

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Mailing Date:

May 07, 2024

MCPB No. 24-033
Preliminary Plan No. 120230020
7126 Wisconsin Avenue
Date of Hearing: March 7, 2024

CORRECTED RESOLUTION

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

WHEREAS, on November 2, 2022, Wisconsin Avenue Properties, LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create one (1) lot on 1.05 acres of land in the CR-3.0, C-3.0, R-2.75, H-225; CR- 3.0 C- 3.0, R-2. 75, H-200 and Bethesda Overlay zoned-land, located at the southwest quadrant of the intersection of Wisconsin Avenue and Bethesda Avenue (“Subject Property”), in the Bethesda CBD Policy Area and 2017 Bethesda Downtown Sector Plan (“Sector Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120230020, 7126 Wisconsin Avenue (“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 February 26, 2024 providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on March 7, 2024, 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 Vice Chair Pedoeem, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, Commissioners Bartley, Hedrick, and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120230020 to create one (1) lot 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

1. This Preliminary Plan is limited to one (1) lot for 330 multi-family dwelling units and a minimum of 11,487 square feet of commercial uses. Commercial uses may consist of a combination of ground floor retail, service, and/or Live/Work units. These uses can be changed to other non-residential uses if there is no adverse impact on the Preliminary Plan and APF findings and it is approved by Staff.

Adequate Public Facilities and Outside Agencies

2. 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

3. 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

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated August 7, 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.
 5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
 6. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration (“SHA”) in its letter dated August 17, 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 MDSHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
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7. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration's requirements for access and improvements.
8. 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 August 17, 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.
9. 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 August 15, 2023, as updated February 15, 2024, 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.

Other Approvals

10. 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(s) associated with this Preliminary Plan. The number and location of site elements including but not limited to buildings, dwelling units, on-site parking, site circulation, and sidewalks is determined through site plan review and approval.
11. If an approved site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan amendment.

Transportation

12. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
 - a) All land necessary to accommodate thirty (30) feet from the existing pavement centerline along the Subject Property frontage for Bethesda Avenue.
 - b) All land necessary to accommodate fifty-seven (57) feet from the existing pavement centerline along the Subject Property frontage for Wisconsin Avenue.

- c) All land necessary to accommodate twenty-five (25) feet from the existing pavement centerline along the Subject Property frontage for Miller Avenue.
- d) Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of an eight-foot-wide sidewalk along the property frontage on Bethesda Avenue.
- e) Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MDOT SHA to ensure construction of a twelve-foot-wide sidewalk along the property frontage on Wisconsin Avenue.
- f) Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a six-foot-wide sidewalk along the property frontage on Miller Avenue.

Record Plats

- 13. There shall be no clearing or grading of the site before submission to M-NCPPC of plat(s).
- 14. The record plat must show necessary easements.

Developments with MPDUs

- 15. The final number of MPDUs required will be determined at the time of site plan approval.

Certified Preliminary Plan

- 16. The certified Preliminary Plan must contain the following note:

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

- 17. Before submittal of the Certified Preliminary Plan, the Applicant must show resolutions and approval letters on the certified set.
- 18. Prior to certification, the development standards table, plan labels, and notations shall be adjusted to reflect final development figures, include final BOZ density allocation.

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.*

The proposed lot has been reviewed for compliance with Chapter 50, the Subdivision Regulations, and Chapter 59, the Zoning Ordinance. The layout of the single-lot subdivision, including its size, width, shape, and orientation is appropriate for the proposed mixed-use building located in the CR Zone.

a) The block design is appropriate for the development or use contemplated

The block design is existing and appropriate for the proposed development and use. The length, width, and shape of the block are compatible with the development pattern in the neighborhood in which the Site is located.

b) The lot design is appropriate for the development or use contemplated

The size and dimensions of the lot are appropriate for the Project location and proposed mixed-use development. The Preliminary Plan requests reduced truncation at its corners adjacent to the intersection of Wisconsin and Bethesda Avenues, and intersection of Wisconsin and Miller Avenues.

