

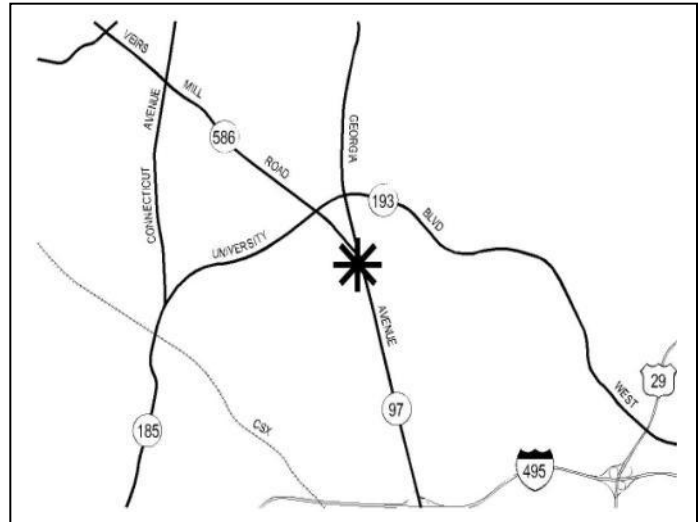


Preliminary Plan No. 120110320, Site Plan No. 820110100, 10914 Georgia Avenue

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description

- 10914 Georgia Avenue;
- Property: 1.65 acres TS-R Zone, Wheaton Sector Plan;
- Proposal: one lot for a 245 multi-family residential unit building, including 12.5% MPDUs, underground parking, public use space, and active and passive recreational space;
- Applicant: Washington Property Company.



summary

- Staff recommends approval of the Preliminary Plan, Site Plan, and Forest Conservation Plan with conditions.
- Citizen concerns: no opposition but a request to ensure a proper buffer between the proposed building and adjacent townhomes.
- Development issues: stream valley buffer mitigation has been a subject of concern throughout the process of rezoning and site plan review. Staff feels the Applicant has adequately addressed the subject with the site plan application, as conditioned.

The Planning Board reviewed this development on July 22, 2010 during the local map amendment application process. The Board unanimously recommended approval of the zoning reclassification to accommodate the project, provided that the subdivision and site plan meet all regulations and requirements.

The proposal will combine three parcels (one recorded, two unrecorded) into one lot for the construction of a 6-story building containing 245 residential dwelling units. The proposed development will include a minimum of 12.5% moderately priced dwelling units, underground parking, and required public use space and active and passive recreational space on the Property.

The proposed plan was reviewed for conformance with the TS-R Zone and the recommendations of the current and pending Wheaton CBD Sector Plan. The proposal will provide additional dedication for Georgia Avenue and pedestrian and vehicular improvements to support the additional development onsite. The schools and roads in the area have available capacity to support the proposed development.

PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS

Staff recommends approval of Preliminary Plan 120110320 subject to the following conditions:

1. Approval is limited to 1 lot for 245 multi-family units. A minimum of 12.5% of the total units must be moderately priced dwelling units (MPDUs).
 2. The proposed development must comply with the requirements of the Final Forest Conservation Plan.
 3. The Applicant must dedicate, and the record plat must reflect, the master-plan recommended 120-foot right-of-way (60 feet from centerline) for Georgia Avenue as shown on the Preliminary Plan.
 4. The Applicant must enter into a Traffic Mitigation Agreement with the Montgomery County Department of Transportation (MCDOT) and the Planning Board when the Wheaton CBD Traffic Management District is established.
 5. The Applicant must comply with the conditions of approval of the Montgomery County Fire and Rescue (MCF&R) letter dated July 27, 2011. These conditions may be amended by MCF&R, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 6. The Applicant must comply with the conditions of approval of the MCDOT letter dated July 6, 2011. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 7. The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management concept approval letter dated February 11, 2011. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 8. The Applicant must satisfy provisions for access and improvements as required by MDSHA prior to recordation of plat(s), as applicable.
 9. No clearing, grading, or recording of plats prior to certified site plan approval.
 10. Final approval of the location of buildings, on-site parking, site circulation, sidewalks, and bike paths will be determined at site plan.
 11. 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 review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for this lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
 12. The Adequate Public Facilities (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
 13. All necessary easements must be shown on the Record Plat.
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SITE PLAN RECOMMENDATION AND CONDITIONS

Staff recommends approval of 245 multi-family dwelling units on approximately 2.36 gross acres in the TS-R Zone. All site development elements as shown on the site, landscape, and lighting plans stamped by the M-NCPPC on August 12, 2011, are required except as modified by the following conditions:

1. Development Plan Conformance

The proposed development must comply with the binding elements for Local Map Amendment G-876 approved by the County Council on January 18, 2011, Resolution No. 17-22.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of the approved Resolution for Preliminary Plan 120110320, unless amended and approved by the Planning Board.

3. Site, Landscape, and Lighting Plans

- a. Provide sidewalk connections from paths through Public Use Space so that each path connects at least twice to the sidewalk along Georgia Avenue. Final design to be approved by Staff at Certified Site Plan.
- b. Provide additional plantings in Public Use Space and active/passive recreation space as shown on original Site Plan submittal dated May 17, 2011.
- c. Provide corrected lighting legend, cut sheets, and photometric plan as required by Staff.
- d. Correct unit count per bedroom mix on data table.
- e. Provide two benches along each sitting area or path within the Public Use Space.

4. Transportation

The Applicant must provide and show on the Certified Site Plan the following pedestrian and bicycle improvements:

- a. Secure bike storage room with 16 racks in the buildings' garage near the entrance, exit, or elevator in a well-lit area. The final location will be reviewed at Certified Site Plan.
- b. Sidewalk connection between the subject property and the Wheaton Westfield Mall, unless permission cannot be obtained from the Mall.

5. Environment

- a. The Applicant must provide a financial security to M-NCPPC prior to any clearing or grading for forest conservation plantings.
- b. The Applicant must provide a financial security to M-NCPPC prior to any clearing and grading for stream improvement measures.
- c. Required phasing and inspections of any stream improvement measures must be included on the development program and inspection schedule on the Certified Site Plan.
- d. An acoustical engineer must certify that that interior noise levels will not exceed the 45 dBA_{LDN} standard, with documentation provided to M-NCPPC Staff prior to issuance of a building permit.
- e. The Applicant must obtain written permission for access and disturbance from the three adjoining property owners whose properties will be affected by the stream valley mitigation prior to approval of the Sediment and Erosion Control Permit.

6. Moderately Priced Dwelling Units (MPDUs)

- a. The proposed development must provide 12.5 percent MPDUs in accordance with the letter from the Department of Housing and Community Affairs (DHCA) dated August 12, 2011.
- b. Final bedroom proportions and schematic floor plans must be approved by DHCA prior to release of any building permits.
- c. The MPDU agreement to build shall be executed prior to the release of any building permits.

7. Recreation Facilities

The Applicant must provide at least the recreation facilities shown on the Site Plan including five sitting/picnic areas, one indoor community space, one indoor fitness facility, one outdoor recreation area, one cyber café, and one swimming pool. These facilities must comply with the Recreation Guidelines approved by the Planning Board in September 1992, except as noted in the findings of approval.

8. Maintenance

Maintenance of all on-site Public Use Space is the responsibility of the Applicant and subsequent owner(s). This includes maintenance of paving, plantings, lighting, and benches.

9. Architecture

The final exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet A4-01 of the submitted architectural drawings, as determined by Staff.

10. Performance Bond and Agreement

The Applicant must provide a performance bond in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The amount of the surety must include plant material, on-site lighting, recreational facilities, and site furniture. The surety must be posted prior to issuance of first building permit and will be tied to the development program.
- b. Provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial bond amount.
- c. Completion of plantings by area indicated in the development program, to be followed by inspection and bond reduction. Inspection approval starts the one year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d. Provide a Site Plan Surety & Maintenance Agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

11. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Street lamps and sidewalks must be installed prior to release of any use-and-occupancy permit. Street tree planting may wait until the next growing season.
- b. On-site amenities including, but not limited to, recreation amenities and public use space amenities, must be installed prior to release of any use-and-occupancy permit.

- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all environmental protection devices.
- d. The development program must provide phasing for installation of on-site landscaping and lighting.
- e. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

12. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the Final Forest Conservation Plan approval, stormwater management concept approval, development program, inspection schedule, and Site Plan resolution on the approval or cover sheet.
 - b. Add a note to the Site Plan stating that “M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading”.
 - c. Ensure consistency of all details and layout between site plan and landscape plan.
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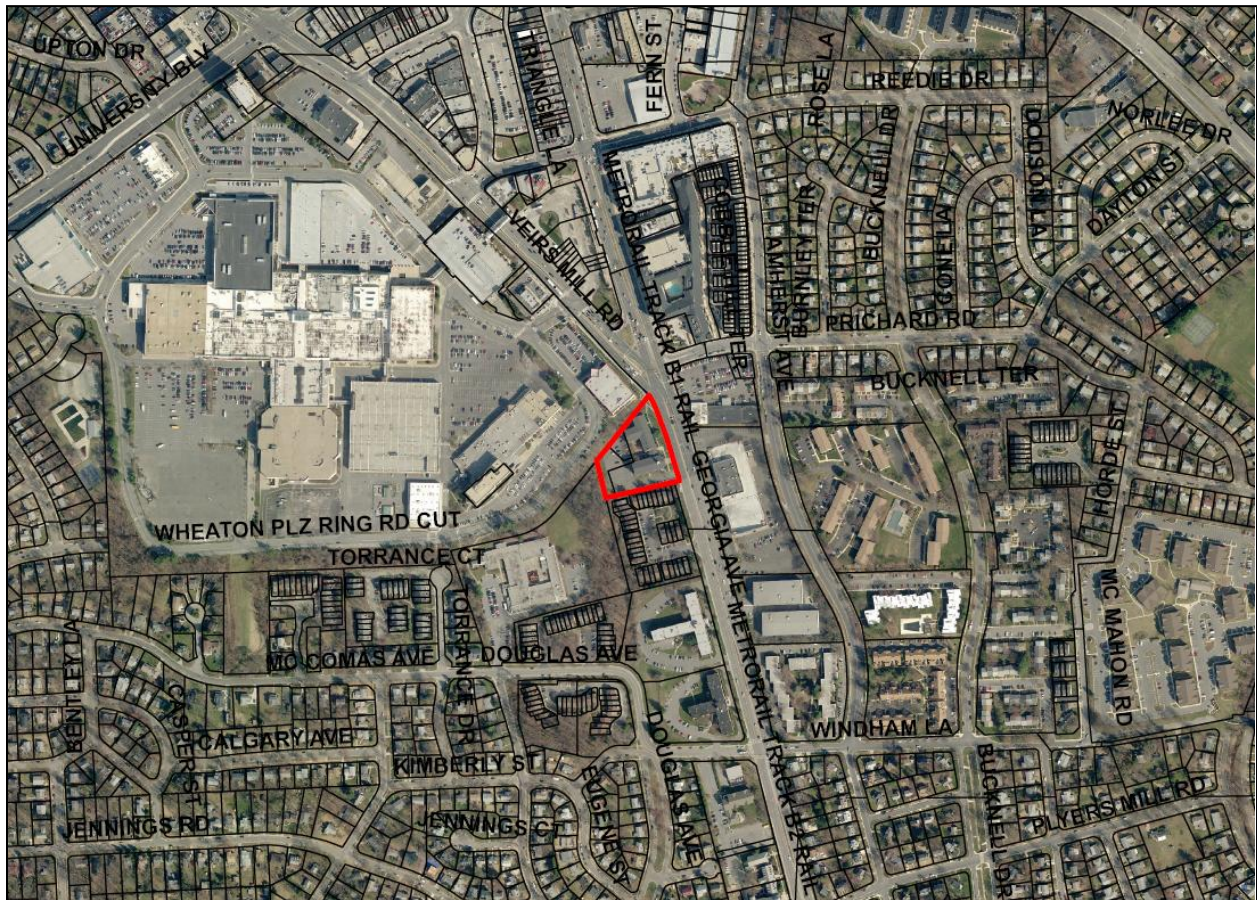
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SECTION 1: CONTEXT AND PROPOSAL

