



MCPB No. 12-106
Site Plan No. 820120170
Project Name: 11141 Georgia Avenue
Date of Hearing: September 20, 2012

SEP 26 2012

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review site plan applications; and

WHEREAS, on May 9, 2012, ML Wheaton, LLC c/o Lowe Enterprises Real Estate Group East, Inc. ("Applicant"), filed an application for approval of a site plan to convert an existing 5-story office building into a 145 foot tall, 12-story mixed-use building with 148,020 square feet of total density with 840 square feet of non-residential uses and up to 147,180 square feet of residential uses for up to 194 units, including 12.5% MPDUs on 0.614 acres of CR6 C5.5 R5.5 H200 Zoned-land, located at 11141 Georgia Avenue ("Subject Property"), in the *Wheaton CBD and Vicinity Sector Plan* ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820120170, 11141 Georgia Avenue ("Site 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 of 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 as certified below.

Approved as to
Legal Sufficiency:

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

8787 Georgia Avenue, Bethesda, Maryland 20910

Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org

E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820120170 to convert an existing 5-story office building into a 145 foot tall, 12-story mixed-use building with 148,020 square feet of total density with 840 square feet of non-residential uses and up to 147,180 square feet of residential uses for up to 194 units, including 12.5% MPDUs on 0.614 acres the Subject Property, subject to the following conditions:¹

1. Sketch Plan Conformance

The development must comply with the applicable binding elements and conditions of Sketch Plan No. 320120030 approved by the Planning Board dated May 10, 2012, as amended by the Site Plan No. 820120170.

2. Preliminary Plan Conformance

The development must comply with the conditions of the approved Resolution for Preliminary Plan No. 120120230, including any amendments approved by the Planning Board.

3. Public Benefits

The Applicant must provide the following public benefits and meet the applicable criteria and requirements of the Zoning Ordinance and the CR Zone Incentive Density Implementation Guidelines, as amended, for each one. Each public benefit must be verified by M-NCPPC Staff to be complete as required by the submittals listed for each, prior to issuance of any use-and-occupancy permit for the associated building, except as noted below. Any disagreement regarding the Application or interpretation of the Public Benefits may be brought to the Planning Board for resolution.

a. Transit Proximity

b. Minimum Parking

- Submit as-built drawings of parking facilities with tabulation of maximum parking spaces allowed, minimum parking spaces required, and parking spaces provided.

c. Structured Parking

d. BLTs

- Purchase or payment for 0.3366 Building Lot Terminations must be made prior to issuance of any building permit. Documentation to be provided to M-NCPPC staff.

e. Cool Roof

- Provide as-built roof plans showing coverage of cool roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12.

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.

- f. Recycling Facility
 - Provide final layout and documentation of compliance with Montgomery County Executive Regulation 15-04AM or Montgomery County Executive Regulation 18-04 for approval by the Division of Solid Waste Services prior to issuance of use and occupancy permit.
 - g. Retained Building Category
 - Prior to any demolition, the Applicant must use an architectural deconstruction company or organization to remove recyclable materials; and
 - Prior to issuance of a building permit, the Applicant must submit documentation to M-NCCPC Staff showing compliance with the Retained Building criteria under Section 59-C-15.857.
4. Transportation
The Applicant must provide six (6) inverted-U bike racks, to accommodate twelve (12) bikes near the main entrance and 74 bike lockers or bicycle parking spaces in a secured area in the parking garage near an elevator or parking garage's access points and in a well-lit area. Final location and facility details to be determined by Certified Site Plan.
5. Environment
Applicant must provide a copy of the Forest Conservation Exemption (No. 42012088E) as part of the Certified Site Plan.
6. Moderately Priced Dwelling Units (MPDUs)
 - a. The Applicant must provide 12.5 percent MPDUs in accordance with an Agreement to Build with the Department of Housing and Community Affairs (DHCA).
 - b. 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, conforming to the Recreation Guidelines approved by the Planning Board in September 1992, shown on the Site Plan including:
 - a. Indoor Community Space;
 - b. Pedestrian System;
 - c. Indoor Fitness Facility; and
 - d. Four Picnic/Sitting Areas.
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, benches, fountains, and artwork. Maintenance may be taken over by a governmental agency by agreement between the owner and applicable agency.

