



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

SEP 11 2009

**MCPB No. 09-74**  
**Preliminary Plan No. 120090140**  
**Woodmont Central**  
**Date of Hearing: June 25, 2009**

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION**

WHEREAS, pursuant to 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 January 22, 2009, Donohoe Development Company ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 1.56 acres of land located on two sites, one in the southwest quadrant of the intersection of Battery Lane and Wisconsin Avenue and the other in the southwest quadrant of the intersection of Rugby Avenue and Del Ray Avenue ("Property" or "Subject Property"), in the Woodmont Triangle Amendment to the Bethesda CBD Sector Plan area ("Sector Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090140, Woodmont Central ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 15, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on June 25, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

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

Approved as to  
 Legal Sufficiency:

  
 M-NCPPC Legal Department

WHEREAS, on June 25, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Robinson; seconded by Commissioner Hanson; with a vote of 3-2, Commissioners Cryor, Hanson, and Robinson voting in favor; Commissioners Alfandre and Presley voting in opposition.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 20090140 to create two lots on 1.56 acres of land located on two sites, one in the southwest quadrant of the intersection of Battery Lane and Wisconsin Avenue and the other in the southwest quadrant of the intersection of Rugby Avenue and Del Ray Avenue ("Property" or "Subject Property"), in the Woodmont Triangle Amendment to the Bethesda CBD Sector Plan area ("Sector Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to two lots for no more than 453,109 square feet of multiple-family residential use, which must not comprise more than 457 dwelling units and which must include a minimum of 15% MPDUs and 10% workforce housing; no more than 81,107 square feet of office uses, and no more than 19,556 square feet of retail uses.
- 2) The final number of MPDUs and workforce housing as per condition #1 above will be determined at the time of site plan.
- 3) The final approval of the number and location of buildings, dwelling units, commercial floor area, on-site parking, site circulation, and sidewalks will be determined at site plan.
- 4) The Applicant must comply with the conditions of approval for Project Plan No. 920090010.
- 5) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable.
- 6) The Applicant must satisfy the Policy Area Mobility Review (PAMR) test for both sites by contributing \$11,000 for each trip for 29 new peak-hour trips for a total of \$319,000 towards the MCDOT's Defense Base Closure and Realignment Commission (BRAC) bike path project prior to approval of a certified site plan.
- 7) For the proposed commercial office/retail building on Wisconsin Avenue, the Applicant must enter into a Traffic Mitigation Agreement with MCDOT and the Planning Board to participate in the Bethesda Transportation Management District (TMD). The Traffic Mitigation Agreement must be fully executed prior to approval of a certified site plan.
- 8) For both the commercial site and the residential site, the Applicant must provide inverted-U bike racks near the main entrance of each proposed building and secure bike lockers in the garage near the elevator in a well-lit area. The number of

bike racks and size of secure bike lockers and their ultimate locations will be determined at site plan review.

- 9) Prior to certification of the Preliminary Plan, the Preliminary Plan drawing must be revised to show the 749-square-foot area of right-of-way dedication for Del Ray Avenue.
- 10) The Applicant must dedicate and the record plat must show dedication of 426 square feet of right-of-way along the Property frontage for Wisconsin Avenue and 749 square feet of right-of-way along the Property frontage for Del Ray Avenue, as will be shown on the certified Preliminary Plan.
- 11) The Applicant must construct all road and sidewalk improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes.
- 12) The record plat must include a note referencing that the site contains public use spaces, as approved by the site plan.
- 13) The Applicant must comply with the conditions of the MCDPS stormwater management approvals dated May 21, 2009, and June 11, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 14) The Applicant must comply with the conditions of the MCDOT letter dated June 10, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 15) The Applicant must comply with the conditions of the two MDSHA letters dated June 11, 2009. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 16) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s) and as required by MDSHA prior to issuance of access permits.
- 17) Before any residential building permit can be issued, the Applicant must make the applicable school facilities payment to MCDPS.
- 18) No clearing, grading or recording of plats prior to certified site plan approval.
- 19) The record plat must show necessary easements.
- 20) The Adequate Public Facility (APF) review for Phases 1A and 1B of the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution. The APF review for Phase 2 of the Preliminary Plan will remain valid for one-hundred and twenty-one (121) months from the date of mailing of the Planning Board resolution.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference, except as modified herein, 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 Sector Plan.*

The Woodmont Triangle Amendment to the Bethesda CBD Sector Plan focuses on promoting transit-oriented development, providing a range of housing opportunities, establishing mixed use development, and retaining small scale retail establishments. The Woodmont Central project substantially conforms to the transit-oriented development and housing objectives of the plan. This project will supply diverse housing options to the Woodmont Triangle area by providing market-rate, MPDUs, and workforce housing units. The housing, retail, and office uses in the project will contribute to the mixture of land uses in the area.

