



MONTGOMERY COUNTY PLANNING DEPARTMENT
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Staff Report: Project Plan Validity Period Extension, 4900 Fairmont, 920070030

ITEM #: _____

MCPB HEARING DATE: January 13, 2011

REPORT DATE: December 22, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
 Robert Kronenberg, Supervisor *RAK*
 Development Review Division

FROM: Joshua C. Sloan, RLA *JS*
 Planner Coordinator
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APPLICATION DESCRIPTION:

Extension of the Validity Period for a Project Plan for a mixed-use development including 118 residential units and 5,500 square feet of residential uses, on 0.59 acres of CBD-2-zoned land in the Woodmont Triangle Area of the Bethesda CBD Sector Plan.

APPLICANT: Fairmont Development, LLC

FILING DATE: September 23, 2010

RECOMMENDATION: Approval

EXECUTIVE SUMMARY:

Section 59-D-2.7 establishes the "Duration of validity period and actions required to validate" a Project Plan. The Applicant requests an 18-month extension to the Validity Period for the Studio Plaza Project Plan, from January 20, 2011 to July 20, 2013. Staff recommends approval.

Approval signatures

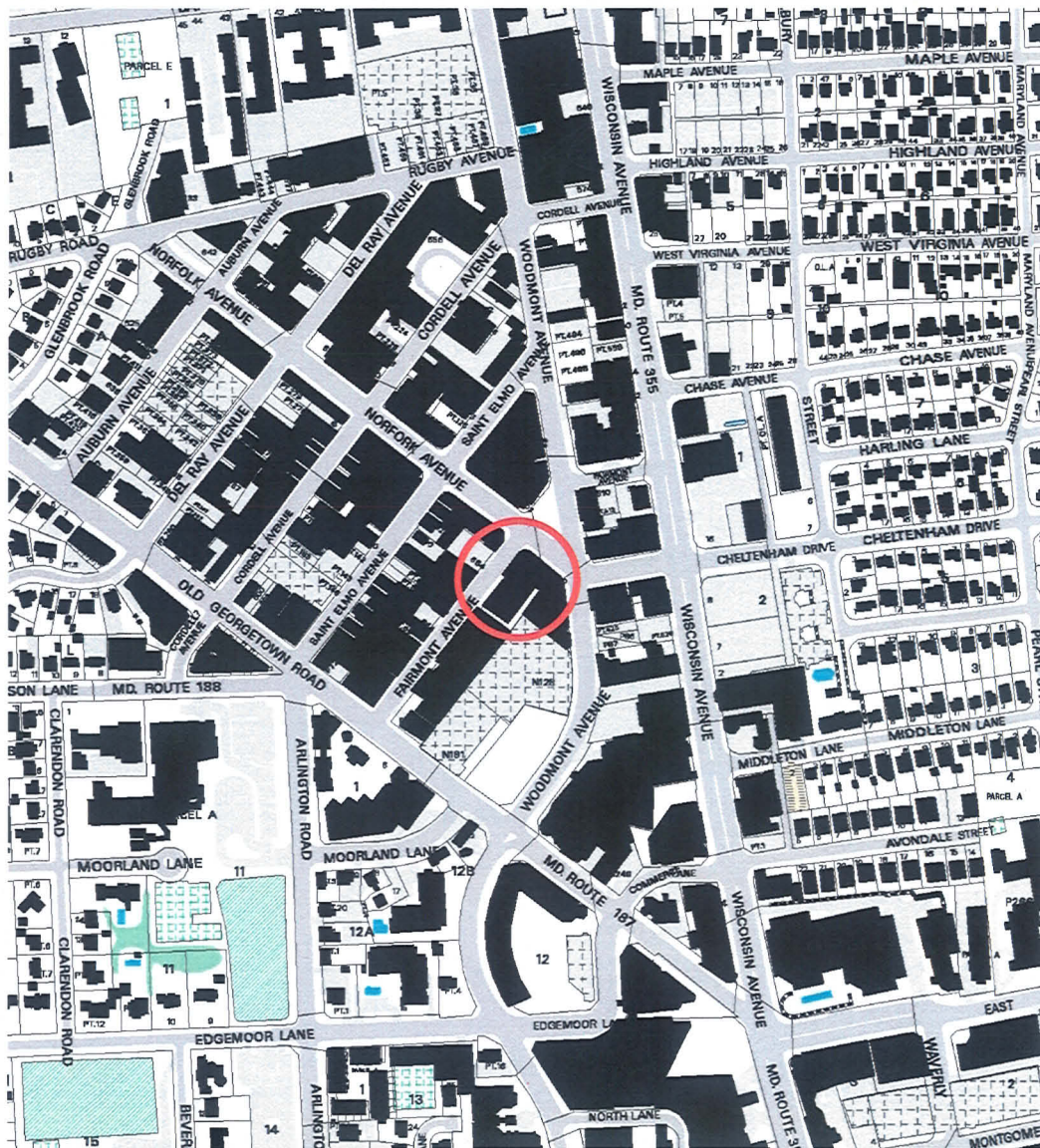
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SITE DESCRIPTION

