



SEP 26 2012

MCPB No. 12-105
Preliminary Plan No. 120120230
11141 Georgia Avenue
Date of Hearing: September 20, 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review preliminary plan Applications; and

WHEREAS, on May 9, 2012, ML Wheaton, LLC c/o Love Enterprises Real Estate Group East, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision to consolidate a plated parcel, two lots, a part of a lot, an outlot, and a small section of previously abandoned right-of-way not yet recorded into one new lot and convert an existing 5-story office building into a 12-story mixed-use building on 26,760 square feet of land in the CR6 C5.5 R5.5 H200 Zones, located on the east side of Georgia Avenue at 11141 Georgia Avenue, Silver Spring, approximately 200 feet south of Reddie Drive ("Subject Property"), in the Wheaton CBD and Vicinity Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan Application was designated Preliminary Plan No. 120120230, 11141 Georgia Avenue ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated September 6, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 20, 2012 the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote certified below.

Approved as to
Legal Sufficiency:

Christina Sount 9/13/12
M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120120230 to create one lot on the Subject Property, subject to the following conditions:¹

1. Approval is limited to one (1) lot for a maximum density of 160,560 square feet of total development, which includes up to 13,380 square feet of non-residential uses and up to 147,180 square feet of residential uses for up to 200 residential units, including a minimum of 12.5% moderately priced dwelling units (MPDUs).
2. The Applicant must dedicate, and show on the record plat, the Sector Plan recommended 120-foot right-of-way (60 feet from centerline) for Georgia Avenue (MD 97) as shown on the Preliminary Plan.
3. The Applicant must enter into a Traffic Mitigation Agreement with the Montgomery County Department of Transportation ("MCDOT") and the Planning Board to participate in the Wheaton Transportation Management Organization when it is established and if applicable.
4. Applicant must work with MCDOT's Division of Transit Services, Commuter Services Section to promote non-auto modes of transportation by providing Commuter Services' access to the building management, who will facilitate with Transit Services, the dissemination of information about transportation options – i.e., distribution of brochures, bus schedules, e-newsletters and conduct of periodic information-based events.
5. The Planning Board has accepted the recommendations of the MCDOT in its letter dated August 24, 2012, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter (except as modified herein), which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. The Planning Board has accepted the recommendations of the Maryland State Highway Administration ("MDSHA") in its letter dated June 15, 2012, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
7. Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA.
8. No clearing, grading, or recording of plats prior to certified site plan approval.
9. Final approval of the number and location of buildings, dwelling units, on-site parking, and site circulation will be determined at site plan.
10. In the event that a subsequent site plan approval substantially modifies the subdivision shown on the approved preliminary plan with respect to lot

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

configuration or right-of-way location, width, or alignment the Applicant must obtain approval of a preliminary plan amendment prior to certification of the 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. All necessary easements must be shown on the Record Plat
13. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.

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 (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

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

General Goals

The Application is in substantial conformance with the Approved and Adopted 2011 *Wheaton Central Business District and Vicinity Sector Plan* because it supports the four overarching principles of the Sector Plan (pages 9, 10: all Sector Plan referenced pages are from the Planning Board draft):

Diversity – The Application achieves this goal by delivering much needed residential units as a mixed-use development that will provide new customers to support the retail and service sector, the current mainstay of Wheaton's economy.

Connectivity – The existing office building has been in use for quite some time and the facilities are outdated. The Application will retain the footprint of the existing building on the Property and the overall pedestrian and vehicular circulation in and through the site will remain in its current and adequate configuration. The existing upgraded sidewalk along Georgia Avenue enhances connectivity in the Sector Plan area.

Design – The 12- story residential building, with large glass windows, will create a strong and active presence on Georgia Avenue. This new residential building will aide in establishing Wheaton’s sense of place while adding value to the neighborhood.

Environment – The Application provides a cool roof and a recycling facility plan, along with planting three additional ornamental trees on site. By retrofitting the existing building, the Application will provide a more energy efficient building, which is consistent with the overarching environmental goals of the Sector Plan.

