

Citizens Coordinating Committee on Friendship Heights

August 30, 2020

By email

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Re: CCCFH Comments on Kensington of Bethesda (Westwood II), Preliminary Plan and Site Plan

Dear Parks and Planning supervisors and staff:

The Citizens Coordinating Committee on Friendship Heights (CCCFH), which includes 18 communities in and around the Westbard sector, is hereby providing these comments on aspects of the Kensington of Bethesda site plan application (820200200) primarily as it relates to the Willett Branch Greenway, and on the preliminary plan application (12017017A) as it relates to timing of the conveyance of part of Westwood II to M-NCPPC Parks.

As you know, the Westbard Sector Plan provides for the Willett Branch Greenway, which will reveal and naturalize the neglected Willett Branch stream to create an open space corridor, providing the Westbard community with access to the stream, native wetland plants and forested areas. The Greenway will also create critical pedestrian linkages between River Road and Westbard Avenue, and to the Capital Crescent Trail. Sector Plan p. 50, 51, 86. The Willett Branch Greenway is envisioned as a regional gem in the Montgomery County park and trail system. Sector Plan p.100.

One element of the envisioned Willett Branch Greenway is at the intersection of realigned Westbard Avenue (now called Ridgefield Road) and River Road, on part of what is now the Westwood II property. Sector Plan pp. 10, 12, 53. The creation of a park in this area requires, in part, a land dedication from Regency to M-NCPPC. See Resolution on Preliminary Plan paragraphs 27 and 28 (May 6, 2019) <https://montgomeryplanningboard.org/wp-content/uploads/2019/05/Westwood-Shopping-Center-Preliminary-Plan-No.-120170170-MCPB-No.-19-032.pdf>.

Representing the Communities of Brookdale, Chevy Chase Village, Chevy Chase West, Drummond, Kenwood, Kenwood Condominium, Kenwood Forest II, Kenwood House Cooperative, Kenwood Place Condominium, Somerset, Somerset House Condominiums, Springfield, Sumner Village, Village of Friendship Heights, Westbard Mews, Westmoreland, Westwood Mews, and Wood Acres

CCCFH has a number of major concerns about the future Gateway to the Park and the pending Kensington of Bethesda applications. First, we would like to know how Parks expects the to-be-dedicated land to be built out into the Gateway to the Park and how this will fit into the future Willett Branch Greenway. Second, the exterior of the proposed Kensington of Bethesda building needs to be modified and improved from the perspective of eyes on and from the park and so that the park feels like a public space. Third, Kensington of Bethesda proposes to construct the building on the eastern boundary of its land (taking into account the dedication). They would put the building up against the American Plant property line, which would not allow Fire Department access or accommodate pedestrian access to the future Willett Branch greenway. Also, it appears that they could be looking to place part of the footings for the building on to-be-conveyed land. In light of these and other concerns, parts of the building need to be moved back, and as a consequence other adjustments need to be made. Fourth, the developer needs to leave the property that is to be dedicated to M-NCPPC in a good and proper condition, as specified by a Parks permit, so that in short order the public will be able to enjoy it, including before Parks has an opportunity to build the ultimate Gateway to the Park. Fifth, public open space requirements for the Kensington property need to be met. Sixth, what resources, including of the applicant, will be brought to bear to build a suitable Gateway to the Park. Seventh, in view of development scheduling changes in Westwood, the land for the Gateway to the Park needs to be conveyed to M-NCPPC at a possibly earlier date than previously indicated.

Before I set forth comments, I will explain some terms used below. The Willett Branch Greenway is the area that eventually will be built along the Willett Branch. The Gateway to the Park is the area on the Westwood II properties to be conveyed and dedicated to the M-NCPPC Parks Department. At times in other documents this gateway area has been referred to as a green urban park in the Willett Branch Urban Greenway/Stream Valley Park.

These comments are written with the recognition that the Willett Branch Greenway including the Willett Branch stream restoration are projects that will be advanced incrementally, as parcels of property along the Willett Branch are redeveloped and acquired. In some segments, land areas may be improved before the stream itself is restored.

