

Citizens Coordinating Committee on Friendship Heights

November 16, 2020

By email

Elza Hisel-McCoy
Stephanie Dickel
Matthew Folden
Montgomery County Planning Department

RE: CCCFH Comments on Kensington of Bethesda's Preliminary Plan and Site Plan

Dear Elza, Stephanie and Matthew:

This letter is written on behalf of the Citizens Coordinating Committee on Friendship Heights (CCCFH) to express our opposition to Equity One's/ Kensington of Bethesda's Preliminary Plan amendment (12017017A) and Kensington of Bethesda's Site Plan (820200200) as they currently appear in DAIC.

CCCFH includes 18 communities in and around the Friendship Heights and Westbard areas, and over 20,000 residents in those communities.

On August 30, 2020 we wrote to you and expressed our concerns. *See* attached letter, which is incorporated by reference. In general, Kensington of Bethesda's Preliminary Plan and Site Plan applications, as they appeared on August 30 in DAIC, have not been modified to meet our concerns. In this letter, we will identify some outstanding, major concerns, and reference as appropriate the August 30 letter for further explanations.

Before we begin, a comment on DAIC is warranted. DAIC does not work with small print and standard-sized monitors. Fine print is not readable. If a reader clicks on "+" at the top of the monitor screen, the center of the page is enlarged, but the sides are eliminated from view. The reader cannot read small print on the sides of documents. If an answer to our concerns resides there, it might as well not exist.

1. The applications need to show that the land to be dedicated to the Parks Department for the Gateway to the Park will be a basic park or in a condition to be readily developed into a suitable park.

There are no M-NCPPC parks in the Westbard area. As previously demonstrated, as part of the Willett Branch Greenway, the Gateway to the Park is called for in the Westbard Sector Plan and strongly supported by the public.

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

A major concern is the condition of the part of the Westwood II site to be dedicated to M-NCPPC Parks, at the time of dedication. 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.) is cause for substantial concern that the applicant would leave Parks with a pig in a poke. Bear in mind that the public justifiably will want to use the Gateway to the Park area soon after dedication. The plans and the conditions of approval to be proposed in the staff report for the Planning Board resolution(s) (if the project is proposed for approval subject to conditions) must show that rubble and other troublesome materials will be removed, the land to be dedicated will be graded finely at elevations specified by Parks, and fully effective erosion controls will be in place by and on the dedication date. In addition, Kensington needs to provide a park-like setting that the public can use until the Willett Branch Greenway is fully built. All plans need to acknowledge the need for a Park Construction Permit for any work, including demolition, construction activity, grading and storm drain connections, on land that will be conveyed to Parks. If the applications are approved subject to conditions, a condition should require that that DPS and Parks engineers certify that the dedicated land is easily accessible and stable enough for park construction. This certification needs to be in hand before a Use and Occupancy Certificate is issued for the Kensington building. *See generally* August 30 letter at pp. 2-3.

2. The plans need to be revised to move the building back from the property line or, albeit not satisfactory overall, include a documented easement on the American Plant/Shorb property and reflect a revised 100- year floodplain.

Under draft plans filed before our August 30 comments, Kensington of Bethesda proposed to construct the building on the eastern boundary of its land (after the property dedication has occurred). Near where the Willett Branch now begins to be covered, the applicant would put its building up against the American Plant/Shorb property line, which would not allow Fire Department access or accommodate pedestrian access to the future Willett Branch Greenway. *See* [13-FDA-820200200.pdf](#) in site plans; August 30 letter at pp. 4-5. The applicant's revised plans did not move the building, but changed the fire access drawing to indicate a pathway on the American Plant/Shorb property. *See* [13-FDA-820200200-001.pdf](#) (document dated 8/11/2020 but not filed in DAIC until 9/21/2020). From what we can tell, the latter drawing indicates a vague, unsubstantiated easement on the American Plant/Shorb property of some form, referred to on the latter drawing as a walkable path, with the words pedestrian access easement as well.