9. Architecture

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

10. Financial Security and Agreement

Prior to issuance of first building permit, the Applicant must provide a performance bond(s) or other form of financial surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. Applicant must provide a cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.
- b. The amount of the bond or surety shall include plant material, on-site lighting, recreational facilities, site furniture, and entrance piers.
- c. Prior to issuance of the first building permit, Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.
- d. Bond/surety shall be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.

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 adjacent to each building must be installed prior to release of any use-and-occupancy permit for the respective building. 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 adjacent to each building, must be installed prior to release of any use-and-occupancy permit for the respective building.
- c. The development program must provide phasing for installation of on-site landscaping and lighting.
- d. The development program must provide phasing of applicable dedications, stormwater management, sediment and erosion control, afforestation, 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 Forest Conservation Plan Exemption letter, stormwater management concept exemption letter, development program, inspection schedule, and Site Plan Resolution on the approval or cover sheet.
- b. Remove unnecessary sheets.
- c. Make corrections and clarifications to details, incentive density calculations, recreation facilities, labeling, data tables, and schedules.
- d. Ensure consistency of all details and layout between architecture, site, and landscape plans.

BE IT FURTHER RESOLVED, that all site development elements as shown on 11141 Georgia Avenue Site Plan stamped by the M-NCPPC on August 8, 2012, the landscape and lighting plans stamped by the M-NCPPC on July 17, 2012 and the architectural plans stamped by the M-NCPPC on July 17, 2012 and July 31, 2012 drawings shall be required, except as modified by the above conditions of approval; and

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 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 not subject to a development plan, diagrammatic plan, schematic development plan, or project plan. It is, however, subject to the binding elements and conditions of Sketch Plan No. 320120030, which may be modified at the time of site plan review under Section 59-C-15.43(d).

There is one modification to the binding elements with this Site Plan. One public benefit under the Quality Design category, Exceptional Design, originally approved by the Sketch Plan has been removed per the Applicant's request. Even with this change, the Application continues to meet the necessary findings

regarding public benefits that must support the requested incentive density and are in keeping with the priorities of the Sector Plan.

The Planning Board finds the removal of the Exceptional Design public benefit does not alter the Sketch Plan findings under Section 59-C-15.43(c):

- The Application continues to meet the objectives, general requirements, and standards of Division 59-C-15 through compliance with the CR Zone.
- The Application furthers the recommendations and objectives of the Wheaton CBD and Vicinity Sector Plan and is in general conformance with the recommendations of the Sector Plan as discussed in the Master Plan section of this report and furthers its objectives and goals by providing housing near a Metrorail station, revitalizing an existing structure, and encouraging mixed-use development in high-density areas.
- The Application achieves compatible internal and external relationships between existing and proposed nearby buildings, open spaces and uses. The development achieves compatibility through similar massing envelopes, although with more articulation and diversity of materials and the building has been designed at an appropriate scale and building height, comparable to other built and allowed development which may build up to 200 feet in the applicable CR Zone on adjacent properties along Georgia Avenue.
- The Application achieves satisfactory general, vehicular, pedestrian, and bicyclist access, circulation, parking and loading. The building is located on an existing street grid for cars, pedestrians, and bicyclists. The project is conveniently located near various public transportation resources including the Wheaton Metrorail Station, various bus lines, public parking garages, and numerous public and private facilities and commercial establishments within walking and biking distance. The Application also provides off-street loading areas for the residents on the internal streets limit conflicts on Georgia Avenue, increased parking for bicycle, existing upgraded sidewalks for pedestrians and bicyclists, and sufficient parking within existing structures for residents.
- The Application will provide public benefits that support the requested incentive density including public benefits that address the general incentive and density considerations required by Section 59-C-15.83 by providing the diversity of housing, general sustainability measures, and connectivity improvements; the proper calculations and criteria for each public benefit and concentrating on transit proximity, connectivity between uses, and retaining the existing building and incorporating it into the new design; taking advantage of the existing site to create a desirable infill development with a residential emphasis; and designing the building at an appropriate scale for the surroundings with heights that establish a proper relationship with other structures in the vicinity of Georgia Avenue and providing a visually pleasing, modern building.

