

JUN 16 2012



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

MCPB No. 12-67
Preliminary Plan No. 12007020B
Woodmont/7200
Date of Hearing: April 12, 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on October 6, 2006, Street Retail, Inc., filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 2.22 acres of land in the CBD-2 zone; and

WHEREAS, on March 6, 2008, the Planning Board approved Preliminary Plan No. 120070200 (MCPB No. 08-43) to create one lot for 78,300 square feet of office, 40,350 square feet of retail, a 225-room hotel, and 250 dwelling units on 2.48 acres of land; and

WHEREAS, on April 30, 2009, the Planning Board approved Preliminary Plan No. 12007020A (MCPB No. 09-45) to amend the uses to 286,879 square feet of office, 37,136 square feet of retail and 210 dwelling units; and

WHEREAS, on October 24, 2011, JBG Associates, LLC ("Applicant"), filed an application for approval of an amendment to the previously approved preliminary plan(s) to include additional properties in the application and to amend the uses to 193,036 square feet of multi-family residential use consisting of no more than 210 multi-family dwelling units, 182,950 square feet of hotel use, 81,165 square feet of general retail use, and 755,739 square feet of general office use on 5.8 acres of land in the CBD-2 zone, located in the northeast quadrant of the intersection of Woodmont Avenue and Bethesda Avenue ("Property"), in the Bethesda CBD Sector Plan ("Sector Plan") area; and

Approved as to
Legal Sufficiency:

A handwritten signature in black ink, appearing to be 'Mi'.

8787 Georgia Avenue, Silver Spring, Maryland 20910

MNCPPC Legal Department
www.MCParkandPlanning.org

Chairman's Office: 301.495.4603 Fax: 301.495.1320

E-Mail: mcp-chairman@mncppc.org

10/11/2011 10:00 AM

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 12007020B, Woodmont/7200 ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, Staff issued a memorandum to the Planning Board, dated March 28, 2012, setting forth its analysis, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 12, 2012, the Planning Board held a public hearing on the Application (the "Hearing"), and at the Hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on April 12, 2012, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 12007020B to create two lots on the Property, subject to the conditions recommended by Staff, except as modified herein. The following conditions include both those necessary for the approval of this amendment and those associated with Preliminary Plan No. 12007020A:

1. The Applicant must comply with the conditions of approval for Project Plan Amendment 92007007B.
2. Approval under this Preliminary Plan is limited to a maximum of 193,036 square feet of multi-family residential use consisting of no more than 210 multi-family dwelling units (including a minimum of 12.5% MPDUs), 182,950 square feet of hotel use, 81,165 square feet of general retail use, and 758,739 square feet of general office use. Minor adjustments in the non-residential square footage of each use, not to exceed 2,000 square feet, are permitted provided that there is no significant change in the proposed massing of the buildings and the overall trip generation rate is not increased.
3. The final number of dwelling units and MPDUs will be determined at Site Plan.
4. The final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
5. The Applicant must comply with the conditions of approval for the final forest conservation plan No. 82009008A, dated January 20, 2012. The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County

Department of Permitting Services ("MCDPS") issuance of sediment and erosion control permits, as applicable.

- a. Provide a revised FCP Data Table to reflect 5.44 acres of total tract area.
 - b. Alter the limits-of-disturbance line along Wisconsin Avenue to protect the existing street trees.
6. No clearing, grading or recording of plats prior to certified site plan approval.
 7. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated March 23, 2012 ("Agency Letter"), and hereby incorporates them as conditions of the Preliminary Plan approval, except for the recommendation that truncation not be reduced at the intersection of Wisconsin Avenue and Bethesda Avenue. Therefore, the Applicant must comply with each of the recommendations, except as noted above, as set forth in the Agency Letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 8. The Planning Board has accepted the recommendations of the MCDPS – Water Resources Section in its letter dated February 10, 2012 ("Agency Letter"), and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the Agency Letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 9. The Applicant must satisfy the provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
 10. The Applicant must satisfy the provisions for access and improvements as required by MDSA prior to issuance of access permits.
 11. The Applicant must dedicate and show on the record plat dedication of an approximately 856-square-foot area for the right-of-way for Wisconsin Avenue, as shown on the Preliminary Plan.
 12. The Applicant must show on the record plat that the following rights-of-way along the Property frontage have widths that are consistent with the Bethesda CBD Sector Plan:
 - a. Wisconsin Avenue – minimum of 57 feet from the roadway right-of-way centerline.
 - b. Bethesda Avenue – minimum of 30 feet from the roadway right-of-way centerline or 60 feet from the opposite right-of-way line.
 - c. Woodmont Avenue – minimum of 40 feet from the roadway right-of-way centerline.
 - d. Elm Street – minimum of 30 feet from the roadway right-of-way centerline.
 13. The Applicant must finalize design details for frontage improvements along Bethesda Avenue to accommodate the Capital Crescent Trail prior to the submission of a certified site plan for the development.