Section 50.4.3.E.2.f.iii of the Montgomery County Subdivision Regulations indicate that corner lots at an intersection must be truncated by straight lines joining points 25 feet back from the theoretical property line intersection in each quadrant for traffic operations and safety. For the Subject Property, this requires 25-foot truncation at its two eastern corners, adjacent to the intersections of Wisconsin Avenue and Bethesda Avenue, and Wisconsin Avenue and Miller Avenue.

A 15-foot truncation is proposed at the intersection of Wisconsin and Bethesda Avenues, and a seven-foot truncation is proposed at the intersection of Wisconsin and Miller Avenues.

These truncations are located at building entrance points on each corner and are designed to be open, accessible, and free of obstructions. They are the

largest truncations that can be provided while maintaining enough building area to create a functional underground parking garage and associated ramping. Under the existing conditions on the Site, there are no truncations at either intersection. MC DOT, SHA and Planning Staff determined that there is adequate sight distance for each respective movement. As proposed, the pedestrian space at these corners is significantly increased from the current conditions and the proposed improvements satisfy the increased right-of-way width and building setbacks required by the Bethesda Overlay Zone. Specifically, in following the Bethesda Downtown Sector Plan Design Guidelines, the proposed building is set back an additional nine feet from the right-of-way, creating approximately 26 feet of space between the curb and building, where previously only 16 feet was provided. This is a 62 percent increase of building separation from the face of curb than what exists today. The added space between the building and road, along with the requested reduced truncations at the corners, allow for a functional streetscape environment to be created, with a planting/furnishing zone, pedestrian through zone, and frontage zone, in accordance with the Design Guidelines. With the truncations as proposed, there is adequate room along the Site frontage to locate and install necessary traffic control measures, right-of-way signage, and associated appurtenances.

The proposed building location, set back further from roadways than existing conditions, and manner in which the building's lower levels will frame the public realm and streetscape, will enhance vehicular and pedestrian visibility at its two adjacent intersections such that reduced truncation still allows for enhanced traffic operations and safety. Sight distance evaluations were reviewed by MCDOT, which approved the proposed distances with the reduced truncation.

The Planning Board approves the Applicant's request for reduced truncation at the corners of the Site adjacent to the intersections of Wisconsin and Bethesda Avenues, and Wisconsin and Miller Avenues, in accordance with Section 50.4.3.E.2.f.iii of the Subdivision Regulations.

c) The Preliminary Plan provides for required public sites and adequate open areas

i. Master Planned Sites

The 2017 *Bethesda Downtown Sector Plan* does not recommend specific public sites or open areas to be provided at this Site. However, the Sector Plan does include recommendations for the overall development density and building height to be increased on the Site "to provide flexible development opportunities and allow future development to

better adapt to market conditions.” This recommendation applies to the entire Site, which spans two of the Sector Plan’s nine Downtown districts. The western portion of the Site is within the Bethesda Row District and is identified as Map #163 on page 107 of the Sector Plan. The eastern portion of the Site is within the Wisconsin Avenue Corridor and is identified as Map #107 on page 99 of the Sector Plan. For the area included in Map #107, the Sector Plan stipulates an increase in the allowable building height to 225 feet can be achieved “if the property develops in a manner that benefits the Farm Women’s Cooperative Market to the east”.

To merit the maximum height, in addition to private financial contributions to be made to the Farm Women’s Market owners, the Applicant shall provide two additional benefits for the Market.

- Provide a visual art piece celebrating the theme of Women’s history and women’s contributions to agriculture in Montgomery County, adjacent to the visually prominent intersection of Wisconsin and Bethesda Avenues, at the Site’s northeast corner.
- Fund a study and application for listing of the Farm Women’s Cooperative Market on the National Register of Historic Places.

ii. ***Local Recreation***

The Preliminary Plan does not include dedication of land for public recreation purposes. The accompanying Site Plan 820230020, provides private, on-site recreational facilities for future residents of the development, which includes an outdoor rooftop amenity area with a pool.

iii. ***Transportation and Utilities***

Utilities are to be undergrounded along the Site’s three frontages on Bethesda Avenue, Miller Avenue, and Wisconsin Avenue. There are no master-planned transportation improvements associated with the Site.

d) The Lot(s) and Use comply with the basic requirements of Chapter 59

The Preliminary Plan will comply with the requirements of the CR Zone Optional Method and related development standards of Chapter 59. The Application creates one lot for multi-family residential and commercial uses, which are allowed in the CR Zone. The size, width, shape, and orientation of

the proposed lot are appropriate for the zone, location, and mix of uses proposed for the Site.

