Project and Site Plans (9-99001B and 8-01010A, respectively) were approved by the Planning Board on April 10, 2003. The approvals maintained the total development density, while rearranging and resizing the uses within the mix, specifically, exchanging office square footage for housing, in response to market conditions. Housing units increased from 275 to 433 units (300,000 square feet to 480,000 square feet), while office space was diminished by 145,000 square feet, from 450,000 square feet to 305,000 square feet. The proposed replacement Hecht's store remained the same (180,000 square feet) and ancillary retail was reduced from 120,000 square to 85,000 square feet. The grocery store was re-introduced as a program element featuring 10,000 square feet (FAR) of storefront space at the Willard Avenue Plaza and 40,000 square feet of underground store area. Underground parking increased to 1,749 spaces.

The impact on site design reallocated site massing, replacing one of the two office towers with two ancillary housing buildings that, in form, elongate the single bar building by the addition of two wings. The change in building type, too, shifts the massing from the site's center to the north and south edges, expanding the housing footprint and wrapping the top of the Community Center. The arrangement effectively enhances the street wall along Friendship Boulevard, and mediates the topography with ADA accessible site entries.

Likewise, the reduction in office space offered the opportunity to create a uniquely identified urban tower, which in its placement at the street edge, establishes a vital building line on Wisconsin Avenue, completing a compelling triad with its companion towers on adjoining sites, the Chase Tower and the Chevy Chase Center tower. The surrounding one and two story retail structures, fitted around the tower base, are used to balance the site, form the site's axial pedestrian connections, and to create pedestrian accessible, activating uses.

#### The Proposed Amendment

This minor administrative amendment seeks to refine the approved ensemble of buildings, as prompted by the development of construction documents that incorporate the needs of future tenants. Density, use, and building types remain the same.

#### Office Tower

The primary change involves the re-design of the office tower, essentially creating an internal, linear entrance lobby that reaches from the Wisconsin Avenue street frontage through the building to the North Court. This repositioning allows additional retail store frontage along Wisconsin Avenue, in conjunction with a curb alignment that reverts to the 1999 Project Plan subsequent to county CIP planning, creating a wider, more generous public sidewalk and entry terrace to the street front retail and office lobby along Wisconsin Avenue. The ground floor level of the office building at the North Court and Willard Avenue Plaza has been redesigned to accommodate restaurant and retail space. Outdoor restaurant seating is provided near the building envelope; as shown on the proposed plan, the restaurant seating is provided as private space, separate from the public use space that comprises the optional method amenities.

The tower massing, articulated through façade treatment, appears as two complementary pieces: the south portion, facing Wisconsin Avenue, expressed an aluminum, punched window system with pre-cast concrete, and the north portion, facing Willard Avenue, as a stepped down, banded aluminum curtain wall system.

#### Ancillary Retail

The small retail structures (Retail A and Retail B) that frame the Hecht's store at the South Court and wrap the base of the office building (Retail C) have been revised to present a consistent 2-story façade throughout. This uniformity clarifies the massing of the ensemble, while offering prominent retail windows on both stories that are visible from numerous viewpoints within the complex. The retail square footage remains as approved by the Planning Board. The 50,000 square foot grocery store, below the office building and accessible from Willard Avenue, is retained as previously approved.

#### Residential Building

The proposed amendment reduces the number of approved dwelling units by one unit – from 433 units to 432 units. The unit mix has been altered in response to market conditions: the number of studio apartments has been decreased, one-bed room units have been slightly increased, two-bedroom units have been increased, and three-bedroom units have been eliminated. The MPDUs remain exactly as approved by the Planning Board: 56 required MPDUs of which 14 Studio units and 14 one-bedroom units are provided on site. The provision for MPDUs, as approved by the Planning Board on April 26, 2003, included an alternative compliance agreement for one half (28 units) of the MPDU requirement; [See also, *Comparative Development Data Table* and *Letter of Confirmation of MPDU Alternative Compliance Agreement*, dated February 11, 2003]

The applicant proposes a roof top swimming pool for the exclusive use of the residents. The pool is designed as an uncovered, open-air pool that does not add additional building height. All other recreation remains as approved by the Planning Board.

#### Community Center

Changes proposed for the interior of the Community Center result from the applicant's coordination with the Montgomery County Department of Recreation. The Planning Board, as part of the 2001 and 2003 approvals,



required that the applicant lease the Community Center to M-NCPPC, as outlined in the Site Plan Enforcement Agreement that defines the management, programming, and maintenance for the Community Center. The applicant, in response to the Recreation Department's recommendations, has proposed modest changes to the building's programming and interior space, as follows: Expansion of interior space by 1,000 square feet; replacement of the dedicated child care room by a play room visible from the entry control desk, and the addition of a conference room. It should be noted that none of the Community Center space, as non-FAR, is not counted toward the development's density.

#### Public Art

All of the components of the public art program remain as previously approved except for the Lighted Arcade that covers the North-South Lane. The arcade has been reduced by 30 feet (to 90 feet in length) to accommodate the relocated office lobby corridor, as has its accompanying special paving pattern and focal feature at the North Court. The full complement of artwork, designed by Athena Taka, remains the same: the South Court obelisk, paving and seating, the lighted LED tower at Willard Plaza, and the paving on East-West Lane that connects to the Community Center.

Staff has included a condition of approval regarding the applicant's submission of details for the Public Art Work, a significant component of the optional method amenities approved by the Planning Board.

#### Phasing

The Phasing Plan and the Development Program remain the same per the applicable Site Plan Enforcement Agreement executed March 31, 2004. The applicable phasing plan is Sheet T-2, dated 13 March 2004.

#### Applicable Agreements

The Site Plan Enforcement Agreement, executed March 31, 2004, remains in effect.

The Transportation Mitigation Agreement, executed March 17, 2004, remains in effect.

#### Summary of Minor Amendment Provision

Pursuant to Montgomery County Zoning Ordinance §59-D-2.6(a), the code allows the approval of an amendment or revision to an approved plan as a "Minor Plan Amendment," that encompasses "any findings, conclusions, or conditions associated with the plan that does not entail matters that are fundamental determinations." The section further defines the minor plan amendment as one "that does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in its review of the plan." Minor amendments may be approved by Planning Board Staff, and "concern matters that are not in conflict with the Board's prior actions." Staff presents the applicant's request for Minor Plan Amendment.

#### Findings per §59-D-2.6(a): Administrative Approval

Staff finds that the amendment, as proposed does not alter the intent and objectives of the Board's previous approval nor does the amendment plan propose any matter of conflict with the Board's prior action and is consistent with the provisions for Minor Amendment, per Montgomery County Zoning Ordinance §59-D-2.6(a).

#### Findings per §59-D-3.4: Site Plan Review

Staff reconfirms the findings for Site Plan 8-01010A, as approved by the Planning Board on April 10, 2003 and as iterated in the Planning Board Opinion, dated July 22, 2003, as follows:

1. *The site plan is consistent with an approved development plan or a project plan for the optional method of development, if required.*

The proposed amendment maintains consistency with the approved Project Plan while reducing the number of residential units by one unit and increasing the interior space of the Community Center by 1,000 square feet (non-FAR). Staff finds that the amenities associated with the optional method continue to meet the intent of the



Planning Board's approval. The modest changes to the North Court public use space provide clear pedestrian direction along the East-West Lane, while accommodating handicapped accessible routes to Wisconsin and Willard Avenue. The revision to the architectural program for the Community Center, recommended by the Montgomery County Department of Recreation, provides useful, more flexible space that continues to provide for observed child play and accommodate community meetings.

2. *The site plan meets all of the requirements of the zone in which it is located.*

See *Comparative Development Data Table*, attached.

3. *The locations of the building and structures, the open spaces, the landscaping, recreation facilities and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

The locations of the buildings are the same as per the Planning Board approval; minor adjustments to the building footprints of the office tower, housing, and ancillary retail structures are proposed to accommodate tenant needs. Primary open spaces, including the Major Public Park, the Minor Public Park, the South Court, Metro Plaza, and the East-West Pedestrian Lane with its adjoining court remain the same. Modifications to the North Court include redesign of the central seating feature and landscaping, while minor changes to the Willard Plaza include delineation of public and private seating. Recreation amenities have been enhanced for the development's residents by the addition of the roof top pool; vehicular and pedestrian circulation systems remain the same as the previously approved plan. All changes, as reflecting in the drawings, with respect to building footprints, open space, landscaping, recreation facilities, and pedestrian and vehicular circulation are adequate, safe, and efficient. [See above discussion, *Proposed Amendment*; see also *Staff Report: Site Plan 8-01010A Wisconsin Place*, dated March 25, 2003.]

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The massing of the buildings and locations remain the same, as do the uses; refinements to the façade and building entrances conform to the standards of compatibility established in the previous approval. The site plan is compatible with other uses and other site plans and with existing and proposed adjacent development.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.*

The plan is exempt from forest conservation requirements.

#### Findings per §59-C-18.164(a): Chevy Chase Comparison Retail Overlay Zone

1. *The site plan does not conflict with the recommendation in the applicable master or sector plan.*

The Site Plan meets the recommendations in the Friendship Heights Sector Plan for the pedestrian promenade on Western Avenue.

2. *The site plan meets all the requirements of the overlay zone as well as the applicable requirements of the underlying zone.*

The site plan meets all the requirements of the overlay zone as well as the applicable requirements of the underlying zone.

3. *Each structure and use is compatible with surrounding uses and other site plans for both existing and proposed adjacent development.*

Each structure and use is compatible with the surrounding uses and other site plans for both existing and proposed adjacent development.

Staff Recommendations:

1. Provide details and specifications for the Public Art Work for review and approval by staff prior to the issuance of building permits for the office tower and the ancillary retail structures Retail B and Retail C;
2. Provide a letter of documentation from the Montgomery County Department of Recreation verifying department recommendations for revisions to the Community Center architectural program, prior to issuance of building permit for the Community Center or within 120 days, whichever comes first.

Attachments

Comparative Data Table

Description of Proposed Amendment

Site Plan Enforcement Agreement 8-01010A, dated March 31, 2004

Development Program 8-01010A (Exhibit A)

Project Phasing Document (Exhibit A-1)

Other Stipulations (Exhibit A-2)

Phasing Plan T-2 dated 13 March 2003 (Exhibit A-3)

Traffic Mitigation Agreement 8-01010A, dated March 17, 2004

Letter of Confirmation of MPDU Alternative Compliance Agreement from Steven A. Robins to Elizabeth Davision  
(counter signature) dated February 11, 2003