Vicinity

The property is located in the southwestern corner of Norfolk Avenue and Fairmont Avenue, within the Woodmont Triangle section of the Bethesda CBD. It is an existing lot of record, known as Lot 657, Woodmont, recorded among the Land Records at Plat Number 22153. The property has a gross tract area of 25,586 square feet. The net lot area of property is 20,584 square feet after deduction of dedicated rights-of-way. The property abuts a public parking deck to the west and several 2 and 3 story retail centers to the south, all having access on Woodmont Avenue.

Fairmont Avenue is a local two-way street extending between Norfolk Avenue and Old Georgetown Road. The intersection of Norfolk Avenue, Fairmont Avenue, and Woodmont Avenue form a gateway into the Woodmont Triangle with an urban park directly across Norfolk Avenue from this property to the east. Across the street, on the north side of Fairmont Avenue, are several one and two story commercial structures that are proposed to be replaced by a similar 17-story redevelopment project.



Site Map

Site Analysis

The site is located at 4900 Fairmont Avenue in the Bethesda Central Business District and is zoned CBD-2. The site contains one parcel of property, which is presently used for commercial retail uses. There is access to the rear of the property, which is utilized by the property owner and adjacent property owners for trash removal and other ancillary uses to the businesses. It also provides limited public access to the public parking deck to the west of this property.

The property is nearly level with the commercial uses fronting primarily on Fairmont Avenue. There is limited landscaping on the property and no identifiable consistency in the existing streetscape. The access to the rear of the property, along the west side, facing Fairmont Avenue, is currently wide enough for vehicular access, and will be removed as part of the development proposal. This access is currently used on both the south and west side of the property for pedestrian access to the public parking garage. The rear access along the south side from the rear parking garage access to Norfolk Avenue will be reduced to a narrow walkway and limited to emergency ingress and egress as part of the development proposal.

PROJECT DESCRIPTION

Previous Approvals

Project plan 920070030 was approved by the Board by an Opinion dated December 21, 2007. The project was approved for up to 118 residential units and 5,500 square feet of retail space. The site consists of 0.59 gross acres of land in the CBD-2 zone in the Woodmont Triangle Study Area of the Bethesda Central Business District.

A previous extension request was approved for 18 months, requiring that a site plan application be accepted by Planning Board Staff by January 20, 2011, and a site plan be approved by the Planning Board by July 20, 2011.

Proposal

Section 59-D-2.7 of the Zoning Ordinance establishes the actions required to validate a project plan. Specifically, a project plan is initiated 30 days from the date of mailing of the written opinion, and “will remain valid for up to 24 months from the initiation date, provided applicant has filed a complete site plan application, as determined by the Planning Board staff within 18 months of the initiation date; and in the absence of governmental delay, received site plan approval within 6 months of the assigned complete application date. The timely approval of a site plan validates a project plan.” Based on this language, the 4900 Fairmont project plan, 920070030, will become invalid unless a site plan application is accepted by July 20, 2009 and site plan approval is received by January 20, 2011. The Planning Board may, however, extend this period.

In this case, the Applicant is requesting an 18-month extension for the following reasons:

1. The economic downturn and resulting freezing of credit markets and
2. The current lack of residential market demand.

COMMUNITY OUTREACH

The Manual of Development Review Procedures for Montgomery County, Maryland does not require public notice of Project Plan Validity Period extensions.

RECOMMENDATION

Staff supports the 18-month extension to allow time for the credit market and residential demand to turn around while site plans are being developed for the forthcoming application.

