

**THE SEASONS,
PRELIMINARY PLAN AMENDMENT NO. 11989193A &
FOREST CONSERVATION PLAN F20250140**

Description

Request to approve Preliminary Plan Amendment 11989193A and accompanying Forest Conservation Plan No. F20250140 to convert existing commercial office space to multifamily residential uses. The existing building was built by-right in the 1960s under commercial zoning as an Apartment Hotel use, without requiring a Site Plan. The Property received approval of Preliminary Plan 119891930 in 1990 under the CBD-1 zone in effect at that time. The Preliminary Plan can be amended under the previous zoning code per section 59.7.7.1.A.1 of the current zoning ordinance.

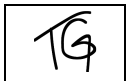
Prelim Plan No. 11989193A
Forest Conservation Plan
No. F20250140

Completed: 9-16-2024

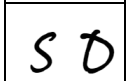
MCPB
Item No. 9
9-26-2024

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LOCATION/ADDRESS

4710 Bethesda Avenue;
250 feet West of Wisconsin Ave

MASTER PLAN

2017 *Bethesda Downtown Sector Plan*

ZONE

CR 3.0, C-3.0, R-2.75, H-200'; reviewed under previous CBD-1 Zone per Section 7.7.1.A.1 of the Zoning Ordinance

PROPERTY SIZE

0.58 acres

APPLICANT

David Landow
Landow and Company

ACCEPTANCE DATE

April 3, 2024

REVIEW BASIS

Chapter 59-7.7.1.A.1;
Chapter 50.4.2.F.2.a; Chapter 22A

Summary:

- The Planning Board previously approved Preliminary Plan 119891930 on February 8, 1990. The approval included 33,970 square feet of office/retail uses and up to 247 multi-family units.
- The currently proposed Preliminary Plan Amendment, and associated Forest Conservation Plan, will allow the Applicant to convert existing commercial office space on the 2nd floor of the Site to multi-family residential uses.
- The proposed Amendment is being reviewed under the prior zoning ordinance per Section 59-7.7.1.A.1 as an existing structure proposed for renovations without increasing the floor area, height, and footprint of the structure.
- No community correspondence has been received for this Application.
- Staff recommends approval, with conditions, of the Preliminary Plan Amendment.

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SECTION 1: EXECUTIVE SUMMARY

The Property, known as The Seasons, is improved with a mixed-use building that was constructed in the 1960s with 247 multi-family dwelling units and 33,970 square feet of commercial uses. The Seasons was originally developed and built under the C-2, General Commercial, Zone as an Apartment Hotel, which was classified as a by-right allowable use in the C-2 zone. No Site Plan was required. After the Property was comprehensively rezoned to the CBD-1 Zone in 1990, the Applicant received approval of Preliminary Plan Application No. 119891930 to consolidate the multiple lots on which the Property was built into a single lot. This original Preliminary Plan Application brought the Property into conformance with the Subdivision Regulations at that time.

The Applicant now proposes conversion of up to 15,343 square feet of office/retail uses on the 2nd floor to construct up to 18 multi-family dwelling units. This Amendment is allowable per section 59-7.7.1.A.1 of the current zoning ordinance which states:

A legal structure or site design existing on October 30, 2014 that does not meet the zoning standards on or after October 30, 2014 is conforming and may be continued, renovated, repaired, or reconstructed if the floor area, height, and footprint of the structure are not increased.

The proposed Preliminary Plan Amendment does not increase the floor area, height, or footprint of the existing building; rather, the Applicant proposes to renovate the interior of the existing building and change the use of up to 15,343 square feet from office/retail to residential use. The remaining 18,627 square feet will remain in office/retail use.

Following the proposed conversion of 2nd floor office uses to multifamily residential units, the Project would be comprised of 233,755 square feet with 215,128 sf of multi-family uses and 18,627 square feet of commercial uses.

As a Preliminary Plan amendment, a pre-Application meeting with the community/public/parties of record is not required. The Applicant held a pre-submittal meeting with DownCounty Regulatory Team as required. In addition, the Applicant has provided public notice under Division 7.5.

SECTION 2: RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN 11989193A

Staff recommends approval with conditions of the Preliminary Plan Amendment to convert approximately 15,343 square feet of office/retail uses to multi-family residential space. All site development elements shown on the latest electronic version of the Preliminary Plan No. 11989193A as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions. The following Conditions supersede and replace in their entirety all prior conditions of the original Preliminary Plan No. 119891930.

GENERAL APPROVAL

1. This Preliminary Plan is limited to one (1) lot for 265 multi-family dwelling units and 18,627 square feet of non-residential uses.