SITE DESCRIPTION

Site Vicinity

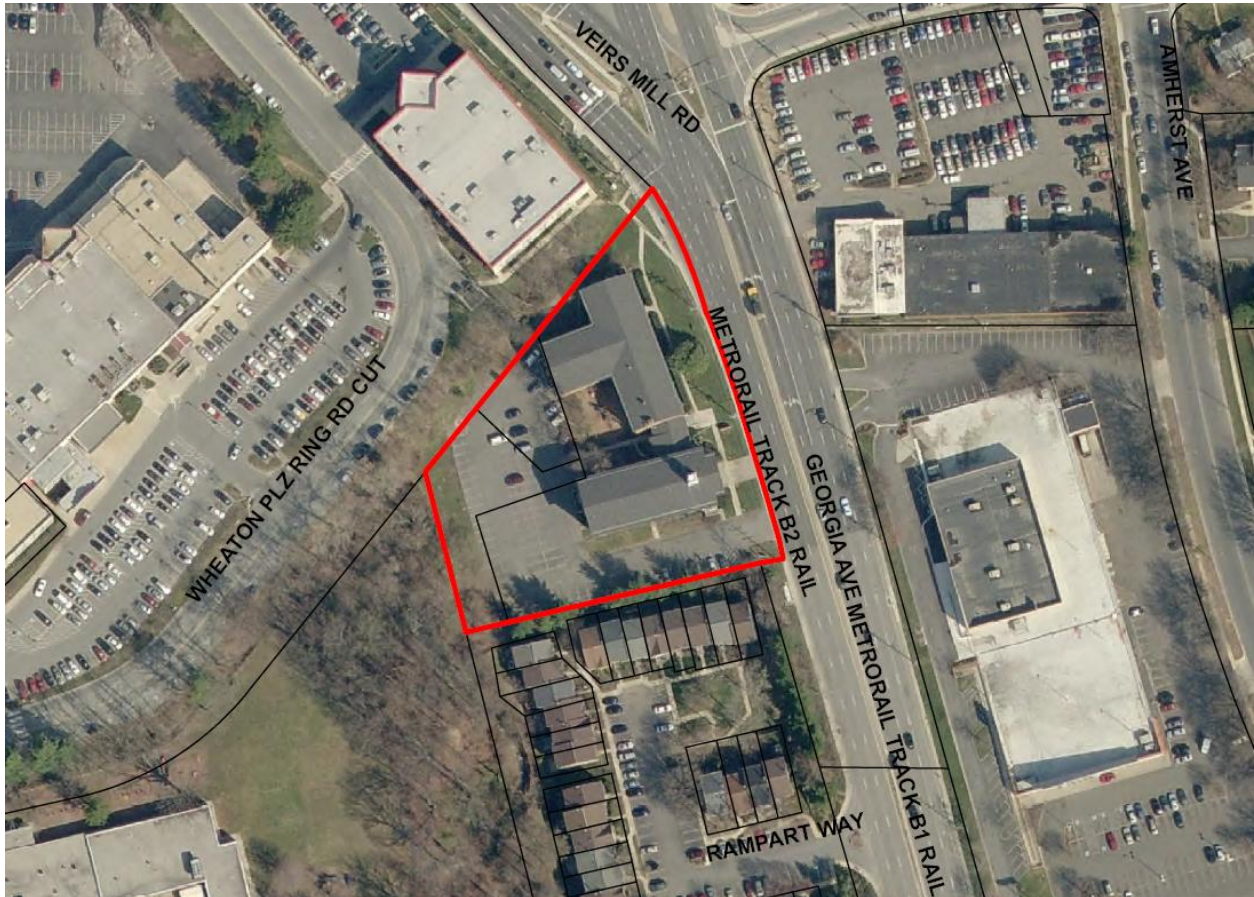
The TS-R zoned subject properties are located on the west side of Georgia Avenue, approximately 20 feet south of the intersection with Veirs Mill Road and comprise a total area of 2.36 gross acres. The site is adjacent to C-2 zoned commercial uses to the northwest (Westfield Mall) and on the confronting properties to the east. Stephen Knolls Elementary School is located to the west; townhomes are located directly to the south. The Wheaton Metrorail Station and Central Business District, with numerous commercial and residential uses, are located within ¼ mile; the Q and Y bus lines run along Georgia Avenue providing further transit connections to Rockville, Olney, and Silver Spring.



Vicinity Map

Site Analysis

The existing three parcels are currently improved with a church, surface parking, and minimal landscaping. The site is generally flat, sloping gently to the southwest and has no stormwater management facilities; the approximately 0.20 acres of stream valley buffer is paved over because development occurred prior to existing stream valley protections. There are stream valley and floodplain buffers. There are no floodplains, forests, specimen trees, or known historic or cultural resources on site.



Site Aerial View

PROJECT DESCRIPTION

Previous Approvals

Local Map Amendment G-876

The County Council approved Local Map Amendment G-876 on January 18, 2011 reclassifying 1.76 net acres of land from the R-60 to the TS-R Zone. This reclassification was approved to allow redevelopment of the site with a maximum of 245 dwelling units and structured parking. Six binding elements were approved with the Development Plan:

1. Because the Planning Staff has determined that the proposed building improvements will encroach upon stream valley buffer, the Applicant must provide stream valley buffer mitigation

as generally provided for in the exhibit labeled "Conceptual Stream Valley Buffer Encroachment Mitigation Exhibit" made part of the record for this case or as otherwise approved by the Planning Board in conjunction with 59-D-3 site plan approval for this project.

2. The Applicant may pursue any uses permitted in the TS-R Zone at the time of site plan, at the Applicant's option.
3. The project will not exceed a maximum of 245 multi-family dwelling units, including 12.5% MPDUs, with final unit count, unit mix, and parking requirements to be addressed at site plan.
4. The project will not exceed 70 feet in building height (measured from the building height measuring point of 410.3 feet as shown on the Development Plan), with final building height, not to exceed 70 feet, to be determined at the time of site plan.
5. The project will be set back a minimum of 10 feet from the southern property line adjacent to the townhouses.
6. The 10-foot setback along the southern property line will be landscaped to the extent practical to provide additional screening and buffering from the adjacent townhouses.

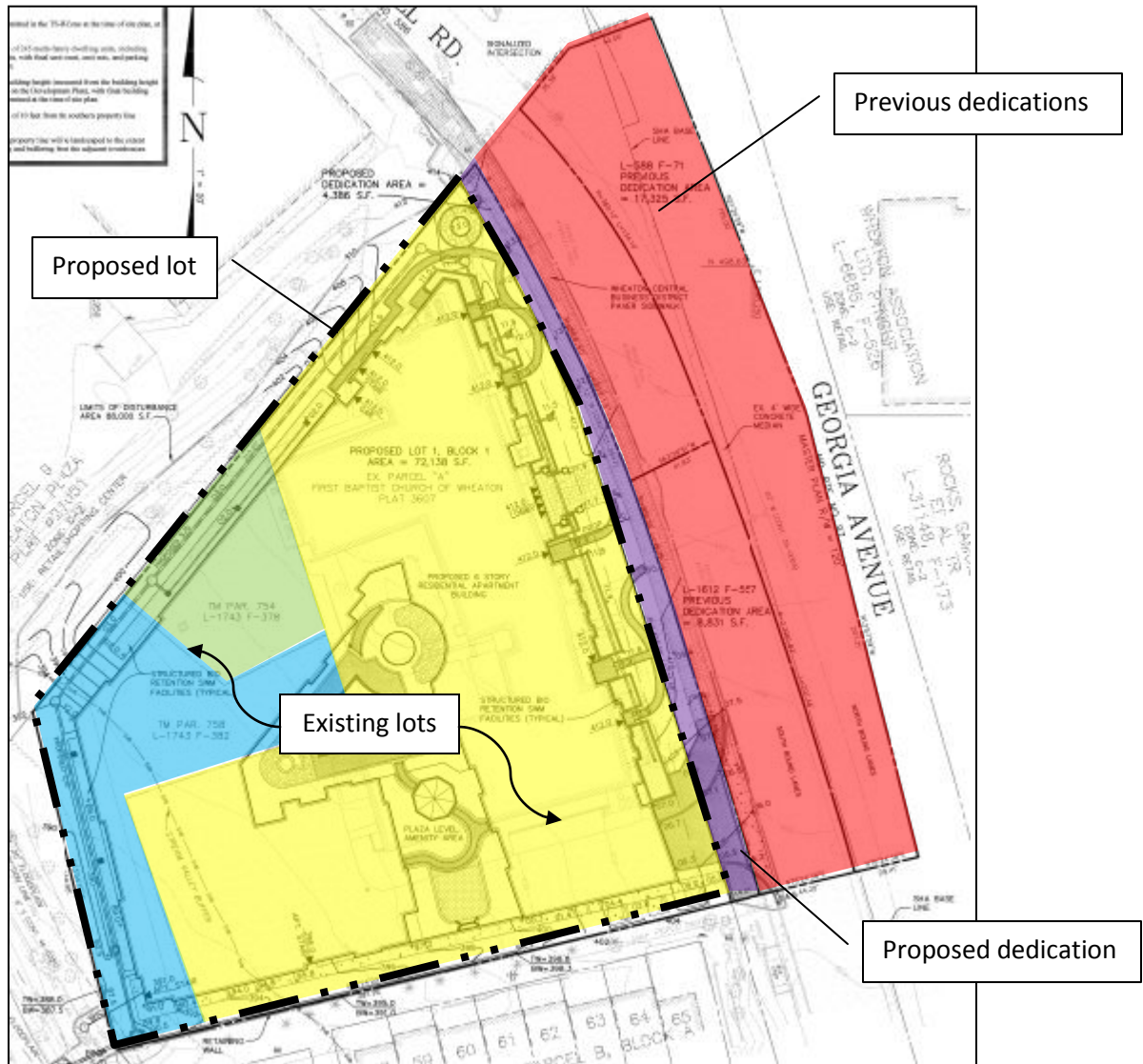


Approved Development Plan (detail)

Proposal

Subdivision

The subdivision plan will allow consolidation of one parcel and two unrecorded lots into one lot and require additional dedication of right-of-way along Georgia Avenue of 4,383sf. Given previous dedication of 26,156sf, the gross area of the site, on which floor area ratio is calculated, is 2.357 acres and the net lot will be 1.655 acres.



Preliminary Plan

Building

The proposed development differs little from the approved Development Plan that was reviewed by the Planning Board in July of 2010. The Applicant requests to build a six-story building above three levels of parking, which are partially – depending on the elevation – below-grade. The “U”-shaped footprint opens to the south where the building faces townhouses to minimize the visual impact of the structure. The facades will be faced with a variety of masonry and glazing with articulation of the footprint

breaking up long expanses of building walls. Balconies are provided for many of the units and small parapets and height variations are proposed to further minimize the sense of building mass.