The Gateway to the Park must be devised thoughtfully, consistent with articulated objectives.

The Gateway to the Park can and must be substantially realized as a successful, functioning urban park in connection with the development of Kensington of Bethesda and the dedication of part of the Westwood II property to M-NCPPC Parks.

As recognized in the Preliminary Plan resolution, "Future development must be designed and constructed to minimize adverse impacts on the future implementation of the Willett Branch Greenway." Para. 34. In light of this and the need for functional and harmonious planning for the entire Westwood II area including Kensington of Bethesda and the Gateway to the Park, the effectuation of the Gateway to the Park must be considered now.

We are most appreciative that Parks staff has given considerable thought to the Gateway area, provided comments and prepared a Willett Branch Greenway Concept Plan for Park Dedication (Concept Plan) (plan view, undated, received August 2020).

As Parks stated in its comments to the DRC:

- 5) This section of Willett Branch is a major gateway / entrance trailhead and potential focal point to the greenway. M-NCPPC Montgomery Parks has performance objectives for the overall Greenway . . .and this specific section of the greenway, including:
- a. A safe, accessible gateway area that acts as an inviting entrance to the section of the Willett Branch Greenway between Ridgefield Road and the Capital Crescent Trail. This includes shaded areas, seating, and signage.
 - b. A safe pedestrian and cyclist crossing of River Road at grade.
 - c. Greenway design is seamlessly integrated into the Westwood II development, providing trail users and Westwood II customers with direct, easy, and inviting access between the two spaces, allowing both the Greenway and the Westwood II site to benefit from being adjacent to one another.
 - d. A hard-surface trail extends downstream from the intersection of Ridgefield and River Roads, offering a safe and convenient access for cyclist and pedestrians. This trail provides easy access to the Capital Crescent Trail, the Countywide Recreational Park, the HOC apartments, and to the Westwood Shopping Center.

Also meriting note, the Sector Plan shows a tributary to Willett Branch running along River Road. p. 76. A Planning Department environmental planner, citing the Sector Plan, called for artfully re-engineering and enhancing the existing water features on the east side of Ridgefield Road (Sector Plan p. 76).

The Concept Plan lays out, among others, a Greenway Trail, sloped area toward the Willett Branch, the Willett Branch itself and an outfall and rip rap relating to an underground pipe from the former Manor Care area.

It bears emphasis that space is tight in the Gateway to the Park area. Much of the to-be-dedicated area where the Willett Branch parallels the proposed Kensington of Bethesda building is about 40 feet wide, from the stream to the proposed building. (see area to the east of “MB-5A”) on drawing “Site, Grading and Utility Plan”
https://eplans.montgomeryplanning.org/UFS/31880/91557/07-SITE-820200200-SP-006.pdf/07-SITE-820200200-SP-006.pdf_V2/07-SITE-820200200-SP-006.pdf. By the very nature of the area and its future use, a number of elements need to be included in this limited space, including from the Willett Branch, an embankment that extends a considerable distance to the stream which is generally well below the land surface, a large outfall from a pipe originating in the former Manor Care area, vegetated areas, and a hard-surfaced trail entering the area and roughly paralleling the stream. That trail would connect to segments of the Greenway Trail to be built in connection with future development or acquisitions.

While in general we support the Concept Plan, we believe that benches, a bike rack, shade trees, landscaping and a water feature should be added to the Concept Plan. In addition, as the Resolution on the Preliminary Plan states, the “Sector Plan envisions rehabilitation of the Willett Branch to improve both its ecology and community benefit. Further, the Sector Plan recommends that the Willett Branch be buffered from development, naturalized and improved with environmentally sensitive public amenities.” Resolution p. 11.

The proposed Kensington of Bethesda building needs to be modified and improved.

