

# ATTACHMENT D

4/26/2022

Dear KVCA,

Thank you for taking the time to share your concerns about the proposed Wheaton Gateway Sketch Plan application. The following is a point-by-point response to the questions you submitted to staff on March 1.

For your reference, Sketch Plan approvals are governed by Section 59.7.3.3 of the Zoning Ordinance and are intended to establish the “general design, density, circulation, public benefits, and relationship to the master plan.” Subsequent applications for this project, including a Preliminary Plan and a Site Plan will determine many of the project details.

As this Project progresses to the Planning Board’s public hearing, please keep the following dates in mind:

- 4/21: Anticipated Planning Board extension of the review period
- 5/16: Staff Report and Recommendation available on the Planning Board website
- 5/26: Planning Board public hearing
- TBD: Call/Meeting with Planning Staff to discuss the responses/staff report before hearing (if applicable)

As a general note and as stated in prior meetings with your community, Staff understands the community’s concerns about the project height along East Avenue, however, the project meets the MPDU Bonus Density and Height requirements per Chapter 59, the Zoning Ordinance.

Staff Responses:

**1. Is HOC converting the 162 Ambassador below market rate housing units to MPDU’s?**

Planning Staff is not aware of any conversion of dwelling units to MPDUs as part of the subject application. The Ambassador has already been demolished and the prior units at the Ambassador do not have an impact or height, density or MPDU requirement. The Wheaton Gateway Sketch Plan will be required to provide MPDUs based on the total number of new units proposed by the project. Details, including the final number of dwelling units and the required number of moderately priced dwelling units will be determined through subsequent preliminary plan and site plan review.

**2. HOC worked with Planners and the County Council to make sure that the 2012 Wheaton Sector Plan had enough height and density on the Ambassador site to include the 162 Ambassador below market rate apartments. Are they converting these units to MPDU’s to further increase density and height?**

As stated in Staff’s response to question 1, above, prior units associated with the Ambassador do not have any impact on the height, density, or MPDU requirement associated with the Wheaton Gateway Sketch Plan application.

**3. Chapter 59 does not have optional provisions for the CRN zone and there are no special exceptions or conditional uses on the property. (R-60 and CR do)**

This statement is correct. The CRN Zone does not permit optional method of development. The portion of the Subject Property zoned CRN and R-60 is utilizing the standard method of development.

- 4. This is an HOC owned project in conjunction with a private developer. How many MPDUs will be created and who will own them? Will the 162 below market rate Ambassador units be added to this or eliminated?**

As proposed, the Wheaton Gateway project will include a minimum of 30% MPDUs in accordance with Chapter 25A based on the total number of new units proposed by the project. Details, including the final number of dwelling units, the required number of moderately priced dwelling units, and any agreements with DHCA will be determined through subsequent preliminary plan and site plan review.

- 5. We have multiple questions about how this project is being built according to the current zoning laws, especially since 24 feet in height is being added to each Phase of the development. While that might not be significant for the much denser development on University Blvd. and Veirs Mill Road (18% in Phase I, 24% in Phase 2), it is a 53% increase in height on East Avenue. Are the planners misreading the intent of 18-06 (which changed the bonus density for MPDU's?)**

**Section 4.1.1 states that in some zones, an applicant may choose the optional method of development. It specifically states that in the "Rural Residential" and "Residential" zones, a project providing more than 12.5% MPDU's is an optional method of development. CRN is not a "Rural Residential" or a "Residential" zone as listed in Sec. 4.1.1 A and it is not listed as an Optional Method zone in Sec. 4.1.1 B. How are the planners allowing increased density and height in the CRN zone on East Avenue?**

The CRN Zone does not permit optional method of development and does not allow FAR averaging. The portion of the Subject Property zoned CRN is utilizing the standard method of development and is not averaging the FAR. The additional height and density is permitted through the provision of more than 12.5% MPDUs. The language that allows additional height and density for providing more than 12.5% MPDUS is copied below (Section 59-4.5.2.C):

**C. Development with Moderately Priced Dwelling Units**

For any application that includes more than 12.5% of the gross residential floor area as Moderately Priced Dwelling Units (MPDUs), qualified under Chapter 25A, the following provisions apply:

1. Except in the Bethesda Overlay zone, residential density may be increased above the mapped residential FAR by:
  - a. 0.88% for each 0.1% increase in MPDUs above 12.5%, up to and including 15%;
  - b. 22% plus 0.16% for each 0.1% increase in MPDUs above 15%, up to and including 20%; or
  - c. 30% plus 0.1% for each 0.1% increase in MPDUs above 20%.