<b>Wisconsin Place (Friendship Place)</b>					
<b><u>DEVELOPMENT STANDARD</u></b>	<b><u>Permitted/Reqd CBD-2/Sector Plan</u></b>	<b><u>9-99001A Project Plan Approved 12-18-00</u></b>	<b><u>8-01010 Proposed Site Plan Approved 4-26-01</u></b>	<b><u>9-99001B &amp; 8-01010A Project &amp; Site Plans Approved 4-10-03</u></b>	<b><u>8-01010B Proposed &amp; Binding Administrative Amend.</u></b>
Gross Lot Area	22,000 min.	389,104 sf	389,104 sf	389,104 sf	389,104 sf
Net Lot Area	NA	347,365 sf	347,173 sf	347,363 sf	347,363 sf
Floor Area Ratio**	2.70	2.70	2.70	2.70	2.70
<b>Gross Floor Area</b>					
Office <sup>1, 2</sup>	300,000 sf	300,000 sf	450,000 sf	305,000 sf	305,000 sf
Retail (general) <sup>1, 2</sup>	<u>450,000 sf</u>	150,000 sf	120,000 sf	85,000 sf	85,000 sf
Hecht's Department Store <sup>1</sup>		180,000 sf	180,000 sf	180,000 sf	180,000 sf
Housing		300,000 sf	<u>300,000 sf</u>	480,000 sf	480,000 sf
<b>Total FAR sf</b>	<b>1,050,000 sf</b>	<b>1,050,000 sf</b>	<b>1,050,000 sf</b>	<b>1,050,000 sf</b>	<b>1,050,000 sf</b>
Non-FAR Grocery <sup>3</sup>	40,000 sf	40,000 sf	Optional amendment	50,000 sf <sup>3</sup>	50,000 sf <sup>3</sup>
Non-FAR Community Center <sup>3</sup>	<u>12,000 sf</u>	<u>17,200 sf</u>	<u>20,425 sf</u>	<u>20,500 sf</u> <sup>3</sup>	<u>20,500 sf</u> <sup>3</sup>
<b>Total Gross sf FAR Density</b>	<b>1,102,000 sf</b>	<b>1,107,200 sf</b>	<b>1,070,500 sf</b>	<b>1,100,500 sf</b>	<b>1,100,500 sf</b>
<b>Density (dwellings/ac)</b>	200 units/ac	34.5 units/ac	34.5 units/ac	54.33 units/ac.	54.20 units/ac
Dwelling Units:			<b>275 units</b>	<b>433 units</b>	<b>432 units</b>
Studio	—	—	30 units	16 units	8 units
1-Bedroom	—	—	138 units	211 units	215 units
2-Bedroom	—	—	83 units	163 units	181 units
3-Bedroom	—	—	3 units	15 units	0 units
MPDU Studio	—	—	10 units	14 units	14 units
MPDU 1-Bedroom	—	—	11 units	14 units	14 units
<b>Public Use Space</b>			4.12 acres	4.17 acres	4.19 acres
<b>Public Use Space as % net lot</b>					
On-Site	20% (69,260 sf)	37.5% (126,327 sf)	38.5% (133,702 sf)	38% (131,809 sf)	37.9% (131,721 sf)
Off-Site		12.65% (44,020 sf)	13.1% (45,658 sf)	14.27 % (49,568 sf)	14.90 % (51,855 sf)
Major Park			36,551 sf (.84 ac)	34,795 sf (.80 ac)	34,795 sf (.80 ac)
Community Center	12,000 sf	17,200 sf	20,500 sf	20,500 sf	21,500 sf
<b>Total Public Use Space</b>		50.1% (170,357 sf)	51.5% (178,960 sf)	52.5% (181,377 sf)	52.6% (182,889 sf)
<b>Building Height</b>					
Office Buildings	143'	143'	143'	143 feet max	143 feet max
Housing	143'	117'	120'-2"	143 feet max	143 feet max
Hecht's	143'	54'	54'	54 feet max	54 feet max
Retail	143'	28'	28'	32 feet max	32 feet max
Community Center	143'	49'	49'	29 feet max	29 feet max
<b>Setbacks</b>					
Wisconsin Avenue	40'	40'	40'	40'	40'
Western Avenue	40'	40'	40'	40'	40'
Friendship Boulevard	20'	20'	20'	20'	20'
Willard Avenue	30'	30'	30'	30'	30'
<sup>1</sup> Total of these uses not to exceed 750,000 sf per Sector Plan <sup>2</sup> Applicant proposes alternate mix of retail/office to respond to market conditions <sup>3</sup> Community Center and Grocery are excluded from FAR limit					

**Wisconsin Place Site Plan/Signature Set Amendment  
Site Plan No. 8-01010B**

**Description of Amendment**

This amendment to the Wisconsin Place Site Plan generally involves the following modifications to the approved Plan:

1. The ground floor use of the Office Building at North Court is proposed for retail. This retail space, along with Office footprint modifications, requires a redesign of the form and use of North Court and the plaza level along Willard Avenue. The increased visibility for the retail as a result of this modification is of great benefit to the development and for the community too. To summarize the changes at North Court:
  - a. The predominant paving material was changed from pre-cast pavers to Watson Town Blend brick to better match the surrounding streets.
  - b. The circular planter at the focal point was changed to a chevron-shaped planter that better reflects Athena Tacha's forms used on the light tower, fountain and arcade LED's.
  - c. Additional benches (2) were located overlooking the artwork at the Willard drop-off crescent.
  - d. Three benches were removed from the main path.
  - e. Fives trees in raised planters were removed in favor of a more open plaza design.
  - f. Long planters were added along the easterly monumental stair and railing. The width of the plaza at that area has been increased from 8 to 30 feet.
  - g. The width of paving in the east/west direction was reduced from 80 to 64 feet.
  - h. The paving pattern from North Court to the Community Center has been changed to an "eccentric chevron" consistent with the artist's overall concept.
  - i. A "leaf-like" brick paving pattern was introduced under the Arcade to better reflect the artist's "flower petal" pattern in South Court.
2. Modifications to the massing of the Residential Building that altered the building base-to-ground plane details, such as doorways, stoops and lobby entrances. The residential unit count has been reduced from 433 units to 432 units.
3. A revision in the design of the Community Center resulted in an increase in the Center's area by one thousand square feet. The interior space plan for the Center also has been modified to better reflect the Montgomery County Department of Recreation's programming standards. They are as follow:
  - a. An interior play apparatus room has been designed adjacent to the main lobby and visible from the control desk.
  - b. A conference room replaces the child care room.

- c. A wall of counters/sinks and storage cabinetry has been added in the Activity Room -1 replacing the Aerobics Room program in that location. All three mid-size rooms are considered as flexibly-programmed spaces.
- 4. The massing of the Office Building has been modified such that the Metro Plaza and South Court open spaces now are bounded by a uniform two story building façade. The principle entrance to the Office is positioned further southward along Wisconsin Avenue. Office parapet walls have been modified to create two distinctly different tower elements within a single structure. The consequent open space modifications at the new entry are as follow:
  - a. The stairs from the Wisconsin Avenue curb to the Office entrance are wider by 11 feet.
  - b. The planters are wider by about 6 feet due to modifications in the previously proposed "drop-off lane."
  - c. Two additional benches were added.
- 5. The non-leasable space under the lower portion of the Residential North Court wing that was labeled "storage" has been relabeled as "amenity storage and management space."
- 6. Minor modifications have been made to the arcade and its artwork relative to the proposed Office massing. The design concept remains. The modifications are as follow:
  - a. The Arcade's length has been reduced by about 30 feet due to the redesigned Office footprint. Its sectional profile is shown on drawing 1/A-8.1 of the Signature Set and its elevation is shown on drawing 4/A-8. Its height and scale remain the same but its structure has been attenuated to present a cleaner line.
  - b. Southward across South Court, Retail Building A aligns with the west side of the Arcade (previously misaligned by 4 feet) and the Arcade paving pattern is repeated in front of the South Court entrance from Western Avenue.
- 7. A private swimming pool will be placed on the roof of the Friendship Boulevard wing of the Residential Building for use only by the residents of that building. The remainder of the recreational amenities remain the same as reflected in the approved plan. By adding an open air, rooftop pool the total Recreation Supply Points for the residential Hi Rise increases as follows:
  - a. D-1: 0.95 pts.
  - b. D-2: 3.54 pts.
  - c. D-3: 3.54 pts.
  - d. D-4: 83.16 pts.
  - e. D-5: 29.81 pts.
  - f. Total Supply points added: 121.00
- 8. The parking requirement has been adjusted to account for minor modifications to the residential, office and community center components of the development as follows:
  - a. The 15% transit reduction for the Office is no longer applied. This changes the peak period demand (Daytime/weekends) from 50 to 58 spaces.
  - b. The Residential unit mix is slightly different (more One & Two BRs and fewer Studios and Three BRs) so as to reduce the requirement from 488 to 483 spaces during peak demand.
  - c. The Community Center gross floor area increase requires 46 rather than 44 spaces.



- d. The overall requirement has increased by 5 spaces to 1,754. The garage has been re-stripped at all levels and attended spaces added at level B-1 to increase the number of spaces provided to 1,769.

This Site Plan Amendment is limited to those changes/modifications referenced above.

## SITE PLAN ENFORCEMENT AGREEMENT

This Agreement by and between New England Development (the "Applicant"), and the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission (the "Planning Board"), is effective the date signed by the Planning Board.

WHEREAS, § 59-D-3.3 of the Montgomery County Code (the "Code") requires the Applicant, as part of the site plan review process, to enter into a formal agreement with the Planning Board; and

WHEREAS, the Code requires the Applicant to agree to execute all features of the approved site plan noted in § 59-D-3.23 in accordance with the development program required by § 59-D-3.23(m).

NOW, THEREFORE, in consideration of the mutual promises and stipulations set forth herein and pursuant to the requirements of § 59-D-3.3 of the Code, the parties hereto agree as follows:

1. The Applicant agrees to comply with all of the conditions set forth in the Planning Board's Opinion and to execute all of the features of approved Site Plan No. 8-01010A (the "Site Plan") attached hereto and incorporated herein by reference as Exhibit "B", including all features noted in § 59-D-3.23, in accordance with the approved Development Program required by § 59-D-3.23(m), attached and incorporated herein by reference.

2 This Agreement is binding on the Applicant, its successors and assigns, and on the land and improvements in perpetuity or until released in writing by the Planning Board.

IN WITNESS WHEREOF, the parties hereto have set our hands and seals as of the date and year set forth below.

APPROVED AS TO LEGAL SUFFICIENCY

TAB  
M-NCPPC LEGAL DEPARTMENT

DATE

3/26/04

Joseph R. Davis  
Montgomery County Planning Board of  
The Maryland-National Capital Park and  
Planning Commission

Joseph R. Davis  
Chief, Development Review

3/31/04  
Date

New England Development

By: David C. Gilmore

Name: David C. Gilmore

Title: Vice President

**EXHIBIT A****DEVELOPMENT PROGRAM**

**Site Plan No. 8-01010A**  
**Site Plan Name: Wisconsin Place**

Applicant agrees to complete the following site plan features within the time frames stipulated below.

- A. The project will be completed in five phases(s) as detailed on Exhibit A-1, attached and incorporated herein by reference.
- B. Applicant will complete the following site plan elements prior to occupancy of the buildings constructed in that phase or section.
  - 1. Paving of roads (excluding final topping).
  - 2. Parking areas.
  - 3. Sidewalks (on-site).
  - 4. Lighting (street and parking lot).
  - 5. Grading.
  - 6. Landscaping, subject to seasonal considerations. Street tree planting must progress as street construction is completed, but no later than six months after completion of that portion of the development adjacent to those streets.
  - 7. Amenities, pedestrian pathways and recreational facilities (as required by the Opinion of approval).
- C. Other stipulations as required by the Planning Board, and as enumerated in Exhibit A-2, attached and incorporated herein by reference. If no other stipulations are required, Exhibit A-2 to be attached stating "None".
- D. **Site Inspections:**
  - 1. Applicant shall conduct a preconstruction meeting with M-NCPPC Staff and MCDPS Sediment Control Staff prior to clearing and grading.
  - 2. Prior to occupancy of the building(s), the Applicant shall schedule with M-NCPPC Staff an inspection to ensure compliance with this Development Program and Site Plan Enforcement Agreement.

3. Applicant shall send written notice to M-NCPPC's Inspection Unit and Site Plan Unit to initiate scheduling of preconstruction meetings and site inspections.

## Exhibit A-1 Project Phasing

Note: The construction sequencing and timetable are as set forth in Exhibit A-3, attached hereto and incorporated herein.

Phase I includes construction of the new Hecht's store, the two-floor retail facing Western Avenue (Retail A), the four-level underground parking facility and vehicular service court, and temporary surface parking to serve the existing Hecht's.