Illustrative Architectural Perspective of the proposed Georgia Avenue Frontage

Open Space

Public use space is provided along the Georgia Avenue frontage with landscaping, sidewalks, and seating areas. The interior of the “U”-shaped building will be used for residential amenities such as a swimming pool, sitting areas, and gazebos. The remaining perimeter of the site is used for stormwater management and landscaped open space.

Circulation

Vehicles – passenger as well as service vehicles – will access the site from Georgia Avenue at the southeast corner of the building. Sidewalks are provided along the frontage of the building – at a minimum of 14’ wide with tree pits, winding through the public use space, and along the side of the building where access for emergency ingress/egress are required. The main pedestrian entry is set roughly near the middle of the Georgia Avenue frontage and is defined by a wide entry sidewalk. Some individual units will also have access to the sidewalk from their units on the ground floor. Modifications to the final layout of the sidewalks in the public use space, in particular, are recommended to ensure accessibility, ease of use, and a sense of “publicness”.

COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements. Only one concern was raised about removal of some existing trees on the south side of the project and views of the property. The trees are not within the property or the limits of disturbance and will not be impacted. The original binding element requiring a 10-foot setback has been exceeded and this area has been planted to the maximum extent practical providing the required visual buffering. Further, the building is setback from Georgia Avenue roughly in line with the existing townhomes, so no views into or from the entrances and sidewalks along the townhomes will be adversely affected.

DEVELOPMENT ISSUES

An important subject of the application is the mitigation of impacts to the stream valley buffer. Through the Development Plan binding elements, the Applicant is required to provide restoration measures to the buffer and stream to improve water quality and decrease erosion and sedimentation. Full details of the requirements and measures being recommended for approval are detailed in the Environment Subsection of Section 3: Site Plan Review of this report.

SECTION 2: PRELIMINARY PLAN REVIEW

TRANSPORTATION

Site Location and Vehicular Site Access Point

The site is located in the southwest quadrant of Georgia Avenue (MD 97) and Veirs Mill Road (MD 587) with the proposed vehicular access from Georgia Avenue.

Transportation Demand Management

A Traffic Mitigation Agreement (TMAg) is not required at this time, but will be when the Wheaton CBD Traffic Management District is established. The traffic mitigation measures may include providing car-share parking spaces, commuter information displays, car-pool opportunities, and other strategies to reduce single-occupancy vehicle trips. The Planning Board draft of the *Wheaton CBD and Vicinity Sector Plan* recommends establishing a 30 percent non-auto driver mode share goal for employees. These recommendations are provided now because, although the TMAg is not required, some forethought by the Applicant should be given now in order to accommodate the recommended measures when they are required.

On-Site Parking

The subject property is allowed a 5% reduction in parking because it is located within 1,600 feet of a Metro station, and an additional 10% reduction because the site is located within a Metro Station Policy Area. This reduces the required parking spaces by 43 from 291 to 248. The Applicant requests a further reduction in required parking, through the waiver provisions of 59-E-4.5, of 18 spaces. Staff supports a general parking waiver of 8% because of the site's proximity to transit services including Metro and high-frequency bus routes; the site's proximity to numerous basic services; and the non-auto driver mode share goals of the Sector Plan. The maximum parking waiver is recommended at 8% rather than 18 spaces because the final number of unit types and total count may differ from the proposed (within the maximum approved).

Available Transit Service

Ride-On Route 37 and Metrobus routes Q-1, Q-2, Q-4, Y-5, Y-7, & Y-8, Y-9 operate on Georgia Avenue and connect to Kensington, Grosvenor Metro Station, Potomac, Wheaton Metro Station, Rockville, Olney, and Silver Spring. The site is located within walking distance (approximately 1,500 feet) from the Wheaton Metrorail Station.

Master/Sector-Planned Roadways and Bikeways

In accordance with the 1989 approved and adopted *Master Plan for the Communities of Kensington/Wheaton*, 1990 approved and adopted *Comprehensive Amendment to the Sector Plan for Wheaton CBD and Vicinity*, and the 2005 approved and adopted *Countywide Bikeways Functional Master Plan*, the classified roadways and bikeways are as follows:

1. Georgia Avenue is designated as a six-lane major highway, M-8, with a recommended 120-foot right-of-way and a signed, shared roadway/on-road, SR-19 bike route.
2. Veirs Mill Road is designated as a six-lane major highway, M-13, with a recommended 120-foot right-of-way and a signed, shared roadway/on-road, SR-65 bike route.

These road and bikeway designations are not recommended to be changed by the pending Sector Plan.

Pedestrian and Bicycle Facilities

The pedestrian and bicycle facilities are adequate, as conditioned for additional bike facilities. General circulation and access for cyclists and pedestrians is being significantly improved through the widening of the sidewalk and new connections to nearby development.

Local Area Transportation Review (LATR)

The table below shows the number of peak-hour trips generated by the proposed application during the weekday morning peak period (6:30 to 9:30 a.m.) and the evening peak period (4:00 to 7:00 p.m.):

<i>Trip Generation</i>		<i>Site-Generated Peak-Hour Trips</i>	
		<i>Morning</i>	<i>Evening</i>
<i>Trips based on the LATR & PAMR Guidelines</i>	245 Apartments	101	116
18% trip reduction for location within a Metro Station Policy Area		18	21
Net Peak-Hour Trips		83	95

The Applicant submitted a traffic study to satisfy the LATR test because the proposed land use generates 30 or more peak-hour trips within the weekday morning and evening peak periods. The table below shows the calculated Critical Lane Volume (CLV) values from the traffic study at the analyzed intersections for the following traffic conditions:

1. Existing: Traffic conditions as they exist now.
2. Background: The existing condition plus the trips generated from approved but un-built nearby development.
3. Total: The background condition plus the site-generated trips.

<i>Analyzed Intersection</i>	<i>Weekday Peak Hour</i>	<i>Traffic Condition</i>		
		<i>Existing</i>	<i>Background</i>	<i>Total</i>
Georgia Avenue and Reddie Drive	Morning	945	1,029	1,035
	Evening	918	1,052	1,054
Veirs Mill Road and WMATA & Mall Access Points	Morning	573	573	578
	Evening	701	701	711
Georgia Avenue and Veirs Mill Road	Morning	929	957	972
	Evening	866	887	909
Georgia Avenue and Windham Lane	Morning	1,109	1,151	1,163
	Evening	1,140	1,193	1,221
Georgia Avenue and Site Driveway	Morning	N/A – Not Existing		1,035
	Evening	N/A – Not Existing		746

The CLV values at all analyzed intersections were less than the 1,800 congestion standard for the Wheaton CBD Policy Area and, thus, Staff finds the LATR test is satisfied.

Policy Area Mobility Review (PAMR)

Under the current *Growth Policy*, the PAMR test requires the Applicant to mitigate 10 (10% of the 95) new peak-hour trips generated by the proposed development within the weekday morning and evening peak periods. Since the 18% reduction in site-generated trips permitted for residential units located in a Metrorail station policy area is greater than the number of trips required for 10% PAMR mitigation, Staff finds the PAMR test does not apply.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed multi-family building. The site is served by public water and sewer. Gas, electric, and telecommunications services are also available to serve the property. Police stations, firehouses, schools, and health services are currently operating within the standards set by the effective Growth Policy Resolution. The application has been reviewed and approved by the Montgomery County Fire and Rescue Service (MCFRS), which has determined that the property has adequate access for emergency vehicles. The site is located in the Einstein school cluster which currently requires no school facilities payment at any level.

ENVIRONMENT

Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420063230) on March 21, 2008, and recertified on July 8, 2010. The site contains no forest, streams, or wetlands, but does contain approximately 0.22 acres of environmental buffers.



Approved NRI (detail)

Stream Valley Buffer mitigation measures are required due to encroachments into environmental buffers. The Environmental Subsection of Section 3: Site Plan Review of this report, describes the measures recommended for approval.

Forest Conservation

This property is subject to Chapter 22A, Forest Conservation Law, of the Montgomery County Code and a Final Forest Conservation Plan (FFCP) has been reviewed and is recommend for approval as part of this Site Plan application. The FFCP includes all areas of off-site disturbance, including the stream improvements. The proposed development generates a planting requirement of 0.59 acres, which will be met through a payment of fee-in-lieu.

Stormwater Management

The Department of Permitting Services approved a Stormwater Management Concept Plan on February 11, 2011. The plan includes stormwater planters and micro-biofiltration facilities as water quality devices and control for the first 1” of rainfall. The remainder of the quantity control will drain to the Dennis Avenue Wheaton Branch Regional facility.

Therefore, based on the analysis above Staff finds the plan meets the Environmental Guidelines and Forest Conservation Law.

MASTER PLAN

The proposed project is consistent with the Approved and Adopted 1990 Sector Plan for the Wheaton Central Business District and Vicinity because it supports the Wheaton Sector Plan’s goal of mixed-use development and housing near Metro as follows:

- Additional housing takes advantage of improved public transportation accessibility;
- The project contributes to providing a wide choice of housing types and prices in Wheaton;
- The proposed project contributes to satisfying the demand for housing in the County; and
- The proposed project increases the population living in Wheaton supporting existing retail and restaurant establishments.

Relevant Master Plan Text

One of the Sector Plan’s goals is to” *provide additional housing to take advantage of improved public transportation accessibility brought about by Metro*” (page 2).

This statement is reinforced on page 26 where there is a recommendation to provide “*additional new housing and a range of housing opportunities to serve a broad spectrum of the metropolitan population. A variety of housing types would help to satisfy a demand for housing that may not be available in other parts of the County. A combination of apartments, townhomes, and single-family homes can expand the age and family size mix in Wheaton. An increase in the local population base can generate greater support for retail establishments, entertainment and recreation facilities, restaurants, and the like. New residential development should be encouraged to ensure the viability of the business areas.*”

The VISION section of the Plan envisions Wheaton as a good place to live, where “*A wide choice of housing types and prices is available for a diversity of lifestyles and incomes*” (page22).

In the Land Use and Zoning section under PLAN HIGHLIGHTS on page 2, the Plan *“recommends the development of new housing adjacent to the Metro station and at other locations in the Sector Plan area”*.

On page 27, the Plan states: *“Encourage new mixed use development to concentrate around the Metro station and in other areas of greater transit accessibility...Encourage the development of new housing in a range of types, prices, and rents, especially within walking distance of the Metrorail and Metrobus stations...; [and] Encourage new housing to help reinforce Wheaton as a lively area, especially during evenings.”*

Under the RESIDENTIAL LAND USE on page 33, the Plan states: *“This Sector Plan attempts to build upon the existing retail advantages and the potential of the Metro transit station in Wheaton. In attempting to capitalize on these assets, the Plan recommends the development of a strong supporting population base. A variety of housing types in close proximity to the Central Business District and the Metro station would meet the needs of the residential housing market, would provide built-in purchasing power for the local retail Marketplace, would provide for an increase in the potential ridership on the Glenmont Transit Route, and should not contribute to the demand for commuter parking in the station area since it would be within walking or short bus-ride distance.”*

Pending Wheaton CBD and Vicinity Sector Plan

The pending Sector Plan amendment, a draft of which was approved by the Planning Board in April of 2011, continues to recommend “mixed-use – residential emphasis” as a land use for this site (page 29). The proposed development is below the recommended maximum density and height in the Draft Plan (CR4.0 C3.5 R3.5 H100, Westfield District, pages 48-49). The Draft Plan does not have any other specific recommendations for this site.