In immediate proximity to the to-be-dedicated park land, on the Kensington of Bethesda property are the proposed micro bioretention structures and building, as well as an egress path. (path appears on <https://eplans.montgomeryplanning.org/UFS/31880/91557/09-ARCH-820200200-002.pdf/09-ARCH-820200200-002.pdf> and <https://eplans.montgomeryplanning.org/UFS/31880/91557/09-ARCH-820200200-003.pdf/09-ARCH-820200200-003.pdf>) These need to fit – functionally and harmoniously with the park. If they do not, they will permanently detract from the Greenway, including its appearance, attractiveness to users, safety and functionality.

We have concerns about the proposed building. Preliminarily, we note that the elevations in the site plan application (<https://eplans.montgomeryplanning.org/UFS/31880/91557/09-ARCH-820200200-007.pdf/09-ARCH-820200200-007.pdf>, see also <https://eplans.montgomeryplanning.org/UFS/31880/91557/09-ARCH-820200200-006.pdf/09-ARCH-820200200-006.pdf>) are not helpful. They do not fairly illustrate the true lack of space between the building and the park, instead showing a seemingly expansive green lawn, and do not appear to depict the true topography from the stream to the building.

As noted in Parks comments to the DRC, M-NCPPC Montgomery Parks has performance objectives for the overall Greenway – including that buildings should not turn their back on the Greenway. Unfortunately, that is what the proposed building does. The exterior elevations may be the result of an approach to building planning that focuses on the interior of a building, but it leaves too much to be desired from the standpoint of its appearance from the Greenway area. Improvements in the appearance as viewed from the park are warranted. Compelling points have been articulated by Paul Mortensen of the Planning Department and Susanne Paul of Parks (need to ensure the park feels like a public space instead of being enclosed on three sides and just the backyard of the building).

The Kensington of Bethesda building must be set back from the property line between Kensington of Bethesda and the property to be dedicated to Parks for Gateway to the Park.

A Concept Plan note says design all retaining walls to be 1 ft off (min) property line. There are at least three reasons for setting the eastern (the side with MB-5A and MB-5B) Kensington building walls back, and some of these dictate that in some places the building should be set back much more than 1 foot. To begin, the footings for the new building should not be on the to-be-dedicated property for the park. Footings transmit loads from a structure to the supporting soil. Ordinarily a footing is considerably wider than the wall that the footing supports and the wall is set back from the footing's edge, at or toward the center of the footing. To the extent that a wall is not centered on the footing, structurally there may be a moment problem. Accordingly, with the footing entirely within the Kensington property (as it will exist after the dedication), it follows that the Kensington building wall and bioretention structures need to be set back from the footing edges and the property boundary.

Second, in some areas the land area between the stream and the property boundary (after the dedication) is very narrow and more shy distance space is needed for users of the to-be developed Greenway Trail. The area from the stream to the proposed building wall is only about 20 feet wide at the south end of the building near the words “top of planter” near “MB-5B” on

drawing “Site, Grading and Utility Plan”

https://eplans.montgomeryplanning.org/UFS/31880/91557/07-SITE-820200200-SP-006.pdf/07-SITE-820200200-SP-006.pdf_V2/07-SITE-820200200-SP-006.pdf. People do not want their arms against or near a wall when they walk and bicyclists do not want handle bars near a wall or fence. Space needs to be provided by setting back the building wall in the east-most area of the building.

Third, as the County’s fire and rescue expert, Marie LaBaw, has pointed out to Parks and to Planning, there needs to be space around the proposed building. But the proposed building is against the American Plant property line, which would not allow Fire Department access. In addition, space is needed to accommodate pedestrian access to the future Willett Branch greenway and for crime prevention through environmental design (CPTED) reasons.

Access and utility easements bear heightened scrutiny as they relate to the Greenway.

The applicant seems to want to give property for parkland yet take away property rights in an easement, purportedly to service their facility. Parks fairly says that the applicant shall provide any and all access to their walls and facilities from within their property, and Parkland dedication shall not include maintenance access easements to serve the Applicant. This is in apparent response to the applicant’s memo to Dominic Quattrocchi of July 29, 2020 stating: “The Covenant for Future Parkland Dedication for Westwood II contemplates the reservation of certain access and utility easements. The Applicant intends to reserve an access easement for the periodic maintenance of the stormwater facilities as part of the dedication.” Response to Point 11.