Phase II includes construction of the Housing garage, one-floor retail facing the South Courtyard (Retail B), and the below grade garage underneath the office tower, the retail wrapping the South Court (Retail C); the new Hecht's, the vehicular service court, Retail A, and portions of streetscape along the Hecht's frontage are completed.

Phase III includes construction of the retail wrapping the Office Tower (Retail C), the Community Center, the Housing, and the Grocery Store (Retail D). Retail B and the Housing garage are complete.

Phase IV includes continuing construction of the Housing, the Grocery Store, and the Community Center. Retail C, the South Courtyard, Metro Plaza, the Western Avenue streetscape, the Housing, the Grocery Store, and the Community Center are completed as the end of this phase.

Phase V includes construction of the Office tower and Retail D.

Public amenity space must be completed as each adjacent building is finished and prior to the occupancy of any building included in the same phase, subject to seasonal considerations for landscaping. The currently anticipated phasing schedule is further defined as follows:

- a. The Community Center must be completed prior to the occupancy of any of the Housing.
- b. Public amenities must be completed prior to the occupancy of the buildings associated with the amenity, subject to seasonal considerations for landscaping:
  - i. The Major Public Park and the Community Courtyard must be completed prior to the occupancy of the Housing.
  - ii. The Metro Plaza and the South Courtyard must be completed prior to the occupancy of Retail C.
  - iii. A portion of the streetscape and public amenities at the Willard Avenue drop-off, including the west



- stair, Grocery Store fronts (temporary or permanent), sidewalk, one seat wall and the entire sidewalk within the public right-of-way must be completed before occupancy of the Housing.
- iv. The western portion of the North Courtyard must be completed prior to occupancy of the Housing.
- v. The Minor Park must be completed prior to occupancy of the new Hecht's.
- vi. The short-term parking spaces for Metro users in the garage must be available for public use prior to occupancy of Retail C.
- vii. If any phase of development does not commence within six months of its schedule, the Applicant shall submit a revised phasing plan showing alternative design for that phase. The Planning Board or its designee shall approve the revised phasing plan.
- viii. The drawings for the Metro canopy must be submitted for staff approval via a supplemental signature set by the beginning of construction of Phase IV; complete installation of selected canopy concurrent with streetscape and amenities for Metro Plaza (Phase IV), prior to occupancy of Retail C (unless it is demonstrated to the satisfaction of the Planning Board or its designee that the delay is a result of WMATA action or procedures).
- ix. The artwork must be installed upon the completion of the public space or individual buildings where the artwork is located.

To satisfy Local Area Transportation Review (LATR), the Applicant shall participate equally with the owner/developer of Friendship Commons (PP 1-99039) and the owner/developer of Chevy Chase Center in the following two road improvements. The road improvements shall be completed prior to the issuance of any occupancy permit for any of the developments, with funding provided by the various Applicants at the time the improvements are constructed:

- a. Provide separate left-turn lane along eastbound and westbound Western Avenue at River Road by re-striping the existing lane designation and change the traffic signal phasing to provide concurrent signal phasing along Western Avenue.
- b. Re-stripe the existing southbound Friendship Boulevard approach (within the existing curbs) from the existing one left-turn lane and one through/right lane to one left-turn lane, one through lane, and one through/right lane. A new signal

phasing is needed at this intersection to provide split phasing for Friendship Boulevard and Jennifer Street.

**Exhibit A-2****Other Stipulations**

In accordance with the conditions set forth in the Planning Board's Opinion approving Site Plan No. 8-01010A, the Applicant agrees to the following stipulations:

1. The Applicant shall lease the Community Center to M-NCPPC. Based on this leasehold arrangement, the following conditions shall apply to the Community Center:
  - (a) The Applicant shall construct on the property a Community Center of approximately 20,500 gross square feet;
  - (b) The Applicant, its heirs/successor and assigns, shall be responsible for ensuring that the proposed Community Center is properly maintained structurally and available for its intended uses, consistent with the Sector Plan guidelines and the conditions of the Project Plan and Site Plan, unless amendments to the Project Plan and Site Plan are approved by the Planning Board;
  - (c) The Applicant shall enter into a lease agreement with M-NCPPC that defines the arrangements for managing, programming and maintaining the Community Center. It is the intention of both the Applicant and M-NCPPC to finalize the terms of the lease within one year from the execution of the Site Plan Enforcement Agreement. However, notwithstanding the foregoing, this condition or the absence of an operator shall not interfere with, submission and receipt of any building permits, use and occupancy permits or any other permits and/or approvals for the entire project, including the Community Center.
2. The Applicant will participate in the Friendship Heights Transportation Management Organization to assist in attaining the objectives of the Transportation Management District ("TMD"), including the Applicant's best efforts to achieve and maintain a non-auto driver mode share of 39% of employees. The Traffic Mitigation Agreement, entered into among the Applicant, the Montgomery County Department of Public Works and Transportation, and the Planning Board, which outlines the Applicant's participation in the TMD is attached hereto and

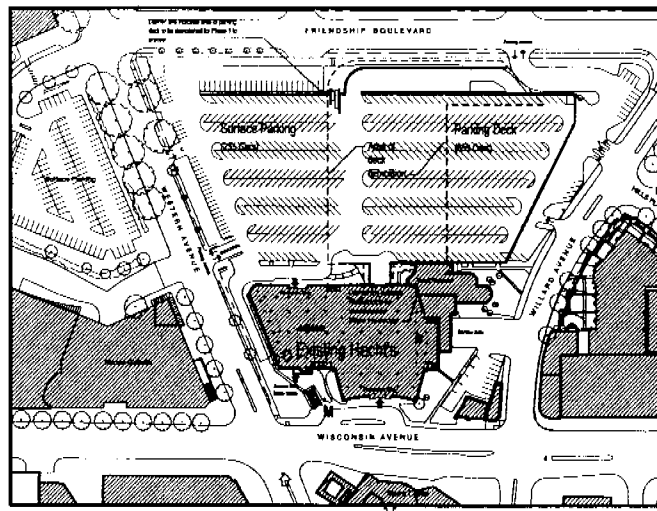
incorporated herein as Exhibit "C".

3. The maintenance, management and security for all on-site and off-site amenity areas (including public use spaces and streetscape) will be provided by the Applicant. The Applicant agrees to participate in a Friendship Heights maintenance and programming organization, should such an organization be created.
4. Prior to the issuance of a building permit for Phase V (the Office Building), or at the time of notification by the Montgomery County Department of Public Works & Transportation or the Montgomery County Department of Permitting Service, whichever occurs first, the Applicant shall provide documentation of funding in the amount of \$5,000, as estimated by the Department of Permitting Services, for the trees within the Wisconsin Avenue median.
5. Artwork in the public space areas must be installed upon completion of the associated public use space for each space.

**Exhibit A-3**

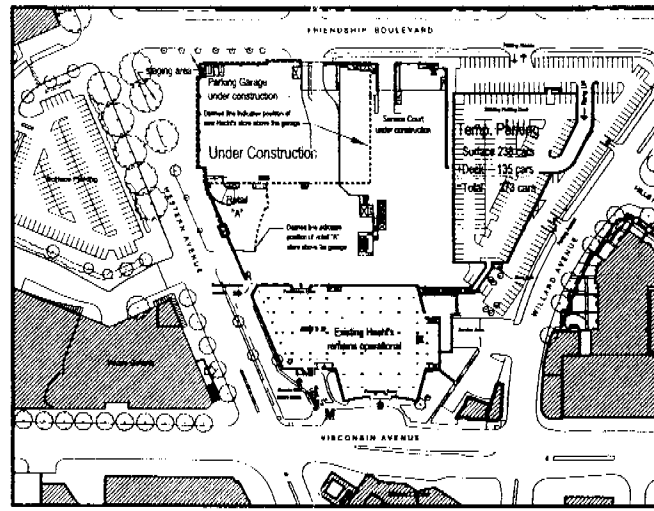
Sheet T-2 of the Signature Set





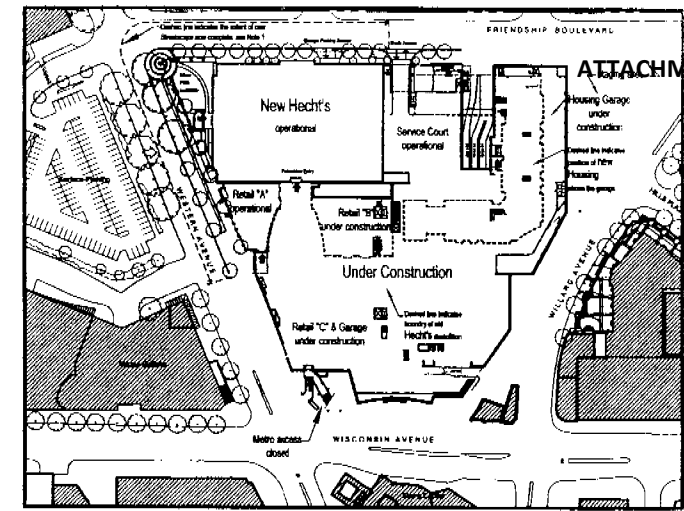
### Existing Conditions

- Initiate partial demolition of Parking Deck & Surface Parking to provide area for Phase 1 Construction.
- Demolish Vacant Restaurant.
- Stabilize remaining deck & provide temporary Hecht's on-site parking for 373 cars.



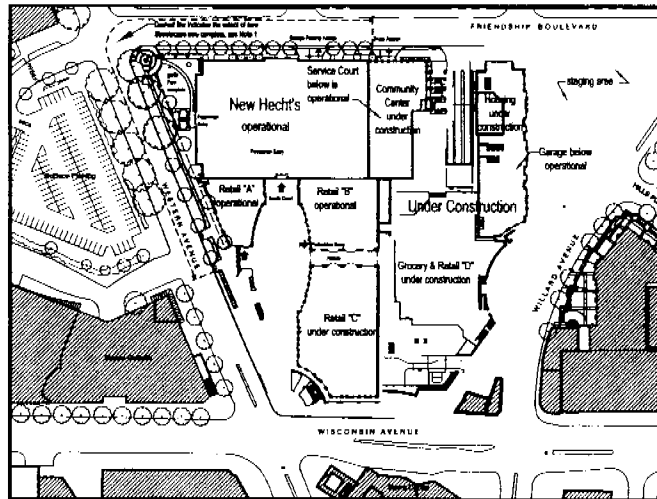
### Phase 1

- Parking Facility & Service Court construction begins.
- Hecht's Store (3 Floors) construction begins.
- Retail "A" (2 Floors) construction begins.
- Parking (4 Levels) & Service Court operational to support existing Hecht's store prior to completion of new store.
- Existing Parking Deck demolished when new Parking Garage is operational.



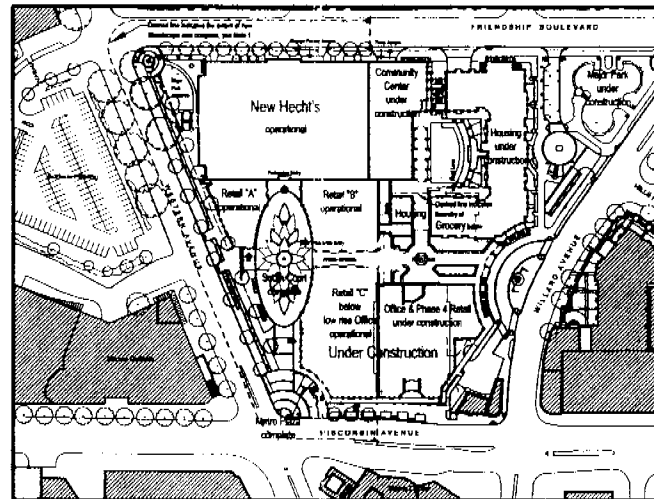
### Phase 2

- Housing Garage construction begins.
- Retail "B" construction begins.
- New Hecht's & Service Court operational.
- Streetscape around Hecht's and Minor Park are complete.
- Retail "A" operational.
- Demolition of old Hecht's building.
- Retail "C" Garage construction begins.
- Office Garage construction begins.