The Sector Plan includes a goal of retail preservation. One local business, Miller and Long, will move into the proposed office building. Two businesses, the Washington School of Photography and Jerry's Music Exchange, however, may be adversely affected by the project. After its housing options goal, the second major goal of the Woodmont Triangle Amendment is to "provide opportunities to retain existing businesses and expand opportunities for new businesses." The Sector Plan's intent to achieve this goal is supported by its providing the density transfer option. "In order to encourage retention of existing small-scale retail incentives are needed to encourage businesses to remain. Density transfer between properties is one way to achieve that goal." The Sector Plan clearly intended to create an environment in the Woodmont Triangle where the existing small-scale retail establishments would have the option to remain in the area and not be forced out of the area due to new development.

But, according to the justification statement included in the Application, local retail businesses in the area will be encouraged to move into the first floor of the proposed buildings. The Applicant states that it will work with the local businesses, "...to encourage a smooth transition to retail space in the new building."

The Woodmont Central project provides benefits to the community, and, with the project plan conditions that require the Applicant to increase the amount of retail floor area in the residential building and to provide the Planning Board with a detailed strategy on how the Applicant will retain existing retail businesses, the Planning Board finds that the Preliminary Plan is in substantial conformance with the Sector Plan.

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

### Roads and Transportation Facilities

The Subject Property consists of two non-contiguous sites: The commercial site on Wisconsin Avenue (Phase 1A of the project) and the residential site on Rugby Avenue (Phases 1B and 2 of the project). The two sites were analyzed separately for traffic purposes, because each site has its own unique traffic patterns. Although the traffic study analyzed a larger project (containing more floor area) than what is proposed by the Preliminary Plan and Project Plan, the proposed traffic mitigation is based on the floor area of the actual proposal, and not the larger floor area analyzed by the traffic study.

#### **Commercial Site (Phase 1A):**

##### *Sector-Planned Transportation Demand Management*

The site is located in the Bethesda Transportation Management District (TMD). As commercial development with 25 or more employees, the Applicant is required to enter into a Traffic Mitigation Agreement with the Planning Board and Montgomery County Department of Transportation (MCDOT) to participate in the Bethesda Transportation Management District (TMD) to assist in achieving the 37% non-auto-driver mode share goal for employees working in Bethesda CBD.

##### *Local Area Transportation Review*

In accordance with the Local Area Transportation Review and Policy Area Mobility Review Guidelines, a traffic study was submitted to satisfy Local Area Transportation Review (LATR) because the proposed land uses generate 30 or more peak-hour trips within the weekday morning and evening peak periods. The traffic study was prepared before the Applicant finalized its plan design and analyzed 6,298 more square feet of office/retail space that resulted in 10 more peak-hour trips.

According to the traffic study, all of the CLV values are less than the 1,800 congestion standard for the Bethesda CBD Policy Area at all the analyzed intersections in all traffic conditions and, thus, LATR is satisfied.

##### *Policy Area Mobility Review*

Under the current Growth Policy, the Policy Area Mobility Review (PAMR) test requires the Applicant to mitigate 30% of the net new peak-hour trips generated by the proposed land uses within the weekday morning and evening peak periods. A site located in proximity to a Metrorail Station and in the Bethesda CBD has an inherent PAMR trip reduction credit because transit service is much better than in other parts of the County. The resultant trip

reduction is the difference between the vehicular peak-hour trips calculated using the higher county-wide trip generation rates and the trips calculated using the lower Bethesda CBD rates.

The traffic study shows that 14 of the 27 new peak-hour trips within the weekday morning peak period can be satisfied for PAMR simply by being located in the Bethesda CBD Policy Area with nearby Metrorail service. However, the remaining 13 new peak-hour trips must be mitigated by the Applicant making a monetary contribution of \$11,000 per PAMR trip to MCDOT's Defense BRAC bike path project prior to certification of the site plan.

**Residential Site (Phases 1B and 2):**

*Sector-Planned Transportation Demand Management*

The site is located in the Bethesda Transportation Management District (TMD). As residential development with small-scaled business, the Applicant is not required to enter into a Traffic Mitigation Agreement with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District (TMD) to assist in achieving the non-auto-driver mode share goal in Bethesda CBD.

*Local Area Transportation Review*

In accordance with the Local Area Transportation Review and Policy Area Mobility Review Guidelines, a traffic study was submitted to satisfy Local Area Transportation Review (LATR) because the proposed land uses generate 30 or more peak-hour trips within the weekday morning and evening peak periods. The traffic study was prepared before the Applicant finalized their plan design and analyzed 13 more apartment units or a total of 470 units that resulted in 8 more peak-hour trips.