Revitalization Strategy

Part of the revitalization strategy for the Wheaton CBD is aimed at reuse of existing buildings and bringing more residents and workers into downtown to support retail and other businesses, and encouraging street level activity (page 21). Although the Application will remove some existing non-residential uses from this location, it will expand the existing building by adding new floors and bring new residents to Wheaton downtown, which will help off-set the loss of existing businesses on site. Although the Applicant is requesting 840 square feet of non-residential uses at this time as part of the Site Plan approval, the Preliminary Plan will allow for up to 13,380 square feet of non-residential uses to allow the flexibility to provide additional commercial space if there is demand in the future.

Density and Building Height

The Sector Plan recommended CR6 C5.5 R5.5 H200 Zone for the Subject Property, and recommended the highest density and building height near the Metro station in the center of downtown along Georgia Avenue (which this property confronts) and Veirs Mill Road with density and building heights stepping down from downtown toward the established single-family residential neighborhoods on the edges (page 33).

More specifically, the Property is located on Georgia Avenue on Block B2 in the Price District of the Sector Plan area (pages 42-44). The Sector Plan has specific guidance for this block, which states that, “Higher densities are more appropriate closer to the Metro station along Reddie Drive, and heights should transition from 200 feet along Georgia Avenue to 45 feet at the residential edge along Amherst Avenue.” The proposed 145-foot tall building is consistent with this guidance.

Street Network

The relevant Sector Plan recommendations regarding the street network include (page 60):

- Redesigning Georgia Avenue, University Boulevard, and Veirs Mill Road as urban boulevards with enhanced medians and crosswalks, street trees, and street-oriented retail where appropriate.

- Designate Georgia Avenue, Veirs Mill Road, and University Boulevard west of Amherst Avenue as 120-foot rights-of-way each with six lanes. These rights-of-ways are intended to accommodate the expected development of a network of express bus routes in designated lanes, an important element of the County's transportation planning.
- Reduce target speeds to 30 miles per hour on the major highways and 25 miles per hour for all other Plan area roadways to improve pedestrian safety and enhance walkability in the downtown.

The Applicant is providing a street tree and non-residential uses on the first floor of the development and dedicating necessary right-of-way for MD 97, Georgia Avenue. It provides a residential lobby and leasing office that will encourage street level activity. Although this particular segment of Georgia Avenue is not designated as a "priority retail street", the inclusion of a small amount of possible retail or other commercial space could further the Sector Plan's goal of creating street level activity envisioned by the plan, which will further the objective of the Sector Plan by creating walkable boulevards along the major roads surrounding the core, and achieving improved connectivity through pedestrian friendly streets. The remaining goals will be achieved through the eventual redesign of Georgia Avenue as a whole and not on a case-by-case basis.

Environment

The general Sector Plan environmental goals for the Sector Plan area (page 71):

- Connect the built and natural environments;
- Increase tree canopy cover;
- Minimize and mitigate impervious surfaces;
- Raise awareness of water flow through increased visibility.

Since the Subject Property is relatively small, is completely built out as is, is surrounded by land that is built out with no existing "natural" environments, and there are no streams on the site and no stormwater management facilities are proposed or required, the Planning Board believes these Sector Plan goals do not apply to the project. However, the Applicant is replacing one missing street tree and providing additional landscaping for the site, which, although at a minimum, will increase vegetation cover on the site.

Energy Efficiency

The Sector Plan encourages energy efficiency through site and building design, more daylighting through building orientation, light shelves, baffles, clerestories, windows, and skylights, and local energy production through solar, wind, and other techniques and

fuels. The Applicant is reducing energy use by providing a large amount of natural lighting through windows and integrating a passive solar system through the use of a cool roof. The Applicant will incorporate design elements that could enable the renovated building to meet energy efficient standards of 10.5 percent less than the calculated baseline performance, or meet the appropriate ASHRAE advanced energy design guidelines.