Conclusion

The proposed project addresses the demand for housing and provides greater housing diversity in Wheaton by offering more housing choices. Due to the project’s location near Metro, residents of this project can take advantage of existing transit infrastructure. The project contributes to increasing the population living in Wheaton which would support existing retail establishments. Therefore, Staff finds the proposal substantially conforms with the Approved and Adopted 1990 Master Plan for the Wheaton Central Business District and Vicinity and the pending Wheaton CBD and Vicinity Sector Plan.

COMPLIANCE WITH ZONING ORDINANCE AND SUBDIVISION REGULATIONS

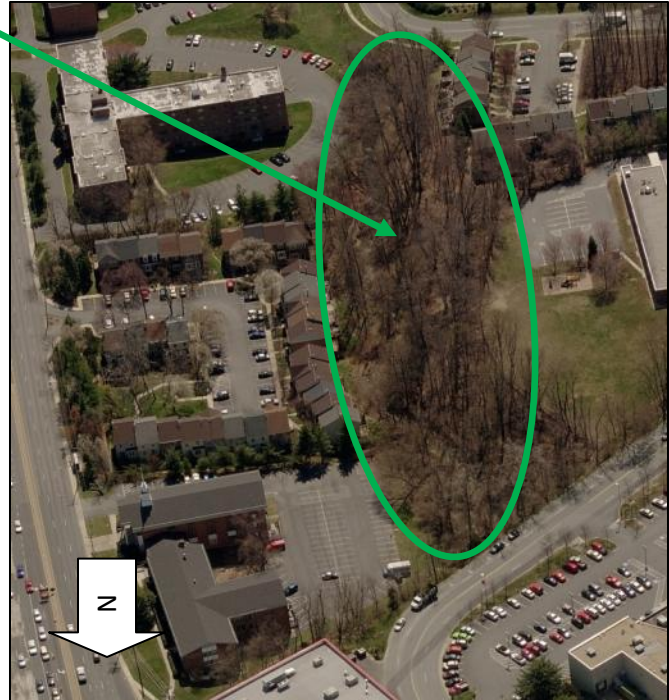
Staff has reviewed the application for compliance with Chapter 50 of the Montgomery County Code, the Subdivision Regulations. The application meets the requirement and standards of all applicable sections. Access and public facilities will be adequate to support the proposed lot, density, and use. The proposed lot size, width, shape, and orientation are appropriate for this type of subdivision. Staff has also reviewed the proposed subdivision for compliance with the dimensional requirements of the TS-R Zone as specified in the Zoning Ordinance. The proposed development meets all dimensional requirements in that zone, and the amount of proposed open space for the site meets the minimum required by the zone, as detailed in Section 3: Site Plan Review of this report. Finally, the application has been reviewed by other applicable County agencies, all of whom have recommended approval of the plan.

SECTION 3: SITE PLAN REVIEW

ENVIRONMENT

Stream Buffer Encroachment Mitigation

The property is directly adjacent to a forested area with an urban stream running through it. This urban stream is a tributary to Sligo Creek that originates from an outfall from Westfield Wheaton Mall. The channel runs for 800 feet into another concrete pipe, which eventually leads to the Dennis Avenue Wheaton Branch Regional facility. The water quality in this stream is poor, due to numerous illegal discharge incidents, and there appears to be no biological life in the channel. Due to the high water volume and velocity associated with storm events, the stream banks are so severely eroded that the townhouse community directly downstream has installed gabions (wire boxes filled with stones) as bank protection devices. There is a floodplain associated with this stream because it channels such a large amount of water.



The water in this stream comes from two main sources. The first is groundwater, as confirmed by Montgomery County Department of Environmental Protection laboratory analysis. There is also a significant amount of stormwater flowing into this channel. Because there is a groundwater component to the flow, this channel is classified as a stream and buffered according to the Planning Board's Environmental Guidelines. The width of the buffer is based on the Use Class of the watershed and the steepness of the associated slopes, as well as any wetlands present. This stream is classified as a Use Class I stream with no adjacent steep slopes and requires a 100-foot buffer, per Table 1 in Sec. III (B) of the Environmental Guidelines.

Environmental buffers have many uses and benefits in both the natural and man-made environment. One of the purposes of the buffer is to physically separate and protect the stream from disturbance and erosion. The preservation of water quality through pollutant and contaminant removal and control of water temperature are also major goals of the environmental buffer. The environmental buffer also moderates the fluctuations in stream flow, which in turn preserves the integrity of the stream channel. While the environmental buffers prescribed in the Environmental Guidelines are the best protection for water quality, there are some circumstances that may not allow for the full buffer to be preserved or restored. Sometimes there are multiple planning goals that need to be fulfilled and a balance must be achieved. Often this occurs in redevelopment when initial development happened under different, looser environmental guidance. The first priority always is to avoid any encroachment. If this is demonstrably impossible, then the encroachment is minimized and mitigation proposed.



The proposed project includes permanent encroachment in all 0.22 acres of on-site stream valley buffer. The Planning Board discussed this issue at the time of the Local Map Amendment (G-876) and agreed that the objective of providing housing at transit stations warranted allowing the stream valley buffer encroachment. A conceptual stream valley buffer mitigation plan was provided with the zoning application and showed channel stabilization and rehabilitation measures on the off-site stream. The elements of the plan included bank stabilization, channel cleanup, outfall extensions, and channel erosion control and were sited along the entire 800' stretch of the exposed stream.

The stream valley buffer encroachment plan has been refined to reflect detailed site analysis and opportunities for enhancement. The nature of urban streams with extreme storm flows and confined stream banks present special challenges that are not appropriate for many restoration techniques. The proposed improvements are designed to provide protection for the stream banks and enhance downstream water quality through the reduction of sediment flow.

The specific improvements include:

- Slope stabilization with individually placed rip-rap;
- Extension and redirection of outfalls to reduce erosion;
- Stabilization of undercut tree roots;
- Log jam and debris removal.

The stream is located on four properties, with nearly half of the length on Montgomery County Public Schools (MCPS) property, Stephen Knolls School, which has a forested area directly adjacent to the stream, providing separation from playing fields. As all of the stream valley buffer restoration work will be occurring on properties not controlled by the Applicant, the Applicant must secure permission for access and disturbance from the three property owners, including MCPS, whose properties will be affected. The Applicant has been working with the property owners and has secured permission for access and disturbance from all owners except MCPS.

Noise

This site is located at the intersection of Georgia Avenue and Veirs Mill Road, both of which carry large volumes of cars and trucks. Traffic idling at the stoplight at this intersection will generate additional noise. While the recreation areas are shielded from noise by the design of the building, some living spaces are subjected to traffic noise. This noise can be attenuated through architectural means and must meet the 45dBA L_{DN} (decibels day-night average) standard. This standard was established in the

Montgomery County Environmental Planning publication “Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development” and is used by the Planning Board when evaluating noise levels and abatement.

Forest Conservation & Stormwater Management

These subjects are addressed in Section 2: Preliminary Plan Review in this report with the additional Findings below.

DEVELOPMENT STANDARDS

The proposed development was rezoned to the TS-R Zone, Transit-Station, Residential by Local Map Amendment G-876. The intent of the Transit Station zones is to provide mixed-use and multi-family residential development at increased intensity within Transit Station Development Areas and near Metro stations. There are few development standards in the TS-R Zone because of the process required for an application, which includes approval of a Development Plan and a Site Plan entailing at least three public hearings. The following table shows the application’s conformance to the development standards of the zone and the approved Development Plan.

Data Table for the TS-R Zone			
Development Standard	Required/ Allowed	Approved by G-876	Proposed
Min. Gross Tract Area (square feet)	18,000	102,612	102,680 ¹
Density			
Max. Floor Area Ratio	2.5	Up to 2.5	2.39
Max. Units per Acre	150 (353 total)	104 (up to 245 total)	104 (up to 245 total)
Min. MPDUs (%)			
	12.5	12.5	12.5
Min. Setbacks (feet)			
Front (east)	n/a	20	20
Side (south)	15	15	15
Rear	17	17	17
Min. Open Space (%)			
Public Use Space	10	10.3	12
Active/Passive Recreation	25	30.2	34
Total	35	40.6	46
Parking (spaces)			
Vehicle	248 ²	n/a	230 ³
Bicycle	20	n/a	20
Motorcycle	10	n/a	10

¹ Difference in gross tract area between Development Plan and site plan is due to a more accurate survey.

² Including 5% reduction for location within 1,600’ of a Metro station and 10% reduction for location within a Metro Station Policy Area.

³ With waiver of 8% under Section 59-E-4.5; final number of spaces may be modified per unit mix and total units provided that no fewer than 92% of the required spaces are provided.

FINDINGS

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

The Site Plan is subject to the binding elements of Development Plan G-876:

1. Because the Planning Staff has determined that the proposed building improvements will encroach upon stream valley buffer, the Applicant must provide stream valley buffer mitigation as generally provided for in the exhibit labeled "Conceptual Stream Valley Buffer Encroachment Mitigation Exhibit" made part of the record for this case or as otherwise approved by the Planning Board in conjunction with 59-D-3 site plan approval for this project.
2. The Applicant may pursue any uses permitted in the TS-R Zone at the time of site plan, at the Applicant's option.
3. The project will not exceed a maximum of 245 multi-family dwelling units, including 12.5% MPDUs, with final unit count, unit mix, and parking requirements to be addressed at site plan.
4. The project will not exceed 70 feet in building height (measured from the building height measuring point of 410.3 feet as shown on the Development Plan), with final building height, not to exceed 70 feet, to be determined at the time of site plan.
5. The project will be set back a minimum of 10 feet from the southern property line adjacent to the townhouses.
6. The 10-foot setback along the southern property line will be landscaped to the extent practical to provide additional screening and buffering from the adjacent townhouses.

The site plan conforms to each of these binding elements. A stream valley buffer encroachment mitigation plan has been provided with the Site Plan application and, as conditioned, will mitigate the effects of the environmental buffer encroachments. The Applicant has proposed only residential use with the Site Plan, which is a permitted use in the TS-R Zone. The project is limited to a maximum of 245 multi-family dwelling units and must provide a minimum of 12.5% MPDUs. At the time of Certified Site Plan, the final unit count, mix, and parking requirements will be provided within the limitations set by the Planning Board's Resolution. The proposed development does not exceed 70 feet in height and provides a well-landscaped setback along the southern property line in excess of the required 10 feet.

2. *The Site Plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Transit Station zones have several intents enumerated in Section 59-C-8.21.

- (a) The TS-R and TS-M zones are intended to be used in a Transit Station Development Area as defined in section 59-A-2.1. However, the TS-R zone may also be used in an area adjacent to a Central Business District, within 1,500 feet of a metro transit station, and the TS-M zone may be also be used within a Central Business District if the property immediately adjoins another property outside a Central Business District that is eligible for classification in the

TS-M zone or separated only by a public right-of-way from property outside a Central Business District that is eligible for classification in the TS-M zone.