- a. In addition to the trail concept details provided on the Preliminary Plan and Site Plan dated January 20, 2012, the Capital Crescent Trail design details shall achieve the following objectives:
 - i. Prevent vehicles from crossing the buffer between the travel lane and the shared use path, through design elements such as bollards.
 - ii. Reduce speed of vehicles crossing the Capital Crescent Trail through design elements such as colored pavement and signs.
 - iii. Increase safety by alerting trail users and vehicles of the potential driveway conflict areas through the use of design elements such as colored pavement and signs.
 - b. In addition, the design shall include the following:
 - i. Signs inside the garage and along the trail to identify trail crossings, sidewalks, and vehicle crossings.
 - ii. A trail cross slope of 2% maximum at the driveways.
 - iii. Adequate lighting to illuminate both the sidewalk and the trail, especially at intersections and driveways.
 - iv. Bollards at all driveway access points and intersections to prevent motor vehicles from entering the trail.
14. The Applicant must satisfy the Policy Area Mobility Review (PAMR) requirements associated with Phase 1 of the Application by mitigating 30% of the new peak-hour trips during the weekday morning (7:30 - 9:30 a.m.) peak period and evening (4:00 - 6:00 pm) peak period by mitigating 36 peak-hour trips at \$11,000 per peak hour trip for a total of \$396,000.00, to be paid prior to the issuance of the first non-residential building permit in Phase 1. This PAMR mitigation payment must be made to CIP Project No. 500119, Bethesda Bikeway and Pedestrian Facilities, to plan, design, and construct the Capital Crescent Trail along Bethesda Avenue, Willow Lane, and 47th Street. The study must include review of existing and future traffic operations along Bethesda Avenue between Woodmont Avenue and Wisconsin Avenue, evaluation of alternate traffic management and circulation options in the area, and implementation of a safe crossing of Capital Crescent Trail across Wisconsin Avenue at Bethesda Avenue/Willow Lane. In connection with the residential phase, the Applicant must identify non-automobile transportation improvements equivalent to 35 new peak-hour vehicular trips, or the monetary equivalent to be paid prior to the issuance of the building permit for the residential building.
15. The Applicant must construct the frontage improvements along Elm Street, Woodmont Avenue, and Bethesda Avenue, not including construction of the Capital Crescent Trail on Bethesda Avenue, in coordination with MCDOT. Frontage improvements for each phase must be complete and open to traffic prior to release of the use and occupancy permit for that respective phase.
16. Prior to recordation of the plat, the Applicant must ensure that the ownership issues are fully resolved so that the Purple Line and Georgetown Branch Trail

can be accommodated as designed by the Maryland Transit Administration (MTA) by providing the following:

- a. A perpetual easement/reservation area that varies from 32 feet to 38 feet wide within, and parallel to, the Georgetown Branch right-of-way from the western property line to the eastern property line. Within this area, the Applicant must comply with following restrictions:
 - i. The foundation of the office building must be set 1 foot back from the south side of the easement/reservation area.
 - ii. Permanent facilities must not be constructed and/or installed within the easement/reservation area if they might interfere with access to the tunnel by MTA or County emergency, construction, and maintenance equipment.

MTA must review and approve the site plan as submitted for the references herein to reflect that the easement/reservation and other construction constraints are reflected on the certified site plan. This easement is for the Purple Line or public use, as needed.

- b. A perpetual easement/reservation area – as indicated on the site plan to accommodate a future switch-back ramp for the Georgetown Branch Trail and that is publicly accessible – must be noted on the record plat. This easement must be a minimum of 1,960 square feet along the Property's eastern edge adjoining the tunnel. The record plat notes regarding this easement/reservation must include language that:
 - i. Grants access to the future switch-back ramp reservation area by the State and/or County to construct the switchback ramp and the connecting Trail segments; and
 - ii. Grants perpetual public access within this easement/reservation area by the County to maintain the switchback ramp and connecting Trail segments; and
 - iii. Grants perpetual public access by Trail users.

