

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Mailing Date:

November 6, 2023

MCPB No. 23-104
Preliminary Plan No.120230100
2115 East Jefferson Street
Date of Hearing: October 12, 2023

RESOLUTION

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

WHEREAS, on May 31, 2023, Missing Middle Jefferson LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create 86 lots on 5.49 acres of land in the CR-1.5, C-1.5, R-1.0, H-100 zone, located on East Jefferson Street 340 feet South of Josiah Henson Parkway (“Subject Property”), in the 2018 *White Flint 2 Sector Plan* (“Sector Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No.120230100, 2115 East Jefferson Street (“Preliminary Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated October 2, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on October 12, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Bartley, with a vote of **5-0**; Chair Harris, Vice Chair Pedeem, and Commissioners Bartley, Hedrick, and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120230100 to create 86 townhouse lots, open space and private street parcels on the Subject Property, subject to the following conditions:¹

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

General Approval

This Preliminary Plan is limited to 245,000 square feet of residential uses, with 86 lots for townhouse units, plus open space parcels, conservation easements, and Private Road parcels.

Adequate Public Facilities and Outside Agencies

1. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

Plan Validity Period

2. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and before the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

Outside Agencies

3. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated September 6, 2023, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
4. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
5. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated September 5, 2023, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated September 5, 2023, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.
7. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (“DHCA”), in its letter dated

September 11, 2023, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Other Approvals

8. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of any subsequent Site Plan associated with this Preliminary Plan. The number and location of site elements including but not limited to the townhouses, on-street parking, site circulation, open space design, sidewalks, and bike paths is determined through site plan review and approval.

Transportation

Existing Frontage Improvements

9. The Applicant must construct an eight-foot-wide (8 ft.) sidewalk and a seven-foot-wide (7 ft.) street buffer along the Property frontage on East Jefferson Street.

Private Roads

10. The Applicant must provide Private Street A, Private Street B, and Private Street C, including any sidewalks, bikeways, storm drainage facilities, street trees, street lights, private utility systems and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated private road area (collectively, the "Private Road"), subject to the following conditions:
 - a) If there are no structures above or below the Private Road, the record plat must show the Private Road in a separate parcel. If there are structures above or below the Private Road, the record plat must clearly delineate the Private Road and include a metes and bounds description of the boundaries of the Private Road.
 - b) The Private Road must be subjected by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions in the Montgomery County Code § 50-4.3.E et seq regarding private roads. The Covenant includes, but is not limited to the following requirements/conditions:
 - i) The Applicant, at its expense, shall design, construct and maintain the Private Roads.
 - ii) The Applicant, at its sole cost and expense, shall properly and continually maintain (including ordinary and capital maintenance and removal of snow, ice, litter, and other obstructions and hazards as soon as conditions reasonably allow), repair, and replace any portion of the Private Roads and all improvements located within the Private Roads, in good condition and repair for safe use and operation of the Private Roads. The Applicant must maintain

a commercially reasonable budget (operating and capital, as applicable) to address both short-term and long-term maintenance, and reserves for capital repairs. The Applicant must provide certification of the reserves to the Planning Board or its Staff every two (2) years (or every five (5) years in the event there are no below-ground parking structures in the Private Roads). The reserves must be adequate to cover the costs of needed repairs.

- iii) The Applicant must post and retain signage to notify the public that the Private Roads are not publicly maintained and to provide contact information to handle complaints, concerns or questions regarding the Private Roads.
- c) Before issuance of the first building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Roads have been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified on this Preliminary Plan or a subsequent Site Plan, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.

Record Plats

- 11. There shall be no clearing or grading of the site before recordation of plat(s), except for the disturbance associated with the demolition of the existing building.

Easements

- 12. The record plat must show necessary easements.
- 13. The Applicant must provide a public access easement/covenant on the subject property to the north and to the south of Private Street C for future block connections.
- 14. The record plat must reflect common ingress/egress and utility easements over all shared driveways.

Notes and Labels

- 15. The record plat must reflect all areas under common ownership.
- 16. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Book 28045 Page 578 (“Covenant”).

Certified Preliminary Plan

17. The Certified Preliminary Plan must contain the following notes:

- a. *Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*

18. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:

- a) Show resolutions and approval letters on the certified set.
- b) Identify the location of the bus shelter and bench.
- c) Correct the cross-section widths on the Cover Sheet to reflect the plan widths. This includes:

Private Street A Section Without Parking at Rear Load Townhouse – 5-foot-wide sidewalks, 6.5-foot-wide tree panels, 10.5-foot-wide travel lanes

Private Street A Section With Parking at Front Load Townhouse - 5-foot-wide front yard, 5-foot-wide sidewalks, 10.5-foot-wide travel lanes, 14-foot to 16-foot-wide driveway

Private Street B Section With Parking at Rear Load Townhouses – 6-foot-wide front yard, 5-foot-wide sidewalks, 10.5-foot-wide travel lanes, 5-foot-wide front yard

Change the title of Private Street B Section without Parking at Front Load Townhouses to Private Street B Section With Parking at Front Load Townhouses and modify the figure to have – 5-foot-wide sidewalks, 8-foot-wide on-street parking, 10.5-foot-wide travel lanes

Private Street C – 14-foot to 16-foot-wide driveway, 5-foot-wide sidewalks on both sides of the roadway, 6.5-foot-wide tree panel, 10.5-foot-wide travel lanes.