APPENDICES

- A. Project Plan Resolution
- B. Applicant Correspondence



MONTGOMERY COUNTY PLANNING BOARD
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

J. Bass / Fairmont (Project Plan)
 DEC 21 2007

MCPB No. 07-219
Project Plan No. 920070030
Project Name: 4900 Fairmont
Date of Hearing: May 17, 2007

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review project plan applications; and

WHEREAS, on August 29, 2006, Fairmont Development LLC ("Applicant"), filed an application for approval of Project Plan No. 920070030 for a maximum of 154,864 gross square feet of new development, including a maximum of 118 market rate residential units; of which 15% are MPDUs; and approximately 5,500 square feet of first floor retail on 25,586 gross square feet ("Project Plan"), on approximately 1.63 acres of CBD-2-zoned land, located on the southwestern corner of the intersection of Norfolk and Fairmont Avenues, in the Woodmont Triangle area of Bethesda ("Property" or "Subject Property"); and

WHEREAS, Applicant's Project Plan application was designated Project Plan No. 920070030, 4900 Fairmont (the "Application"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated April 25, 2007, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on May 17, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

APPROVED AS TO LEGAL SUFFICIENCY

J. Bass
 5/16/07
 MNCPPC LEGAL DEPARTMENT

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on May 17, 2007, the Planning Board approved the Application subject to conditions, on motion of Commissioner Bryant; seconded by Commissioner Robinson; with a vote of 4-1, Commissioners Bryant, Hanson, Perdue and Robinson voting in favor and Commissioner Wellington voting against.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Project Plan No. 920070030 for a maximum of 154,864 gross square feet of new development, including a maximum of 118 market rate residential units; of which 15% are MPDUs; and approximately 5,500 square feet of first floor retail on 25,586 gross square feet, on approximately 1.63 gross acres in the CBD-2 zone, subject to the following conditions:

1. Development Ceiling

The proposed development shall be limited to a maximum of 154,864 gross square feet of development, including a maximum of 118 residential units and approximately 5,500 square feet of retail space.

2. Building Height Mass

The height of the building shall not exceed the maximum of 174 feet, including a parapet, mechanical equipment, safety railings or design features, as measured from an identified point along Norfolk Avenue that is equal to 351 feet above sea level. The final height of the building will be determined at the time of site plan.

3. Moderately Priced Dwelling Units (MPDUs)

- a. The Applicant shall provide 18 MPDUs, which represents 15 percent of the total number of residential dwelling units, consistent with the requirements of Chapter 25A. The development is receiving a 22% density bonus for providing additional MPDUs on the site.
- b. The Applicant shall distribute the proposed MPDUs in accordance with Chapter 25A and DHCA review.

4. Transportation Improvements

- a. The Applicant shall comply with the recommendations of the M-NCPPC Transportation Planning memo dated April 25, 2007, including future dedication along Fairmont Avenue and Norfolk Avenue, a traffic mitigation agreement and pedestrian circulation.
- b. At the time of Preliminary Plan, the Applicant shall obtain the necessary approvals from the Montgomery County Department of Public Works and Transportation.
- c. At the time of Preliminary Plan, the Applicant shall dedicate the necessary right-of-way along Fairmont and Norfolk Avenues.
- d. Prior to release of the building permit, the Applicant shall enter into a Traffic Mitigation Agreement with the Planning Board and Montgomery County Department of Public Works and Transportation to participate in the Bethesda Transportation Management Organization.

5. Public Use Space

- a. The proposed development shall provide a minimum of 20% (4,130 square feet) of on-site public use space, including the area in front of the building along Fairmont and Norfolk Avenues and the plaza area at the intersection of both streets.
- b. The proposed development shall provide a minimum of 37% (7,630 square feet) of off-site amenities, including the streetscape improvements along the frontage of the property on Fairmont and Norfolk avenues, along the north side of Norfolk Avenue from Veteran's Park to the eastern boundary of Pt. of Lot 602 and improvements to Veteran's Park.
- c. The proposed public use space shall be easily and readily accessible to the general public and used for public enjoyment.

6. Site Design

The Applicant shall provide safe and adequate access in the rear of the subject property, presently providing egress from Garage 11 and the adjacent properties fronting Woodmont Avenue.

7. Streetscape

- a. The Applicant shall provide the full streetscape improvements along Norfolk and Fairmont Avenues, along the frontage of the subject property, in accordance with the Bethesda Streetscape Plan (1992) as amended. The improvements include providing utilities underground.

- b. Off-site streetscape improvements shall be provided along Fairmont Avenue, south of the subject site, and improvements to the north side of Norfolk Avenue from Veteran's Park to the eastern boundary of Part of Lot 602.

8. Public Art

A public art component shall be incorporated into the development to include opportunities within the public use space that will reinforce both the architecture of the building and the gateway feature of the Woodmont Triangle, providing a place for pedestrians and shoppers to congregate.