2. In the Bethesda Overlay zone, residential density may be increased above the mapped residential FAR by 17.5% plus 0.1% for each 0.1 % increase in MPDUs above 17.5%.
3. Total density may be increased above the number following the zoning classification on the zoning map by an amount equal to the residential density achieved under Sec. 4.5.2.C.1.
4. Any increase in density allowed under this section must be calculated after the base density of the property has been increased under Sec. 4.5.2.B for development using FAR averaging.
5. To achieve an increase in density under Section 4.5.2.C, at least one more MPDU than would be required at 12.5% must be provided.
6. The floor area counted as MPDU floor area includes a proportional share of the gross floor area not devoted to residential units.
7. The height limit of the applicable zone and master plan does not apply to the extent required to provide the MPDUs. The additional height is calculated as the floor area provided for MPDUs above 12.5% divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet.

**6. Section 4.5.3 Standard Method of Development DOES NOT have an exception for Section 59-4.5.2C. Section 4.5.4 Optional Method does for the CR & CRT zones.**

As previously stated, the CRN and R-60 portion of the property is being developed in accordance with the Standard Method of Development. The remainder of the site, in the CR Zone, is being developed in accordance with the Optional Method of Development. The CRN portion of the site is permitted to exceed the mapped height and density of the Zone based on the provision of 30% MPDUs.

**7. Are we misunderstanding or are the planners disregarding the intent of the Commercial/Residential Zones? Section 7.3.3 Sketch Plan states that it is required for the CR zone Optional Method, yet the planners are saying this Sketch Plan includes the CRN East Avenue properties. They are stating that the CR zones are Optional Method and they are treating the CRN zone as Standard Method. How are they ignoring the fact that one project (the Lindsay Properties) will be confronting single family homes that have zoning laws to protect the single family homes (Sec. 59-4.5.2.B.2(c, d)? If the CRN zoned properties are being treated differently in one Sketch Plan, how is Gateway using part of the East Avenue properties for the Veirs Mill Road project?**

The CRN portion of the property is being developed in accordance with the Standard Method of Development and will meet the Zoning Ordinance requirements for compatibility with confronting residential uses. The CRN zoned property is being included into the Sketch Plan application so that a more cohesive design can be achieved across the various properties. The Wheaton Gateway project will step-down as it confronts the single-family neighborhood across East Avenue. In addition to meeting the compatibility standards, the Wheaton Gateway project will provide an enhanced streetscape with street trees, sidewalks, and vegetated areas. Internal to the site; the project has a central green space. Each of these site elements will be refined through the subsequent Preliminary Plan and Site Plan applications.

8. We also have concerns on how the proposed 124 foot height on Veirs Mill Road will transition on a 45 degree angle to East Avenue and still remain within the Commercial/Residential guidelines for properties confronting Residential properties – especially with an 18 foot elevation difference between Veirs Mill Rd. and East Ave. Will this “property” be considered one property, as proposed, or individual properties? Are the planners ignoring the CRN guidelines to move the project back to achieve a 45 degree angle?

The project will be one property one the future Preliminary Plan is submitted. The project meets the requirement per Height Compatibility 59. 4.1.8.B.3 for all the buildings confronting a R-60 zone that is vacant or improved with residential use. The applicant has updated the plans to show the 45-degree angular plane for compatibility.

The CRN zone does not have a setback requirement, but the building along East Ave has been designed with a 25'-33' setback from the road to provide further compatibility with the houses across the street. The 45-degree angular plane is being provided along East Avenue and Kensington Blvd where the Project abuts the R-60 houses.

Section 4.1.8.B states:

2. Height Restrictions

- a. When the subject property abuts a property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use, any structure may not protrude beyond a 45 degree angular plane projecting over the subject property, measured from a height equal to the height allowed for a detached house in the abutting zone at the setback line determined by Section 4.1.8.A.
- b. When the subject property confronts a property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use, any structure may not protrude beyond a 45 degree angular plane projecting over the subject property, measured from a height equal to the height allowed for a detached house in the confronting zone at the front or side street setback line determined under Article 59-4.