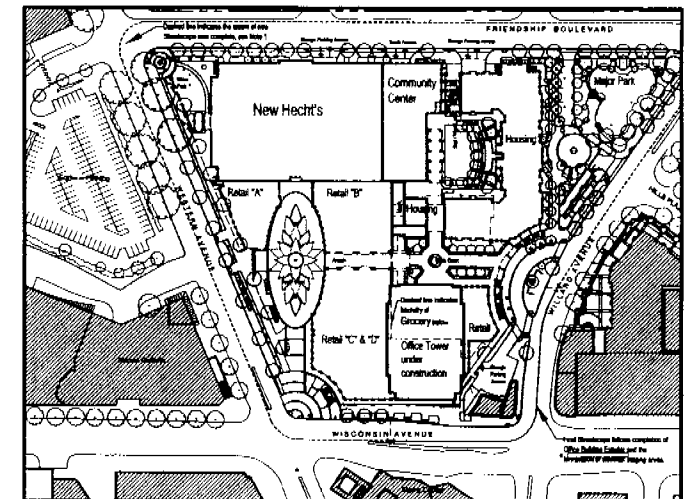
### Phase 3

- Retail "B" & Housing Garage operational.
- New Hecht's, Retail "A" & Retail "B" together form operational retail center.
- Retail "C" construction begins.
- Community Center construction begins.
- Retail "D" construction begins.
- Housing construction begins.
- Grocery construction begins.



### Phase 4

- Retail "C" operational.
- Grocery construction continues.
- Community Center construction continues.
- Housing construction continues.
- South Court, Metro Plaza & Western Avenue streetscape complete. (see sequence below)

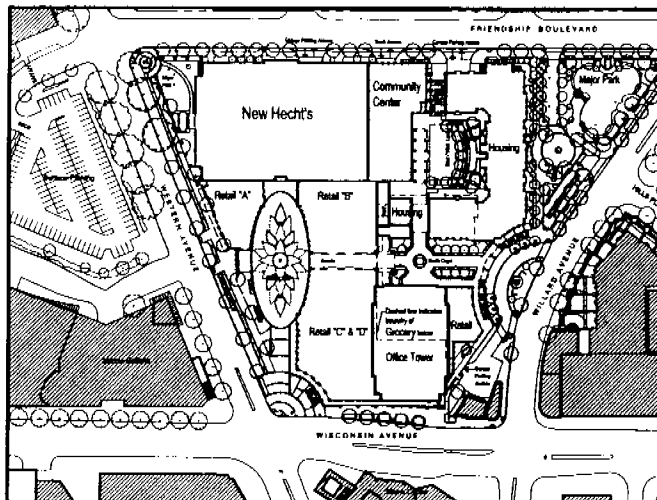


### Phase 5

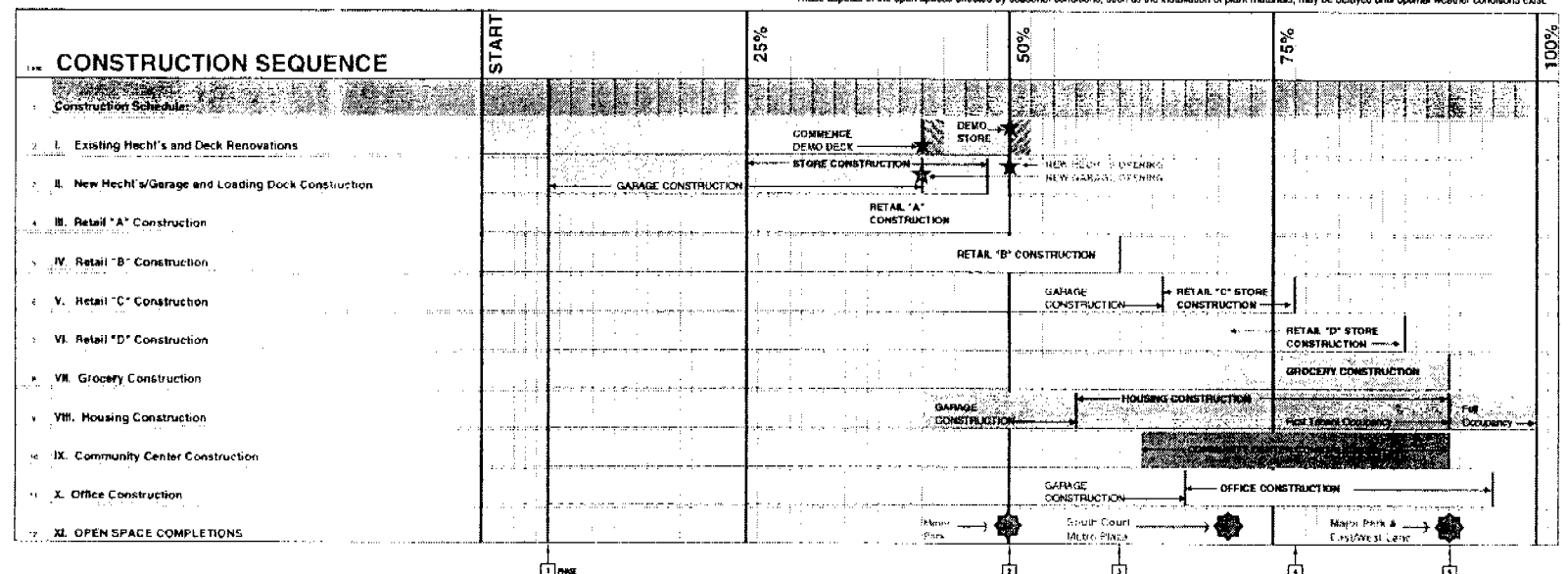
- Office lower construction.

### Note

- Public Open spaces such as the Streetscape, Parks and Courtyards will be substantially complete at the time of the initial occupancy of the buildings they abut. Those aspects of the open spaces affected by seasonal conditions, such as the installation of plant materials, may be delayed until optimal weather conditions exist.



### Project Complete



**TRAFFIC MITIGATION AGREEMENT**  
**Wisconsin Place**

This Traffic Mitigation Agreement (the "Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and among NEW ENGLAND DEVELOPMENT ("Owner" or "NED"), its successors and assigns, the MONTGOMERY COUNTY DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION ("MCDPWT"), and MONTGOMERY COUNTY PLANNING BOARD OF THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION ("Planning Board"), jointly referred to as the "Parties."

**WITNESSETH:**

WHEREAS, NED (or its successors and assigns) is the contract purchaser of property known as the Hecht's site (and Project known as Wisconsin Place), located on the west side of Wisconsin Avenue and bounded by Wisconsin Avenue, Western Avenue, Friendship Boulevard and Willard Avenue in Friendship Heights, Montgomery County, Maryland; and

WHEREAS, the Planning Board by approved Preliminary Plan No. 1-99030B (the "Preliminary Plan") with conditions by written Opinion dated July 22, 2003 attached hereto and incorporated herein as Exhibit "A" (the "Opinion") for development of 305,000 s.f. of office, 305,000 s.f. of retail (including a 50,000 s.f. grocery store), 480,000 s.f. of residential (up to 433 units) and associated public facilities and amenities (the "Development"); and

WHEREAS, the Approved and Adopted 1998 Friendship Heights Sector Plan (the "Sector Plan") indicates that the Development is located within the Friendship Heights Transportation Management District ("Friendship Heights TMD"); and

WHEREAS, the Sector Plan sets forth a goal that 39% of employees would commute from home to work in a capacity other than as an automobile driver (e.g., automobile passenger; commuter on public transportation) (the "Goal"); and

WHEREAS, the Preliminary Plan was approved subject to a condition (Condition No. 8) that Owner enter into an agreement with the Planning Board and MCDPWT to implement a traffic mitigation program, including traffic improvements as outlined in the Transportation Planning Division memorandum dated March 25, 2003 as revised on April 3, 2003 ("Transportation memorandum").

NOW, THEREFORE, in consideration of the mutual promises and stipulations set forth herein, OWNER, MCDPWT and the Planning Board, agree as follows:

1. The above recitals are hereby incorporated herein by reference.
2. The Owner agrees to cooperate with the Friendship Heights TMD to assist in achieving the Goal, including making best efforts to achieve and maintain a non-auto driver mode share of 39 percent of employees at the Project. Transportation management measures to

be implemented by Owner for the Development shall include:

- (i) Designating a person, in writing, to be Transportation Benefits Coordinator for the Development (and notifying the Friendship Heights TMD, in writing, of any change in the person serving as the Transportation Benefits Coordinator). The Transportation Benefits Coordinator may be a property manager or other employee of the Owner with other employment duties.
- (ii) Arranging for an initial meeting between the Transportation Benefits Coordinator and the Friendship Heights TMD Staff and providing the opportunity for subsequent meetings, as needed but not more often than during the normal course of property management.
- (iii) Making the Development available for programs and marketing efforts by the Friendship Heights TMD during the normal course of property management.
- (iv) Facilitating access to tenants/employers and employees during the normal course of business for purposes of informing and educating about programs and services available in the Friendship Heights TMD.
- (v) Providing the Friendship Heights TMD with an updated list of tenants on a semi-annual basis (such information to be kept confidential by the Friendship Heights TMD) and assisting with the distribution of "Welcome Packets" to new tenants/employers and other materials to be provided by the Friendship Heights TMD.
- (vi) Encouraging tenant/employer and employee participation in the Annual Commuter Survey (using good faith efforts to obtain an 80% response rate from employers, tenants and employees in the Development).
- (vii) Compiling information and monitoring results of the traffic mitigation program elements at the development. The Transportation Benefits Coordinator will prepare a brief report each year (1-2 pages), summarizing the results of the program and outlining activities conducted to promote commuter options during the course of the previous year. This report shall include the name and contact information for the current Transportation Benefits Coordinator and shall be submitted to MCDPWT's (Division of Transit Services) Commuter Services Section on an annual basis.
- (viii) Encouraging the developer of the residential building to wire the building to promote telecommuting.
- (ix) Making space available to the Friendship Heights TMD Staff for periodic transit and alternative travel promotions and providing a display area in certain widely used areas of the development for use by the Friendship Heights TMD, including elevator lobbies within the parking facility, or alternative locations agreed to by the parties.
- (x) Providing adequate accommodations for bicycles (bicycle racks or lockers) in certain

areas of the development, including the garage, as identified on the approved site plan signature set. No charges will be levied for bicycle parking.

(xi) Providing a sufficient number of conveniently located parking spaces to accommodate all registered employee car and van pools until 10:00 a.m. on Monday through Friday (excluding Federal holidays), at which point those spaces shall become available for public parking.

(xii) Reserving 1-2 spaces within the parking facility for car sharing vehicles, and only if such reservation of spaces does not affect the development compliance with zoning laws, rules and regulations.

(xiii) Providing covered access through the upper level of the garage to the entrance of the Metro station, as identified on the approved site plan.

(xiv) Providing a bus shelter as identified on the approved site plan.

(xv) Providing a taxi stand as identified on the approved site plan.

(xvi) Distributing Friendship Heights TMD "Welcome Packets" to new residents.