9. Staging of Amenity Features

- a. The project shall be developed in one phase.
- b. Landscaping to be installed no later than the next growing season after completion of the proposed building and public plaza.
- c. Development of the on-site amenities shall occur concurrently with the occupancy of the residential units and retail space, and all on-site and off-site improvements will be completed concurrently with the occupancy of the units. A detailed development program will be developed at Site Plan to establish the timing and completion of the site features and amenities.

10. Maintenance and Management Organizations

Initially, the Applicant, and subsequently, within 90 days of formation, the Condominium Association shall become a member of and enter into an agreement with the Bethesda Urban Partnership for the purpose of maintaining public open spaces and participating in community events.

11. Coordination for Additional Approvals Required with Site Plan

- a. The Applicant shall present the public art components to the Art Review Panel for review and comment that will be available to the Planning Board prior to scheduling the Planning Board hearing for the Site Plan Application.
- b. The Applicant shall enter into a maintenance agreement for the applicable streetscape improvements.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified by herein), and upon consideration of the entire record and all applicable elements of § 59-D-2.43, the Montgomery County Planning Board, with the conditions of approval, FINDS:

1. Compliance with the Woodmont Triangle Sector Plan Goals

- a. *Housing - Provide opportunities to increase the supply of housing to serve a variety of income levels.*

The project will provide up to 118 new residential dwellings units in the CBD, including 15% MPDUs (18) on site. The unit mix presently includes one and two-bedroom units for both the market rate and MPDU units. The unit mix may be further refined during the site plan process.

- b. *Small-Scale Retail - Provide opportunities to retain existing businesses and expand opportunities for new businesses.*

The project incorporates the optional method for mixed-use development to include approximately 5,500 square feet of retail space having frontage on both Norfolk and Fairmont avenues, thus providing opportunities for new businesses to locate in the Woodmont Triangle.

- c. *Arts and Entertainment District - Enhance the existing public arts programs in the Bethesda CBD and provide opportunities for both the visual and performing arts.*

The on-site amenities for the project will contain a public art component intended to draw the general public to the amenity spaces within the project. The Applicant has selected an artist that will work closely with the design team to determine the appropriate type and form of art at this location. The Applicant has presented the design of the building and plaza area to the art panel for guidance and feedback on the suggested elements and will be required to go back to the public arts panel prior to site plan.

- d. *Safe and Attractive Streets - Focus on improving the safety and character of the existing streets. Establish Norfolk Avenue as the main street in the Woodmont Triangle Study Area.*

The project establishes Norfolk Avenue as the "main street" in the Woodmont Triangle Study Area, as recommended in the Woodmont Triangle Amendment. Through architecture and appropriate organization of the building, the entrances to the building, the location of retail, access and loading, and the location of amenities, the project is oriented to achieve the "main street" goal for Norfolk Avenue.

- e. *Public Amenities - Increase the flexibility in providing the public use space through the Optional Method of Development by allowing off-site and on-site*

fulfillment of this requirement, and by identifying a list of priority public amenities.

In addition to satisfying the on-site public use space requirements for an optional method project through the provision of on-site amenities, the project will provide off-site public amenities intended to provide greater connectivity for other areas in the CBD where sidewalk and streetscape improvements have not been constructed to the standards of the Sector Plan and Bethesda Streetscape Plan. Streetscape improvements are provided on portions of Fairmont and Norfolk Avenue as well as improvements to the adjacent Veteran's Park.

2. Compliance with the Woodmont Triangle Sector Plan General Recommendations

- a. *Provide a range of housing opportunities, including new low-rise and high-rise housing, to serve a variety of income levels.*

The project will help fill the need for high-rise housing opportunities for a range of income levels. Blocks 44 and 45 have been identified in the Sector Plan as the most appropriate location for high-rise housing in the Woodmont Triangle. This proposal incorporates a 174-foot-tall building utilizing a density bonus for additional MPDUs on the site, which the Board decided does not need to be approved by the ARC committee prior to Site Plan.

- b. *Public surface parking lots in the Sector Plan area should be considered for optional method housing projects and projects with significant permanent affordable housing, as is being done in other areas such as Lot 31, and in Silver Spring.*

This general recommendation is not applicable to the Property or the project.