- (b) The TS-R zone is intended for locations where multiple-family residential development already exists or where such development is recommended by an approved and adopted master plan.
- (c) The TS-M zone is intended for locations where substantial commercial or office uses already exist or where such uses are recommended by an approved and adopted master plan.
- (d) In order to facilitate and encourage innovative and creative design and the development of the most compatible and desirable pattern of land uses, some of the specific restrictions which regulate, in some other zoning categories, the height, bulk and arrangement of buildings and the location of the various land uses are eliminated and the requirement substituted that all development be in accordance with a plan of development meeting the requirements of this division.

The subject property is within 1,500 feet of a Metro station and is adjacent to the Wheaton CBD; near numerous multi-family residential sites. The proposed development meets the standards of the zone and has an approved Development Plan ensuring that it provides a “compatible and desirable pattern of land use ... meeting the requirements of [Division 59-C-8]”.

Section 59-C-8.22 specifies additional purposes of the TSR Zone:

- (a) To promote the effective use of the transit station development areas and access thereto;
- (b) To provide residential uses and certain compatible non-residential uses within walking distance of the transit stations;
- (c) To provide a range of densities that will afford planning choices to match the diverse characteristics of the several transit station development areas within the county; and
- (d) To provide the maximum amount of freedom possible in the design of buildings and their grouping and layout within the areas classified in this zone; to stimulate the coordinated, harmonious and systematic development of the area within the zone, the area surrounding the zone and the regional district as a whole; to prevent detrimental effects to the use or development of adjacent properties or the surrounding neighborhood; to provide housing for persons of all economic levels; and to promote the health, safety, morals and welfare of the present and future inhabitants of the regional district and the county as a whole.

The proposed development promotes effective use of transit, although not in a transit station development area, and provides residential uses within walking distance of a transit station at a density appropriate to the area as it transitions from the CBD to the townhouse development to the south. Further, the freedom allowed to design the building and site without numerous constraining standards has allowed for a harmonious massing of the building through floor plate design, articulation, and inclusion of open space in and around the building.

The density provided at this site will relieve pressure on surrounding neighborhoods to provide additional housing further from transit and commercial services. Affordable housing is provided as well as numerous unit types, which will expand choices for people in diverse economic levels. The development will also partially rectify a deleterious stormwater situation and provide additional trees, landscaping, and pervious areas. Generally, the development promotes the health, safety, morals, and welfare of residents of the County.

Section 59-C-8.25 requires that certain facilities and amenities be provided:

59-C-8.25. Public facilities and amenities. A development must conform substantially to the facilities and amenities recommended by the approved and adopted master or sector plan, including and granting such easements or making such dedications to the public as may be shown thereon or are deemed necessary by the Planning Board to provide for safe and efficient circulation, adequate public open space and recreation, and insure compatibility of the development with the surrounding area, and assure the ability of the area to accommodate the uses proposed by the application. The provision of MPDUs does not authorize a reduction in any public facility and amenity or active or passive recreation space recommended in a master plan or sector plan.

No public facilities or amenities are recommended in the Wheaton Sector Plan with regard to the subject property. Dedication to the recommended right-of-way along Georgia Avenue has been provided. Additional amenities and improvements are provided as noted in the subsequent findings.

Section 59-C-8.5. details additional requirements of the TS-R Zone:

59-C-8.51. Building height limit.

The maximum height permitted for any building shall be determined in the process of site plan review. In approving height limits the planning board shall take into consideration the size of the lot or parcel, the relationship of the building or buildings to surrounding uses, the need to preserve light and air for the residents of the development and residents of surrounding properties and any other factors relevant to height of the building.

59-C-8.52. Off-street parking.

Parking shall be so located as to have a minimal impact on any adjoining residential properties.

59-C-8.53. Streets.

Interior streets may be private or public but private streets must have a minimum width of 20 feet for two-way traffic and 10 feet for one-way traffic and must be paved and maintained in good repair.

59-C-8.54. Ancillary commercial uses.

Ancillary commercial uses, as a permitted use or by special exception as set forth in section 59-C-8.3, may be permitted as follows:

- (a) The amount of floor area devoted to commercial uses cannot exceed the amount or substantially alter the configuration specified for the site in the applicable master or sector plan.
- (b) If the master or sector plan does not make a specific recommendation as to the amount of floor area allowed, then commercial uses are limited to the street level only.

In addition, a restaurant may be permitted on the top or penthouse floor. All commercial uses must be so located and constructed to protect tenants of the building from noise, traffic, odors and interference with privacy.

The proposed building was approved with a height of 70 feet during Development Plan review with no objections raised by the adjoining property owners. The building is setback 15 feet from the southern property line ensuring that the building is least 37 feet from the closest townhouse. In addition, the “U”-shaped plan of the building breaks the width of the building along the southern elevation into two sections about 125 and 75 feet wide, respectively from what would have been a 350-foot wide wall. This separation will allow increased light and air in and around the site and adjacent properties. Further, being situated to the north of any residential development, however, eliminates any potential shading effect.

Off-street parking will be provided within three structured levels below the residences and, where visible above grade, buffered by plantings. Headlight glare and vehicular noise will be mitigated by the surrounding structure.

No streets or commercial uses are proposed on site.

Finally, the proposed site plan meets or exceeds all development standards as shown on the table above. The maximum permitted FAR is 2.5 FAR or 150 units per acre, both of which are above the density proposed. There is no height limit in the TS-R Zone, nor any setbacks required. The development is, however, limited to the maximum height and minimum setbacks approved by the Development Plan. These limits are met or exceeded by the proposed Site Plan. The active and passive recreation space required by the zone is exceeded by almost 10% and the public use space required by the zone is exceeded by almost 2%.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Locations of buildings and structures

Because of the specific requirements of the TS-R Zone, the buildings and structures have been reviewed in detail balancing the freedom granted through the absence of significant development standards against the significant public review process. The resulting development provides an appropriate use and density on the subject site, given its proximity to transit and numerous commercial services, while providing a massing envelope that minimizes visual impacts on property owners to the south. The six-story multi-family residential building over structured parking in a “U”-shaped structure opening to the south with the proposed setbacks is an adequate, safe, and efficient land use at this location.

b. Open Spaces

Open spaces are appropriately located on the subject site. Public use space is placed along Georgia Avenue with benches, lighting, and plantings. Private recreation space is provided in the building as well as in a courtyard with outdoor amenities for the residents. Passive recreation and amenity space surrounds the building with plantings and stormwater management facilities improving run-off. This arrangement of various types of open space is an adequate, safe, and efficient use of the space around the building footprint.

c. Landscaping and Lighting

Landscaping and lighting are broken into three patterns appropriate to each of the open space areas: public use along Georgia Avenue, private recreation space within the courtyard, and passive amenity space around the building. In the first case, the plantings and lighting will

provide visual interest and shade along the public sidewalk, which is well lit with street lights and bollard lighting. In the case of the private recreation space, significant plantings and integrated lighting techniques have been provided to allow use of what would otherwise be a garage roof. Finally, the space around the building will be used for plantings to buffer the mass of the building, plantings within micro-bioretenion facilities to mitigate stormwater run-off, and functional lighting to ensure safety for residents and neighbors. This landscape and lighting plan is an adequate, safe, and efficient use of plant material and lighting fixtures to respond to various open space contexts.

d. Recreation Facilities

The proposed development is exceeding the active and passive recreation space required by the zone: 25% of the net lot area (18,034sf). Within the building a cyber café, club room, and fitness room will be provided totaling approximately 4,157sf; the courtyard with a swimming pool, pool deck with trellises, a gazebo, and an outdoor “lawn” area with an exterior tv/movie screen. When the courtyard area is added to the passive amenity space around the footprint of the building, the total is approximately 20,140sf.

Recreation Demand (points required for 232 “high-rise apartments” per age group)						
Units	Tots	Children	Teens	Adults	Seniors	Total
245	9.80	9.80	9.80	188.65	112.70	313.20
Recreation Supply (points provided for 232 “high-rise apartments per facility)						
On Site (must be within 10% of demand)						
Picnic/Sitting Areas (5)	5.0	5.0	7.5	25.0	10.0	52.50
Indoor Community Space (1)	0.93	1.39	2.78	53.59	42.69	101.38
Indoor Fitness Facility	0.0	0.93	0.93	35.73	16.01	53.59
Cyber Café	0.5	1.0	5.0	30.00	20.00	70.5
Swimming Pool	0.22	0.82	0.82	19.25	6.9	28.01
Outdoor Area	3.0	1.39	2.78	53.59	42.69	103.45
Total	9.65	10.53	19.81	217.16	138.29	409.43

Proposed recreation facilities meet the demand stipulated by the Planning Board’s Recreation Guidelines, as shown in the table. Although not listed in the provided recreation facilities on the site plan, a swimming pool is shown on the site plan and is required to fulfill the recreation amenity needs, unless modified by the Planning Board by amendment. Also, although a cyber café is not listed in the recreation guidelines, points for this facility are deemed appropriate equal to about 50-75% of the indoor community space, except for teens, which are expected to get greater use from this facility as reflected in the table. Last, because there is no good fit for the outside “lawn”, gazebo, and movie area, which will provide for more than sitting/picnicking, points were deemed appropriate similar to the indoor community space, except tots, for whom

the “lawn” during the day is the best supervised, contained, and safe area nearby for outdoor play, as reflected in the table. As reflected in the table and as conditioned, the application is providing adequate, safe, and efficient recreation facilities to allow residents to lead an active and healthy life.

e. Pedestrian and Vehicular Circulation Systems

There is little vehicular circulation to be concerned with: one ingress and egress point for all vehicles at the southeast corner of the site. This location is the furthest point from the intersection of Georgia Avenue and Veirs Mill Road; all turning movements and loading activities can be made within the parking structure.

Likewise, pedestrian circulation is basically linear: from the building to the sidewalk leading north and south along Georgia Avenue. Within the public use space, however, meandering paths and seating have been provided to enhance the circulation system. Facilities for bicycle storage are also being provided to encourage cycling. The pedestrian and vehicular circulation systems are adequate, safe, and efficient, given the limited “system” that they provide; more importantly, the direct connections to the larger network are obvious and direct.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The residential use is certainly compatible and appropriate for this area with similar uses and with access to necessary services and transit. As described above, the building has been designed to have the least impact possible on the adjacent properties to the south, while respecting the allowed height and density approved by the Development Plan. The specific footprint of the building above the parking deck – a rough “U”-shape open to the south – as well as façade articulation, balconies, height variation, and fenestration also help create a more compatible relationship with the adjacent townhomes. No other site plans are in the pipeline in the immediate area.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

a. Forest Conservation

This property is subject to Chapter 22A (Forest Conservation Law) of the Montgomery County Code and a Final Forest Conservation Plan has been reviewed and is recommend for approval as part of the Site Plan application. The plan includes all areas of off-site disturbance, including the stream improvements. The proposed development generates a planting requirement of 0.59 acres, which will be met through a payment of fee-in-lieu.

b. Stormwater Management

The Department of Permitting Services approved a Stormwater Management Concept Plan on February 11, 2011. The plan includes stormwater planters and micro-biofiltration facilities as water quality devices and control for the first 1” of rainfall. The remainder of the quantity control will drain to the Dennis Avenue Wheaton Branch Regional facility.

c. Environmental Buffer Encroachment

As required by the Environmental Guidelines, the encroachment into on-site environmental buffers will be mitigated by stream restoration measures. The proposed improvements are designed to provide protection for the stream banks and enhance downstream water quality through the reduction of sediment flow. The specific forms of improvements include; slope stabilization with individually placed rip-rap; extension and redirection of outfalls to reduce erosion; stabilization of undercut tree roots; and log jam and debris removal.