The Application meets the Sector Plan's general goals of minimizing per capita energy use through its compact, mixed-use development pattern and provisions for retained buildings.

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

Site Location and Vehicular Access Points

Vehicular access to the site is from Georgia Avenue and the parking lot with loading and service areas accessed from existing internal streets.

Available Transit Service

The site is located approximately 160 feet from the nearest bus stop located at the Wheaton Bus Station, and within approximately 350 feet from the Wheaton Metrorail Station.

Pedestrian Facilities

The Project will retain the footprint of the existing building on the Property, and the pedestrian circulation along Georgia Avenue will remain in its current configuration. The existing sidewalk along Georgia Avenue is approximately 26 feet wide. The existing streetscape within this area matches the enhanced streetscape to the north and south of the Subject Property, and includes special paving, street trees and street lighting.

Local Area Transportation Review and Policy Area Mobility Review (LATR/PAMR)

The Application generate fewer weekday peak-hour trips (57 fewer AM trips and 24 fewer PM trips) than what are generated by the current uses onsite. Since the Application generate fewer than 30 new peak-hour trips, a traffic study was not required to satisfy the LATR test and no transportation improvements are needed for the development.

The PAMR test is not required because the Application will generate fewer than three new AM and PM peak-hour trips above the trips currently generated by the existing office space. Therefore, the Planning Board finds the PAMR test does not apply.

Other Public Facilities

The Project will be served by public water and sewer systems. The Application has been reviewed by the Montgomery County Fire and Rescue Service which has determined that the Subject Property has appropriate access for fire and rescue vehicles. Other public facilities and services including police stations, firehouses and health care are currently operating in accordance with the Subdivision Staging Policy and will continue to be sufficient following the construction of the project. Electric, gas and telecommunications services will also be available and adequate.

Therefore, based on the analysis above and with the conditions of approval, the Planning Board finds public facilities are adequate to support and service the area of the Preliminary Plan.

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

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50-29(a) of the Subdivision Regulations, and Chapter 59, the Zoning Ordinance. The Planning Board finds that the size, shape, width, and area of the lot are appropriate for the location of the subdivision.

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

Environmental Guidelines

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSI) #42012088E) was approved by staff on January 11, 2012. The 0.614-acre site contains no streams, wetlands, or other environmental features on the Subject Property, which is within the Sligo Creek watershed – a Use I watershed. There are no known rare, threatened, or endangered species on site; there are no 100-year floodplains, stream buffers, or wetlands on site; and there are no known historic properties or features on the Subject Property site.

Forest Conservation

The Property is subject to the Chapter 22A, Montgomery County Forest Conservation Law. However, the Property is exempt from the requirements of submitting a Forest Conservation Plan per 42012088E, approved on January 11, 2012. This exemption covers an activity occurring on a tract of land less than 1.5 acres in size with no existing forest, or existing specimen or champion tree, and the afforestation requirements would not exceed 10,000 square feet. Any changes from the approved exemption request may constitute grounds to rescind or amend any approval actions taken and to take appropriate enforcement actions.

- 5. All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.*

The Department of Permitting Services Stormwater Management Section has determined that the Application is exempt from the requirement to file a sediment and erosion control plan or stormwater management concept plan because the proposed project development will disturb less than 5,000 square feet of land.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months (5 years) from its initiation date (as defined in Montgomery County Code Section 50-35(h)), 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 in the Montgomery County Land Records, or a request for an extension must be filed; and

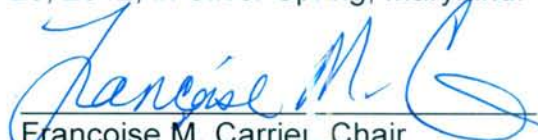
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 26 2012 (which is the date that this Resolution is mailed to all parties of record); and

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 Dreyfuss, seconded by Commissioner Presley, with Vice Chair Wells-Harley and Commissioners Dreyfuss and Presley voting in favor, and Chair Carrier, and Commissioner Anderson absent, at its regular meeting held on Thursday, September 20, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board