(xvii) Engaging in voluntary parking reduction programs for the office component of the development by: (a) charging market rates for parking in the parking facility, (b) encouraging employers of the office component not to pay for parking for those employees who drive to work alone, (c) encouraging office employers to subsidize parking for vanpools and carpools, (d) not requiring that tenant leases commit to a minimum number of parking spaces as a precondition to leasing space in the office building, (e) notifying prospective office tenants of alternatives to monthly parking arrangements for their employees, including information about the availability of government transit subsidy programs and other transportation benefits with the materials provided by the Friendship Heights TMD as referenced in paragraph 3 below and (f) implementing a strategy to help ensure that there will be adequate parking for retail patrons within the parking facility.

3. Owner will pay the annual Transportation Management Fee associated with the Friendship Heights TMD to the Montgomery County Government as required by Executive Regulation or law.

4. Owner will cooperate with the Friendship Heights TMD for data collection, compliance monitoring, and information dissemination, through its Transportation Benefits Coordinator. Upon request and only if reasonably available, the Friendship Heights TMD shall provide the Owner with information and/or printed materials regarding transportation systems, facilities and programs available in the Friendship Heights TMD including Ride-On Bus, Metro bus, Metrorail, MARC, Share-a-Ride, Fare Share and any other public transportation systems or carpool and vanpool matching services now or hereafter serving the Friendship



Heights TMD, in quantities sufficient to allow the Owner to distribute to tenants and employees in order to comply with this Agreement.

5. The obligations and requirements set forth in this Agreement shall commence after the new Hecht's department store is occupied and open for business and upon the occupancy of 50% of the other retail component of the Development or upon initial tenant occupancy of the office building, whichever occurs first (the "Commencement Date"). This Agreement is binding on the parties and their successors and assigns, and shall be recorded in the Land Records for Montgomery County, Maryland.

6. Owner may assign or transfer any of its rights or interests under this Agreement with respect to the Development or any portion thereof without the consent of either the Planning Board or MCDPWT. The Owner's assignee shall sign the Assignment Form, attached hereto as Exhibit "B", indicating their obligation to be bound by the terms and conditions of this Agreement. Notwithstanding the foregoing, the Owner shall be provided written notice from the Planning Board or MCDPWT of a failure to perform an obligation under this Agreement and thereafter shall be afforded a reasonable opportunity to cure.

7. If Owner fails to perform any of its obligations under this Agreement, the Planning Board or MCDPWT may pursue as its non-exclusive recourse any and all available remedies provided for at law or in equity. The remedies shall include the ability to issue civil fines, penalties, and stop work orders to the extent authorized by law.

8. Any failure by the Planning Board or MCDPWT to insist upon the strict performance by Owner of any of the Terms of this Agreement will not be deemed to be a waiver of any of such terms, covenants, agreements, conditions and provisions. Notwithstanding any such failure, the Planning Board and MCDPWT may thereafter insist upon the strict performance by Owner of any and all of the terms of this Agreement.

9. This Agreement shall automatically terminate if (i) a determination is made by the Montgomery County Council that the Friendship Heights TMD no longer remains necessary, or is no longer in the public interest or (ii) if the Planning Board determines, after receipt of recommendations from MCDPWT, that the programs are no longer necessary or appropriate. Nothing contained in this Paragraph 8 is intended to authorize the Planning Board or MCDPWT to increase or add any requirements not otherwise specified in this Agreement as a result of the evaluation provided herein.

10. Owner shall have no obligations or liabilities under this Agreement or Condition No. 8 of the Preliminary Plan (that requires this Agreement) other than those set forth in this Agreement. The obligations of Owner under this Agreement shall apply only during the period when it is the fee simple owner or lessee of the Property or any part thereof and only to the land it leases or owns. At such time as the Owner ceases to own a fee simple interest in the Property or any part thereof or ceases to be a lessee, the obligations and liabilities thereafter accruing (but not any accrued and unperformed obligations and liabilities) shall be the obligation of the Owner's successors and/or assigns, to the fullest extent permitted by law.



11. This Agreement reflects the complete agreement between the Parties required by the Opinion, and no party is liable to the other or bound in any manner by express or implied warranties, guarantees, promises, statements or representations pertaining to the traffic mitigation measures set forth herein unless such warranties, guarantees, promises, statements or representations are expressly and specifically set forth in this Agreement.

12. This Agreement cannot be modified except in writing and signed by all Parties hereto, their heirs, successors, assigns or their designees hereunder as applicable. Amendments, which are deemed by the Parties to materially alter the Agreement and which are inconsistent with the terms hereto, must be approved by the respective Directors of MCDPWT and the Planning Board. Any other modifications may be approved by the Planning Board Staff on behalf of the Planning Board and by MCDPWT Staff on behalf of MCDPWT.

13. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same Agreement.

14. This Agreement shall be governed and construed in accordance with the laws of the State of Maryland.

15. Every notice or communication required by this Agreement shall be directed to the Parties as follows:

To MCDPWT at:

Director, MCDPWT  
101 Monroe Street  
10<sup>th</sup> Floor  
Rockville, Maryland 20850

With a copy to:

Office of the Montgomery County Attorney  
Executive Office Building  
101 Monroe Street  
3<sup>rd</sup> Floor  
Rockville, Maryland 20850

To PLANNING BOARD at:

Transportation Planning Division  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

With a copy to:

Office of the General Counsel  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Suite 205  
Silver Spring, Maryland 20910

To OWNER at:

New England Development  
c/o David Gilmore  
One Wells Avenue  
Newton, Massachusetts 02459-3295

With a copy to:

Steven A. Robins, Esquire  
Lerch, Early & Brewer  
Suite 460  
3 Bethesda Metro Center  
Bethesda, Maryland 20814

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have set our hands and seals as of the date and year set forth below.

Witness:

NEW ENGLAND DEVELOPMENT

By: \_\_\_\_\_

Name: David C. Gilmore

Title: Vice President

Date: March 3, 2004

APPROVED AS TO LEGAL SUFFICIENCY

TAB  
M-NCPPC LEGAL DEPARTMENT

DATE: 3/9/04

Attest:

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

By: \_\_\_\_\_

Name: Joseph R. Davis

Title: Joseph R. Davis, Chief

Date: 3/17/04 Development Review Division

Attest:

MONTGOMERY COUNTY DEPARTMENT OF  
PUBLIC WORKS AND TRANSPORTATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF MARYLAND)

COUNTY OF MONTGOMERY )

I HEREBY CERTIFY that on this 3<sup>rd</sup> day of March, 2004, before me, a Notary Public in and for the State and County aforesaid, personally appeared David Gilmore known to me (or satisfactorily proven) to be the Vice President and that such person, being authorized to do so, executed the foregoing and annexed instrument for the purposes therein contained by signing the name of the said Company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Janine Gilbert  
Notary Public

My Commission Expires: July 17, 2004  
[NOTARIAL SEAL]

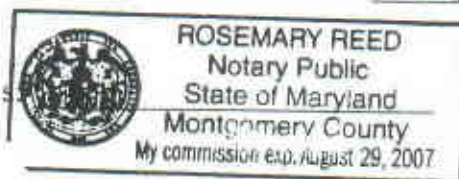
STATE OF MARYLAND )

COUNTY OF MONTGOMERY )

I HEREBY CERTIFY that on this 17 day of March, 2004, before me, a Notary Public in and for the State and County aforesaid, personally appeared Joe Davis known to me (or satisfactorily proven) to be the Chief, of the MONTGOMERY COUNTRY PLANNING BOARD OF THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, and that such person, being authorized to do so, executed the foregoing and annexed instrument for the purposes therein contained by signing the name of the said \_\_\_\_\_.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Rosemary Reed  
Notary Public



STATE OF MARYLAND

COUNTY OF MONTGOMERY )

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2004, before me, a Notary Public in and for the State and County aforesaid, personally appeared \_\_\_\_\_ known to me (or satisfactorily proven) to be the \_\_\_\_\_, of the MONTGOMERY COUNTY DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION, and that such person, being authorized to do so, executed the foregoing and annexed instrument for the purposes therein contained by signing the name of the said \_\_\_\_\_.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_  
[NOTARIAL SEAL]



Exhibit "A"

Montgomery County Planning Board Opinion

**Exhibit "B"**

\_\_\_\_\_, successor in interest and/or assignee of New England Development, hereby agrees to be bound by the terms and provisions of the Traffic Mitigation Agreement dated \_\_\_\_\_, 2004, as amended, by and among New England Development, the Montgomery County Department of Public Works and Transportation, and the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission.

\_\_\_\_\_

G:\Dept\RE\SAR\74718-NEW ENGLAND DEVELOPMENT\NED Traffic Mitigation Agreement Submit Rev 3-5.doc



ATTACHMENT A

SUITE 460 | 3 BETHESDA METRO CENTER | BETHESDA, MD 20814-5367 | TEL 301.966.1300 | FAX 301.986.0332 | WWW.LERCHEARLY.COM

VIRGINIA

STEVEN A. ROBINS  
DIRECT 301.657.0747



February 11, 2003

**BY HAND DELIVERY**

Elizabeth B. Davison, Director  
Eric B. Larsen  
Montgomery County Department of  
Housing and Community Affairs  
Stella B. Werner Council Office Building  
100 Maryland Avenue  
4th Floor  
Rockville, Maryland 20850

**Re: Amendment to Land Use Approvals for Wisconsin Place -  
Alternative Compliance MPDU Agreement/PILOT  
Agreement for Wisconsin Place**

Dear Ms. Davison and Mr. Larsen:

This letter serves as a follow up to our recent meeting regarding the Wisconsin Place development to be located in Friendship Heights. As you know, our firm represents New England Development L.L.C., the Applicant ("NED") for the Wisconsin Place development that will be located on the Hecht's parcel. The purpose for our meeting was to inform you of our intention to amend our various land use approvals for Wisconsin Place to accommodate an increase in the housing component by 180,000 s.f. and to decrease the commercial component by that same figure. This reconfiguration will result in an increase in the housing component from 275 units to 433 units with a proportionate increase also in the number of MPDUs. I have attached a copy of a plan that compares the approved plan with the proposal amended plan for your convenience. The Project Plan and Preliminary Plan are being amended in a similar manner.

As you will recall, NED and the County entered into an "Alternative Compliance Agreement To Build Moderately Priced Dwelling Units For A Permit Of 50 Or More Dwellings And Payment-In-Lieu-Of-Taxes Agreement" (the "Agreement") for the residential portion of the Wisconsin Place development. The Agreement is dated February 28, 2002. The Agreement states, in part, that 50% of the required MPDUs will be provided on-site and, in lieu of providing the other

SERVING OUR CLIENTS AND COMMUNITY FOR FIFTY YEARS 1950/2000



ATTORNEYS

Elizabeth B. Davison  
Eric B. Larsen  
February 11, 2003  
Page 2

50% MPDUs on-site, NED will make payments to the County Housing Initiative Fund. The Agreement also provides for a tax abatement for a set number of years.

Section 5(f) of the Agreement affords NED the right to modify the number of units in the project and provides (i) that the MPDUs provided on-site be adjusted prorata and (ii) the payment to the County for 50% of the MPDUs and the tax abatement per MPDU unit both be adjusted prorata to reflect the final MPDU count in the project. Thus, pursuant to the Agreement, of the 55 MPDUs now required as part of the amended plan, 28 will be on-site and the remaining 27 will be subject to the same terms and conditions as set forth in the Agreement (i.e., payment of the agreed upon amount per unit into the Housing Initiative Fund and tax abatement treatment). We will submit an addendum reflecting the change in the number of units as contemplated by the Agreement.

I would appreciate it if you would confirm below that you agree with the characterization of the Agreement for the treatment of the MPDUs in the Wisconsin Place development as outlined in this letter. Thank you very much for your consideration and we look forward to working with you in the near future.

Sincerely,

Steven A. Robins

**Acknowledgment:**

I confirm that the understanding of the Agreement for the treatment of the MPDUs in the Wisconsin Place development as outlined in this letter is accurate and correct.