- c. *Support the "step down" of building heights from the Metro station area to the edges of the Central Business District, but provide incentives for increased building heights to encourage new opportunities for housing for all income levels.*

The project provides for an appropriate transition from the Metro Core to the Woodmont Triangle, also creating the precedent intended by the Woodmont Triangle Amendment to provide for greater density in building height at the appropriate locations within the Woodmont Triangle (*i.e.*, Norfolk Avenue and specifically Blocks 44 and 45 as identified in the Woodmont Triangle Amendment), thus allowing for the creation of new housing opportunities.

- d. *Protect the sunlight to the area's main street, Norfolk Avenue, by approving development that steps back from Norfolk Avenue, particularly on the southwest side of the street.*

The Applicant provided shade studies indicating the shadowing effect of natural sunlight from the proposed buildings onto nearby properties and public spaces. The Planning Board finds that the building design intends to minimize the shadowing effects on the Southwest side of the street, specifically with respect to Norfolk Avenue and Veteran's Park

3. Compliance with the Woodmont Triangle Sector Plan Urban Design Guidelines

- a. *Design new buildings so that public streets and spaces retain adequate sunlight, particularly along Norfolk Avenue.*

The Applicant provided shade studies indicating the shadowing effect of natural sunlight from the proposed building. The studies indicate the proposed buildings will create the most adverse conditions, in terms of shading, for nearby properties or public spaces on December 21 between 10 am and 2 pm. The Applicants' building design intends to minimize the shadowing effect on Veteran's Park and Norfolk Avenue during the optimal times of year where the park and street will be extremely active.

- b. *Provide sufficient building setbacks to adequately accommodate pedestrians and streetscape improvements. Where outdoor restaurants are proposed, additional building setbacks may be required to accommodate pedestrian space and outdoor seating areas.*

The project façade contains building setbacks that allow for an appropriate transition from the street, thus creating a stepping affect. The Applicant has indicated that a certain amount of private seating area will be reserved along the street level retail to provide for restaurant seating and other spaces to enhance the experience and the street level activity along the project frontage. The building also steps back from the adjacent commercial properties to the south.

- c. *Review new projects for compatibility with existing uses and to ensure animation of the first floor space through use of retail, restaurant, or other activating uses.*

The project is compatible with existing and planned uses in the area. The proposed first floor restaurant or residential use satisfies this requirement and

the addition of high-density residential housing will provide economic opportunities for existing businesses in the vicinity of the project. The orientation of the building has been carefully sited to open up the intersection providing more activity and compatibility with Veterans Park for events and daily use.

- d. *Provide street-oriented retail, restaurants, and other street animating uses on the first floor of buildings located along streets such as Norfolk Avenue and Cordell Avenue.*

The project will include street-oriented retail, restaurants and other street animating uses on the first floor along Norfolk Avenue and Fairmont Avenue.

- e. *Maintain the established building line along Norfolk Avenue.*

The project utilizes the corner and adjacent park setting to expand upon the public use space created along Norfolk Avenue at this intersection. This effort reduces the building line of Norfolk Avenue, but is similar in its approach to animate the intersection at the pedestrian level.

4. Compliance with the Woodmont Triangle Sector Plan Public Amenities and Facilities Guidelines

- a. *Improve Norfolk Avenue as a pedestrian system that connects existing public facilities and amenities such as Battery Lane Urban Park, the Whitney Theater, the Bethesda Outdoor Stage, Imagination Stage, and Veterans Park to the Capital Crescent Trail. Renovation of Norfolk Avenue should include; utilities placed underground; Washington Globe street lights and other festive lighting; benches, bike racks, brackets for banners, and trash receptacles; street trees; outdoor seating for restaurants and cafes; public art; and special paving for sidewalks established as the standard for Bethesda.*

The Applicant has indicated that all of the elements listed above will be included within the public use improvements proposed for the site.

- b. *Provide the Bethesda streetscape on other streets in the study area, such as Cordell Avenue.*

The Planning Board finds sidewalk and streetscape enhancements that link the project to other areas within the Woodmont Triangle are appropriate and necessary off-site amenities.

- c. *Establish north-south, mid-block pedestrian connections for the blocks located between Old Georgetown Road and Norfolk Avenue.*

There are no opportunities for mid-block crossings at the project site, however, the proposed off-site improvements will enhance the pedestrian connection from Norfolk Avenue and Fairmont Avenue to Veterans Park and Woodmont Avenue.

- d. *Establish a network of diverse urban spaces when including public use space on-site.*

The on-site amenity space being provided with this project will provide some opportunity for the public to gather in front of the retail businesses facing Norfolk Avenue creating a larger animated space to accompany the adjacent Veterans Park. Through connectivity of these two public places with attractive streetscape improvements, the proposed amenity plaza for this project will be a compatible public improvement for this area.