ADEQUATE PUBLIC FACILITIES

2. The Adequate Public Facilities (“APF”) review for the Preliminary Plan supersedes the previous APF review and 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 Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated May 30, 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.
5. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (“DHCA”), in its letter dated July 3, 2024, 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.

CERTIFIED PRELIMINARY PLAN

6. 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 issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*
 - b) *The Applicant must schedule an on-site preconstruction meeting with M-NCPPC inspection staff before any demolition, clearing, or grading occurs on-site. The Applicant, along with their representatives, must attend the pre-construction meeting with the M-NCPPC inspector. A copy of the approved Certified Preliminary Plan is required to be on-site at all times.*
7. 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) Include the approved Fire Department Access Plan.

FOREST CONSERVATION PLAN F20250140

Staff recommends approval of Forest Conservation Plan No. F20240110, subject to the following conditions:

1. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
2. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
3. The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the certified Final Forest Conservation Plan.
4. Before the start of any demolition, clearing, grading, or construction for this development Application, whichever comes first, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the same watershed to satisfy the reforestation requirement of 0.09-acres of mitigation credit. If no off-site forest banks exist within the watershed, then the off-site requirement may be met by purchasing 0.09-acres of mitigation credits from a mitigation bank within Montgomery County outside of the watershed, subject to Staff approval. If forest mitigation bank credits are not available for purchase, a fee-in-lieu payment must be made to M-NCPPC for the appropriate mitigation credits outside of the same watershed or Priority Area.

SECTION 2: SITE DESCRIPTION

VICINITY

The Property is zoned CR 3.0, C-3.0, R-2.75, H-200' and is located 250 feet west of Wisconsin Avenue at 4710 Bethesda Avenue. Surrounding uses include mixed-use buildings consisting of retail, office, and multi-family units as well as a portion of the Capital Crescent Trail and Civic Green to the west. Notably, the Subject Property is also adjacent to 7126 Wisconsin Avenue which recently received a Site Plan approval under Application No. 820230020 for a mixed-use development containing multi-family dwelling units and retail.



Figure 1 – Vicinity Map

PROPERTY DESCRIPTION

The Property is improved with a mixed-use residential building known as The Seasons, that was constructed by-right in the 1960's with 247 multi-family dwelling units and 33,970 square feet of commercial uses under the prior C-2 Zone. The building contains several retail establishments at the ground level in addition to retail space on the second floor. The building is accessed via a pedestrian entrance or garage both located on Bethesda Avenue at the west side of the Property.

There are no known rare, threatened, or endangered species on site; there are no 100-year floodplains, stream buffers, or wetlands on site. There are no known historic properties on site.



Figure 2 – Subject Property

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS

PRELIMINARY PLAN NO. 119891930

The Seasons was originally developed and built in the 1960's under the C-2 (General Commercial) Zone as an Apartment Hotel use, which was a by-right allowable use in the C-2 zone. In 1990, the Property was rezoned to the CBD-1 Zone, prompting the Applicant to subdivide the Property to consolidate multiple lots into a single lot, thus bringing the Property into conformance with the Subdivision Regulations. This was accomplished in August of 1990 with the Planning Board approval of Preliminary Plan No. 119891930 to create 1 lot for a 15-story mixed use development consisting of 33,970 square feet of office/retail and 247 multi-family units.

PROPOSAL

The project is consistent with previous CBD-1 Zone and the Applicant proposes to renovate and change the use of the interior space as allowed by section 59.7.7.1.A.1 of the Zoning Ordinance. Specifically, the Applicant proposes to convert all of the existing commercial office space located on the 2nd floor of the Property, approximately 15,343 square feet, to multifamily residential uses. The Applicant references the substantial change in demand for commercial office uses and dramatic shift to remote work over the last several years as the impetus for this proposal.

With the exception of re-sizing several windows, adding various windows along the western elevation and minor modifications to an existing balcony along the 2nd floor to create privacy partitions for future tenants, the changes to the Project contemplated are primarily interior, with no increase in gross floor area or building height proposed.

In order to enable this change, the Applicant requests to revise previous Condition of Approval No. 1 to permit up to 265 multi-family dwelling units, an increase from the current 247 units, and up to 18,267 square feet of commercial uses. Additionally, the Applicant requests release and termination of the Adequate Public Facilities Ordinance Agreement (the "APFO Agreement") dated July 30, 1990. The Applicant notes that, given the reduction of peak hour trips, the project is now exempt from Local Area Transportation Review. Further supporting this request, as noted in the schools analysis described further below, there is adequate capacity at all schools serving the Property and other public facilities and services are available and adequate to serve the Property.