- The Application will be developed in a single phase and therefore establishes feasible and appropriate provisional phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and preliminary and site plan applications.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

There are several requirements of the CR zones that must be met by this Application:

- Uses;
- General Requirements;
- Development Standards; and
- Special Regulations for the Optional Method of Development (Public Benefits).

a. Uses

The proposed uses – residential and office – are permitted uses in the zone.

b. General Requirements

The Application is consistent with the 2011 *Wheaton CBD and Vicinity Sector Plan* and *Wheaton CBD & Vicinity Sector Plan Design Guidelines*:

- The Property is within the Price District as described in the 2011 *Wheaton CBD & Vicinity Sector Plan*. In accordance with the recommendations of the Sector Plan, the Application will provide multi-family, transit-oriented housing near the Wheaton Metrorail station that will increase housing choices in Wheaton and provide more customers for the local services and businesses.
- The proposed building height of up to 145 feet is within the maximum building height of 200 feet allowed by the zone.
- The building will be located along Georgia Avenue as allowed by the zone and envisioned by the Sector Plan.
- The Sector Plan states in the Urban Design Elements that, "Wheaton's buildings will continue to be an eclectic mix, and infill redevelopment will create an increasingly compact and street-oriented pattern. A variety of heights and densities will ensure that new developments are compatible with the surrounding neighborhoods." (page 27, Sector Plan).
- The project is an infill development that reinforces the existing compact development pattern and continues the street wall along Georgia Avenue. It adds to the variety of building heights in the CBD through an appropriate scale and building height. It places a tall structure

along the Georgia Avenue frontage of the block consistent with the Sector Plan's guidance of placing the greatest densities and heights at and near the Metro station along Georgia Avenue and Veirs Mill Road.

- The Application provides a residential lobby and leasing office with entrances on the ground floor along Georgia Avenue that will encourage street level activity. Although this particular segment of Georgia Avenue is not designated as a "priority retail street"(page 20, Sector Plan), the inclusion of the rental leasing office, considered commercial space, will further the plan's goal of creating street level activity envisioned by the Sector Plan. This will further the objective of both the Sector Plan and the design guidelines of creating walkable boulevards along the major roads surrounding the core, and achieving improved connectivity through pedestrian friendly streets.
- The Sector Plan envisions Georgia Avenue as an urban boulevard with enhanced medians and crosswalks, street trees, and street-oriented retail, where appropriate. 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 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.
- The Wheaton CBD & Vicinity Sector Plan Design Guidelines provide specific recommendations for urban boulevards, building design and public open space. The guidelines state: "Many existing building are in need of upgrading and the area lacks quality spaces for public use." (page 7, Design Guidelines). Public open space is not required at this site and the constraints of the site do not allow for new public open space. The Application will retain the existing five-story building and upgrade it with an additional seven stories.
- The Design Guidelines suggest street walls along Georgia Avenue "should be between 2 and 5 stories; this will vary depending on property size and location (to be reviewed on a case by case basis)". The Design Guidelines state minimum suggested tower setback is 15'-0"; may vary depending on the size of development. More is preferred in larger projects, but less can be considered depending on the project constraints (to be reviewed on a case by case basis)." (page 12, Design Guidelines). This Application does not propose a building setback, but it proposes to cantilever, starting at the fourth floor, vertical bays and Juliet balconies over the sidewalk. The cantilevered feature of the proposed façade serves the same purpose of articulation as recommended in the design guidelines of breaking up a shear wall rising from the ground to the full height of the building. It is also acceptable since the Application is trying to maximize the allowable

floor area by adding additional floors on top of an existing five-story building on a site that has a narrow frontage along Georgia Avenue. The proposed vertical bays and Juliet balconies serve as architectural elements to blend the existing building with the additional floors above.

- The Sector Plan “discourages land dedicated to parking. Development plans should reflect shared parking strategies—preferably using structured parking compatible in size and design with both the associated uses and the adjacent area.” (page 70, Sector Plan). The Application will meet its parking needs through a combination of on-site parking, shared parking agreements with adjacent garages, and by participating in the Wheaton Parking Lot District program.
- The Sector Plan establishes several recommendations to create an environmentally sustainable district. The Sector Plan encourages “all new building construction to incorporate environmental features such as green roofs, green walls, and innovative urban stormwater management. Encourage retrofits of existing development to maximize environmental features.” (page 75, Sector Plan). The Application provides sustainability through reuse of the existing structure, “green” features including a Cool Roof and by retrofitting the existing development to maximize environmental features with a more energy efficient building.

c. Development Standards

The Application will comply with all development standards as shown in the data tables and discussion above.

d. Public Benefits

The Application will provide numerous public benefits in addition to Transit Proximity with proportional incentive density points including:

Transit Proximity

This project is eligible for 50 points because it is adjacent to the Wheaton Metrorail station (level 1 transit) and 100 percent of the tract area is within ¼ mile of the Metrorail station. The Planning Board grants the full 50 points because development near transit facilities encourages greater use of transit, controls sprawl, and reduces vehicle miles traveled, congestion, and carbon emissions.