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

a) Land Use

The Preliminary Plan substantially conforms to the 2017 *Bethesda Downtown Sector Plan*. The Property spans two Downtown districts. The eastern portion of the Property is designated as Map #107 within the Wisconsin Avenue Corridor (page 99 of the Sector Plan), and western portion of the Site is designated as Map #163 within the Bethesda Row District (page 107 of the Sector Plan). The Wisconsin Avenue Corridor and Bethesda Row District are two of the Downtown's established centers. Wisconsin Avenue is the main artery through the center of Downtown, where the Sector Plan focuses on innovative building design, invigorating streetscapes and creating more public spaces in targeted locations. The Bethesda Row District is the "heart" of Downtown and is home to a bustling retail district with an active streetscape environment. Sector Plan goals for the Bethesda Row District focus on preserving the neighborhood's human-scale and mixed-use character and creating better connections between it and the new southern entrance to the Bethesda Metro Station, with future access to the Purple Line, being constructed one block to the north.

The character of the Project is consistent with the Sector Plan's recommendations regarding the scope and scale of development desired for this location. The Application conforms with the applicable goals of the Sector Plan for the Wisconsin Avenue Corridor and Bethesda Row District as follows:

Wisconsin Avenue Corridor

- i. *Encourage infill and reinvestment on underutilized commercial sites and private surface parking lots.*

The Application will replace multiple low-density commercial buildings and private surface parking with the tall, high-density, mixed-use building envisioned by the Sector Plan.

- ii. *Encourage mixed income/affordable housing near transit stations.*

The Application will include up to 330 new multi-family residential units, including a mix of one, two and three-bedroom units, where none currently exist. Of the total units, 15 percent (50 units) will be MPDUs, and up to 130 units (non-MPDUs) may be utilized as short-term rental

units. The development will be within walking distance of the Bethesda Metrorail Station, multiple bus stops, and future Purple Line Station.

- iii. *Provide zoning recommendations that allow signature tall buildings at major civic spaces in the established centers.*

The eastern portion of the Property is designated as Map #107 within the Wisconsin Avenue Corridor (page 99 of the Sector Plan), and its western portion is designated as Map #163 within the Bethesda Row District (page 107 of the Sector Plan). The Sector Plan allows for a building height of up to 225 feet for Map #107 if the property redevelops in a manner that benefits the Farm Women's Cooperative Market to the east. The Sector Plan recommends a building height of up to 200 feet for Map #163. The Project proposes a building that steps down from its maximum height of 225 feet tall along the Wisconsin Avenue Corridor, to 200 feet where the Property transitions to the Bethesda Row District, in conformance with the Sector Plan's recommendations. To achieve the maximum building height of 225' for the portion of the Site on Map #107, the Project includes benefits for the Farm Women's Cooperative Market. The two proposed benefits outlined below are in addition to prior contributions the Applicant has noted making toward the Market's preservation and advancement of the Bethesda Market Sketch Plan:

- Provision of a visual art piece celebrating the theme of Women's history and women's contributions to agriculture in Montgomery County, adjacent to the visually prominent intersection of Wisconsin and Bethesda Avenues, at the Site's northeast corner. This location confronts the Market with a crosswalk linking the properties across Wisconsin Avenue. The inclusion of the art piece will help draw additional attention to the Market and its associated history.
- Funding of a study and application for listing of the Farm Women's Cooperative Market on the National Register of Historic Places.

As a combined package, the proposed benefits for the Farm Women's Cooperative Market will help achieve the Sector Plan's vision for the Market site. The Planning Board approved the Applicant's proposed contributions for the good of the Farm Women's Cooperative Market and request to achieve the maximum building height of 225 feet for portions of the development proposed within the Wisconsin Avenue Corridor with the Application's accompany Site Plan 820230020.