- e. *Blocks 44 and 45 are the blocks in the Woodmont Triangle Study Area that are closest to Metro and provide the potential for higher density redevelopment. The existing zoning on these blocks is CBD-1 and CBD-R2. In order to encourage residential redevelopment, the Sectional Map Amendment recommends changing the existing CBD-1 zoning to CBD-2, with an FAR of 5.0 for all properties in these blocks and a height limit of 143 feet or 174 feet with a 22% MPDU bonus.*

The property is located within this designated area within the Woodmont Triangle Study Area, and the project does maximize development as recommended in the Woodmont Triangle Amendment by incorporating additional building height up to 174 feet and a 22% MPDU density bonus (with 15% of the total units being on-site MPDU's).

5. (59-C-6.212) Compliance with CBD-2 Zone Intent

- a. *To encourage development in accordance with an adopted and approved master or sector plan . . . by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan . . . and the site plan . . . is approved on review by the Planning Board.*

The proposed project is generally consistent with the goals and recommendations established in the Woodmont Triangle Amendment, with respect to increased height, density, retail presence and public use space.

- b. *To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of works, shoppers, and residents.*

This objective is satisfied, as the proposed mixed-use development, incorporating approximately 5,500 square feet of retail, and will provide a variety of opportunities for workers, shoppers and residents of the CBD.

- c. *To encourage designs which produce a desirable relationship between the individual buildings in the CBD, between the buildings and the circulation system, and between the CBD and adjacent areas.*

The proposed project is on the fringe of the metro core and in an area designated for high-rise residential in the sector plan. While no buildings of the same scale currently exist on the same block, the proposal is consistent with future development goals for the area. In this regard, there is a relationship between the proposed structure and other buildings in the CBD.

- d. *To promote the effective use of transit facilities in the CBD and pedestrian access thereto.*

The proposed pedestrian enhancements will allow for better connection to the transit facilities in the CBD, primarily through better linkage to the Metro Core. The Bethesda 8, a shuttle within the Bethesda CBD, is readily available to residents, visitors and patrons of the project. Garage 11 is also adjacent to the Subject Property, providing opportunities for off-site parking for residential and retail patrons.

- e. *To promote improved pedestrian and vehicular circulation.*

The proposed project does not include significant changes to pedestrian or vehicular circulation patterns in the area. The existing pedestrian network will be enhanced with the proposed on-site and off-site streetscape improvements, and will further compliment future improvements associated with projects in the Woodmont area. Additionally, the egress from Garage 11 to the proposed plaza at Norfolk Avenue provides for safe and adequate pedestrian circulation from the current conditions.

- f. *To assist in the development of adequate residential areas for people with a range of different incomes.*

The proposed project does include residential development for a range of income levels.

- g. *To encourage land assembly and the most desirable use of land in accordance with a sector plan.*

The proposed project does not involve land assembly through the purchase of development rights from adjacent properties. Land assembly at this site does not seem to be necessary as there is adequate space on-site to construct the proposed development including parking and amenities. The proposed use is consistent with the Woodmont Triangle Amendment.

6. (59-C-6.213) Compliance with CBD-2 Zone Additional Intent

- a. *It the CBD-R1, CBD-R2, CBD-2 and CBD-3 zones, it is further the intent to foster and promote the orderly development of the CBDs of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable urban environment.*

The proposed project does satisfy this objective, as it will allow for continued economic development and investment in the Woodmont Triangle and provide economic benefit to the County and its residents.

- b. *In the CBD-2 it is further the purpose:*

- (1) *In the CBD-2 Zone, it is further the purpose to provide a density and intensity of development which will permit an appropriate transition from the cores of CBDs to the less dense peripheral areas within and adjacent to the districts.*

The density for the property proposed with the project is appropriate, and in keeping with the goals and objectives of the CBD Zone generally and the Woodmont Triangle Amendment specifically.

- (2) *In the CBD-2 Zone, it is further the purpose to provide an incentive for the development of residential uses to meet the needs of those employed within the CBDs and those who will be able to use the district transit facilities to travel to and from places of employment.*

The proposed project will allow for persons to move to the CBD and to be closer to transit facilities and places of employment. The increase in

housing stock will help promote the overall utilization of the Bethesda CBD.