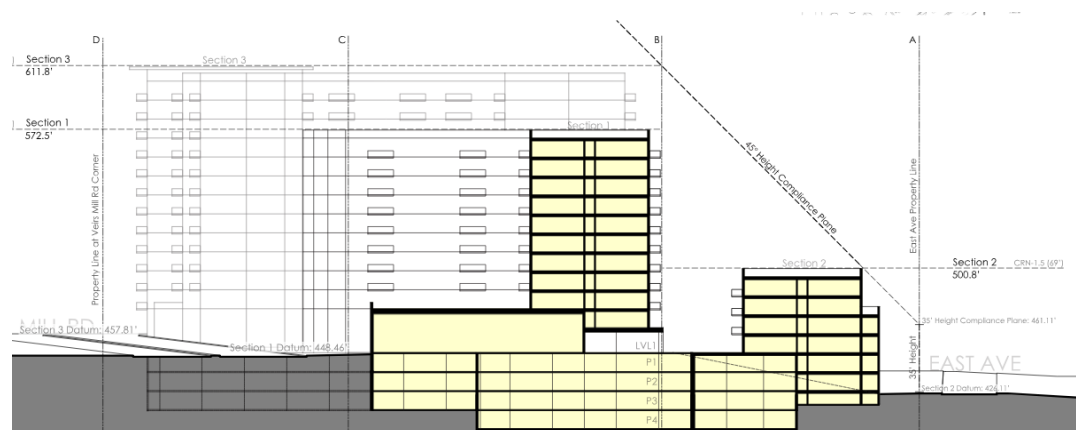


Figure 1: Height Compatibility Exhibit

- 9. How are the planners ignoring Sec.59-6.1.3 General Access Requirements? East Avenue is a residential street platted at Tertiary Road standards. The Sector Plan limited commercial usage in the CRN zone on East Avenue to prevent commercial intrusion into the neighborhood, yet this Sketch Plan is calling for access to 50,000 sf of commercial usage and multiple dwelling units on Veirs Mill Road.**

As proposed, the Wheaton Gateway project has primary vehicular access points on Veirs Mill Road and University Boulevard as well as secondary access points on East Avenue and Kensington Boulevard. The overall access and circulation concept is acceptable for the purposes of Sketch Plan review and will continue to be refined as part of subsequent Preliminary Plan and Site Plan applications. Staff notes that the final access approval will involve the coordinated review of the Planning Board, Department of Transportation, and Maryland State Highway Administration.

- 10. We do not believe this Sketch Plan satisfies various recommendations of the Wheaton Sector Plan. While the whole Wheaton Gateway project is in the Wheaton Urban District, only Phase 1 and Phase 2 are in the Parking Lot District (page 20). The PLD “facilitates the Plan’s recommendation for reduced and shared parking”, yet East Avenue will bear the brunt of the traffic from this incentive without the owners paying any ad valorem tax. Will the garage for the East Avenue units be limited to East Avenue residents?**

As proposed, the Wheaton Gateway project has primary vehicular access points on Veirs Mill Road and University Boulevard as well as secondary access points on East Avenue and Kensington Boulevard. Details regarding the internal garage circulation continue to be refined as part of subsequent Preliminary Plan and Site Plan applications in coordination with the Department of Transportation.

- 11. The following are passages from the Wheaton Sector Plan. These items are what we consider to be especially important as the Wheaton Gateway project progresses. These are the county-agreed upon guardrails that protect our community from encroaching development that could adversely impact our living space, property values, safety and quality of life. Page 33 states that the Zoning recommendations are based on five goals, one of which is to “Protect existing residential neighborhoods”. We do not believe this Sketch Plan, as proposed, satisfies this goal. The proposed traffic patterns, if allowed, will greatly harm the quality of life for the Kensington View residential neighborhood.**

As proposed, the Wheaton Gateway project is designed to be compatible with the adjacent neighborhood by complying with the compatibility requirements in the Zoning Ordinance and orienting primary vehicular access points to the Site’s Veirs Mill Road and University Boulevard frontages. A more detailed analysis of the Site’s transportation impact will be included with the subsequent Preliminary Plan application. In addition to the project’s primary orientation toward Veirs Mill Road and University Boulevard, the project will provide a safe streetscape, open spaces, and pocket park.