- iv. Develop compact nodes that place the highest intensity in those centers, provide distinctive infill buildings and step down to lower densities and heights near the edges.*

The Project provides a distinctive infill building at the prominent intersection of Bethesda and Wisconsin Avenues. The proposed building reaches its maximum height at its northeast corner, adjacent to this intersection. Allowed building heights and densities generally increase on properties to the north and decrease on properties to the west and south. Accordingly, the proposed building steps down from a maximum 225-foot height along its eastern façade, to 200-feet on its western side.

- v. Encourage high-performance buildings and sites nearest the established centers.*

The Site is located in the High-Performance Area as shown on page 65 of the Sector Plan, which requires development applications to exceed energy efficiency standards for the building type. As discussed in Section 7 Site Plan Findings and Analysis, the Application seeks to exceed energy efficiency standards for the building type by 17.5 percent.

- vi. Improve the pedestrian environment with upgraded streetscapes.*

The Application provides the appropriate space and layout for the inclusion of streetscape elements to the Bethesda Downtown Streetscape Standard. This will include wider sidewalks, plantings, street trees and furnishings.

- vii. Emphasize mixed land uses focused on employment and high density residential.*

The mix of uses proposed consists of high density residential and commercial uses.

- viii. Create green, active, and walkable sidewalks that are designed to balance pedestrian and retail activity with vehicular and BRT traffic this major corridor.*

The Preliminary Plan allows for the implementation of streetscape improvements to the Bethesda Streetscape Standard on the Site's frontages on Bethesda, Miller, and Wisconsin Avenues. Public open space

is concentrated along the Site's Wisconsin and Bethesda Avenue frontages, which allows for the creation of wider sidewalks and additional landscaping to further enhance the pedestrian realm. Ground level commercial uses will wrap the building's Wisconsin and Bethesda Avenue frontages, serving to extend the "main street shopping character" of the Bethesda Row District easterly to Wisconsin Avenue.

Vehicular access to the Site is consolidated from multiple existing access points on Bethesda and Miller Avenues to a single point on Bethesda Avenue. A separate access point for loading and service vehicles is located on Miller Avenue at the Site's southwest corner. An existing surface parking lot and perpendicular parking spaces located between buildings and Miller Avenue will be eliminated. The Application will reduce points of conflict between vehicles, pedestrians, and bicyclists. The Application provides required right-of-way dedications, including along the Site's Wisconsin Avenue frontage, to allow for adequate space for a future BRT line envisioned for the Corridor.

- ix. Enhance the Farm Women's Cooperative Market as both a market and a public space connected to Bethesda Avenue and the Bethesda Row District.*

This Site serves as a bridge between the Wisconsin Avenue Corridor and Bethesda Row District. As is discussed in Finding 2.a.iii, and Finding 2.a.viii above, the Project has been designed with specific benefits for the Farm Women's Cooperative Market, and to provide an enhanced streetscape lined with activating uses along Bethesda and Wisconsin Avenues. A visual art installation, on-theme with the Farm Women's Market, is also to be provided at the visually prominent northeast corner of the Site, which confronts the Market. This art piece will create a visual and interpretative connection between a de facto eastern entrance to the Bethesda Row District at Bethesda Avenue and Farm Women's Market across Wisconsin Avenue. Improved sidewalks and streetscapes will enhance walkability in between the locations.

- x. Design tall buildings along Wisconsin Avenue to have a human-scaled presence on the street, reduced uniformity, and compatibility with edge neighborhoods.*

The proposed building is designed with a maximum height of 225 feet proximate to Wisconsin Avenue on its east side and steps down in height to 200 feet on its western side. These heights are compatible with the allowable heights of surrounding properties. The base of the building and

streetscape elements are designed to be comfortable and human-scaled, in-line with the *Bethesda Downtown Plan Design Guidelines*.

The building's massing is well proportioned and utilizes classic rectilinear forms that pull up vertically from a well-defined, six-level base. The building's tower rises to a maximum height of 225-feet at its northeast corner, where it will be highly visible along Wisconsin Avenue and from the Farm Women's Cooperative Market and its future civic green. The height of the building steps down to 200-feet as it moves back from Wisconsin Avenue and transitions from the Wisconsin Avenue Corridor to the Bethesda Row District. In addition to its shape and form, elements such as residential balconies, step backs, changes in material, and strong horizontal and vertical banding throughout help create a unique building that celebrates its prominent location that is in harmony with the changing character of the neighborhood.