Elizabeth B. Davison, Director  
Department of Housing and Community Affairs

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M-NCPPC



## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, [www.mncppc.org](http://www.mncppc.org)

November 8, 2005


Ms. Bonnie Bezila, President  
Fairland Manor Condominium, Inc.  
50 West Montgomery Avenue, Suite 10  
Rockville, Maryland 20850

Dear Ms. Bezila:

Your October 5, 2005 letter to Marilyn Praisner, Councilmember, has been referred to us and is being circulated to appropriate Park and Planning staff dealing with housing and development approvals.

While we are not in a position to assist you with structural water damage, we certainly can be sensitive to the points you make regarding size and age of the community residing within the Fairland Condominium insofar as future project approvals are concerned.

Sincerely,

  
 Jorge A. Valladares, P.E.  
 Chief, Environmental Planning/CWP

JAV:ss

cc: Derick P. Berlage, Chairman  
 Marilyn J. Praisner, Councilmember  
 Karl Moritz  
 Sharon Suarez  
 ✓ Rose Krasnow  
 John Carter





MONTGOMERY COUNTY COUNCIL  
ROCKVILLE, MARYLAND

RECEIVED  
1764  
OCT 27 2005

ATTACHMENT A

OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

MARILYN J. PRAISNER  
DISTRICT 4

October 25, 2005

Ms. Bonnie Bezila, President  
Fairland Manor Condominium, Inc.  
50 West Montgomery Avenue, Suite 10  
Rockville, Maryland 20850

Dear Ms. Bezila:

Thank you for your correspondence regarding the water damage at Fairland Manor Condominiums and your difficulty with Maryland Development Company (MDC). Our office just recently received the letter dated October 5<sup>th</sup>, so it was not possible for us to attend your meeting on the 17<sup>th</sup>.

I am aware that you have already been in contact with our Office of Consumer Affairs, but I am forwarding your correspondence to the Office Chief, in hopes that he will give it his attention. I am also sending it to the Park and Planning Commission Chair, so that in the future, the planning staff can consider this issue in development approvals, as you suggest. The Council has little, if any, role in this action, but I will certainly keep in mind the issues you raised.

I appreciate hearing from you and if I can be of further assistance, please do not hesitate you let me know.

Sincerely,

Marilyn J. Praisner  
Councilmember

C: Derick Berlage, Chair, Park and Planning  
Eric Friedman, Chief, Office of Consumer Affairs

Fairland Manor Condominium, Inc.  
50 West Montgomery Ave., Suite 10  
Rockville, Maryland 20850

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October 5, 2005

Council Member Marilyn Praisner  
Montgomery County Council  
100 Maryland Avenue, 6th Floor  
Rockville, MD 20850

SUBJECT: Condominium for Senior and Handicapped Housing

Dear Ms. Praisner:

Fairland Manor Condominium was completed in the Spring of 2003 and transitioned to the homeowners. This condo was established by County zoning requirements to meet the needs of senior and handicapped residents. There are only ten (10) units in the entire complex.

The small number of members limits our effectively managing our affairs. The volunteer pool is too small and there are too few to share the financial obligations. The condo retains financial management and relies on the services provided by Community PaperWorks, Inc., (CPWI) consultant, Nancy Jacobsen. We are a community of citizens aging in place and facing the likelihood of not being able to recruit board leadership or meet the fiduciary obligations.

In preparing for transition, CPWI reviewed all of the Public Offering Statements and the legal instruments of the condominium. The new homeowner board was informed that Maryland Development Company (MDC) had not calculated the budget and assessments for a condo. Instead MDC treated this project as if each owner had fee simple title to a townhouse. Now the size and member age of the community affects its ability to adequately finance itself.

While most of the construction has been more than adequate with few individual problems, the condo has incurred a major problem with water penetration in four (4) of the (7) units built by MDC. For over a year, the board has been spending a sizeable amount of time and money in responding to the needs of our owners. Unfortunately, our membership limitations affect our ability to utilize legal counsel and the court system to obtain satisfactory repairs by MDC.

As of today, four of our units continue to have water damage. Ms. Medina, 13414 Cedar Creek Lane, first discovered water in her basement on July 28, 2004. The final repairs still have not been scheduled. Without measurable rain this fall, there will be no way to determine if the repairs are adequate to prevent further damage.

Re: Fairland Manor Condominium, Inc.  
October 5, 2005 - Page 2

MDC continues to write to our owners on an individual basis referring to a one-year warranty, only applicable to a townhouse development. Decisions that must be made by the board are handled as if each owner can individually make a commitment or release MDC from any obligation to resolve the problem. Our consultant and our legal counsel continue to remind MDC that Fairland Manor is a condominium covered by the Condominium Act's language of a three-year warranty.

To assist the board, CPWI has turned to both the Building Permitting Services and the Office of Consumer Affairs for our support. A copy of the two reports presented this week to Ralph Vines, Consumer Affairs, is provided.

The board requests your support and assistance in seeking an equitable solution to our problem. We are preparing for an Annual Meeting on October 17<sup>th</sup> at the Fairland Library, beginning at 7 p.m., and would welcome you or a staff member to join us.

While water damage has been a major focus, the board is faced with another issue similar to other small condominiums throughout the County. Only three years old - we already have reached a crisis in obtaining candidates for the board. A senior community does not have the advantage of new and younger people to share the burden of responsibility. A very small community young or old has fewer options for recruiting leaders. Our future is very uncertain. We see a time in the not-to-distance future when no member is willing or able to function in the role of a director and assume the responsibilities that affect other senior neighbors.

We bring our concerns to you. As the continued approval of small developments continues, other County seniors will suffer a failure to maintain the facility and to govern themselves.

The board and our members are asking for the County planners and decision-makers to consider this issue in future approvals. We face an uncertain future without a solution to our challenge of aging seniors residing in a small condo.

Sincerely,

Fairland Manor Condominium, Inc.



Bonnie Bezila, President

Enclosures: reports re 13404 and 13414 Cedar Creek Lane units

## ATTACHMENT A

FAIRLAND MANOR CONDOMINIUM  
 Jeanne Medina – 13414 Cedar Creek Lane  
 Silver Spring, Maryland 20904

<u>Attachment</u>	<u>Item</u>	<u>No. of Pages</u>
1.	Authorization – CPWI, Nancy Jacobsen dated 09.29.05	1
2.	List of contacts re water/warranty issue	1
3.	Facsimile to MDC regarding water damage dated 04.04.05	2
4.	Letter response fr MDC, dated 04.07.05	1
5.	Letter fr Dept of Permitting Services, dated 06.29.05 written to MDC	1
6.	Response to DPS from MDC – David Blanken	1
7.	Letter fr MDC legal counsel, dated 08.18.05	2
8.	Letter to MDC, dated 09.12.05	2
9.	Letter fr MDC, dated 09.20.05	3

Telephone calls to/fr MDC

07.28.04	<p>Tel fr J. Medina. She had tel to MDC regarding damage and Was informed that warranty on a townhouse was only for 1 year. Carpet in middle of room wet.</p> <p>Tel to MDC – Kim Ridolfi. Reminded her that these were condos And that water penetration through the outside walls or foundation Is a condominium problem.</p> <p>MDC sent Universal Home Services. UHS caulked along outside Wall. Condo's State Farm agent recommended immediate use of ServePro.</p>
07.29.04	MDC and UHS agreed that ServePro services for mold intervention were authorized.

Fairland Manor Condominium, Inc.  
13414 Cedar Creek Lane

- 07.29, cont. CPWI – N Jacobsen did onsite inspection. Extensive mold along outer wall of unfinished storage area. Water on carpet continues to spread.
- 07.30.04 Ceiling tiles fell. Insulation wet and moldy.  
Met with Condo legal counsel to advise him of current incident.
- 08.02.04 UHS received no instructions fr MDC re possible cause of water penetration.
- 08.04.04 Water in evidence on outside wall, below grade. No response fr MDC.
- 08.09.04 Letter written by Condo counsel and copy of Transition Report delivered to MDC.
- 08.10.04 Five people met at 13414 – David Blanken, MDC, representative fr Schmick Stewart (contracted builder), 2 from UHS, and Kip Gaynor, Structural Repair Group on behalf of condominium.
- 08.12.04 Another leak from overhead dripping behind insulation. Water marks evident.
- 08.13.04 Tel to MDC – David Blanken. Response inadequate and attempted to separate water damage from condominium concern.  
Tel fr MDC – Ted Smart. Expressed disappointment that Condo had legal counsel write letter.  
Unit owner concerned about continuing presence of water and mold.
- 08.14.04 ServePro again delivered fans for drying of basement.  
Notes not immediately available for next 4 weeks.
- 09.17.04 Heavy rains brought infusion of water.  
Tel to MDC attorney requesting utilization of condo's expert, Kipp Gaynor. MDC denied necessity for his assistance.
- Dry period – little activity by MDC in establishing cause of water penetration.
- 11.04.04 Leak reappeared.



Fairland Manor Condominium, Inc.  
13414 Cedar Creek Lane

11.04, cont. Tel to UHS and MDC.

Condo requested assistance of John Francis, Northern Virginia Roofing Co. He met onsite with UHS. Tel to MDC to authorize JF to repair flashing and related items on roof (as identified in Transition Study). These repairs did correct one of the entry areas for water.

Lack of rain, MDC did not respond to determine the basis for other water damage. UHS informed CPWI that MDC only had 1-yr warranty instead of a 3-yr warranty, indicating that MDC now responsible for own financial obligations in determining repairs.

03.23.05 Water leak reappeared. See notes with report for 13404 Cedar Creek Lane.

Currently – inside of Unit repairs not completed. Owner concerned that without major rain there is no ability to confirm repairs satisfactory.

Aug 05 MDC installed French drain connecting downspouts on 13412 and 13414 in effort to stop further water damage.

#### Condominium actions

In 2004, legal counsel, David Gardner, Esq., for the Condominium gave notice to Maryland Development Company of defects as reported in the Transition Report prepared by Miller, Dodson and Associates, Inc., dated May 2004. Mr. Gardner is following up this week with a letter to MDC's legal counsel reminding them of the warranty requirements and the outstanding problems continuing on the property.

Submitted by

Community PaperWorks, Inc.