7. (59-C-6.215(b)) Optional Method of Development

Under the optional method greater densities may be permitted and there are fewer specific standards, but certain public facilities and amenities must be provided by the developer. The presence of these facilities and amenities is intended to make possible the creation of an environment capable of supporting the greater densities and intensities of development permitted. If residential uses are included in a development, moderately priced dwelling units must be provided in accordance with Chapter 25A. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site.

The Planning Board finds the project provides the appropriate tradeoff of additional density in turn for the supply of greater public spaces and amenities to support the urban environment of the Bethesda CBD. The project will provide a total of approximately 57% of their net lot area toward on-site and off-site public use space and amenities. In addition, through the provision of affordable housing on-site, additional public policies are satisfied through the development of this project. The optional method of development provides a more efficient and desirable development than what could be accomplished under the standard method of development by providing an increased density, greater public use space and amenities and additional affordable housing in the CBD.

8. (59-C-6.22) Land Use

The residential uses proposed are all permitted uses in this zone. The non-residential portion of the development will be subject to review of the uses as requested at time of building permit for each of the provided non-residential spaces identified in the project.

9. (59-C-6.23) Development Standards

The development standards are provided on pages 14-15 of this resolution.

10. (a) The proposed development complies with all of the intents and requirements of the CBD-2 zone.

As indicated in the Data Table below, the proposed development satisfies the intent and requirements of the CBD-2 zone.

The Board finds, based on the Data Table below and other evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-2 zone. The following Data Table sets forth the development standards approved by the Planning Board and binding on the Applicant.

DATA TABLE

Development Standards Approved
 by the Board and Binding on the
 Applicant

Gross Tract Area:	25,586 sf
Net Site Area (after dedication)	20,584 sf
Max. Density:	
Base Non-Residential Density	
FAR:	0.21
(SF)	(5,500)
Base Residential Density (FAR):	4.79
(s.f.)	(122,430)
Residential Density (FAR):	4.911
(s.f.)	(122,930)
Residential Density Bonus (FAR):	1.05
(sf.)	(26,934)
Total with Density Bonus (FAR):	6.05
(22% density bonus for MPDUs)	(154,864)
MPDUs (%):	15.25
(number of units)	18
Max. Building Height (ft.):	174 (as measured From Norfolk Avenue)
Number of Floors	16
Min. Building Setbacks (ft.):	
Front Yard (Norfolk Avenue)	20
Rear yard (southern boundary)	0
Side Yard Fairmont Avenue)	5
Side Yard (eastern boundary)	10
Parking (number of spaces)*:	
Residential Uses (Mkt. Rate)	
1 BR @ 1.25 sp./unit (64 x 1.25)	80
2 BR @ 1.50 sp./unit (36 x 1.50)	54
Residential Uses (MPDUs)	
1 BR @ 0.625 sp./unit (11 x 0.625)	7
2 BR @ 0.75 sp./unit (7 x 0.75)	5
Residential subtotal:	146
15% credit for residential in CBD	(22)
Required residential parking	124

Retail Uses: (5,500 gsf @ 5 sp./1000 w/3,300 sf of patron use)	83
15% credit for CBD/Metro	<u>12</u>
Required retail parking	70
Total Parking Required	195
Total Parking Provided	168
Public Use Space (% of net lot area):	
On-Site	20% or 4,190 sf
Off-Site	37% or 7,630 sf
Total On and Off-Site Public Use Space	57% or 11,820 sf

*Note: The Board finds that the site is located within the limits of the Parking Lot District and, therefore, is not required to satisfy the normal Zoning Ordinance requirement for such a development, of 195 parking spaces on site.

(b) The proposed development conforms to the Woodmont Sector Plan approved under Chapter 56.

As indicated in the previous sections, the proposed development is generally consistent with the Woodmont Triangle Amendment, with respect to density, height and public use space.

(c) Because of its location size, intensity, design, operational characteristics and staging, the proposed development is compatible with and not detrimental to existing or potential development in the general neighborhood.

The proposed use of the Property is compatible with both existing and proposed development in the neighborhood. The proposed building height is consistent with development goals in the Woodmont Triangle Amendment. Massing of the building has been designed to be sensitive to the adjacent properties.

(d) The proposed development does not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that Article.

The Applicant has included a Transportation Review in the Application for the proposed development. The conclusion of the report indicates that no new improvements to the transportation network are warranted as a result of the proposed development.