- 12. Page 35 states that “Taller buildings are also allowed at the two other important nodes in Wheaton: the intersections...of University Boulevard West and Veirs Mill Road.” “The heights and densities decrease closer to the single-family residential areas surrounding Wheaton’s commercial areas”. While the Sector Plan assigned heights and densities to fulfill this**

recommendation, we believe this Sketch Plan skews the original intent of the Sector Plan. KVCA worked closely with the Planners and the County Council when developing a plan that would work for this difficult, split elevation area of the Lindsay Ford property on East Avenue and Veirs Mill Road. After KVCA submitted drawings from the University of Maryland of 45' and 65' buildings along East Avenue, it was decided that the buildings on East Avenue should be a maximum of 45' and the buildings on Veirs Mill Road should be a maximum of 100' (appearing to be 118' from East Avenue). At the time, both County entities were concerned about how taller buildings would affect the quality of life for the residents of East Avenue and Kensington Boulevard. We believe any additional heights should be added to the "important node" of University Boulevard West and Veirs Mill Road.

The proposed building massing is consistent with the intent of the sector plan, which recommended that "low-scale uses should be placed along East Avenue, with larger commercial uses and mixed-use development along Veirs Mill Road (p.57)". Staff understands KVCA's concerns with additional height, particularly along East Avenue, recognizing that the ability to exceed the maximum zoning height mapped to provide affordable housing throughout the development did not exist at the time the sector plan was adopted. However, staff believes that various strategies to reduce the visual bulk of the proposed buildings (potentially including façade articulation and building setbacks) can be explored when the applicant provides more building details during the site plan review process, to address concerns about compatibility with the adjacent residential community.

**13. Page 55 (Kensington View/Wheaton Hills District) states:**

**"it is critical that new uses adjacent to, or across the street from, existing houses are carefully designed to be compatible in scale and character with the existing residential development." Our neighborhood has been a fixture of the community through many changes over the years. Due to the size, stature, and close proximity of the Gateway Project, it is important to us that the buildings be attractive and fit into our space, not the other way around.**

The proposed Wheaton Gateway project will present an attractive and compatible façade on East Avenue that meets the compatibility requirements of the Zoning Ordinance. Additional details and refinement of the architecture will be reviewed through the subsequent Site Plan application.

**14. "The Plan envisions two new, low- to moderately-scaled mixed-use developments along Veirs Mill Road on Lindsay Ford properties, flanking the western entrance to the CBD. Pedestrian connections will link these areas to the Core District and to existing neighborhoods." "Redevelopment adjacent to R-60 zoned neighborhoods should be compatible with the existing low-scale character of these residential areas." This is especially important to residents living across East Ave. from the Gateway Project. Single family homes should not be facing large cement walls and unattractive facades. In addition, residents across the whole neighborhood should not have to compete with new traffic from the development.**

The proposed Wheaton Gateway project will present an attractive and compatible façade on East Avenue that meets the compatibility requirements of the Zoning Ordinance. The project will provide safe streetscapes and pedestrian connections to both the Core District and existing neighborhoods, as envisioned by the master plan.

Transportation impacts of the project will be evaluated in greater detail as part of the subsequent preliminary plan and will either demonstrate that the project is within acceptable limits of traffic congestion or will identify mitigation for the transportation network.

- 15. Page 57 states: “A through-block connection between Veirs Mill Road and East Avenue is desirable at this location (see also text under Pedestrian Circulation, first bullet on page 64).” We believe the proposed by-way would satisfy this recommendation if it did not include vehicular traffic.**

The sector plan did not oppose a vehicular connection between East Avenue and Veirs Mill Road. The sector plan recommended a residential primary vehicular connection between East Avenue and Veirs Mill Road on the existing unbuilt Kensington Blvd. R.O.W. (see map 17, p.61), leaving the final determination on the feasibility of this vehicular connection to “the development review for any redevelopment of the adjacent Lindsay Ford property (p.62)”. The applicant team explored this and determined vehicular traffic at this location was not feasible; the vehicular function was then moved to the location currently proposed in the application.