- d) Label curb radii on the plan view sheets.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*
 - a) *The block design is appropriate for the development or use contemplated*
 - b) *The lot design is appropriate for the development or use contemplated*
 - c) *The Preliminary Plan provides for required public sites and adequate open areas*
 - i. *Master Planned Sites*
 - ii. *Local Recreation*
 - iii. *Transportation and Utilities*
 - d) *The Lot(s) and Use comply with the basic requirements of Chapter 59*

The following section will make findings related to all of the above. The 86 townhouse lots, three private road parcels, three open spaces and HOA parcels are appropriate for the location of the subdivision considering the recommendations in the 2018 *White Flint Sector Plan* and the type of development and use contemplated. The lots are appropriately sized and located considering the amount of density and height and the infill development envisioned by the Sector Plan. The lots comply with all applicable dimensional requirements of the CR zone as specified in the Zoning Ordinance. Block design is appropriate and efficient for an infill townhouse development on the Property. The Private Street parcels allow for future connections to extend the block pattern to the north and south if the properties redevelop.

Table 1: 2115 East Jefferson Street Data Table for CR-1.5 C-1.5, R-1.0, H-100 Zone, Optional Method, Section 59.4.5.4

Development Standard	Permitted/ Required	Proposed
Tract Area	N/A	248,765 sq ft
Prior Dedication	N/A	9,547
Proposed Dedication	N/A	0
Site Area	N/A	239,218 sq ft
Mapped Density CR-1.5 C-1.5, R-1.0, H-100		
Commercial (GFA/ FAR)	373,148 sq ft/ 1.5	0
Residential (GFA/ FAR)	248,765 sq ft/ 1.0	245,000 sq ft/0.98
Total Mapped Density (GFA/FAR)	373,148 sq ft/ 1.5	245,000 sq ft/0.98
MPDU requirement	15%	15% (13 units)
Building Height, max average	100 ft.	50 ft.
Common Open Space (min s.f.)	11,961	47,000 sq. ft.

2. *The Preliminary Plan substantially conforms to the Master Plan.*

The 2115 E. Jefferson Street property is located in the *2018 White Flint 2 Sector Plan* (Sector Plan or Plan) area. The Sector Plan and subsequent Sectional Map Amendment rezoned this Property to the CR-1.5, C-1.5, R-1.0, H-100 Zone with a recommendation to: “promote infill development, provide new public benefits that advance the Sector Plan recommendations, and to provide a transition to the existing Luxmanor residential community” (p.35). The redevelopment of the vacant office building to a new townhouse community provides infill development and provides new public benefits per the Section’s Plan Recommendations.

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

The Project substantially conforms with the 2019 *Urban Design Guidelines for Rock Spring & White Flint 2 Sector Plans*, 2018 *White Flint 2 Sector Plan*, 2018 *Bicycle Master Plan*, and the 2021 *Complete Streets Design Guide*. The three new private streets and alleys will be designed adequately with sidewalks and landscape buffers to support and service the residential subdivision.

The previous use on the Site was an office building and parking lot. The proposed 86 townhomes are estimated to generate a net decrease of 215 person trips in the morning peak hour and a net decrease of 197 person trips in the evening peak hour. The *2020-2024 Growth and Infrastructure Policy* requires a transportation impact study for any project that is estimated to generate a net increase of 50 or more person trips in either the morning or evening peak hours. As that is not the case for this Application, the LATR review is satisfied with a transportation exemption statement.

The FY24 Annual School Test, approved by the Planning Board on June 22, 2023 and effective July 1, 2023 is applicable to this application. This plan proposes a total of 86 single family attached units. The project is served by Luxmanor ES, Tilden MS and Walter Johnson HS. No Utilization Premium Payment (UPP) is required.

Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Growth and Infrastructure Policy currently in effect.

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

A. Forest Conservation

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines as further discussed in the findings for accompanying application for Forest Conservation Plan F20230220.

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

The Preliminary Plan received an approved stormwater concept plan from the Montgomery County Department of Permitting Services, Water Resources Section on September 5, 2023. The Application will meet stormwater management goals using micro-bioretenion planter boxes and an offsite pond retrofit with micro-pools and extended detention to meet remaining ESD requirements to satisfy the requirements of Chapter 19.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is

November 6, 2023

(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 consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Vice Chair Pedoeem, seconded by Commissioner Hedrick, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick, and Linden voting in favor of the motion, at its regular meeting held on Thursday, November 2, 2023, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board

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