ATTACHMENTS:

- A. Agency Approval Letters
- B. Local Map Amendment Resolution
- C. Citizen Correspondence



Attachment A

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

August 12, 2011

Richard Y. Nelson, Jr.
Director

Mr. Joshua Sloan
Mr. Patrick Butler
Area 2 Team
Maryland-National Capital Park & Planning Commission
8787 Georgia Ave.
Silver Spring, MD 20910

RE: 10914 Georgia Avenue – Preliminary Plan No. 120110320 and
Site Plan No. 820110100

Dear Mr. Sloan and Mr. Butler:

The Department of Housing and Community Affairs (DHCA) has reviewed the applicant's revisions to the above-referenced preliminary and site plan applications. DHCA recommends Approval of these plans with the following conditions:

- The current plans still propose one more one-bedroom MPDU and one less two-bedroom MPDU than allowed by Chapter 25A. DHCA will need to review and approve final bedroom proportions at certified site plan.
- At certified site plan, DHCA will need to review and approve schematic floor plans of the proposed residential building showing locations of MPDUs and market rate units on each floor, with a summary chart of location and bedroom composition of MPDUs and market rate units, as well as schematic floor plans (including dimensions and square footage) for each MPDU unit type. The MPDU Pricing Standards and Minimum Specifications for MPDUs include additional guidance for the applicant.

If you have any questions, please contact me at 240-777-3786.

Sincerely,

Lisa S. Schwartz
Senior Planning Specialist

cc: C. Robert Dalrymple, Linowes and Blocher LLP
Heather Dlhopsky, Linowes and Blocher LLP
Christopher J. Anderson, DHCA
Lawrence C. Cager, DHCA

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Office of the Director



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid
Director

February 11, 2011

Mr. Kenneth Jones
Macris, Hendricks and Glascock, P.A.
9220 Wightman Road, Suite 120
Montgomery Village, MD 20886-1279

Re: Revised Stormwater Management **CONCEPT**
Request for 10914 Georgia Avenue
Preliminary Plan #: Pre-720080070
SM File #: 232471
Tract Size/Zone: 1.76 acres/R-80
Total Concept Area: 1.98 acres
Lots/Block: NA
Parcel(s): P-754, P758 & N-760
Watershed: Sligo Creek

Dear Mr. Jones:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The revised stormwater management concept consists of Environmental Sensitive Design to control at least one inch of the Pe. The remainder will drain to the Wheaton Branch Regional facility.

The following items will need to be addressed during the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. Access for maintenance of the Micro-biofilters in the rear of the building must be provided from the parking deck.
6. Safe outfall of the overflow from the planters in the front of the buildings must be provided.
7. Permission from the adjacent property owner to allow necessary grading must be obtained prior to submission of detailed plan for review.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact William Campbell at 240-777-6345.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:ta

cc: C. Conlon
M. Pfefferte
SM File # 232471

ON - offsite; Acres: 1.98
QL - onsite; Acres: 1.98
Recharge is provided



FIRE MARSHAL COMMENTS

DATE: 27-Jul-11
TO: Mike Plitt
Macris, Hendricks & Glascock
FROM: Marie LaBaw
RE: 10914 Georgia Ave (Wheaton Apartments)
G-876 120110320 820110100

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **27-Jul-11**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

July 6, 2011

Mr. Patrick Butler, Planner
Area 2
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #1-20110320
10914 Georgia Ave

Dear Mr. Butler:

We have completed our review of the preliminary plan dated May 6, 2011. This preliminary plan was reviewed by the Development Review Committee at its meeting on June 13, 2011. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Necessary dedication for Georgia Ave (MD 97) and Veirs Mill Road (MD 586) in accordance with the Master Plan.
2. We recommend the Montgomery County Planning Board require the applicant to construct a 10 foot wide sidewalk per CBD standards (otherwise with 6' green panel) along the site frontage.

Elevate the planting strips and/or SWM features to prevent pedestrian crossing at mid block and vehicles to drop off and pickup and taper sidewalk back to existing sidewalks outside property ends.

Also show safe pedestrian route to Metro Station, adjacent bus stops and retail across Georgia Avenue. Recommend pedestrian/bike shortcut into Shopping Center.

3. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.

Division of Traffic Engineering and Operations

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080
trafficops@montgomerycountymd.gov

Mr. Patrick Butler
Preliminary Plan No. 1-20110320
July 6, 2011
Page 2

4. Access and improvements along Georgia Ave (MD 97) and Veirs Mill Road (MD 586) as required by the Maryland State Highway Administration.
5. Please coordinate with MCDOT Division of Transit Services about their requirements, project impacts on their network and if the existing bus stop can remain. Contact Ms. Stacy Coletta for details. Ms. Coletta may be contacted at 240 777-5836.
6. Georgia Ave. (MD 97) and Veirs Mill Road (MD 586) are Bikeway routes. Please coordinate content and placement of Bike Route and Directional Signs with SHA and MCDOT, Gail Tait-Nouri at 240-777-7243.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Sam Farhadi, our Development Review Area Engineer for this vicinity at (240) 777-2197 or sam.farhadi@montgomerycountymd.gov.

Sincerely,



Gregory M. Leck, P.E. Manager
Development Review Team

m:/subdivision/farhas01/preliminary plans/ 1-20110320, 10914 Georgia Ave.doc

Enclosure

- cc: Evan Feldman, Washington Property Company
D. Edward Williams, First Baptist Church of Wheaton, Inc
Michael D. Plitt, Macris, Hendricks and Glascock
C. Robert Dalrymple, Linowes & Blocher
Glenn Kreger, M-NCPPC Area 2
Shahriar Etemadi, M-NCPPC Area 2
Ed Axler, M-NCPPC Area 2
James Renaud, MSHA AMD
Preliminary Plan Folder
Preliminary Plans Note Book
- cc-e: Rick Brush, MCDPS WRM
Atiq Panjshiri, MCDPS RWPR
Henry Emery; DPS RWPR
Stacy Coletta, MCDOT DTS
Gail Tait-Nouri, MCDOT DTE
Dan Sanayi, MCDOT DTEO
Fred Lees, DOT DTEO
Bruce Mangum, MCDOT DTEO
Sam Farhadi, MCDOT DTEO

Attachment B

Resolution No.: 17-22
Introduced: January 18, 2011
Adopted: January 18, 2011

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY**

By: District Council

SUBJECT: APPLICATION NO. G-876 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, C. Robert Dalrymple, Esquire and Heather Dhopolsky, Esquire, Attorneys for Applicant, Washington Property Company, OPINION AND RESOLUTION ON APPLICATION. Tax Account No. 07-00430190.

OPINION

Application No. G-876, filed on May 27, 2008 by Washington Property Company, requests reclassification of approximately 1.76 acres of land adjacent to the Wheaton Central Business District from the R-60 to the TS-R Zone (Transit Station-Residential). Applicant seeks to rezone Parcels P754, P758 and N760, a site located on the west side of Georgia Avenue just south of its intersection with Viers Mill Road, adjacent to Westfield Wheaton Shopping Center and within 1,500 feet of the Wheaton Metro Station.

The site is currently occupied by the First Baptist Church of Wheaton and its associated parking. The subject property lies within area covered by the *1990 Wheaton Central Business District and Vicinity Sector Plan*.

The application for rezoning was reviewed by the Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC), and in a report dated July 12, 2010, Staff recommended approval of the application. The Montgomery County Planning Board (Planning Board), considered the application on July 22, 2010 and, by a vote of 4 to 0, also recommended approval, and supported the possibility of including street-level retail in the project provided that all adequate public facilities requirements may be met.

Before the Hearing Examiner, the Applicant proposed a maximum of 245 dwelling units, including 31 (12.5%) MPDUs and 222 underground parking spaces. The 245-unit maximum reflects an increase in the number of units reviewed by the Planning Board. The Applicant proposed the increase to permit more market flexibility in the type of dwelling units offered (i.e., one or two bedrooms), but the increase is not intended to change the bulk of the development. As the Planning Board requested, the Applicant added a binding textual element limiting the

height of the building to 70 feet and requiring a ten-foot setback and landscaping along the southern property line. Also at the request of the Planning Board, the development plan preserves a possibility of including incidental retail at the time of site plan, but the Applicant does not propose retail uses at this time.

The hearing in this case concluded on October 15, 2010, and the record was held open until November 8, 2010, in part to allow the Applicant to file additional evidence relating to the increased number of dwelling units. The Hearing Examiner recommended approval on grounds that the proposed development satisfies the intent, purpose and standards of the TS-R Zone; that it meets the requirements set forth in §59-D-1.61 of the Zoning Ordinance; that the application proposes a project that would be compatible with development in the surrounding area; and that the requested reclassification to the TS-R Zone has been shown to be in the public interest.

The Wheaton Redevelopment Advisory Committee supported the application, as did an adjacent property owner to the south of the subject property. Specifically, the Wheaton Redevelopment Advisory Committee stated the application is "consistent with the County's goal of Smart Growth communities and it will benefit Wheaton by bringing needed density to support our commercial center. The design of this project will enhance the architectural fabric of Georgia Avenue and create a pleasant streetscape along one of the main arteries of into our town center." Exhibit 34, p. 41. The adjacent owner supported the application because he felt that the existing use underutilized property so close to a Metro Station.

There has been no opposition to this application.

To avoid unnecessary detail in this Resolution, the Hearing Examiner's Report and Recommendation, dated December 16, 2010, is incorporated herein by reference. Based on its review of the entire record, the District Council finds that the application does meet the standards required for approval of the requested rezoning for the reasons set forth by the Hearing Examiner.

The subject property consists of three parcels located adjacent to, and southwest of, the Westfield Wheaton Shopping Center and the boundary of the Wheaton Central Business District. The property is situated immediately southwest of the intersection of Viers Mill Road and Georgia Avenue and the Wheaton Metro Station lies less than one-quarter mile (approximately 1,100 square feet) to the north.

The surrounding area must be identified in a floating zone case so that compatibility can be evaluated properly. The "surrounding area" is defined less rigidly in connection with a floating zone application than in evaluating a Euclidean zone application. In general, the definition of the surrounding area takes into account those areas that would be most directly affected by the proposed development. Technical Staff recommends including within the "surrounding area" the entire Wheaton Central Business District, and describes the area as bounded by University Boulevard to the north, Amherst Avenue to the East, McComas and Douglas Avenues to the south, and the Westfield Wheaton Shopping Center ring road to the west. The District Council accepts this definition of the "surrounding area."

Land use in the surrounding area is generally a mix of retail and residential development. There are several higher density (up to six stories) existing residential projects within the surrounding area as well as a variety of retail uses ranging from the mall to one-story retail businesses. An eighteen-story residential development (with retail on the first level) has been approved. Properties immediately adjoining the proposed development include a townhome community (zoned RT 12.5) along the southern border, Stephen Knolls Elementary School to the southwest, and Westfield Wheaton Shopping Center to the northwest. One to two story retail buildings lie directly across Georgia Avenue (to the east) and a six-story residential development is across Georgia Avenue to the northeast.

Technical Staff advises that the R-60 Zone was enacted and mapped in the 1958 comprehensive rezoning. The Board of Appeals approved a special exception for a private educational institution (for up to 36 children) in 1976.

