

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

October 17, 2024

MCPB No. 24-088
Preliminary Plan No. 11989193A
The Seasons
Date of Hearing: September 26, 2024

RESOLUTION

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

WHEREAS, on February 8, 1990, the Planning Board, by Resolution approved Preliminary Plan No. 119891930, creating one (1) lot on 0.58 acres of land in the CBD-1 zone (CR-3.0, C-3.0, R-2.75, H-200), located at 4710 Bethesda Avenue (“Subject Property”) in the Bethesda CBD Policy Area and 2017 Bethesda Downtown Sector Plan (“Sector Plan”) area; and

WHEREAS, Subdivision Regulation Amendment 16-01, adopted by the Montgomery County Council on November 15, 2016 as Ordinance No. 18-19, replaced Chapter 50, Subdivision of Land in its entirety, effective February 13, 2017 (“Subdivision Regulations”); and

WHEREAS, Ordinance 18-19 provided that any preliminary plan application filed and certified as complete before the effective date of the Subdivision Regulations may, at the applicant’s option, be reviewed under the Subdivision Regulations in effect when the application was submitted; and

WHEREAS, on April 3, 2024, Landow and Company (“Applicant”) filed an application for approval of an amendment to the previously approved preliminary plan(s) to convert approximately 15,343 square feet of office/retail uses to multi-family residential use on the Subject Property; and

WHEREAS, Applicant’s application to amend the preliminary plan was designated Preliminary Plan No. 11989193A, The Seasons, (“Preliminary Plan,” “Amendment,” 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 September 16, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

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Approved as to
Legal Sufficiency: /s/ Matthew T. Mills
M-NCPPC Legal Department

WHEREAS, on September 26, 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 Commissioner Linden, with a vote of **5-0**; Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedricka and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 11989193A to convert approximately 15,343 square feet of office/retail uses to multi-family residential use by adding/modifying the following conditions:¹

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 the associated Adequate Public Facilities Ordinance Agreement dated July 30, 1990) and will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

Outside Agencies

3. 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.
4. 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

5. The certified Preliminary Plan must contain the following notes:

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.

- 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.*
6. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
- a) Show resolution and approval letters on the certified set.
 - b) Include the approved Fire Department Access Plan.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

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:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.

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 was 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 1.

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

Development Standard	Permitted/ Required	Approved with 11989130	Approved with 1198913A
Tract Area	n/a	-	-
Net Lot Area (SF)	n/a	25,076	25,076
Dwelling Units	n/a	Up to 247	Up to 265
Gross Floor Area – Total (SF)	n/a	233,755	233,755
Gross Floor Area – Residential (SF)	n/a	199,785	245,128
Gross Floor Area – Non-Residential (SF)	n/a	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

c) 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 ²	2,475	2,341	94.6%	+134

Table 4. FY2025 School Test Results

² 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.

	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.

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.

d) 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.

5. 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.

6. 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.

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

No other provisions apply to the Subdivision.

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

October 17, 2024

(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 Commissioner Hedrick, seconded by Commissioner Linden, 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, October 10, 2024, in Wheaton, Maryland and via video conference.



Artie Harris, Chair
Montgomery County Planning Board