



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

JUL 26 2013

MCPB No. 13-108
 Preliminary Plan No. 120130230
 4990 Fairmont Avenue
 Date of Hearing: July 18, 2013

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 1, 2013, 4990 Fairmont, LLC (“Applicant”), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 0.52 acres of land in the CBD-2 zone, located in the northeast quadrant of the intersection of Fairmont Avenue and Old Georgetown Road (“Subject Property”) in the 2006 Woodmont Triangle Amendment to the 1994 Bethesda Central Business District (“CBD”) Sector Plan (“Sector Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120130230, 4990 Fairmont 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 July 5, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 18, 2013, 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.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120130230 to create one lot on the Subject Property, subject to

Approved as to
 Legal Sufficiency:

Christina Sewart 7/11/13

the following conditions:¹

- 1) This Preliminary Plan is limited to 1 lot for a maximum of 138,052 gross floor area for 72 residential units including a minimum 15% Moderately Priced Dwelling Units (MPDU's), and 7,000 square feet of retail uses inclusive of artist incubator space.
- 2) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated June 11, 2013, and does hereby incorporate 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 MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 3) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated June 26, 2013, and does hereby incorporate 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 MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for 85 months from the date of mailing of the Preliminary Plan Resolution.
- 5) The Subject Property is located in the Bethesda-Chevy Chase High School Cluster. Pursuant to the FY2014 Annual School Test, the 72 dwelling units are subject to a School Facilities Payment at the high school level. The rate of the tax or payment due is the rate in effect when the tax or payment is paid and must be made in accordance with Chapter 52, Article VII, Section 52-50(l), of the Montgomery County Code.
- 6) Short term public bicycle parking for up to six bikes (inverted "U" racks) must be installed along the retail frontage and near the art incubator space. Exact locations of the rack to be determined at the time of Site Plan.

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.

- 7) The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District and must execute the TMAg prior to approval of the Certified Site Plan. The TMAg must include trip mitigation measures recommended by MCDOT.
- 8) The Applicant must show on the final record plat the following right-of-way dedications, Public Improvement Easement (PIE), or public access easements consistent with the 1994 Approved and Adopted Bethesda CBD Sector Plan and Montgomery County Code Chapter 50 Subdivision Regulation requirements:
 - a. Fairmont Avenue: No dedication is necessary because this street is currently at its master planned minimum future right-of-way width.
 - b. Old Georgetown Road (MD 187): No dedication is necessary because this street currently exceeds its master planned minimum future right-of-way width.
- 9) The Applicant must provide a noise analysis at the time of the initial site plan submittal. The noise analysis must include exhibits showing existing and 20 year projected 60, 65 and 70 dba Ldn noise contours. Prior to issuance of the first building permit, an engineer specializing in acoustics must certify that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The builder must commit to construct the units in accord with these design specifications, with any changes that may affect acoustical performance approved by the acoustical engineer in advance of installation.
- 10) Prior to site plan submittal, the Applicant must satisfy all Montgomery County Fire and Rescue Service ("MCFRS") requirements and obtain written approval from MCFRS.

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 Master Plan.*

The Preliminary Plan Application substantially conforms with the 2006 Woodmont Triangle Amendment to the 1994 Bethesda CBD Sector Plan. The Goals of the Sector

Plan include a housing goal to increase the supply of housing for a variety of income levels; a small-scale retail goal to provide opportunities to retain existing business and expand opportunities for new businesses; an arts and entertainment goal to enhance the existing public arts program in the Bethesda CBD and provide opportunities for both the visual and performing arts; and a public space goal to focus on improving the safety and character of the existing streets and increase the flexibility in providing the public use space through the Optional Method of Development.

For housing, the project includes up to 72 multi-family residential units, with 15% on-site MPDUs, in a variety of unit sizes so that persons at a range of income levels can reside in the Woodmont Triangle Area. For small-scale retail, the project provides street level space for retail, restaurant or service uses. For the Arts and Entertainment District, this project offers approximately 2,000 square feet of new studio space for artists in the visual arts on a street level arts alley, an important contribution to the Arts & Entertainment District. For public spaces such as safe and attractive streets, the project improves the continuity of pedestrian routes by closing driveways from Old Georgetown Road and consolidating them to one access area on Fairmont Avenue. The Bethesda streetscape will be installed and the alley along the eastern side of the building will be enlivened. Entrances to street oriented retail and the residential lobby will enliven the street as well. In terms of on-site public amenities, the studio space for artists that is open to the public is highly desirable, and widening the current alley width to 11 feet will increase visibility and accessibility for the adjacent alley which can be used to walk to the side entrance of Garage 11.

Building height limits and density are also addressed on pages 11 and 12 of the Sector Plan. The project is consistent with the building height and density recommendations of the Sector Plan, where a 174 foot tall building and 5.73 residential FAR in this location will not adversely affect adjacent properties, but are appropriate given the provision of 15% MPDUs in a location that is 1,500 feet from the Bethesda Metrorail station. Non-residential development on the Subject Property is calculated to be 0.40 FAR, which is less than 1.0 FAR and consistent with the intent of the Sector Plan.