The applicable master plan, the *1990 Wheaton Central Business District and Vicinity Sector Plan*, recommends retention of the existing R-60 zoning for the subject property. The Plan also, however, defines as a primary goal the attraction of a strong residential population base to support the wealth of retail in the surrounding area. As set forth below, because the Sector Plan's recommendation of R-60 for this property is twenty years old and its basis is unclear, and because the proposed development furthers the primary goal of the Sector Plan, the District Council finds that the application is consistent with the Sector Plan. Additionally, a public hearing draft amendment to the Sector Plan is now pending. While not binding on this application, the evidence demonstrates that the proposed development will not preclude implementation of the goals of the draft Sector Plan amendment.

As previously noted, the Applicant proposes a maximum of 245 dwelling units rising six stories along the Georgia Avenue frontage. At the request of the Planning Board, the Applicant has agreed to leave open the potential for adding a small amount of retail at the time of site plan review, but does not propose any retail at this time.

Parking will be underground and will not be visible from Georgia Avenue. As proposed, the application includes 222 parking spaces (256 are required). While the Applicant has requested a "concept waiver" of the minimum parking requirements, the Hearing Examiner found that such a waiver is unnecessary at the rezoning stage, but should be addressed at the time of site plan review as provided by the Code. For the reasons set forth by the Hearing Examiner, the District Council concurs with this finding.

The existing use (the church and its parking lot) protrudes into an environmental buffer resulting from a stream on adjoining property to the west (Stephen Knolls Elementary School). The proposed development is planned to occupy the same development envelope as the existing use, but a stream valley buffer mitigation plan is a binding element of the development plan. Exhibit 58(a). The proposed mitigation plan is designed to stabilize the banks of the entire stream (approximately 800 feet in length), thereby reducing erosion not only on the subject property, but also on properties to the south (including the townhome community.)

Both Technical Staff and the Hearing Examiner concluded that the proposed development is compatible with adjacent development by providing a transitional "gateway" to

the Wheaton Central Business District through increasing height, density and other features. The development incorporates the following features to enhance compatibility with the surrounding properties and area:

- Dedication of additional sidewalk width along Georgia Avenue to enhance pedestrian access to the Central Business District;
- Public seating and enhanced landscaping along the Georgia Avenue streetscape for public use;
- Terraced setbacks and landscaping along the southern end of the property adjacent to the townhomes with a minimum ten-foot setback from the property line;
- Architectural details along the Georgia Avenue façade reminiscent of the townhome community to the south.

Pursuant to Zoning Ordinance §59-D-1.1, development in the TS-R Zone is permitted only in accordance with a development plan that is approved by the District Council when the property is reclassified to the TS-R Zone. The Development Plan and the Land Use Plan that constitutes one of its primary parts are binding on the Applicant except where particular elements are identified as illustrative or conceptual. Illustrative elements may be changed during site plan review by the Planning Board, but the binding elements cannot be changed without a separate application to the District Council for a development plan amendment.

The binding elements included in this application, which are printed on the Development Plan (Exhibit 58(a)), are as follows:

1. Because the Planning Staff has determined that the proposed building improvements will encroach upon stream valley buffer, the Applicant must provide stream valley buffer mitigation as generally provided for in the exhibit labeled "Conceptual Stream Valley Buffer Encroachment Mitigation Exhibit" made part of the record for this case or as otherwise approved by the Planning Board in conjunction with 59-D-3 site plan approval for this project.
2. The Applicant may pursue any uses permitted in the TS-R Zone at the time of site plan, at the Applicant's option.
3. The project will not exceed a maximum of 245 multi-family dwelling units, including 12.5% Moderately Priced Dwelling Units, with final unit count, unit mix, and parking requirements to be addressed at site plan.
4. The project will not exceed 70 feet in building height (measured from the building height measuring point of 410.3 feet as shown on the Development Plan), with final building height, not to exceed 70 feet, to be determined at the time of site plan.
5. The project will be set back a minimum of 10 feet from the southern property line adjacent to the townhouses.

6. The 10-foot setback along the southern property line will be landscaped to the extent practical to provide additional screening and buffering from the adjacent townhouses.

Section 59-D-1.61 of the Zoning Ordinance requires the District Council, before it approves any application for rezoning to the TS-R Zone, to consider whether the application, including the development plan, fulfils the “purposes and requirements” set forth in Code §59-C for the new zone. In making this determination, Zoning Ordinance §59-D-1.61 expressly requires the District Council to make five specific findings, and Maryland law requires that zoning power be exercised in the public interest.

§59-D-1.61(a): Consistency with Master Plan and other County Policies.

The first required finding is consistency with County plans and policies. These include the consistency with the applicable master plan and County growth policies.

Master Plan

The subject site is located within the area analyzed by the *1990 Wheaton Central Business District and Vicinity Sector Plan*.

While the Sector Plan recommended retention of the then-existing R-60 zoning for this particular property, the Plan also enunciated as a key goal the attraction of a large residential population. As articulated in the Plan, a strong residential population was needed to strengthen the existing retail uses, to promote transit ridership, and to reinforce Wheaton as a lively area during the day and the evening. Given that the Sector Plan is twenty years old, and there is little evidence as to why it recommended retaining the R-60 zoning on the property at that time, the Sector Plan should be interpreted to give effect to its underlying intent for the area, and not strictly in accordance with the recommendation for this particular property. A master plan is only a guide where, as here, the Zoning Ordinance does not make it mandatory. *See Richmarr Holly Hills, Inc. v. American PCS, L.P.*, 117 Md. App. 607, 635-636, 701 A.2d 879, 893, n.22 (1997). In this case, development utilizing the TS-R zone will better achieve the goals of the Sector Plan than development under the existing zoning; it is therefore reasonable to conclude that reclassification to the TS-R zone is appropriate in this instance. For these reasons, the District Council finds that the proposed development is consistent with the goals and objectives of the *1990 Wheaton Central Business District and Vicinity Sector Plan*, and is thus in substantial compliance with the Sector Plan.

Growth Policy

Another County policy which must be considered is the Adequate Public Facilities Ordinance (“APFO,” Code §50-35(k)). While the ultimate test under the APFO is carried out at subdivision review, evidence concerning adequacy of public facilities is also relevant to the District Council’s determination in a rezoning case. Under the 2009-2011 Growth Policy, “[t]he Planning Board and staff must consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence that a local area problem will be generated.” Council Resolution 16-1187, p. 24. There is no such evidence in

this case. We therefore turn to the remaining three public facilities, transportation, schools and water and sewer service.

1. Transportation

Under the 2009-2011 Growth Policy, subdivision applications are subject to Local Area Transportation Review ("LATR") and Policy Area Mobility Review ("PAMR") requirements. LATR generally involves a traffic study intended to evaluate whether a proposed development would result in unacceptable congestion during the morning and evening peak hours at specified intersections. Congestion is defined by the County in terms of "critical lane volume" (CLV) above specified limits. The CLV standard specified for the relevant intersections is 1800. The LATR traffic study in this case demonstrates that the project meets current County CLV standards if developed with a maximum of 245 residential dwelling units.

PAMR in general measures both arterial road congestion levels and the relative speed by which commutes between home and work may be made by transit versus roadways. The Growth Policy establishes adequacy by comparing Relative Arterial Mobility and Relative Transit Mobility and adopting trip mitigation requirements for each policy area. The trip mitigation requirement for this development is 10% of the total amount of peak hour trips to be generated. Because the property is located within a Metro Station Policy Area, it is eligible for an 18% credit toward peak-hour trip mitigation. As the transit station credit is in excess of the 10% mitigation required, the evidence demonstrates that this requirement has been met.

A revised traffic study (to reflect the 245-unit maximum and the possibility of retail) concluded that a small amount (i.e., 10,000 square feet) of commercial use would have an insignificant impact on LATR requirements. Because the Applicant need only show a "reasonable probability" that APFO standards may be met at the rezoning stage, the District Council finds that there is a reasonable probability that Applicant's proposal, even with the possibility of a small amount of retail, will meet LATR requirements at the time of preliminary plan review. Based on the evidence of record, the District Council finds that transportation facilities will be adequate for this project.

2. School Capacity:

This property is located within the Oakland Terrace Elementary School, Newport Mill Middle School, and Albert Einstein High School attendance areas. The Montgomery County Public Schools (MCPS) estimated that the impact of this project would be approximately thirty-six (36) elementary, seventeen (17) middle and eighteen (18) high school students. According to the MCPS and Technical Staff, the current Growth Policy schools test finds capacity adequate in the Einstein cluster. The District Council concludes that the increased demand projected from the subject development is within the capacity of MCPS.

3. Water and Sewer Service:

Under the FY 2009-2011 Growth Policy, applications must be considered adequately served by water and sewerage if the subdivision is located in an area in which water and sewer service is presently available. Council Resolution 16-1187, p. 24. The subject site is served by public water and sewer systems, and is currently in Water Service Category W-1 and Sewer

Service Category S-1. Both WSSC and Technical Staff found that water and sewer facilities were adequate to support the proposed development. The District Council so finds.

In sum, based on this record, the District Council finds that the requested rezoning does not conflict with “applicable County plans and policies.”

§59-D-1.61 (b): intent and purposes, standards and regulations of the zone; safety, convenience and amenity of residents; and compatibility with adjacent development.

The first required finding is:

That the proposed development would comply with the purposes, standards, and regulations of the zone as set forth in article 59-C, would provide for the maximum safety, convenience, and amenity of the residents of the development and would be compatible with adjacent development.

Intent and Purposes

The requirements for the TS-R Zone are found in Code §59-C-8. The TS-R Zone is a “floating zone,” intended to be used in transit station development areas and on properties located within 1,500 feet of a Metro Station and adjacent to a Central Business District. *Montgomery County Code*, §59-C-8.21(a). The TS-R zone is intended to be used where multiple-family residential development already exists or where such development is recommended by an approved and adopted master plan. Because the subject property is located adjacent to the boundary of the Wheaton Central Business District and is within 1,100 feet of the Wheaton Metro Station, it is eligible to be rezoned to the TS-R Zone. A variety of housing, including multi-family, townhouse and single family homes already exist and are planned within the surrounding area. Therefore, the District Council finds that the proposed development meets the intent of the TS-R Zone, as did the Technical Staff, Planning Board, and Hearing Examiner.

Section 59-D-1.2 requires that the development plan “clearly indicate” how the proposed development meets the purposes of the TS-R Zone. These purposes are set forth in Code §59-C-8.22:

- (a) *To promote the effective use of the transit station development areas and access thereto;*
- (b) *To provide residential uses and certain compatible non-residential uses within walking distance of the transit stations;*
- (c) *To provide a range of densities that will afford planning choices to match the diverse characteristics of the several transit station development areas within the county; and*
- (d) *To provide the maximum amount of freedom possible in the design of buildings and their grouping and layout within the areas classified in this zone; to stimulate the coordinated, harmonious and systematic development of the area within the zone, the area surrounding the zone and the regional district as a whole; to prevent detrimental effects to the use or development of adjacent*

properties or the surrounding neighborhood; to provide housing for persons of all economic levels; and to promote the health, safety, morals and welfare of the present and future inhabitants of the regional district and the county as a whole.

Technical Staff found the proximity of the residential development to the Wheaton Metro Station met the first purpose. In addition, the additional sidewalk width and amenities along the Georgia Avenue frontage encourage pedestrian access to the CBD and the metro station. Therefore, these features also support the first purpose. The proposed development will place up to 245 residential units less than one-quarter mile (within walking distance) of a Metro station. Therefore, the development meets the second purpose by providing residential uses (including MPDUs) within 1,100 feet of a metro station.