- xi. Provide visual interest along the corridor by highlighting significant points with increased height.*

As discussed in Wisconsin Avenue Corridor Goals Findings iii and iv above, the proposed building is designed with increased height along the Corridor, reaching its apex adjacent to the intersection of Wisconsin and Bethesda Avenues. This emphasizes the location's significance as the touch point between the bustling Bethesda Row retail and social scene to the west and the Farm Women's Cooperative Market, whose planned enhancement will add new public parks, mixed-use development and opportunities across Wisconsin Avenue to the east.

- xii. Incentivize the provision of green space and affordable housing through increased height along Wisconsin Avenue.*

This Application is incentivized, through 25 feet of additional building height along Wisconsin Avenue, to "develop in a manner that benefits the Farm Women's Cooperative Market", as discussed in Finding 2.a.iii above. Additionally, the Application provides 9,187 square feet of green cover, 3,069 square feet of public open space, and 50 MPDUs where none currently exist.

Bethesda Row District

- i. *Preserve the human-scale and mixed-use character of the neighborhood.*

This Application extends the pattern of mixed-use redevelopment the Bethesda Row District has experienced and pulls it easterly to the Wisconsin Avenue Corridor. The strong base design of the proposed building and enhancement of the surrounding frontage areas will create comfortable, human-scaled urban streetscapes.

- ii. *Continue the main street shopping character along Bethesda Avenue consistent with recent development.*

Ground floor retail space is proposed along the building's Bethesda Avenue frontage and half of its Wisconsin Avenue frontage. This provides the opportunity for extension of the main street shopping character of Bethesda Avenue easterly to Wisconsin Avenue, consistent with recent development.

- iii. *Improve bike facilities and connectivity throughout the district.*

As recommended by the Sector Plan and *Bicycle Master Plan*, the County recently installed a two-way separated bike lane on the northside of Bethesda Avenue, confronting the Site. There are no other master-planned recommended bicycle enhancements on or adjacent to the Site. Regardless, the Application is supportive of biking and includes over 100 bicycle parking spaces, with multiple bicycle racks for short-term parking provided in streetscape areas and secured storage rooms provided internal to the building for residents' long-term bicycle parking. Additionally, the Application removes multiple existing driveways, a drive-through, and roadside perpendicular parking, all points of potential conflict between vehicles and bicyclists, from the Site, which improves safety and connectivity around it.

- iv. *Maintain the district's human-scaled design and character in new developments.*

Expanding upon points noted in findings i and ii above, the Application maintains the District's human-scaled design by including a building base designed to be proportional to surrounding developments, with ample fenestration, and lined with activating uses.

b) *Environment*

The Application incorporates stormwater management, tree canopy, green cover, bird-safe design and high-performance energy principles into the site and building design per the *Bethesda Downtown Sector Plan* and associated Design Guidelines.

c) *Transportation*

The 2017 *Bethesda Downtown Sector Plan* recommends the following minimum right-of-way widths for the Sites three frontages:

- Bethesda Avenue: Downtown Street with minimum 60-foot right-of-way.
- Miller Avenue: Downtown Street with minimum 50-foot right-of-way.
- Wisconsin Avenue: Downtown Boulevard with minimum 114-foot right-of-way.

As recorded in Plats No. 21366 and No. 292, the existing right-of-way widths vary on all three frontages. The Preliminary Plan includes dedication of additional right-of-way area to provide for the minimum planned right-of-way widths on each of the Site's three roadway frontages.

The 2018 *Bicycle Master Plan* envisioned a two-way separated bike lane along the north side of Bethesda Avenue. MCDOT completed construction of this bike lane and an associated protected intersection at Bethesda Avenue and Wisconsin Avenue in 2022. No additional bicycle facilities are recommended by the Sector Plan at or adjacent to the Site.

