



**MONTGOMERY COUNTY PLANNING BOARD**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 15-144  
Preliminary Plan No. 120150200  
St. Elmo Apartments  
Date of Hearing: December 10, 2015

DEC 17 2015

**RESOLUTION**

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

WHEREAS, on May 13, 2015, 4931 Fairmont, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 1.41 acres of land in the CR 5.0 C 1.0 R 4.75 H 145T zone, located on St. Elmo Avenue and Fairmont Avenue, approximately 275 feet northeast of Old Georgetown Road ("Subject Property"), in the Woodmont Triangle Amendment to the Bethesda CBD Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120150200, St. Elmo Apartments ("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 November 25, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 10, 2015, the Planning Board held a public hearing on the Application at which it 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.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120150200 to create one lot on the Subject Property, subject to the following conditions:<sup>1</sup>

<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.

Approved as to  
Legal Sufficiency:  11/23/15  
8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
MNCPPC Legal Department  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org



1. Approval is limited to one lot with a maximum density of 263,956 square feet of total development, consisting of up to 210 residential dwelling units, up to 10,000 square feet of office and up to 6,000 square feet of retail or another combination of non-residential uses which generate no more than the same number of vehicular trips and not to exceed 15,488 total square feet of non-residential uses. The development must include 15% Moderately Priced Dwelling Units (MPDUs).
2. The Applicant must comply with the binding elements and conditions of approval for Sketch Plan No. 320150040 and any subsequent amendments.
3. The development is limited to the maximum height of 174 feet, as measured from the approved building height measuring point for the building, in accordance with Section 59-4.1.7.C.2, and the final location to be determined at Site Plan. The Certified Preliminary Plan must accurately reflect the correct building height measuring point.
4. At the time of Site Plan, the Applicant must submit a tree save plan that provides mitigation for the removal of the one onsite specimen tree. The mitigation plantings must be provided either onsite and/or elsewhere within the Bethesda CBD. The mitigation plantings shall consist of four, three inch caliper trees; the final species and locations of which will be determined as part of the Site Plan.
5. The Planning Board accepts the recommendations of MCDPS – Water Resources Section in its stormwater management concept letter dated June 12, 2015, 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 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.
6. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated August 11, 2015, and hereby incorporates them as conditions of the Preliminary Plan approval, except for Condition #4, Garage Entrance Width, as follows:
  - a. The Applicant must construct the garage entrance located on St. Elmo Avenue to a minimum of 22 feet in width configured as one 12-foot wide inbound lane and one 10-foot wide outbound lane.
  - b. The Applicant must comply with all other recommendations as set forth in the letter, which may be amended by MCDOT, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
7. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements, except as modified by Condition No. 6 above, which are associated with each plat, as required by MCDOT.



8. The Planning Board accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (MCDHCA) in its letter dated October 8, 2015, 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 letter, which may be amended by MCDHCA, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
9. The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Sector Plan and/or to the design standards imposed by all applicable road codes, including as modified by MCDOT.
10. Prior to recordation of the plat(s) the Applicant must satisfy MCDPS requirements to ensure the construction of a minimum 6-foot wide sidewalk along the Subject Property frontages on St. Elmo Avenue and Fairmont Avenue.
11. The Applicant must provide public bicycle parking for short-term use either near the main residential entrance to the multi-family building or in the open space promenade. Secure, private bicycle parking for long-term use must be installed internal to the multi-family building, for residents' use. The exact number and location of bicycle parking will be determined at the time of Site Plan.
12. Prior to issuance of the first building permit, the Applicant must execute a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District (TMD).
13. 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 approval. 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.
14. The record plat must show necessary easements.
15. The final number of MPDUs as per condition #1 above will be determined at the time of Site Plan(s) approval.
16. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.