Minimum Parking

Up to 10 points may be granted for providing less than the maximum allowed number of parking spaces, per Section 59-C-15.631. The Planning Board grants the full 10 points because the project provides less

parking than the required spaces under section 59-C-15.631, which will encourage non-automotive travel. The points are determined as follows:

A = Maximum Allowed Spaces = 189
R = Minimum Required Spaces = 117
P = Proposed Spaces = 51

$((A/P) / (A/R)) * 10 = ((189/51) / (189/117)) * 10 = 23$ points (however, only a maximum of 10 points may be granted)

Structured Parking

Up to 20 points may be granted for placing parking within an above – or below - grade structure. A formula dividing the parking provided within an above-grade structure divided by the total parking provided and multiplying the result by 10 has been approved in the guidelines (below-grade parking spaces are eligible for double the points because of the greater cost). In this case, the majority of the parking is within the below-grade structure and the Planning Board grants 18 points. The points are determined as follows:

A = Above Grade Spaces = 10
B = Below Grade Spaces = 41
T = Proposed Spaces = 51

$((A/T) * 10) + ((B/T) * 20) = ((10/51) * 10) + ((41/51) * 20) = 18$ points

BLTs

All optional method developments in CR zones must achieve at least five points through purchase of BLTs as calculated by a formula established in the Ordinance, under Section 59-C-15.856(a). The Applicant will purchase 0.3366 BLTs as required and the Planning Board grants 5 points for this public benefit.

In the CR Zones, an applicant must purchase BLT easements, or make payments to the Agricultural Land Preservation Fund (ALPF), in an amount equal to 5% of the incentive density floor area under the following parameter:

(a) One BLT for every 20,000 square feet of gross floor area to qualify for the first 5 % incentive density floor area.

The points determined as follows:

$5\% * \text{Incentive Density Floor Area} = .05 * 134,640\text{sq.ft.} = 6,732\text{sq.ft.}$
 $6,732\text{sq.ft.} / 20,000\text{sq.ft.} = 0.3366$ BLTs

Cool Roof

Up to 10 points for sites one acre or less, may be granted for constructing any roof area that is not covered by a vegetated roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum of 25 for slopes above 2:12. Cool roofs keep energy costs down and decrease the heat island effect. The Applicant will meet the minimum SRI for a flat roof with a minimum cool roof of 40% of the total available roof area, based on a prorated calculation (.040 x 10 points = 4 points). The Planning Board grants 4 points for this benefit.

Recycling Facility

Up to 10 points may be granted for providing a recycling facility plan to be approved as part of the site plan and must comply with the Montgomery County Executive Regulation 15-04AM or Montgomery County Executive Regulation 18-04. The Planning Board grants 5 points per the criteria: 5 points are appropriate for development that meets the requirements of the zoning ordinance and submits the recycling facilities plan as part of the certified site plan.

Retained Building

Up to 100 points may be granted to development that:

- (a) maintains 75% of the structural system of the existing building;
- (b) uses an architectural deconstruction company or organization to remove recyclable materials prior to any demolition; and
- (c) submits documentation showing compliance with these criteria before the County issues a building permit for a new development.

A project may receive public density points according to the Zoning Ordinance's requirements and the following formula:

R = Retained Gross Floor Area = 86,820sq.ft.

I = Incentive Density Gross Floor Area = 134,640sq.ft.

$$(R/I) * 100 = (86,820\text{sq.ft.} / 134,640\text{sq.ft.}) * 100 = 64 \text{ points}$$

The Planning Board grants 64 points for incorporating the existing building into the new construction.

The proposed public benefits fulfill the priority recommendations of the Sector Plan, meet the criteria of both the Implementation and Design Guidelines; are appropriate for the size and configuration of the tract and enhance the site's relationship to adjacent properties. The individual benefits did not provide enhancements beyond the basic criteria for extra points established by the Zoning Ordinance or the Implementation Guidelines. The Applicant will provide public benefits from at least 4

categories equal to greater than 100 points, the final numbers to be determined prior to approval of the certified site plan.