The six-story residential building accomplishes the third purpose by adding to the variety of housing types in the surrounding area, which include high-rise multi-family projects as well as developments in the PD-9, PD-11, RT 12.5, and R-60 zones. The break in massing, setbacks and landscaping along the southern property line (adjoining the townhomes), and the pedestrian amenities to be added to the sidewalk along Georgia Avenue, accomplish the fourth purpose of the TS-R Zone. Based on the ample evidence in the record, the District Council finds, as did the Hearing Examiner, Technical Staff and the Planning Board, that the proposed development satisfies the purposes of the TS-R Zone.

Development Standards of the TS-R Zone

Zoning Ordinance §59-C-8.3 specifies the uses permitted in the TS-R Zone. Residential dwellings are permitted in the TS-R Zone. In addition to residential dwellings, a limited amount of nonresidential uses, including certain commercial uses, are permitted. While the Applicant does not plan any retail uses at the present time, it has agreed that any retail ultimately included in the project must come within those uses permitted in the TS-R Zone.

Zoning Ordinance §59-C-8.24 provides that the TS-R Zone is “permitted only in a Transit Station Development Area defined in §59-A-2.1 and in accordance with an approved and adopted master plan or sector plan, except in areas within and adjacent to a Central Business District in accordance with §59-C-8.21(a).” As previously discussed, the property is within and adjacent to the Wheaton Central Business District in accordance with §59-C-8.21(a).

Zoning Ordinance §59-C-8.25 requires that a proposed development in the TS-R Zone conform to “the facilities and amenities” of the Sector Plan, including any required easements or dedications necessary to insure safe and efficient circulation and adequate open and recreation space, and insure compatibility with the surrounding area, as well as the ability of the area to accommodate the intended use. The Sector Plan contained no site specific recommendations relating to the subject property. The Applicant proposes to dedicate additional sidewalk width along Georgia Avenue which reduces conflicts between vehicles entering the parking garage and pedestrians. The additional dedicated sidewalk area also meets the “public use space” requirements in the TS-R Zone. Passive and active recreational areas are also provided which meet the TS-R standards.

A development must also meet all the applicable development standards set forth in Code §59-C-8.4. Technical Staff found that the proposed development met all applicable development standards with the exception of the parking requirements established in §59-E of the Code. This prompted the Applicant to request a "concept waiver" of the parking requirements for the project. The Hearing Examiner concluded that a waiver of the parking requirements is unnecessary at the rezoning stage because those requirements are not included within §59-C-8 of the Code. Any waiver of the parking requirements, if ultimately necessary, should be addressed at the site plan stage as authorized in Section 59-E of the Zoning Ordinance. *See, e.g., Montgomery County Code, §59-E-5.* As a result, and based on the evidence of record, the District Council finds that Applicant's development plans are in accordance with all of the standards and regulations of the TS-R Zone, as set forth in that section.

Safety, Convenience and Amenity of Residents

The next part of "Finding (b)" required by §59-D-1.61 is a determination that the proposed development would provide the "maximum safety, convenience, and amenity of the residents." Proposed amenities include an outdoor architecturally designed and landscaped deck with a pool and interior spaces which will include amenities based on market demand, such as a "cyber-café." The outdoor public use space and streetscape enhancements provide safety and amenities to both residents and the public. Technical Staff and the Hearing Examiner concluded that in addition to on-site amenities, the development's proximity and access to the Wheaton Metro Station and the services, restaurants, shopping, etc., in the Wheaton Central Business District will afford residents ample amenities and conveniences. The District Council therefore finds that the proposed development will provide for the maximum safety, convenience and amenity of the residents.

Compatibility with Adjacent Development

The final required determination under "Finding (b)" is that the proposed development be compatible with adjacent development. Both Technical Staff and the Hearing Examiner found this to be the case. The Georgia Avenue façade and streetscape are designed to create an inviting urban edge to the Wheaton Central business district and the requested TS-R zoning on this site would "balance" the CBD entrance by matching the existing zoning on the confronting property across Georgia Avenue to the east. Technical Staff found the development compatible with the surrounding area due to the number of multi-family residential buildings that had been constructed or approved within the Central Business District. It also found that the 70-foot height was an appropriate transitional increase in density along Georgia Avenue as one approaches the Metro Station. The Hearing Examiner concluded that several features also address compatibility with surrounding properties, especially the townhome community immediately to the south. A ten-foot building setback and landscaping, coupled with terraced levels of residential units, break the mass of the side of the building adjoining the townhomes. Architectural details, such as "stoop entrances" along the Georgia Avenue streetscape, are also included to create a compatible transition from the townhome community to the Wheaton CBD.

For all these reasons, the District Council finds Applicant's Development Plan to be compatible with adjacent development.

§59-D-1.61(c): safe, adequate and efficient internal vehicular and pedestrian circulation systems.

The third required finding is “[t]hat the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.” Both Technical Staff and the Hearing Examiner have advised that internal vehicular and pedestrian circulation systems are safe and efficient due to measures taken to distinguish the drive aisle of the parking garage from the pedestrian sidewalk. According to the Applicant’s traffic expert, the parking garage driveway was designed to have a flat grade at the entrance to increase sight distance as cars approached the sidewalk. The building was also set back from the sidewalk to permit drivers (and pedestrians) more time to see vehicles entering the garage. Additionally, the sidewalk pavement differs textually from the drive aisle to alert residents of the approaching sidewalk.

Based on the entire record, the District Council finds that external access and internal circulation will be safe, adequate and efficient for both vehicular and pedestrian traffic.

§59-D-1.61(d): preventing erosion, preserving vegetation, forest conservation and water resources

The fourth required finding is:

That by its design, by minimizing grading and by other means, the proposed development would tend to prevent erosion of the soil and preserve natural vegetation and other natural features of the site. Any applicable requirements for forest conservation under Chapter 22A and for water resource protection under Chapter 19 also must be satisfied. The district council may require more detailed findings on these matters by the planning board at the time of site plan approval as provided in division 59-D-3.

The evidence is uncontroverted that there are no significant natural features on the site. Both the existing development (the church and associated parking) and the proposed development intrude on an environmental buffer created by an off-site stream located on adjoining property to the west. The evidence demonstrates that the stream is of poor quality due to erosion from large amounts of stormwater. The erosion has adversely impacted properties to the south of the subject property, including the townhome community.

As a binding element of the proposed development plan, the Applicant must implement a stream valley buffer plan designed to address erosion along the entire 800 foot length of the stream (beyond that part which borders the subject property). Elements of the plan include clearing debris from the stream channel, creating new outfall extension, and stabilizing the stream bank. Therefore, approval of the proposed development offers the opportunity mitigate erosion damage along many properties in the area while at the same time creating no greater impact on the environmental buffer than that which currently exists.

Technical Staff advises, and the Hearing Examiner concluded, that stormwater management may be accomplished on the property by means of bioretention planters, groundwater recharge trenches, and gardens located on the terrace level.

A preliminary forest conservation plan, utilizing off-site mitigation, has been submitted and conceptually approved by Technical Staff.

For the above reasons, the District Council finds that the application meets the requirements of §59-D-1.61(d).

§59-D-1.61(e): common area maintenance.

The fifth required finding is “[t]hat any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common or quasi-public purposes are adequate and sufficient.”

The Applicant has submitted a copy of its contract of sale with the First Baptist Church of Wheaton, Inc. as evidence of its ownership of the property. The Applicant’s commitment to perpetual maintenance of all recreational and other common or quasi-public areas is supported by testimony from Mr. Daryl South, the Applicant’s Vice President of Development, and by a submittal from the Applicant stating that Washington Property Company intends to retain ownership of the property and either (1) will contract with a third-party rental management company to implement property management practices standard for “luxury rental apartments” or (2) manage the property itself. According to the submittal, if the property is converted in the future to condominiums, the condominium association will be vested with the responsibility for management.

The District Council finds that Applicant has sufficiently demonstrated both ownership of the property and its commitment to perpetual maintenance of all recreational and other common or quasi-public areas.

The Public Interest

An applicant must show that the proposed reclassification is sufficiently in the public interest to justify its approval. The State Zoning Enabling Act applicable to Montgomery County requires that all zoning power must be exercised:

. . . with the purposes of guiding and accomplishing a coordinated, comprehensive, adjusted, and systematic development of the regional district, . . . and [for] the protection and promotion of the health, safety, morals, comfort, and welfare of the inhabitants of the regional district. [Regional District Act, Maryland-National Capital Park and Planning Commission Article (Art. 28), Md. Code Ann., §7-110].

When evaluating the public interest, the District Council normally considers master plan conformity, the recommendations of the Planning Board and Technical Staff, any adverse impact on public facilities, the environment, and public benefits such as the provision of affordable housing.

As discussed above, the proposed development will further the goals of the Sector Plan. Both Technical Staff and the Planning Board recommend approval of the application, and there will be no adverse affect on public facilities and the environment. Moreover, the proposal will

provide the public benefit of providing housing, some of which will be MPDUs, in proximity to a Metro Station. Therefore, the District Council concludes that the proposed development would be in the public interest.

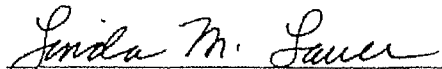
Based on the foregoing analysis and the Hearing Examiner's report, which is incorporated herein, and after a thorough review of the entire record, the District Council concludes that the proposed development satisfies the intent, purpose and standards of the TS-R Zone; that it meets the requirements set forth in Section 59-D-1.61 of the Zoning Ordinance; that the application proposes a project that would be compatible with development in the surrounding area; and that the requested reclassification to the TS-R Zone has been shown to be in the public interest. For these reasons and because approval of the instant zoning application will aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be approved in the manner set forth below.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland approves the following resolution:

Zoning Application No. G-876, requesting reclassification from the R-60 to the TS-R Zone of approximately 1.76 acres of land consisting of Parcels P754, P758 and N760, located southwest of the intersection of Georgia Avenue and Viers Mill Road in Wheaton, in the 13th Election District, be *approved* in the amount requested and subject to the specifications and requirements of the final Development Plan, Exhibit 58(a), provided that the Applicant submits to the Hearing Examiner for certification a reproducible original and three copies of the Development Plan approved by the District Council within 10 days of approval, in accordance with §59-D-1.64 of the Zoning Ordinance.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

Attachment
RECEIVED
0462
MAY 18 2011

MCP-CTRACK

From: Paul Andrew Antony MD [paul_antony@mac.com]
Sent: Wednesday, May 18, 2011 9:38 AM
To: MCP-Chair
Subject: 10914 georgia Ave

OFFICE OF THE CHAIRMAN
THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

I am writing about the preliminary plan for the site at Georgia Ave (10914 Georgia Ave). My main concern, as I am a home owner in the Plaza Gardens next door, are the razing of trees next to our gate on the north side and the view we will eventually see from gated area north of plaza gardens looking into 10914 Georgia Ave.

Are the trees going to be cut down even if they are on Plaza Garden's property and how is the view going to look? Are we going to look at a cement wall? Will we be able to leave the gate and walk up to Georgia ave like now? Are the trees in the stream behind the development going to be affected? We would like that the trees not be cut down near the gate at the north of plaza gardens. We also ask that the view that is eventually seen by plaza gardens from the south is aesthetically pleasing and we are able to walk up to Georgia Ave from the gate north of Plaza gardens.

We don't see this on the plans.

thank you,

Paul Antony
Plaza Gardens Owner