Including vehicular movement in the proposed internal street is not inconsistent with the sector plan recommendation for a through-block connection. Larger development projects are typically encouraged to seek opportunities to expand local connectivity through their properties, even if not specifically called for in the sector plan. For these situations, the sector plan recommends:

“Implement local street connections consistent with the subdivision regulations and urban design guidelines with specific alignment and features to be determined during the development review process. These streets could be either public or private and include either service access, local vehicular circulation, or both. (p.62)”

The sector plan did recommend several through-block connections intended specifically for pedestrian use at various locations within the CBD (see map 17, p.61). While a pedestrian-only connection is not shown in this location, the proposed internal street will provide through-block pedestrian access.

- 16. “If the car dealership properties are developed as one development...Any adverse impacts of the recommended 100-foot maximum building height along the Veirs Mill Road side of the block should be carefully analyzed during the redevelopment process to make sure that higher building masses are placed away from the East Avenue frontage, with appropriate transition in building heights from the Veirs Mill Road side to the maximum building height of 45 feet along East Avenue. The Planning Board may limit height to less than allowed by the zone to achieve compatibility.” (emphasis added by KVCA)**

Staff concurs.

- 17. Page 58 states:**

**“Existing single-family residential neighborhoods should be preserved and protected from the adverse impacts of nearby non-residential development”.**

**Allowing all of the traffic from Wheaton Gateway to enter/exit into the Kensington View subdivision, in our view, does not satisfy this recommendation and directly counteracts the intent of the Sector Plan.**

**Page 62 states:**

**“Retain the right-of-way for the unbuilt portion of Kensington Boulevard between East Avenue and Veirs Mill Road. Use of the right-of-way should be determined during development review for any redevelopment of the adjacent Lindsay Ford property. The right-of-way may be used for a bicycle or pedestrian connection if it is determined that a street is not needed or feasible at this location. Regardless of how the right-of-way is used, the impact on residential properties should be minimized and any addition right-of-way required should be from the east side of East Avenue.”**

**Page 64 (Pedestrian Circulation referenced on Page 57) states:**

**“Provide through-block pedestrian connections where feasible. Large blocks are particularly suitable for new pedestrian connections. For example, the block bounded by Veirs Mill Road, East Avenue, and University Boulevard West. At the time of redevelopment, projects on these larger blocks should provide for adequate pedestrian circulation, bike connections, and neighborhood compatibility. The alignment and design of pedestrian connections should be determined during the development review process.”**

**We DO NOT believe the Sector Plan was calling for the vehicular access proposed at this location by this Sketch Plan.**

Refer to previous response to #15 comment.

**18. Page 81 states:**

**“Retain the County-owned former Pleasant View Elementary School building and site on Upton Drive, currently used by the Crossways Community, for a future elementary school if needed.” The addition of 800 residential units may increase the need for the school, but the traffic being generated in the subdivision may complicate the access. The opening of a school ALWAYS increases vehicular and pedestrian traffic to and from the school during opening and closing hours. Additionally, more families moving into the Gateway Project before a new school could be opened will need access to bus stops. Currently, Kensington View has just two (Upton Dr. and Midvale Rd.). School aged children will need a bus stop on East Ave. (which, during rush hour, could further back up traffic) and/or will have additional need for a secure crosswalk across East Ave.**

The sector plan anticipated the need for an additional elementary school once a significant amount of the development envisioned was realized, including the WMATA owned properties, Westfield Wheaton Mall, and other rezoned properties within the CBD; most of that potential development has not been realized yet. Impacts on school enrollment and the determination of adequate public facilities will be determined as part of the subsequent Preliminary Plan review.

**19. Lastly, we do not believe this Sketch Plan is satisfying the Wheaton Urban District Design Guidelines goals. A Proposed Boulevard Landmark/Gateway Element at the corner of**



**University Boulevard and Veirs Mill Road (page 10) has not been provided and there is not a satisfactory transition into the Kensington View subdivision as recommended on page 27 (69' vs. 45' heights on East Avenue).**

The Design Guidelines discuss landmark locations and the potential for how creatively designed and placed buildings, urban features, public art, open space, or combinations of these elements could establish a location as an identifiable landmark within the area (Design Guidelines, p. 23). A sketch plan application reviews overall building placement, building mass distribution, and general conformance with zoning, sector plan, and design guidance. The details to evaluate how the design criteria in the guidelines is met is provided during the site plan application. Planning staff and the community will have opportunities during site plan review to evaluate how these goals will be met.