Data Table

Public Benefit	Maximum Points Permitted	Proposed Points [Sketch Plan]	Criteria	Points Approved By the Planning Board & Binding on the Applicant
Transit Proximity Category				
Transit Proximity	50	50 [50]	Site within 350 feet of Level 1 transit-Wheaton Metrorail station.	50
Connectivity Between Uses, Activities, and Mobility Category				
Minimum Parking	10	10 [10]	51 proposed spaces out of 189 allowed.	10
Quality of Building & Site Design Category				
Structured Parking	20	18 [18]	41 spaces below grade; 10 spaces above grade.	18
Protection & Enhancement of the Natural Environment Category				
BLTs	30	5 [5]	1 BLT per 20,000sf of 5% of incentive density.	5
Cool Roof	10	4 [6]	Providing a minimum of 40% cool roof of total available roof area.	4
Recycling Facility	5	5 [5]	Provides recycling facility plan.	5
Retained Buildings Category				
Retained Building	100	64 [59]	Project will maintain 75% of the structural system of the existing building.	64
Total Points				156.00

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

a. Locations of buildings and structures

The project is an adaptive reuse conversion of an existing building and will not change the physical location of the building footprint. The Site Plan has otherwise been designed to ensure that the location of buildings and structures are adequate, safe and efficient.

b. Open Spaces

Public open space is not required at this site.

c. Landscaping and Lighting

Landscaping and lighting, as well as other site amenities, will be provided to ensure that landscaping, lighting, and site amenities will be safe, adequate, and efficient for year-round use and enjoyment by patrons, employees, and residents. Site furnishings will be integrated within the site to create a unique and interesting place and ensure accessibility and comfort.

d. Recreation Facilities

The Application meets the active and passive recreation space required by the zone. The Applicant will provide the following on-site recreation facilities:

- 6 picnic/sitting areas (Rooftop Amenity);
- 1 indoor fitness facility (Health Center); and
- 3 indoor community space (Residential Amenity).

The development can also take advantage of the nearby recreational facilities at Wheaton Veterans Urban Park and Wheaton Forest Local Park including:

- 1 pedestrian system (sidewalks);
- 1 open play area (Wheaton Veterans Urban Park);
- 1 bike system (existing bikeways);
- 1 play lot (Wheaton Forest Local Park);
- 2 multipurpose courts (Wheaton Forest Local Park);
- 2 tennis courts (Wheaton Forest Local Park);
- 1 soccer field- regulation (Wheaton Forest Local Park); and
- 1 softball field-junior (Wheaton Forest Local Park).

The Application meets the required supply of recreation facilities based on the calculation methods in the M-NCPPC Recreation Guidelines. The Application will provide adequate, safe, and efficient recreation facilities to allow residents to lead an active and healthy life.

e. Pedestrian and Vehicular Circulation Systems

The Application has been carefully planned and designed to promote the safe and efficient movement of vehicles and, as a result of the Property's proximity to various public transportation resources, including the Wheaton Metro Station, bus lines, and public parking garages, will promote more efficient pedestrian utilization of the Georgia Avenue corridor.

Vehicular circulation will not change on the site. Access to and through the site will continue to be from Georgia Avenue. Revised surface parking spaces will be provided and garage and loading access points will continue to be located off internal streets. These circulation routes, access points, and loading movements

have been reviewed to ensure minimal conflicts with pedestrians and that full build-out will be in accordance with the Sector Plan and code requirements.

Pedestrian circulation will continue to be provided along the street frontage and within the site. Pedestrian and bicycle access is provided from the sidewalk along Georgia Avenue to the main lobby entrance. Bicycle parking for visitors and residents will be provided in front of the main entrance along Georgia Avenue and within the existing below grade parking structure. This network will continue to provide adequate, safe, and efficient pedestrian and vehicular circulation systems.

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

The building is compatible with existing uses regarding scale, massing, and height as reflected in the urban design and zoning recommendations of the Sector Plan and Design Guidelines.

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

The Application is subject to the Chapter 22A, Montgomery County Forest Conservation Law, but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(1) because the proposed activity occurs on a tract of land less than 1.5 acres with no existing forest, or existing specimen or champion tree, and the afforestation requirements are not in excess of 10,000 square feet.

- b. Stormwater Management

The Application has an approved Stormwater Exemption Request from the Department of Permitting Services (DPS).

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

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; 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