The ultimate size and delineation for this easement/reservation area must be finalized at the time of certification of the site plan and delineated on the Record Plat.

- c. A perpetual easement/reservation area that satisfies the American Association of State Highway and Transportation Officials standards of a minimum 10-foot wide paved shared use path with a 2-foot lateral clearance on each side from the western property line to the eastern property line parallel to the easement for the Purple Line except on the future switch-back ramp. On the switch-back ramp, future design considerations by MTA may limit the 2-foot lateral clearance on each side.
17. The Applicant must provide the minimum vertical clearances for the 32-foot-wide Georgetown Branch perpetual easement as follows:
- a. Four feet below the top of the rail for the Purple Line (at an elevation to be identified by the MTA) along any segment of any Purple Line track.

- b. Twenty-three (23) feet above the top of the rail for the westbound Purple Line track.
18. The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District (TMD). The TMAg must be signed and executed by all parties prior to the release of any new building permit for development on the subject Property. The Agreement must include trip reduction measures as identified in the MCDOT letter dated March 23, 2012, comment No. 9.
19. The Applicant must prepare in connection with the residential development an analysis of future transportation noise levels prior to Site Plan submittal. The analysis must be conducted by an acoustical professional.
 - a. At time of building permit, an acoustical engineer must certify through building shell analysis that interior noise levels will not exceed 45 dBA Ldn.
 - b. The builder must construct the buildings in accord with these acoustical recommendations, with any changes affecting acoustical performance approved by the acoustical engineer, with copy to M-MCPPC Staff.
 - c. The certification and builder acceptance letter must be provided to M-NCPPC Environmental Planning Staff before any residential building permit is approved.
20. The Applicant must submit a copy of Montgomery County Council Resolution No. 16-1059 for the Abandonment of Reed Street prior to recordation of the plat. The Applicant must comply with any conditions contained in the Council Resolution.
21. 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 each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
22. The Applicant must grant and the record plat must show a public improvements easement on the area that would have been standard truncation at the intersection of Wisconsin Avenue and Bethesda Avenue.
23. The record plat must show necessary easements.
24. The Adequate Public Facilities (APF) review for the Preliminary Plan will remain valid according to the following phasing schedule:
Phase 1: 286,879 square feet of office use, 37,136 square feet of retail use, and 210 multi-family dwellings. This phase is the previously approved Woodmont East Preliminary Plan No. 12007020A; the APF review is valid until June 29, 2020.

Phase 2: 182,950 square feet of hotel use, 114,045 square feet of office use, and 5,950 square feet of retail use. The APF review for Phase 2 will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.

Phase 3: 54,905 square feet of office and 19,138 square feet of retail. The APF review for Phase 3 will remain valid for one hundred and nine (109) months from the date of mailing of the Planning Board Resolution.

BE IT FURTHER RESOLVED, that for the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the Hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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

The Sector Plan is organized around several goals that the Preliminary Plan satisfies:

- Establishment of a vibrant and diverse downtown
- Development by infill that complements the existing urban fabric
- Development of a wide range of housing
- Creation of employment opportunities
- Creation of an appealing environment for working, shopping, and entertainment
- Creation of circulation patterns that encourage walking, cycling, and the use of mass transit

The Planning Board found that the previous preliminary plan application and subsequent amendment application were in substantial conformance with the Sector Plan. The changes proposed by the Application do not alter the intent, purposes, and findings of the previous approvals.

In addition, the Application includes construction of an alternate alignment for the Capital Crescent Trail along Bethesda Avenue. This alignment is recommended in the Sector Plan as an alternative to the tunnel alignment and will be of critical importance if the trail is not retained in the tunnel with the Purple Line. Construction of the Bethesda Avenue trail alignment meets the goal of the Sector Plan to create circulation patterns that encourage walking and bicycling.

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

The adequate public facilities review discussed in this section pertains only to the additional density proposed by the Application.

Local Area Transportation Review ("LATR")

As shown in the traffic study submitted with the Application, under total traffic conditions, critical lane volume ("CLV") values for intersections included in the study were estimated to be below the Bethesda central business District ("CBD") congestion standard of 1,800 CLV. Based on the analysis presented in the traffic study, it is concluded that the Application will satisfy the LATR requirements of the APF test.