Following the proposed conversion of 2nd floor office uses to multi-family residential units, the Project would be comprised of 233,755 square feet of gross floor area including 215,128 square feet of multi-family (up to 265 units, representing an increase of 18 units) and 18,627 square feet of commercial area.



Figure 3 – Subject Property from Bethesda Avenue looking south

TRANSPORTATION

No changes are proposed that would impact the established motor vehicle, pedestrian, bicycle, or transit networks, on or off site. All the proposed changes are interior to the building.

ENVIRONMENT

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for this Property was approved on August 26, 2024 via Application No. 420250220. The NRI/FSD identifies the environmental constraints and forest resources on and around the Subject Property; the Subject Property is located within the densely developed area of downtown Bethesda, along Bethesda Avenue, which does not feature any major environmental features, such as street trees, on this portion of the block. The site frontage does include landscape panels which feature annual flower plantings which are maintained seasonally. The subject Property is not associated with any stream buffers, wetlands, or 100-year floodplains.

The associated Preliminary/Final Forest Conservation Plan further confirms that that the subject Property contains no areas of forest, however due to the proposed land use associated with the project, a very minor afforestation/reforestation requirement is associated with this plan; no exterior disturbance is proposed with this Application. As conditioned, this is proposed to be met offsite given the urban nature of the Site and the lack of exterior modifications proposed with this Application.

SECTION 4: COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements, and a pre-submittal public meeting was not required for this amendment application. As of the date of this Staff Report, no correspondence has been received.

SECTION 6: PRELIMINARY PLAN 11989193A FINDINGS AND ANALYSIS

The Planning Board approved Preliminary Plan No. 119891930 to create one lot for 33,970 square feet of office/retail uses and 247 multi-family dwelling units on the Subject Property with conditions.

Preliminary Plan Amendment 11989193A requests to convert up at 15,343 square feet of commercial uses into residential uses, for a total of 265 residential units. The proposed Preliminary Plan Amendment does not alter the intent of the previous findings, which remain applicable, except as modified below.

- 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 Lot(s) and Use comply with the basic requirements of Chapter 59***

Section 59.7.7.1.A.1 of the Zoning Code provides that a legal structure existing on October 30, 2014 that does not meet the zoning standards on or after October 30, 2014 is conforming and may be continued, renovated, repaired, or reconstructed if the floor area, height, and footprint of the structure are not increased

The project remains consistent with the previous CBD-1 Zone and the Applicant proposes to renovate and change the use of the interior space without increasing overall floor area, height, or the building footprint.

The proposed lot were reviewed for compliance with the dimensional requirements for the CBD-1 zone as specified in the Zoning Ordinance in effect when the original Preliminary Plan was approved. A summary of this review is included in Table 2.

Table 1: The Seasons Preliminary Plan Data Table for CBD-1 Zone

Development Standard	Permitted/ Required	Approved Preliminary Plan 11989130	Proposed Preliminary Plan 1198913A
Tract Area	-	-	-
Prior Dedication	-	-	-
Proposed Dedication	-	-	-
Net Lot Area (SF)	-	25,076	25,076
Dwelling Units	-	247	265
Gross Floor Area – Total (SF)	-	233,755	233,755
Residential		199,785	245,128
Office		33,970	18,627

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

b) Local Area Transportation Review (LATR)

For Applications with Transportation Exemption Statements:

The Applicant proposes converting 15,343 square feet of office space into 18 multi-family residential units. This change is estimated to generate a net decrease of 33 peak hour trips in the morning and 35 peak hour trips in the evening. 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. A summary of the trip generation analysis is provided in Table 2 below.

Table 2: Trip Generation Analysis

		ITE Trip Generation Vehicle Rates		Adjusted Vehicle Rates Bethesda CBD Policy Area		Total Person Trips	
		AM	PM	AM	PM	AM	PM
Existing	15,343 SF office	33	35	21	22	43	46
Proposed	18 multi-family residential units	7	7	6	6	11	11
Net Change						-33	-35

Source: Transportation Exemption Statement from CAS Engineering, dated June 10, 2024, modified by staff

a) Schools

Overview and Applicable School Test

The FY25 Annual School Test, approved by the Planning Board on June 20, 2024 and effective July 1, 2024 is applicable to this Application. This plan proposes 18 additional multifamily high-rise units.