- (e) The proposed development is more efficient and desirable than could be accomplished by the use of the standard method of development.**

The Planning Board finds that the goals and objectives of the Zoning District and Woodmont Triangle Amendment can be best achieved by utilizing the Optional Method to develop the Property, and that the proposed development is more efficient and desirable than could be accomplished by the use of the standard method of development

- (f) The proposed development includes moderately priced dwelling units in accordance with Chapter 25A of this Code.**

The project will provide up to 118 new residential dwellings units in the CBD, including 15% MPDUs (18) on site. The unit mix will include a number of different types of bedrooms for both the market rate and MPDUs. The unit mix may be further refined during the Site Plan process.

- (g) The proposed development satisfies any applicable requirements for forest conservation under Chapter 22A.**

Due to the size of the Property, the Project qualifies for a Small Property Exemption (4-07002E) from the Forest Conservation requirements. Activity occurring on a tract of land less than or equal to an acre where activity will not result in the clearing of more than 30,000 square feet of exempted forest or any specimen or champion trees, and reforestation requirement would be less than 10,000 square feet. However, a Tree Save Plan will be required where trees are impacted at the time of Preliminary Plan review, in-lieu-of a Forest Conservation Plan.

- (h) The proposed development satisfies any applicable requirements for water quality resources protection under Chapter 19.**

The Applicant has indicated that a conceptual Stormwater Management Plan has been submitted to the Montgomery County Department of Permitting Services, which will be reviewed and approved at the time of Preliminary Plan review.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920070030, 4900 Fairmont stamped received by M-NCPCC on May 2, 2007 are required except as modified herein; and

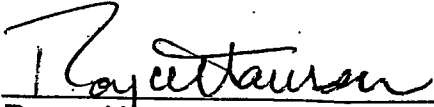
BE IT FURTHER RESOLVED that this Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

BE IT FURTHER RESOLVED that the date of this Resolution is DEC 21 2007 (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 within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

At its regular meeting held on Thursday December 20, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Cryor, seconded by Commissioner Lynch, with Chairman Hanson, and Commissioners Cryor and Lynch present and voting in favor. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Project Plan No. 920070030, 4900 Fairmont.



Royce Hanson, Chairman
Montgomery County Planning Board

LINOWES |
AND | BLOCHER LLP
ATTORNEYS AT LAW

September 21, 2010

C. Robert Dalrymple
301.961.5208
bdalrymple@linowes-law.com

Françoise M. Carrier, Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Project Plan No. 920070030 – 4900 Fairmont (the “Project Plan” and “Project”) – Request for Extension of Validity Period

Dear Ms. Carrier and Members of the Planning Board:

By virtue of an eighteen (18) month extension approved by the Planning Board on July 30, 2009 (a copy of which is attached as Attachment 1), the validity period for the Project Plan is July 20, 2011, with the requirement that a site plan application for the Project must be accepted by the Planning Board staff by January 20, 2011 and a site plan approved for the Project by the July 20, 2011 date. The reasons for the initial extension of the validity period were the economic downturn that has resulted in a freeze of credit markets and a lack of residential market demand justifying the commencement of a significant project such as this Project. Unfortunately, these conditions have not markedly changed since the initial extension was approved, and this additional request for an extension is, therefore, necessary. On behalf of Fairmont Development, LLC, the owner and developer (“Applicant”), we, therefore, request an additional eighteen (18) month extension that would require submission of a site plan application by July 20, 2012 and site plan approval by January 20, 2013.

While the economy remains significantly recessed, the good news is that the residential market, especially in this particular area, appears to be gaining momentum, and, with this, the credit market appears to be making slow, but positive gains allowing for reasonable financial structures to be put in place for a significant project such as this one. The Applicant is committed to moving forward with the Project and updating the design to ensure consistency with current market demands that will be reflected in an application for site plan in the near future. Unfortunately, the timeframe for making site plan application in a timely fashion with the current validity period is simply not feasible or realistic.

Françoise M. Carrier, Chair

September 15, 2010


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Implementation of the Project remains critical to jumpstarting the redevelopment of the Woodmont Triangle and other areas of the Bethesda Central Business District, and thus this additional extension of the validity period for the Project Plan is in the public interest. We look forward to working with the Planning Staff over the next several months to refine the design of the Project and to file and seek approval of a site plan that will be another strong indication that the Bethesda Central Business District remains a strong economic engine for Montgomery County.

Thank you for your consideration of this request, and please advise if additional information in support of this extension is necessary.

Very truly yours,

LINOWES AND BLOCHER LLP


C. Robert Dalrymple

CRD:pi

Enclosure

cc: Ms. Rose Krasnow
Mr. Robert Kronenberg
Mr. Joshua Sloan
Mr. Michael Schwartzman