



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

OCT 7 2014

MCPB No. 14-73  
Preliminary Plan No. 11994080B  
7340 Wisconsin Avenue  
Date of Hearing: September 18, 2014

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on June 9, 1994, the Planning Board approved Preliminary Plan No. 19940800, creating one lot on 0.79 acres of land in the CBD-2 zone, located on the south side of Montgomery Lane, west of Wisconsin Avenue (MD 355) ("Subject Property"), in the Bethesda CBD Policy Area, Bethesda CBD Sector Plan ("Sector Plan") area; and

WHEREAS, on December 12, 2013, the Planning Board approved an amendment to the previously approved preliminary plan, Preliminary Plan No. 1994080A 7340 Wisconsin Avenue (MCPB No. 13-168), to change the use from the previously approved gas station to a maximum of 192,791 square feet of multi-family residential uses, consisting of no more than 225 multi-family dwelling units (including a minimum of 15% moderately priced dwelling units ("MPDUs")), and a maximum of 15,000 square feet of non-residential use, which may include retail, restaurant, or service uses on the Subject Property; and

WHEREAS, on April 28, 2014, Bainbridge Wisconsin Avenue Apartments LLC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plans to reallocate 9,500 square feet of nonresidential floor area to residential floor area, reducing the previously approved nonresidential floor area from 15,000 square feet to 5,500 square feet and increasing the residential floor area from 192,791 square feet to 204,381 square feet on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 11994080B, 7340 Wisconsin Avenue ("Preliminary Plan," "Amendment," or "Application"); and

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Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
M-NCPPC Legal Department  
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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 5, 2014, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 18, 2014, 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;

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 11994080B to reallocate 9,500 square feet of nonresidential floor area to residential floor area, reducing the previously approved nonresidential floor area from 15,000 square feet to 5,500 square feet and increasing the residential floor area from 192,791 square feet to 204,381 square feet by adding the following conditions:<sup>1</sup>

1. The Applicant must comply with the conditions of approval for Project Plan No. 920140010, as amended. This condition supersedes condition no. 2 of Planning Board Resolution No. 13-168 for Preliminary Plan 11994080A, dated December 26, 2013.
2. This Preliminary Plan is limited to a maximum of 204,381 square feet of multi-family residential uses, consisting of no more than 225 multi-family dwelling units (including a minimum of 15% MPDUs), and a maximum of 5,500 square feet of non-residential use, limited to retail, restaurant, or service uses. This condition supersedes condition no. 3 of Planning Board Resolution No. 13-168 for Preliminary Plan 11994080A, dated December 26, 2013.
3. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letters dated November 8, 2013, and June 13, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval. This condition supersedes condition no. 4 of Planning Board Resolution No. 13-168 for Preliminary Plan No. 11994080A, dated December 26, 2013.

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<sup>1</sup> 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 all other previous preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

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. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan as revised by previous amendments, and all findings not specifically addressed remain in effect.*
2. *Public facilities will be adequate to support and service the area of the approved subdivision.*

The Planning Board found that the previous amendment application, Preliminary Plan 11994080A, will be served by adequate public facilities. The Amendment will reallocate 9,500 square feet of non-residential use to residential use, but the number of dwelling units will not increase. Since vehicular traffic impact for residential use is measured per dwelling unit and not per floor area, the number of vehicle trips and the traffic burden on surrounding streets will be reduced in comparison to the previous application. The Subject Property is within the Bethesda Chevy Chase High School cluster area, which is currently operating between 105-120% of capacity at the high school level, and a school facilities payment has been required as a condition of the previous preliminary plan approval. The reallocation of floor area from non-residential to residential uses will not increase the number of dwelling units, and the burden on school facilities and the required payment will not change as a result. Other public services will not be affected by the reallocation of floor area, and the Planning Board's previous finding remains valid.

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

The Montgomery County Department of Permitting Services Stormwater Management Section approved the stormwater management concept on November 13, 2013. According to the approval letter, the stormwater management concept meets stormwater management requirements via environmental site design to the maximum extent possible through the use of a green roof and micro-bioretenion planter box. The remaining volume will be treated in a structural proprietary filter.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is OCT 17 2014 (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).

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**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 Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley voting in favor at its regular meeting held on Thursday, September 18, 2014, in Silver Spring, Maryland.



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Casey Anderson, Chair  
Montgomery County Planning Board