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

a) *Roads and other Transportation Facilities*

i. *Existing Facilities*

The Site fronts on three public roadways: Bethesda, Wisconsin, and Miller Avenues. The design and condition of the roadways meet the minimum standards for MCDOT and MDOT SHA. The streetscape elements including the sidewalks and street buffers currently do not meet the minimum standards of the 2017 *Bethesda Downtown Streetscape Guidelines*. As conditioned and as shown on the Preliminary Plan, the Applicant will improve the sidewalks along all three frontages to comply with the 2017 *Bethesda Downtown Streetscape Guidelines*.

ii. ***Proposed public transportation infrastructure***

Pedestrian access will be significantly improved along the Site’s three frontages on Bethesda, Wisconsin, and Miller Avenues. Currently the sidewalk on Bethesda Avenue varies between three-and-one-half feet and four-and-one-half feet, which does not comply with the minimum sidewalk widths in the *Bethesda Downtown Sector Plan*. The Application will widen the sidewalks to a minimum of nine feet of clear width on Bethesda and Miller Avenues and a minimum of 12 feet on Wisconsin Avenue. The tree-lined street buffers on all three frontages will be a minimum of six-and-one-half feet wide to accommodate street trees and furniture such as benches and short-term bicycle parking. New street trees will not be provided on Miller Avenue due to the presence of subsurface utilities in the planting zone that cannot be relocated. Shrubs and ornamental landscaping, with less extensive root systems, are to be provided in the planting zone on Miller Avenue.

iii. ***Proposed private transportation infrastructure***

No private transportation infrastructure is proposed with this Application.

b) Local Area Transportation Review (LATR)

This Application proposes replacing the existing drive-through bank and retail uses with 330 multi-family housing units. In accordance with the 2022 LATR Guidelines, the Site is estimated to generate an increase of 48 net new person trips in the morning peak hour and a decrease of 93 net new person trips in the evening peak hour. A summary of the estimated trips to be generated by the Application compared to those trips estimated to be generated by the existing uses on the Site is in the Table below:

Estimated Trip Generation of Existing and Proposed Uses at 7126 Wisconsin Avenue

Land Use	Density	ITE Trip Gen. Rates		Adjusted Vehicle Rates		Person Trips	
		AM	PM	AM	PM	AM	PM
Existing							
Drive-thru Bank	2,160 SF	22	45	14	28	29	59
Retail	17,438	41	115	25	70	57	158
	Subtotal	63	160	39	98	86	217
Proposed							
Muti-family	330	68	63	68	63	134	124
	Net New	5	-97	29	-35	48	-93

As the Application is estimated to generate fewer than 50 net new person trips in either the morning or evening peak hour, the Transportation Exemption Statement prepared by Wells & Associates, dated June 24, 2022, satisfies the LATR and no further transportation impact analysis is required.

c) Schools

The FY24 Annual School Test, effective July 1, 2023, is applicable to this Application. The 330 multifamily high-rise units proposed will be served by the Somerset Elementary School, Westland Middle School, and Bethesda-Chevy Chase High School. The FY24 Annual School Test results show student enrollment and capacity projections for these schools.

FY2024 School Adequacy

School	Projected School Totals, 2027				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	Percent Utilization	Surplus/ Deficit		Tier 1	Tier 2	Tier 3
Somerset ES	540	369	68.3%	+171	No UPP	256	279	360
Westland MS	1,073	862	80.3%	+211	No UPP	337	426	587
Bethesda-Chevy Chase HS	2,475	2,420	97.8%	+55	No UPP	235	550	922

The school adequacy test also determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school’s adequacy status and ceilings. The FY24 Annual School Test shows these schools do not require any UPP. If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

To calculate the number of students generated by the proposed plan, the number of dwelling units is multiplied by the applicable School Impact Area student generation rate for each school level. Dwelling units are categorized by structure type; with the Application providing a high-rise multifamily unit structure.

With a net of 330 multifamily high-rise units that are not age-restricted, the proposed project is estimated to generate the following number of students based on the subject property’s location within an Infill Impact Area:

Estimated Student Enrollment Impacts

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	0	0.202	0.000	0.096	0.000	0.141	0.000
SF Attached	0	0.161	0.000	0.087	0.000	0.126	0.000
MF Low-rise	0	0.065	0.000	0.030	0.000	0.040	0.000
MF High-rise	330	0.039	12.870	0.016	5.280	0.018	5.940
TOTALS	330		12		5		5

This Project is estimated to generate 12 elementary school students, 5 middle school students and 5 high school students. The estimated number of students generated does not exceed the adequacy ceilings identified for each school. Therefore, no additional UPPs are required, and neither are partial payments across multiple UPP tiers.

d) Other Public Facilities and Services

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.