While we support Parks, if there is a future accommodation, we urge extreme caution. As you will recall, as to Westwood I, the applicant proposed to satisfy its obligations to create Springfield Park by placing it in an area shown as having easements. In fact, one of the easements was for access to Kenwood Place condominiums. In other words, the applicant proposed a not particularly wide park with a road to/from Kenwood Place condominiums going through it. That easement would have eviscerated the park’s functionality. The Planning Board did not accept this approach. The lesson learned is to fully understand easements and their impacts.

The same applies here. The metes and bounds of the easements, how they would be used (e.g., subject to a permit) and their impacts on the Greenway need to be fully understood.

Matters related to implementation of the Gateway to the Park need to be addressed.

As I understand Parks’ intentions, the Willett Branch streambed itself will not be restored in the Westwood II area until segments(s) larger than Westwood II can be addressed. Recognizing that it may be a long time before the stream is restored, it is imperative that, other than the streambed, the redevelopment of the Gateway to the Park be addressed.

There are a number of concerns and questions.

One is, in what condition will the park area be left after construction of the Kensington of Bethesda building? While notes from Parks say that grading needs to facilitate future stream channel work and Greenway trail construction, the applicant’s Memo to Dominic Quattrocchi of

July 29, Point 9 response, as it addresses grading (Rough grading is proposed prior to the turnover of the dedication area to Parks and must tie into the grade of the adjoining property. Design of the trail will require additional grading work.) This is cause for substantial concern that the applicant would leave Parks with a pig in a poke. Bear in mind that we expect that the public will want to use the park area as soon as possible.

A second concern is what is Kensington of Bethesda going to do about some items on the property? There is a large outfall at the end of a pipe from the former Manor Care site, as well as at least one other pipe that discharges into the stream. In addition, as discussed above, Kensington wants an access easement for the periodic maintenance of the stormwater facilities.

Third, what will be advanced by a Park Construction Permit and when will that occur in relation to construction of the building and the dedication of land? As noted in Parks comments to the DRC, all plans need to acknowledge the need for a Park Construction Permit for any work, including demolition, grading, and storm drain connections, on land that will be conveyed to Parks. Applicant will need to coordinate closely with the Parks Department on all details involving the Willett Branch side of the building, including applicant's plan for excavation, retaining walls, storm drain connections, the Kenwood Tributary and more. Work completed on the land to be dedicated is in line with vision and performance objectives of this section of the Willett Branch Greenway. Any impacts proposed to existing or proposed parkland and/or non-park use of parkland will need approval by the Montgomery County Planning Board. The comments further state that appropriate mitigation will need to be agreed upon to offset these proposed impacts prior to Parks staff supporting any recommendations that support these impacts. In our view, engineers from Parks and DPS, possibly with the benefit of work under a Park Construction Permit, should certify that after the grading is completed, the work on rebuilding the walls of the culvert and naturalization can be done in that area without difficulty; and that the land is stable, with no erosion before a use and occupancy permit is issued.

Fourth, what resources can and will be applied to build the Gateway to the Park on the property to be dedicated to M-NCPPC Parks and how will open space requirements be met? Kensington has yet to address how public open space requirements for the Kensington property are being met through either on-site improvements or off-site improvements or financial contributions, which if allowed might include the Gateway to the Park. There should be applicant contributions for the Gateway to the Park related to impacts/ discharges and activities on the Park land such the discharge from the culvert pipe from Manor Care and any easement to service MB-5A and MB-5B. Further developer support is warranted because some residents of the assisted living facility would use the park and some would delight in seeing the park. A Planning Department environmental planner called for the project to enable the stream to serve as an amenity for adjacent development. Kensington will be better off when the Gateway to the Park has been developed and will be in a less attractive environment if it is not developed.