School Adequacy Test

The project is served by Somerset ES, Westland MS and Bethesda-Chevy Chase HS. Based on the FY25 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 3. FY2025 Annual School Test Projections (2028-2029 School Year)

	Program Capacity	Enrollment	%Utilization	Surplus/ Deficit
Somerset ES	549	373	67.9%	+176
Westland MS	1,064	865	81.3%	+199
Bethesda-Chevy Chase HS ¹	2,475	2,341	94.6%	+134

Table 4. FY2025 School Test Results

	Adequacy Status	Tier 1 Adequacy Ceiling	Tier 2 Adequacy Ceiling	Tier 3 Adequacy Ceiling
Somerset ES	No UPP	261	286	369
Westland MS	No UPP	325	412	572
Bethesda-Chevy Chase HS	No UPP	314	629	1,001

The school adequacy test 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, as determined in the Annual School Test. **Under the FY25 Annual School Test, Somerset ES, Westland MS and Bethesda-Chevy Chase HS do not require any UPP as identified in Table 4.** 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.

¹ Projected enrollment is modified to estimate the impact of the Charles W. Woodward High School Reopening (CIP P651908) and the Northwood HS Addition/Facility Upgrades (CIP P651907), reflecting the scope of the boundary study approved by the Board of Education on March 28, 2023.

Calculation of Student Enrollment Impacts

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: single family detached, single family attached (townhouse), low-rise multifamily unit, or high-rise multifamily unit.

With 18 additional 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:

Table 5. 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	18	0.039	0.702	0.016	0.288	0.018	0.324
TOTALS	18		0		0		0

As shown in Table 5, on average, this amendment is estimated to generate 0 elementary school students, 0 middle school students and 0 high school students. The estimated number of students generated do not exceed the adequacy ceilings identified for each school in Table 4. Therefore, no additional UPPs are required and neither are partial payments across multiple UPP tiers.

Analysis Conclusion and Condition of Approval

Prior to issuance of each building permit for a residential dwelling unit, the Applicant must obtain an assessment from Montgomery County Department of Permitting Services for Utilization Premium Payments (UPPs) consistent with County Code and the Growth and Infrastructure Policy, as follows: No UPP condition required.

b) Other Public Facilities and Services

Adequate public facilities exist to support and service the Property in accordance with Section 50.4.3.J of the Subdivision Regulations. As demonstrated in the Applicant's transportation exemption statement, the proposed Administrative Subdivision generates fewer than 50 peak-hour person trips and is therefore exempt from Local Area Transportation Review under the GIP without further review. Therefore, roads and transportation facilities are adequate to support the Application. All other facilities including water, gas, and fire and rescue service are also adequate.

4. All Forest Conservation Law, Chapter 22A requirements are satisfied.

This Application is subject to Chapter 22A Forest Conservation Law and has included a Preliminary/Final Forest Conservation Plan No. F20250140. The submitted plan 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.

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

Although there are no existing stormwater management facilities onsite, the Application satisfies all of the applicable requirements of the Montgomery County Code, Chapter 19 as the changes proposed are interior to the existing building, with the exception of minor façade changes, which do not trigger stormwater management/sediment control requirements.

5. Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.

Not applicable to this Property.

6. Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied.

No other provisions apply to the Subdivision.

SECTION 8: FOREST CONSERVATION PLAN F20250140 FINDINGS AND ANALYSIS

All Forest Conservation Law, Chapter 22A requirements are satisfied.

The Application is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) under Section 22A-4(a) as a project by "a person required by law to obtain approval or amendment to a development plan, diagrammatic plan, project plan, floating zone plan, sketch plan, preliminary plan of subdivision, administrative subdivision, minor subdivision, or site plan." The Application meets the requirements of Chapter 22A- Montgomery County Forest Conservation Law ("FCL")². Preliminary/Final Forest Conservation Plan ("FFCP") No. F20250140 was submitted for review and approval concurrently with Preliminary Plan No. 11989193A. The Property is zoned CBD- 1 and is classified as Mixed-Use Development ("MDP") as defined in Section 22A-3 of the FCL and specified in the Trees Technical Manual. The Property contains no areas of forest; however, the Application is subject to Afforestation/Reforestation requirements as calculated by the included Forest Conservation Worksheet. The calculated requirement of 0.09-acres is proposed to be met offsite and is addressed via condition of approval.

² Based on the initial submittal date for the Subject Application, the Forest Conservation Plan is subject to the Forest Conservation Law in effect after April 3, 2023.

SECTION 9: CONCLUSION

As conditioned, the Preliminary Plan application satisfies the findings under Chapter 59-7.7.1.A.1, Chapter 50.4.2.F.1.a, and the applicable standards of the Zoning Ordinance. Therefore, Staff recommends approval of Preliminary Plan 11989193A with the conditions specified at the beginning of this report.

ATTACHMENTS

Attachment A: Preliminary Plan

Attachment B: Preliminary/Final Forest Conservation Plan

Attachment C: Prior Approvals

Attachment D: Agency Letters