Policy Area Mobility Review ("PAMR")

The development, as a result of being located within the Bethesda CBD, is required to mitigate 25% of the net new trips generated by a similar development using countywide trip generation rates. In addition, by virtue of being located within the Bethesda CBD, the Application is eligible to receive a CBD trip credit equivalent to the difference in net new trips between similar developments located outside the CBD (determined using countywide trip generation rates) and located within the CBD (determined using CBD trip generation rates).

A development similar to that proposed on the site would generate 293 net new peak-hour trips during the morning peak-period and 302 net new peak-hour trips during the evening peak-period using countywide trip generation rates. This results in a mitigation requirement of 73 peak-hour trips during the morning peak period and 76 peak-hour trips during the evening peak period for the Application to satisfy the PAMR requirements of the adequate public facilities ("APF") test. The development, as a result of being located within the Bethesda CBD, will generate 171 net new peak-hour trips during the morning peak period (i.e., 122 fewer peak-hour trips compared to countywide peak-hour trips noted above) and 182 net new peak-hour trips during the evening peak period (i.e., 120 fewer peak-hour trips compared to countywide peak-hour trips noted above) towards its PAMR mitigation requirement. With the above credit, the development will fully off-set the PAMR mitigation requirement of 73 peak-hour trips during the morning peak period and 76 peak-hour trips during the evening peak period and satisfy the PAMR requirements of the APF test.

Other Public Facilities

Public facilities and services are available and will be adequate to serve the development. The Property will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the Property. The Application is within the Bethesda Chevy Chase School cluster area which is currently operating between 105-120% of capacity at the elementary and middle school levels. However, the application for the original subdivision was filed before January 2007, and the current amendment Application is not subject to the current Subdivision Staging Policy. Therefore, the Application is not subject to a school facilities payment. Electrical, telecommunications, and gas services are also available to serve the Property.

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. Access and public facilities will be adequate to support the lots and uses. The size, width, shape, and orientation of the lots are appropriate for the location of the subdivision.

The Application was reviewed for compliance with the dimensional requirements for the CBD-2 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. On-site Public Use Space meets the minimum requirement of 20%. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

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

The Application is subject to Section 22A of the Montgomery County code. A preliminary and final Forest Conservation Plan were submitted on January 24, 2012. The forest conservation worksheet shows a gross tract area of 4.86 acres with an additional 0.58 acres of offsite land disturbance for a total of 5.44 acres. There is no forest, significant and specimen trees on the Property, nor any offsite trees which are affected by this development. All afforestation and reforestation requirements will be met through a fee-in-lieu payment.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by MCDPS that the Stormwater Management Concept Plan meets MCDPS standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept on September 8, 2011. The stormwater management concept proposes to meet required stormwater management goals via environmental site design to the maximum extent practicable with the use of green roofs and micro-bioretenment.

6. *Non-standard truncation is appropriate for the intersection of Bethesda Avenue and Wisconsin Avenue.*

Section 50-26(c)(3) of the Subdivision Regulations requires that the property lines of corner lots be truncated 25 feet from the intersection. This provides additional right-of-way area at intersections that ensures that adequate sight distance is available and creates space for traffic channelization. But the regulation also allows the Planning Board to specify a greater or lesser truncation depending on the specific sight distance and channelization needs at the intersections adjacent to the Property.

In this case, the Planning Board is approving an approximately 10-foot truncation at the intersection of Bethesda Avenue and Wisconsin Avenue. Full truncation at this intersection is not necessary because adequate sight distance exists. The intersection is signalized, which further enhances safety and removes the concern that there is not sufficient space within the right-of-way to place traffic signal equipment. Providing full truncation would negatively impact the design of the development and the provision of the required public use space. The Application is providing exactly the required amount of public use space. The area that would be required for standard truncation measures approximately 220 square feet and is included in the provided public use space.

In order to ensure that the sidewalk and multi-use path at the intersection allow for unimpeded flow of pedestrians and bicyclists, this approval includes a condition of approval for the site plan that prohibits the Applicant from placing any obstructions in the area that otherwise would have been within the standard truncation area. Another condition requires dedication of a public improvements easement (PIE) over the same area, which ensures that improvements related to pedestrian and bicycle circulation can be installed in the future as needed.

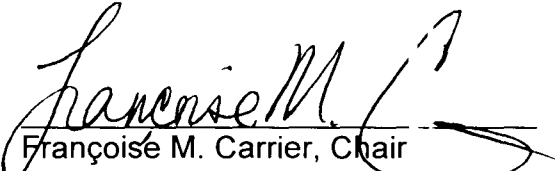
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 6 2012 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, May 31, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board