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

Technical Review 50.4.3.K

A. Forest Conservation

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

The Property is subject to the requirements of Chapter 22A of the Montgomery County Code (the "Forest Conservation Law"). A Natural

Resources Inventory/ Forest Stand Delineation No. 420221760 ("NRI/FSD") was prepared for the Overall Property and approved by M-NCPPC on April 7, 2022. The NRI/FSD demonstrates that there is no forest on-site, the Property contains no protected soils, or rare/threatened/endangered species. One specimen tree (45" DBH White Mulberry Tree) in poor condition is located in the center of the Site. This specimen tree is proposed for removal.

Although there is no forest on-site or adjacent to the Property, this Application is subject to Chapter 22A Forest Conservation Law and has included Preliminary/Final Forest Conservation Plan No. 820230020 with this Application. Due to the tract area, associated offsite work, and the high-density residential land use category of this Project, the Forest Conservation Worksheet included in the Forest Conservation Plan shows a calculated Afforestation Requirement of 0.10 acres; in line with recent updates to the Montgomery County Forest Conservation Law and regulatory review policies, this Afforestation Requirement has been increased to 0.16 acres due to offsite mitigation associated with the proposed removal of the specimen tree.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as a high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise, such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to one (1) Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant. The specimen tree proposed to be impacted by this work is located within a highly urbanized environment and is in poor

condition. Critical root zone impacts are unavoidable in order to implement any work on the Site. Rather than limit the full scope of the project as described above, removal with mitigation would provide healthy canopy trees in place of a tree currently declining in health. The variance request would be granted to any applicant in a similar situation. Therefore, the granting of this variance is not a special privilege that would be denied to other applicants.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing Site conditions and necessary design requirements of this project.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the existing conditions on the Property and the associated requirements of the proposed development; the request is not a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Site is not located in the vicinity of a stream buffer, wetland, or special protection area. The entirety of the area proposed for redevelopment is presently developed with existing buildings and parking infrastructure; the existing conditions are majority impervious areas with no existing stormwater management.

As part of this project, the Applicant will provide street tree plantings and vegetated buffers which serve to increase the amount of pervious

surfaces as compared to the minimal landscaping currently found onsite. Additionally, atop the building the Applicant proposes green roof and bioretention planting areas. In aggregate, the Application will improve water quality over the existing condition by providing increased water uptake via infiltration and evapotranspiration by the planted species. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

There is one (1) subject tree proposed for removal in association with this Application. Onsite planting mitigation for the removal should be at a rate that approximates the form and function of the trees removed, at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" caliper. The result of the proposed removal of one subject trees, for a total of 45" DBH removed, is a mitigation requirement of at least 11 caliper inches of native canopy trees sized at least 3 caliper inches each. Although onsite mitigation planting is prioritized whenever possible, the Site's urban character does not make this possible. The Planning Board approves offsite mitigation for the Application's specimen tree impacts.

Using an offsite mitigation formula which considers the 11 caliper inches of mitigation requirement and an offsite mitigation rate of 100 two-inch trees per acre, the Applicant becomes responsible for an additional 0.06 acres of offsite afforestation requirement for a total of 0.16 acres of afforestation required for the Application. Given that this requirement is below the 0.5-acre threshold, the Planning Board approves the Applicant's request that this requirement be met via fee-in-lieu.

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

This Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Division on August 17, 2023. There are no known stormwater management facilities existing on the Property. The Application will meet stormwater management goals through green roof and planter boxes to treat stormwater runoff to the maximum extent practicable. Due to limitations of the Site, a partial waiver was granted by MCDPS.

BE IT FURTHER RESOLVED that this 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 that before the expiration 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 must be filed; and

BE IT FURTHER RESOLVED that this Corrected Resolution constitutes the written opinion of the Board in this matter, and the date of this Corrected Resolution is **March 27, 2024**, (which is the date that the original resolution was 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 the motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, 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, May 2, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board