Nancy M. Jacobsen, President  
(Consultant to the Condominium)

**FAIRLAND MANOR CONDOMINIUM**  
**Shin Lee – 13404 Cedar Creek Lane**  
**And other Unit Owners, specifically 13402 and 13406**  
**Silver Spring, Maryland 20904**

<u>Attachment</u>	<u>Item</u>	<u>No. of Pages</u>
1.	Authorization – CPWI, Nancy Jacobsen dated 09.27.05	1
2.	List of contacts re water/warranty issue	1
3.	Facsimile to MDC regarding water damage dated 04.04.05	2
4.	Letter response fr MDC, dated 04.07.05	1
5.	Letter fr Dept of Permitting Services, dated 06.29.05 written to MDC	1
6.	Response to DPS from MDC – David Blanken	1
7.	Letter fr MDC legal counsel, dated 08.18.05	2
8.	Letter to MDC, dated 09.12.05	2
9.	Letter fr MDC, dated 09.20.05	3
10.	Escrow Agreement, dated 02.25.03	4
11.	HUD-1 and Attachments, dated 02.25.05 Improvement Levy Notice	7 1
12.	New Home Sales Contract, dated 03.02.02	8
13.	Attachments/Disclosures with contract Addendum of Clauses	17 8

Telephone calls to/fr MDC

03.23.05	To MDC – Dave Blanken to confirm use of ServePro due to water penetration at 13402, 13404, 13406
03.24.05	To Universal Home Services (MDC warranty company) coordinating UHS onsite inspection of these units

Fairland Manor Condominium, cont.  
13404 Cedar Creek Lane  
and other units

- 03.25.05 UHS unable to make onsite inspection; not authorized by MDC
- Tel to MDC legal counsel to solicit assistance in resolving unit owner problems.
- 04.04.05 Tel fr MDC – Ted Smart, clarifying the situation. Requested letter; sent; referenced above, dated 04.04.05
- Tel to Eric Friedman, suggested discussing with Shahriar Amiri, Chief, Construction, Building Construction.
- 04.05, 06, & 07 Tel and inperson meetings with Mr. Amiri who agreed to consider action that could be taken by his office.
- 04.08.05 MDC – Kim Ridolfi. UHS authorized to inspect all 4 units.
- 04.27.05 Tel fr MDC – Kim Ridolfi. UHS stated that 2 units water damage not the Developer's problem. UHS did not do inside inspection at that time.
- Tel to Shahriar Amiri for assistance.
- Periodic tel messages to Bldg. Permit. No active effort by CPWI due to consultant surgery.
- 07.19.05 Onsite visit with Bldg. Construction – George Muste & Hemal Mustafa; MDC, David Blanken; and condo retained structural engineer, Kipp Gaynor, Structural Repair Group.
- mid-Aug Unit owner tel re lack of response by MDC and concern for health of parent.
- 09.02.05 Tel George Muste requesting another onsite inspection. Scheduled
- 09.07.05 Met G. Muste & Hemal Mustafa onsite to review MDC work. They also looked at 13414 and the (again) peeling foundation waterproofing.
- 09.09.05 Tel MDC – Ted Smart. He requested written commentary. Provided on 09.12.05.

Fairland Manor Condominium, Inc.  
13404 Cedar Creek Lane  
and other units

Condominium actions

The Board of Directors installed larger roof gutters than MDC had installed in effort to abate problem.

On five (5) occasions the Board has had the gutters cleaned beginning in October 2004 with the last cleaning on July 18, 2005.

The Board has now contracted for screens to be installed on the gutters.

Due to these expenses, the Board has not done any landscaping around the condominium units. MDC continues to state that the problems are a result of the condo's lack of action on keeping the gutters cleaned and that the condo and/or unit owners have changed the drainage elevation around the units.

The Department of Permitting Services, S. Amiri, stated on April 6, 2005, that the building code does not require gutters on the roof and that the grade slope should handle the drainage necessary to avoid water entering the individual units.

Further, the letter from the Department of Permitting Services includes the required exterior grade slope (a fall of 6" within 10 feet) and the building code stated that without this 10 feet grade, alternative steps are required. From the front edge of the building to the front sidewalk is less than three (3 ft) feet. This factor affects both buildings (7 units) built by MDC.

In 2004, legal counsel, David Gardner, Esq., for the Condominium gave notice to Maryland Development Company of defects as reported in the Transition Report prepared by Miller, Dodson and Associates, Inc., dated May 2004. Mr. Gardner is following up this week with a letter to MDC's legal counsel reminding them of the warranty requirements and the outstanding problems continuing on the property.

Submitted by

Community PaperWorks, Inc.

Nancy M. Jacobsen, President  
(Consultant to the Condominium)

Fairland Manor Condominium, Inc.  
13404 Cedar Creek Lane  
and other units

Condominium actions

On five (5) previous occasions the Board has had the gutters cleaned beginning in October 2004 and ending on July 18, 2005.

In addition, the Board last month (September) had screens installed throughout the complex on all 10 units; this included another cleaning as a preliminary to the installation.

Due to these expenses, the Board has not done any landscaping around the condominium units. Maryland Development Company (MDC) continues to state that the problems are a result of the condo's lack of action on keeping the gutters cleaned and that the condo and/or unit owners have changed the drainage elevation around the units.

The Department of Permitting Services, S. Amiri, stated on April 6, 2005, that the building code does not require gutters on the roof and the grade slope should handle the drainage necessary to avoid water entering the individual units.

Further, the letter from the Department of Permitting Services identifies the required exterior grade slope (a fall of 6 inches within 10 feet); the building code states that without the 10 foot grade, alternative steps are required. The distance from the front edge of the building to the front sidewalk is less than 3 feet. This factor affects both buildings (7 units) built by MDC.

In 2004, legal counsel, David Gardner, Esq., for the Condominium gave notice to Maryland Development Company of defects as reported in the Transition Report prepared by Miller, Dodson and Associates, Inc., dated May 2004. Mr. Gardner is following up this week with a letter to MDC's legal counsel reminding them of the warranty requirements and the outstanding problems continuing on the property.

Submitted by

Community PaperWorks, Inc.

Nancy M. Jacobsen, President  
(Consultant to the Condominium)





# MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 07-105  
Site Plan No. 82001010C  
Project Name: Wisconsin Place  
Hearing Date: September 6, 2007

## RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, on June 18, 2007, WP Project Developer, LLC c/o New England Development ("Applicant"), filed a site plan amendment application designated Site Plan No. 82001010C ("Amendment") for approval of the following modifications:

- 1) Addition of Pedestrian / Vehicle signage per Signage Package dated March 21, 2006 as approved by Montgomery County Sign Review Board.
- 2) Addition of a brick band at the Western Avenue bike path per the requirements of MC-DPWT.
- 3) Revisions to retail roof plan to indicate final engineering and revised rooftop HVAC equipment locations.
- 4) Street light fixture type G3 revised to 150 watt lamps along Western Avenue per the requirements of the District of Columbia. Locations of street light fixture type G2 along Friendship Boulevard revised per the requirements of MC-DPWT.
- 5) Upgrade of exterior finish material for retail buildings A, B, and C from architectural precast concrete to limestone.
- 6) Phasing of garage layout and parking striping. Sheets A-1.1, A-2.1, A-3.1, and A-4.1 added to illustrate temporary Phase I garage condition; and Sheet T-1 revised to indicate Phase I compliance with parking count requirements. Per the requirements of M-NCPPC Transportation Planning Department, adjustment to provide pedestrian crosswalks along the entire pedestrian path connecting pedestrian's ingress/ egress points within the underground parking area.
- 7) Removal of eastern-most existing mid-block crosswalk on Western Avenue per requirement of the District of Columbia and slight relocation of Western-

Approved as to  
Legal Sufficiency:

*Charles H. Roan*  
M-NCPPC Legal Department

- most mid-block crosswalk on Western Avenue to allow for coordination of new ADA compliance sidewalk ramp with existing underground utilities. Western Ave crosswalk, tree layout and light poles adjusted to coordinate with field conditions and new direction from DC-DOT.
- 8) Mid-block crosswalks on Friendship Boulevard eliminated per the requirements of MC-DPWT. Ongoing coordination efforts between M-NCPPC and MC-DPWT to restore at least one mid-block crosswalk preferably across from the Community Center. Location of trees along Friendship Boulevard adjusted to avoid conflicts with street light fixture type G2 per the requirements of MC-DPWT.
  - 9) Adjustment of on-site Amenity & Public Use Space tabulations to indicate potential restaurant outdoor seating areas in South Court retail area.
  - 10) Revision of sidewalk detail on Western Avenue to include precast concrete curb to address existing site grading conditions and avoid damaging root system of existing Willow oaks.
  - 11) Revision of Phase 1 Planting Schedule as part of the final landscape design refinement to a) add small evergreen trees (Arbovitae) and Japanese holly, b) provide more quantity but smaller specimens of English yew to allow for added evergreens, c) provide smaller Enkianthus due to unavailability of originally specified specimens, d) replace English ivy with larger specimens for increased survivability, e) replace bulbs with a variety of flowering perennials, and add flowering annuals, f) provide willow oaks of 2-2 1/2" caliper rather than 3-3 1/2" due to unavailability of originally specified specimens, and later replace them with healthy, 3-3 1/2" willow oaks per original design once these become available.
  - 12) District of Columbia Historic Marker is to be cleaned, and restored as per the direction and approval of the Historic Preservation Office of the District of Columbia rather than the M-NCPPC Historic Preservation Staff.

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staffs of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated August 23, 2007 setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on September 6, 2007, Staff presented the Amendment to the Planning Board as a consent item for its review and action (the "Hearing"); and

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts the Staff's recommendation and analysis set forth in the Staff Report and hereby approves Site Plan No. 82001010C; and

BE IT FURTHER RESOLVED that all site development elements as shown on Wisconsin drawings stamped by the M-NCPPC on August 17, 2007, shall be required; 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 this Amendment shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

**SEP 20 2007**  
BE IT FURTHER RESOLVED, that the date of this written resolution is \_\_\_\_\_ (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 written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

At its regular meeting, held on Thursday, September 6, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner Robinson, seconded by Commissioner Lynch, with Commissioners Hanson, Bryant, Cryor, Lynch, and Robinson voting in favor, ADOPTED the above Resolution, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Site Plan No. 82001010C, Wisconsin Place.

  
Royce Hanson, Chairman  
Montgomery County Planning Board



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**Memorandum**

**TO:** Rollin Stanley, Planning Director

**FROM:** Rose Krasnow, Chief of Development Review *RK*

**VIA:** Robert Kronenberg, Supervisor, Development Review *RK*  
Sandra Pereira, Senior Planner, Development Review *SP*

**RE:** Wisconsin Place  
SITE PLAN #82001010E

**DATE:** September 10, 2008

Pursuant to Montgomery County Code Division 59-D-3.7 (Minor Amendments), the Planning Director may approve in writing certain applications for an amendment to the Certified Site Plan. Administrative or "Director Level" Amendments are modifications to the approved Certified Site Plan that are considered minor in nature and do not alter the intent and objectives of the plan.

A Pre-Application meeting with the community/public/parties of record is not required. A Pre-Submittal meeting with the DRD Intake Section is also not required; however, submittal of the application to DRD is applicable. Administrative Amendments must satisfy the noticing and posting requirements as identified in Sections 4.C and 4.D (a) (ii) of the Development Manual and require approval of the Planning Director.

On July 1, 2008, WP Project Developer, LLC c/o New England Development ("Applicant"), filed a site plan amendment application designated Site Plan No. 82001010E ("Amendment") for approval of the following modifications:

1. Add (2) planter urns atop seat wall adjacent to Willard Ave elevator to prevent climbing access into planter area;
2. Simplify ramp at NE corner of office tower to allow for easier pedestrian navigation and resolve complex constructability issues at the property line;
3. Move lamp post off piers along Willard Ave at the plaza level to match freestanding fixtures in North Court and resolve constructability details;

4. Adjust lighting fixture layout at sign band piers above grocery storefront to coordinate with final design and detailing;
5. Reconfigure size and shape of garage intake shaft at South Court to accommodate code requirements for air capacity;
6. Change previously anticipated residential terraces to planting areas coordinated with residential unit layouts;
7. Revise planters to east side of residential tower to coordinate with structural requirements of the Willard Avenue stair and balconies at residential units;
8. Relocate Fire Department Siamese standpipe and bike racks near Community Center entry to avoid structural concrete system of garage below;
9. Adjust handicap ramp at front entrance to residential building;
10. Convert one handicap parking space at the drop-off adjacent to the residential tower front entrance to be "van accessible";
11. Add benches in the Major Park in locations with pavers to address accessibility criteria required by Fair Housing Act;
12. Adjust parking stall configurations at B-3 and B-4 levels of garage and relocate/reconfigure garage exhaust shaft #12 to accommodate final office tower structural grid;
13. Revise office and residential tower elevations and Community Center elevations to account for metal panel size constraints;
14. Incorporate additional windows at grocery storefront on Willard Ave to allow for more natural light within the grocery space;
15. Update lighting and photometric plan to account for final fixture locations and additional lighting at the exterior of the office tower;
16. Incorporate 'right-turn' lane at intersection of Wisconsin Ave and Western Ave and subsequent minor revisions to planters, grading, steps, and bus stop locations to accommodate final design;
17. Adjust planter/tree layouts in Community Center Court to coordinate with garage structure below;
18. Adjust G2 type light fixtures to have 150w lamps per DC standards along Western Ave. All other G2 and G3 fixtures to have 100w lamps and 13'-0" high poles consistent with Phase I approvals;