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

The site currently has access points on Old Georgetown Road (two full-movement driveways) and Fairmont Avenue (one full-movement driveway). Vehicular ingress and egress to and from the on-site private residential garage and loading space will be limited to two full-movement driveways off Fairmont Avenue on the north corner of the Property. Pedestrian and bicyclist access to the site will be provided along both Old Georgetown Road and Fairmont Avenue, although Fairmont Avenue provides the more comfortable bicyclist experience due to its lower vehicular speed and volume.

The immediate area is well served by transit that includes the Red Line Bethesda Metrorail Station (located approximately 0.3 mile or 1,500 feet to the south of the site), Metrobus, RideOn, and the Bethesda Circulator. Future transit in the area includes a proposed Purple Line station. Specific transit routes near the site include: RideOn Bus Routes 29, 32, 30, 34, 36, 40, 47, 70, and WMATA Metrobus Routes J2, J3, J4, J7, and J9.

Sector Plan Roadways and Pedestrian/Bikeway Facilities

The 1994 *Bethesda CBD Sector Plan* has the following facilities along Property frontage:

1. Fairmont Avenue, along the northern site frontage, as a Biker Friendly Area and Mixed Street with a minimum right-of-way width of 60 feet. Mixed Streets are described in the Sector Plan as streets that accommodate higher levels of pedestrian activity.
2. Old Georgetown Road, along the southern/western site frontage and between St. Elmo Avenue to the north and Woodmont Avenue to the south, as a major highway (M-4) with a minimum right-of-way width of 82 feet.

Fairmont Avenue will remain a low-volume street, and the Applicant is required to update and improve the streetscape along Fairmont Avenue (and Old Georgetown Road). These two factors support the Sector Plan recommendation for a mixed street that safely accommodates bicyclists and pedestrians. The Applicant is not required to dedicate any right-of-way for Old Georgetown Road because this street currently exceeds its sector planned minimum future right-of-way width.

Adequate Public Facilities Review

A traffic statement (dated June 17, 2013) was submitted for the subject Application per the *LATR/TPAR Guidelines* since the development was estimated to generate less 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.

Trip Generation

A site trip generation summary shows that the development will generate fewer vehicular trips than the site's current use as an office and filling station. As a result of the change of use to residential and retail, the site will generate 18 fewer trips during the morning peak period and 15 fewer trips during the evening peak period.

Local Area Transportation Review

Since the development will generate fewer than 30 peak hour trips, the project is not subject to the LATR. Exemption from the LATR was documented in the Applicant's traffic statement, dated June 17, 2013. No further analysis is necessary to satisfy LATR requirements.

Transportation Policy Area Review

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

The Preliminary Plan Application satisfies the *LATR and TPAR requirements* of the APF review and will provide safe, adequate, and efficient vehicular and pedestrian access.

Other public facilities and services are available and will be adequate to serve the Subject Property. The building will be served by public water and sewer systems. Local lines exist, and they are of adequate size to serve the number of units in the development. Electrical and telecommunications services are available to serve the Property. Local health clinics, police stations and fire stations are all operating within acceptable levels as established by the Subdivision Staging Policy. The project is located in the Bethesda-Chevy Chase High School Cluster. The 72 condominium units are subject to the Annual School Test effective for FY14. A School Facilities Payment is required at the high school level in this cluster.

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

The lot will have frontage on a public street. The size, width, shape and orientation of the lot is appropriate for the location of the subdivision. The lot size is appropriate, for it accommodates a single building with a mix of uses. The width of the lot is suitable given the various points of access necessary to accommodate pedestrian movements and the single point of access necessary to accommodate the residential parking garage and required on-site loading. The shape of the lot is appropriate, for the consolidation creates a more rectangular lot which is suitable for the corner orientation of the Property.

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

There are no onsite wetlands, floodplains, streams or their associated buffers on the Subject Property. There is neither onsite forest nor specimen trees onsite. The

Applicant applied for an exemption from submitting a forest conservation plan. Exemption 42013105E was confirmed on January 16, 2013. This Property qualified for an exemption under section 22A-5(s)(1) of the Montgomery County Forest Conservation Law, where an activity occurring on a tract of land less than 1.5 acres with no existing forest or existing specimen or champion trees, and the afforestation requirements would not exceed 10,000 square feet.

As part of the site plan submittal, the Applicant will be required to provide a noise analysis, which must include exhibits of existing noise contours and 20 year projection, and certification from an engineer specialized 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. The project must also comply with County Council green building legislation, by achieving a LEED certification (26-32 points). LEED points can be achieved using diverse measures such as green roofs, green building materials, energy saving measures and waste reduction plans. If the Applicant is unable to achieve a silver rating, they will have to provide information on what would need to be done to achieve that standard.

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 stormwater management concept approved on June 11, 2013, meets the required stormwater management goals by the use of Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP) with the use of a green roof and micro-bioretenion/planter box. A waiver for structural treatment is granted since full treatment of ESD volume is not possible due to the existing shallow storm drain and onsite constraints. This Preliminary Plan Application complies with Section 50-24(j), which requires that stormwater requirements be satisfied as part of the Preliminary Plan review.

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

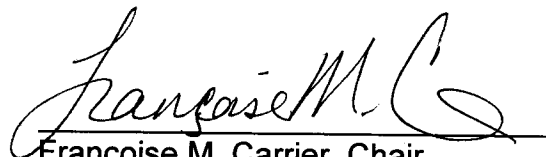
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 26 2013 (which is the date that this Resolution is mailed to all parties of record); and

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 Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 18, 2013, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board