17. Prior to issuance of a building permit, the Applicant must provide Staff with certification from an engineer specializing in acoustics that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
18. After construction is complete, and prior to issuance of final residential occupancy permits, the Applicant must provide staff with a certification from an engineer specializing in acoustics confirming that the dwelling units were constructed in accord with the approved specifications for noise attenuation.
19. No clearing, grading, or demolition of the site, or recording of plats prior to Certified Site Plan approval. This condition does not prohibit the Applicant from demolishing the buildings on the site prior to Certified Site Plan in order to address safety concerns.
20. Final approval of the location of the building, dwelling units, on-site parking, site circulation, and sidewalks will be determined at Site Plan.
21. Include the stormwater management concept approval letter, other agency recommendation letters, and the Preliminary Plan Resolution on the approval or cover sheet(s) of the Certified Preliminary Plan.
22. In the event that a subsequent site plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration or location or right-of-way width or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.

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.*

The Application substantially conforms to the recommendations for the Subject Property included in the *Woodmont Triangle Amendment to the Bethesda CBD Sector Plan*. The Subject Property is designated as Block 44, which is recommended for a FAR of 5.0 (not including the MPDU bonus density) and MPDU bonus height up to 174 feet.<sup>2</sup> The Subject Property is located in the area

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<sup>2</sup> Per Section 4.5.2.C of the Zoning Ordinance, the Application meets the height requirements contained for properties zoned CR with a height designation of "T". The "T" designation permits properties within a designated central business district mapped at a height of up to 145 feet to increase the height above the number following the H on the zoning map by up to 1.5 times if greater if the additional height is



of the Woodmont Triangle that is closest to the Bethesda Metro Station. It is recognized in the Sector Plan that properties in Block 44 are suitable for higher density because of the proximity to transit. The Subject Property also is within the area designated as a Density Transfer Area. Specifically, the Application furthers the following goals as outlined in the *Woodmont Triangle Amendment*:

- *Housing – Provide opportunities to increase the supply of housing to serve a variety of income levels.*

The Application will provide approximately 210 units, containing diverse housing opportunities by including a variety of market-rate unit sizes and layouts and 15% MPDUs to facilitate the availability of new housing, in a range of types and rents, within walking distance of the Metro.

- *Small-scale Retail – Provide opportunities to retain existing businesses and expand opportunities for new businesses.*

Through the use of density averaging, the Sending Properties will remain as existing small-scale developments, while simultaneously allowing for the development of a larger mixed-use project on the Subject Property. Additionally, the Application also will provide street activating uses, such as ground-floor retail on both St. Elmo Avenue and Fairmont Avenue.

- *Safe and Attractive Streets – Focus on improving the safety and character of the existing streets.*

The Application will provide streetscape improvements along Fairmont Avenue and St. Elmo Avenue per the current Bethesda Streetscape Standards. The expansion of the mid-block connection will create an active and safe pedestrian environment. The pedestrian mid-block connection will provide a more efficient means of transportation for pedestrians navigating through the Woodmont Triangle area and will provide a pedestrian space that is separate from vehicular traffic.

- *Public Amenities – Increase flexibility in providing the public use space through optional method of development by allowing off-site and on-site fulfillment of this requirement, and by identifying a list of priority public amenities.*

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specifically recommended for the provision of MPDUs above 12.5% in an applicable master plan. The Woodmont Triangle Amendment limits the height for Block 44 to 174 feet with a 22 percent MPDU bonus, which the Application is consistent with.



The *Woodmont Triangle Amendment* lists priority public use space and amenities for the Woodmont Triangle area, which includes: streetscape improvements; north-south, mid-block pedestrian connections for the blocks located between Old Georgetown Road and Norfolk Avenue; diverse urban spaces including public use space on-site; and public art. Public spaces in the Woodmont Triangle area are encouraged to support retail and an active pedestrian environment. The Application will provide a north-south public mid-block pedestrian connection to create smaller, more pedestrian-friendly blocks and a generous public use space. The pedestrian pass-through will also provide an inviting pedestrian environment that will activate the street and support the ground-floor retail included as part of the Application.

The Application is in general conformance with the *Woodmont Triangle Amendment*.