19. Replace brick with granite pavers at plaza level office tower entrances to help define entry locations;
20. Modify office tower footprint at second level and above to achieve building area (no change to footprint at ground level);
21. Add roof terrace at low-rise portion of office building;
22. Adjust main office tower entrance on Wisconsin Ave to align with retail storefronts and better define office location;
23. Revise tree layout along Friendship Boulevard and Willard Avenue to meet MC-DOT 30-foot spacing requirement and to avoid existing utility structures;
24. Revisions to plaza level open space system to slightly enlarge and relocate outdoor dining area adjacent to storefront to meet operational requirements and enliven the pedestrian environment in North-South Lane, North Courts and along Willard Avenue;
25. Add vestibules at Willard Avenue exterior elevator (at both plaza level and at lower drop-off area) to provide shelter from weather;
26. Reconfigure planter on Wisconsin Avenue to allow for relocated fire hydrant required by the Fire Department;
27. Relocate and add transformer vaults along Western Ave due to PEPCO determination that existing vaults were in substandard condition and had insufficient capacity to accommodate the project requirements;
28. Upgrade crosswalks and signals equipment, and adjust slightly tree locations along Western Avenue to meet DC-DOT requirements;
29. Relocate Historic DC Boundary Marker to accommodate 'right-turn' lane design and per the direction and approval of the Historic Preservation Office of the District of Columbia;
30. Add mid-block crosswalk along Friendship Boulevard with note stating "crosswalk location subject to final approval by MC-DOT";
31. Revise stair and planter in Major Park to coordinate with storm water management system structures;
32. Revise residential unit mix to provide (6) 3-bedroom units while maintaining the total of 432 dwelling units proposed;

33. Replace cast in place aggregate pavement with concrete unit pavers at NE corner of office tower; and
34. Revise all radial handicapped ramps to be parallel to crosswalks not perpendicular to the curb per DC-DOT and SHA-ADA requirements.

A notice regarding the subject site plan amendment was sent to all parties of record by the Applicant on June 26, 2008. The notice gave the interested parties 15 days to review and comment on the contents of the amended site plan. Staff received correspondence from the parties of record in favor of the modifications proposed.

The proposed amendment is consistent with the provisions of Section 59-D-2.6 of the Montgomery County Zoning Ordinance for Minor Plan Amendments. The amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board for the originally approved site plan.

This Amendment shall remain valid as provided in Montgomery County Code § 59-D-3.8. The Applicant is responsible for submitting a certified site plan after approval by the Director for the specific modifications.

ACCEPTED & APPROVED BY:



Rollin Stanley, Planning Director

9-17-08

Date Approved



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

**Memorandum**

**TO:** Rollin Stanley, Planning Director

**FROM:** Rose Krasnow, Chief of Development Review *RK*

**VIA:** Robert Kronenberg, Supervisor, Development Review *RK*  
 Sandra Pereira, Senior Planner, Development Review *SP*

**RE:** Wisconsin Place  
 SITE PLAN #82001010F

**DATE:** April 22, 2009

Pursuant to Montgomery County Code Division 59-D-3.7 (Minor Amendments), the Planning Director may approve in writing certain applications for an amendment to the Certified Site Plan. Administrative or "Director Level" Amendments are modifications to the approved Certified Site Plan that are considered minor in nature and do not alter the intent and objectives of the plan.

A Pre-Application meeting with the community/public/parties of record is not required. A Pre-Submittal meeting with the DRD Intake Section is also not required; however, submittal of the application to DRD is applicable. Administrative Amendments must satisfy the noticing and posting requirements as identified in Sections 4.C and 4.D (a) (ii) of the Development Manual and require approval of the Planning Director.

On April 6, 2009, WP Project Developer, LLC c/o New England Development ("Applicant"), filed a site plan amendment application designated Site Plan No. 82001010F ("Amendment") for approval of the following modifications:

- Addition of a stairwell off of the Western Avenue façade of the Retail A building to comply with a life and safety code provision regarding means of egress.

A notice regarding the subject site plan amendment was sent to all parties of record by the Applicant on April 1, 2009. The notice gave the interested parties 15 days to review and comment on the contents of the amended site plan. Although Staff did not receive any correspondence from the parties of record, Staff was contacted by the Friendship Heights Civic Association on the status of the review and any concerns that Staff had with the proposal.

The proposed amendment is consistent with the provisions of Section 59-D-2.6 of the Montgomery County Zoning Ordinance for Minor Plan Amendments. The amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board for the originally approved site plan.

This Amendment shall remain valid as provided in Montgomery County Code § 59-D-3.8. The Applicant is responsible for submitting a certified site plan after approval by the Director for the specific modifications.

ACCEPTED & APPROVED BY:



Rollin Stanley, Planning Director

4.24.09

Date Approved



## MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**FROM:** Sandra Pereira, Senior Planner

**RE:** Wisconsin Place  
SITE PLAN #82001010F

**DATE:** April 13, 2009

On April 6, 2009, WP Project Developer, LLC c/o New England Developer ("Applicant") filed a site plan amendment application designated Site Plan No. 82001010F ("Amendment") for approval of the following modification:

- Addition of a stairwell off of the Western Avenue façade of the Retail A building to comply with a life and safety code provision regarding means of egress.

## APPROVED:

~~Community-Based~~  
~~Environmental Planning~~

*[Signature]*

Date 4/20/09

Transportation Planning

*[Signature]*

Date 4/13/09

~~Environmental~~  
~~Community-Based Planning~~

*[Signature]*

Date 4/22/09

Urban Design

*[Signature]*

Date 4/22/09





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

**Memorandum**

**TO:** Gwen Wright, Planning Director

**VIA:** Robert Kronenberg, Chief *RAK*  
Elza Hisel-McCoy, Supervisor  
Area 1 Division

**FROM:** Matthew Folden, Planner Coordinator *MAF*  
Area 1 Division

**RE:** Wisconsin Place  
MINOR SITE PLAN AMENDMENT 82001010G

**DATE:** June 13, 2016

Section 59.7.7.1.B.3 of the Zoning Code addresses Amendments for Plans approved or pending before October 30, 2014. Section 7.7.1.B.3.a states that until October 30, 2039, an Applicant may apply to amend any previously approved application under the development standards and procedures of the property's zoning on October 29, 2014, subject to certain limitations.

Section 7.7.1.B.3.b of the Zoning Ordinance, however, allows Applicants to apply to amend a site plan approved before October 30, 2014, to take advantage of the parking requirements contained in Sections 6.2.3 and Section 6.2.4 of the Zoning Ordinance that went into effect on October 30, 2014.

Under Section 59.7.3.4.J.2, the Planning Director may approve in writing certain applications for an amendment to a Certified Site Plan. Such amendments, which are considered minor in nature and do not alter the intent and objectives of the plan, specifically include an amendment "to reduce the approved parking to satisfy Article 59-6."

Neither a Pre-Application meeting with the community/public/parties of record nor a Pre-Submittal meeting with the DARC Intake Section is required. However, submittal of the application to DARC is required. In addition, applicants must provide public notice under Division 7.5.

On April 11, 2016, WP Project Developer, LLC ("Applicant") filed a site plan amendment application designated Site Plan No. 82001010G ("Amendment") for approval of the following modifications:

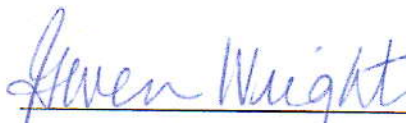
1. Conversion of approximately 8,325 square feet of public use space into private space. This conversion will accommodate additional outdoor seating areas around the perimeter of the South Court and Metro Plaza retail areas and along the North-South Lane and Wisconsin Avenue frontage. As a result of the proposed conversion, the total site public use space will decrease from 129,161 square feet (37.3%) to 120,836 square feet (34.8%).

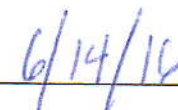
A notice of the subject site plan amendment was sent to all required parties by the Applicant on May 26, 2016. The notice gave the interested parties 15 days to review and comment on the contents of the amended site plan. Staff did not receive any correspondence regarding the application.

The proposed amendment is consistent with the provisions of Section 59.7.3.4.J.2 of the Montgomery County Zoning Ordinance for Minor Plan Amendments. Although the reduction in public use space represents a significant decrease from the original approval, the development will continue to provide public use space far in excess of the minimum requirement for the zone, and the changes will promote the goals and objectives of the Planning Board's original approval. Thus, the amendment does not alter the intent, objectives, or requirements of the Planning Board in approving the site plan.

This Amendment shall remain valid as provided in Montgomery County Code § 59.7.3.4.H. The Applicant is responsible for submitting a certified site plan after approval by the Director for the specific modifications.

ACCEPTED & APPROVED BY:

  
Gwen Wright, Planning Director

  
Date Approved



## DEPARTMENT OF TRANSPORTATION

Marc Elrich  
*County Executive*

Christopher R. Conklin  
*Director*

December 11, 2020

Ms. Katie Mencarini, Planner Coordinator  
Downcounty Planning Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan Amendment  
No. 11999030C  
Wisconsin Place

Dear Ms. Mencarini:

We have completed our review of the amended preliminary plan uploaded to eplans on November 23, 2020. This plan was not reviewed by the Development Review Committee. The applicant is proposing to convert up to 13,385 square feet of retail to medical office/medical clinic/retail (any combination). The applicant is not proposing any exterior work. We no comments regarding this amendment.

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. This letter and all other correspondence from this department should be included in the package.

Thank you for the opportunity to review this amended preliminary plan. If you have any questions or comments regarding this letter, please contact myself for this project at [rebecca.torma@montgomerycountymd.gov](mailto:rebecca.torma@montgomerycountymd.gov) or (240) 383-5252.

Office of the Director

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101 Monroe Street, 10<sup>th</sup> Floor, Rockville, MD 20850 · 240-777-7170 · 240-777-7178 Fax  
[www.montgomerycountymd.gov/mcdot](http://www.montgomerycountymd.gov/mcdot)

  
[montgomerycountymd.gov/311](http://montgomerycountymd.gov/311) 301-251-4850 TTY

Katie Mencarini  
Amended Preliminary Plan No. 11999030C  
December 11, 2020  
Page 2

Sincerely,

*Rebecca Torma*

Rebecca Torma, Manager  
Development Review Team  
Office of Transportation Policy

Sharepoint/transportation/director's office/development review/Rebecca/developments/bethesda/11999030c Wisconsin  
Place.docx

cc-e: Jane Przygocki, Soltesz  
Steven Robins, Lerch, Early & Brewer, Chtd.  
Sharepoint/correspondence 2021

Marc Elrich  
*County Executive*

Christopher R. Conklin  
*Director*



DEPARTMENT OF TRANSPORTATION

Office of the Director

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[www.montgomerycountymd.gov/mcdot](http://www.montgomerycountymd.gov/mcdot)

[montgomerycountymd.gov/311](http://montgomerycountymd.gov/311)  301-251-4850 TTY

**DPS-ROW CONDITIONS OF APPROVAL****October 29, 2020****82001010H Wisconsin Place**

Contact: Sam Farhadi at 240 777-6333

We have reviewed site plan files:

**“07-BSITE-82001010H-003-C-3.pdf”** uploaded on/ dated **“10/9/2020”**.

As there seems to be minimal impact to the County ROW (per the above site plan), we do not have any comments at this point.