According to the traffic study all of the CLV values are less than the 1,800 congestion standard for the Bethesda CBD Policy Area at all the analyzed intersections in all traffic conditions and, thus, LATR is satisfied.

*Policy Area Mobility Review*

Under the current Growth Policy, the Policy Area Mobility Review (PAMR) test requires the Applicant to mitigate 30% of the net new peak-hour trips generated by the proposed land uses within the weekday morning and evening peak periods. A site located in proximity to two Metrorail Stations and in the Bethesda CBD has an inherent PAMR trip reduction credit because transit service is much better than in other parts of the County. The resultant trip

reduction is the difference between the vehicular peak-hour trips calculated using the higher County-wide trip generation rates and the trips calculated using the lower Bethesda CBD rates.

Eleven of the 27 new peak-hour trips within the weekday morning peak period can be satisfied for PAMR simply by being located in the Bethesda CBD Policy Area with nearby Metrorail service. However, the remaining 16 new peak-hour trips must be mitigated by the Applicant making a monetary contribution of \$11,000 per PAMR trip to MCDOT's Defense Base Closure and Realignment Commission (BRAC) bike path project prior to certification of the site plan.

#### Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The properties will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service, which has determined that the properties 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 Growth Policy resolution currently in effect and will be adequate to serve the Property. Under the test in effect until July 1, 2009, the Application is not within a school moratorium area, but a school facilities payment must be made prior to issuance of residential building permits. Electrical, gas, and telecommunications services are also available to serve the properties.

- 3. The size, width, shape, and orientation of the proposed 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. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the CBD-1 and CBD-R2 zones as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in those zones. 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 Subject Property contains no streams, wetlands, floodplain, forest or other environmentally sensitive areas. However, the project is subject to the requirements of the Forest Conservation Law. Accordingly, the project must fulfill a 0.26-acre afforestation requirement. The Applicant is proposing to meet the planting requirement through an in-lieu fee 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 the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the Commercial site on May 21, 2009. The stormwater management concept includes water quality control using a stormfilter. Onsite recharge is not required because this is a redevelopment project. Channel protection is not required because the one-year post-development peak discharge is less than 2 cubic feet per second.

The MCDPS Stormwater Management Section approved the stormwater management concept for the Residential site on June 11, 2009. The stormwater management concept includes water quality control using a flow-based proprietary filter and 1,000 square feet of green roof. Onsite recharge is not required because this is a redevelopment project. A waiver of on-site channel protection is granted because the site is less than two acres in area in a CBD zone and the amount of imperviousness will not increase.

6. *Nonstandard truncation is appropriate for the intersection of Wisconsin Avenue and Battery Lane.*

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 Subject Property.

In this case, the Applicant is proposing to provide an approximately 25-foot, arced truncation for the commercial site at the intersection of Battery Lane with Wisconsin Avenue. Full truncation at this intersection is not necessary because adequate sight distance exists. The intersection is signalized, which further enhances its 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 proposed public use space at the intersection and the relationship of the proposed building to the public street. The Maryland State Highway Administration and Montgomery County Department of Transportation have no objection to approval of the Preliminary Plan without full truncation. For these reasons, the Planning Board finds that the proposed truncation in this location is appropriate at this intersection.

7. *The Adequate Public Facilities Review Period is Extended from 85 Months to 121 Months for Phase 2 of the Preliminary Plan.*

Because of the complex nature of the project inherent in there being two separate development sites, the Applicant has requested a longer than standard APF validity period. The Applicant has divided the project into three phases. Phase 1A encompasses the commercial development at the Commercial site located in the southwest quadrant of the intersection of Wisconsin Avenue and Battery Lane, Phase 1B encompasses a portion of the residential and retail development at the Residential site located in the southwest quadrant of the intersection of Rugby Avenue and Del Ray Avenue, and Phase 2 encompasses the remaining residential and retail development at the Residential site. The Planning Board agrees with the Applicant that an extension of the adequate public facilities review period is warranted and grants an APF validity period of 85 months for Phases 1A and 1B and 121 months for Phase 2.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Land Records of Montgomery County, Maryland or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board and incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

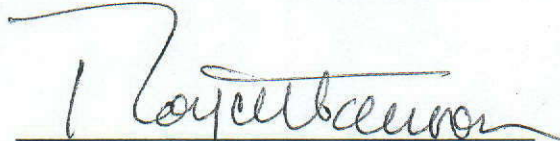
BE IT FURTHER RESOLVED, that the date of this Resolution is SEP 11 2009 (which is the date that this Resolution is mailed to all parties of record); and

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 Wells-Harley, seconded by Commissioner Presley, with Commissioners Hanson, Alfandre, Presley, and Wells-Harley voting in favor of the motion, and with Commissioner Cryor absent, at its regular meeting held on Thursday, September 10, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman  
Montgomery County Planning Board