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

#### Roads and Public Transportation Facilities

Vehicular access to the Subject Property is from both St. Elmo Avenue and Fairmont Avenue in the following configuration: garage access via a full-movement driveway on St. Elmo Avenue, at the west corner of the site, and loading access via Fairmont Avenue, at the south corner of the site. Resident vehicular parking will be contained within a structured below-grade garage, accessed off St. Elmo Avenue. Pedestrian and bicycle access to the Subject Property will be provided along both St. Elmo Avenue and Fairmont Avenue.

The immediate area is well served by transit that includes the Red Line Bethesda Metrorail Station (located approximately 0.3 mile, or 1,700 feet to the south of the site<sup>3</sup>), Metrobus, RideOn, the Bethesda Circulator and future Purple Line.

As a mixed-use project within the Bethesda Transportation Management District (TMD), the development is required to enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and Montgomery County Department of Transportation (MCDOT) to participate in the Bethesda TMD. The specific criteria requiring a TMAg are as follows: 25 or more employees or more than 100 dwelling units. Since the Application exceeds the criteria, a TMAg is required.

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<sup>3</sup> The pedestrian route between this site and the Metrorail station is approximately 1,700 linear feet. It should be noted that this distance differs from the 1,500-foot distance recognized for public benefit points for transit proximity due to the manner in which these distances are measured.



#### LATR/TPAR

A traffic study (dated April 9, 2015) was submitted for the Application per the *LATR/TPAR Guidelines* since the development was estimated to generate more than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. A site trip generation summary for the development, provided in the Staff Report, shows that the Application will generate 51 new peak-hour trips during the weekday morning peak period and 45 new peak-hour trips during the weekday evening peak period.

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis for the weekday morning and evening peak-hour periods, presented in the Staff Report, shows that the total (Build) condition will remain within the policy area congestion standard of 1,800 CLV. Based on the analysis presented in the traffic study, the Application will satisfy the LATR requirements of the APF test.

Since the development is within the Bethesda CBD Policy Area, the Application is exempt from both the roadway and transit tests set forth in the 2012-2016 *Subdivision Staging Policy*. As a result, the development is not required to pay the transportation impact tax to satisfy the TPAR requirement.

#### Other Public Facilities

Public facilities and services are available and will be adequate to serve the development. The Subject 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 Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, schools, and health services are operating according to the *Subdivision Staging Policy* resolution currently in effect and will be adequate to serve the Subject Property. Electrical, telecommunications, and gas services are also available to serve the Subject Property.

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The size, width, shape, and orientation of the lot is appropriate for the location of the subdivision taking into account the



recommendations included in the Sector Plan, and for the type of development or use contemplated. The Application substantially conforms to the *Woodmont Triangle Amendment* to the *Bethesda CBD Sector Plan*. The Application complies with the specific density recommendations for the site as well as the applicable urban design, roadway, and general recommendations outlined in the Sector Plan. As evidenced by the Preliminary Plan, the site is sufficiently large to efficiently accommodate the mix of uses.

Under Section 59-4.5.4 of the Zoning Ordinance, the dimensional standards for the lots will be determined with approval of the subsequent site plan.

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

A. Forest Conservation

This 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)(2) because the proposed activity occurs on a tract of land less than 1 acre that will not result in the clearing of more than a total of 20,000 square feet of existing forest, or any existing specimen tree or champion tree, and reforestation requirements would not exceed 10,000 square feet. Forest in any priority area on-site must be preserved.

However, the removal of a specimen tree triggers the tree save plan provision of the Forest Conservation Law under 22A-6(b), which states an activity or development that would be exempt under Section 22A-5, except that the proposed activity involves clearing of a specimen or champion tree, requires the approval of a tree save plan, which may require tree preservation or mitigation for loss of individual trees. The tree save plan must provide mitigation for the one specimen tree that will be cleared. The mitigation planting of four three inch caliper trees must occur onsite or within the Bethesda CBD.

5. *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The MCDPS Stormwater Management Section approved the stormwater management concept on June 12, 2015. According to the approval letter, the



stormwater management concept meets stormwater management requirements via a green roof and micro-bioretenion/planter boxes.

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)), 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 DEC 17 2015 (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 Fani-González, seconded by Commissioner Presley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Presley and Fani-González voting in favor, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, December 10, 2015, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board