Fifth, when can and likely will the Gateway to the Park be built? It would be a travesty and lost opportunity to merely do limited grading and plant some grass when the land is conveyed to M-NCPPC and significantly defer the development of a full and true urban park.

The resolution on the Preliminary Plan needs to be updated.

The Preliminary Plan resolution - <https://montgomeryplanningboard.org/wp-content/uploads/2019/05/Westwood-Shopping-Center-Preliminary-Plan-No.-120170170-MCPB-No.-19-032.pdf> (May 6, 2019) - provides in part:

27. The Applicant must convey in fee simple to the M-NCPPC [spelled out], at no cost and via plat at the same time as the first plat for Site Plan 820180190, the following areas for use as public park land for the Willett Branch Greenway, as shown on the Certified Preliminary Plan:

i. The portion of unimproved land at Lot 2, Block H, at the existing Westwood II Shopping Center and associated parking lot; and

...

28. Prior to the first record plat for Site Plan 820180190, the Applicant must record a covenant to M-NCPPC for future conveyance in fee simple of the portion of land at Lot 2, Block H, currently improved with the existing Westwood II Shopping Center and associated parking lot. The covenant must be shown on the Certified Preliminary Plan and be recorded in the land records of Montgomery County.

Initially, Westwood I was going to be redeveloped before Westwood II. Paragraph/condition 28 of the resolution on the Preliminary plan was written in that context. But Westwood I has been delayed and Westwood II has been advanced.

To assure timely dedication, the area shown as proposed dedication for Willett Branch on <https://eplans.montgomeryplanning.org/UFS/31880/91557/07-SITE-820200200-SP-006.pdf/07-SITE-820200200-SP-006.pdf> [V2/07-SITE-820200200-SP-006.pdf](https://eplans.montgomeryplanning.org/UFS/31880/91557/07-SITE-820200200-SP-006.pdf) needs to be dedicated as follows:

The Applicant must convey in fee simple to the M-NCPPC [spelled out], at no cost and via plat at the earlier of (a) the first plat for Site Plan 820180190 and (b) the issuance of the Use and Occupancy Certificate for the Kensington of Bethesda assisted living facility, the following area for use as public park land for the Willett Branch Greenway, as shown on the Certified Preliminary Plan:

i. The portion of unimproved land at Lot 2, Block H, at the existing Westwood II Shopping Center and associated parking lot; and

and

The Applicant must convey in fee simple to the M-NCPPC [spelled out], at no cost and via plat no later than the issuance of the Use and Occupancy Certificate for the Kensington of Bethesda assisted living facility, the following area for use as public park land for the Willett Branch Greenway, as shown on the Certified Preliminary Plan: the portion of land at Lot 2, Block H, currently improved with the existing Westwood II Shopping Center and associated parking lot.

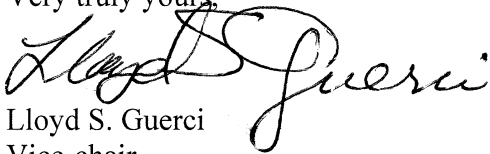
Other provisions relating compliance with the Park Construction Permit as a precondition to the Use and Occupancy Certificate for the Kensington of Bethesda assisted living facility should be considered.

The Resolution on the Preliminary Plan needs to be reevaluated to assure that the proper parties are named

The Preliminary Plan referred to the applicant as Equity One (Northeast Portfolio) LLC. The owner of the assisted living facility is listed as Equity One. The developer is listed as Michael Rafeedie, Regency Kensington Bethesda Ow, 11921 Freedom Drive, Reston, VA.

Our concern is that the ultimate Planning Board resolution have operative effect to the correct party(ies).

Very truly yours,

A handwritten signature in cursive script that reads "Lloyd S. Guerci". The signature is written in black ink and is positioned above the printed name and title.

Lloyd S. Guerci
Vice-chair

Citizens Coordinating Committee on Friendship Heights