This remains unsatisfactory for multiple reasons. To begin, in an untrustworthy manner, the document fails to delineate the easement. Where is it? How wide is it? What are its metes and bounds, as provided in property records? When will this pseudo easement come into existence as a real easement and what assures that? Without answers to these questions, fully documented in drawings and in land records, the only conclusion is that there is no easement, which reveals this to be a farce, and requires that the building be moved back from the property line. There are more issues. How will the American Plant property be modified, by whom and when, and what assures it? When time is of the essence, will responders have to spend time cutting through the American plant fence and moving plants and tables? What happens when the American plant/Shorb property is developed and the path referred to on the drawing is encumbered by a

building? And of equal or greater importance from our perspective, there does not appear to be adequate space for a satisfactory trail along the entire length of the Willett Branch Greenway, when the Greenway is fully built.

The addition of an easement would not solve significant problems associated with the facts that space will be tight in the Gateway to the Park and the Greenway Trail to be built will be very close to the property line between Kensington of Bethesda and the Gateway to the Park. *See* August 30 letter at pp 4-5. 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, 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. *See* M-NCPPC Parks Willett Branch Greenway Concept Plan for Park Dedication, attached. That trail would connect to segments of the Greenway Trail to be built in connection with future development or acquisitions by Parks.

Making building design accommodations -- a set back from the property line along the to-be dedicated area -- more necessary, in some areas the land area between the stream and the property boundary (after the dedication) is very narrow. 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," 820200200-SP-006.pdf. *See* M-NCPPC Parks Willett Branch Greenway Concept Plan for Park Dedication.

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. More shy distance space is needed for users of the to-be developed Greenway Trail.

In addition, it needs to be made clear that the building footings may not extend onto land to be dedicated to M-NCPPC Parks. Moreover, if the building is not moved back and if it is absolutely necessary, with no other practicable alternative, to service the bioretention filters from Parks property, the easement for servicing the filters must be narrowly tailored and preclude Kensington from arguing that the easement gives it any rights to specify what is done on Parks property. *See* August 30 letter at p. 4.

Two longer term aspects of the Willett Branch Greenway must be considered now. Before turning to them, we note that the applicable Preliminary Plan resolution recognized that "future development must be designed and constructed to minimize adverse impacts on the future implementation of the Willett Branch Greenway." MCPB No. 19-032, p. 8, Para. 34. Along the same lines, the Preliminary Plan resolution states that "the Sector Plan recommends . . . the naturalization of the Willett Branch." p. 10. In light of this directive 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 in the review of the pending applications. Specifically, we note that stream naturalization is not part of the Kensington proposal. Consistent with the Preliminary Plan, it is necessary to take into

account that the stream channel area will be naturalized and improved after property interests in most or all of the parcels of land for the Greenway are obtained, and that the stream will be modified from its current concrete channel path, which will slow the flow of water, which in turn will raise water levels somewhat in significant precipitation events. This will change the 100-year floodplain to the Ultimate 100-YR Floodplain, as shown on the M-NCPPC Parks Willett Branch Greenway Concept Plan for Park Dedication, attached. Kensington's plans need to assure that heavy equipment can readily operate to naturalize and improve the stream channel. Also, Kensington should accept the new floodplain height needed for Parks to create the Greenway without later objection from Kensington. This should be in drawings or conditions in Planning Board resolution(s).

3. 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.

There is a considerable history of concerns over the appearance of buildings facing the Willett Branch Greenway. Before the Westbard Avenue HOC building was sold to HOC, there was a discussion of addition of a structure to the rear of the building on what has been tarvia driveway. Gwen Wright expressed concern over the appearance of the potential building from the Greenway. When the Westbard Self Storage facility was before the Planning Board in December of 2017, Commissioner Patterson expressed concern about the appearance of the building, which would face the Willett Branch, and the applicant was required to improve its appearance. As to Kensington of Bethesda, there are a number of comments of record, including from Parks and Planning staffs. *E.g.*, Parks comments to the DRC said M-NCPPC Montgomery Parks has performance objectives for the overall Greenway – including that buildings should not turn their back on the Greenway. But that is what the proposed Kensington building does.

As discussed in our August 30 letter at pp 4-5 and above, space is tight in the Gateway to the Park area. Space is particularly tight in 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.”

Not surprisingly, the applicant's renditions and elevations in DAIC do not reveal what its building will look like to people on the Greenway trail to be built on the Gateway to the Park. For the location, see M-NCPPC Parks Willett Branch Greenway Concept Plan for Park Dedication, attached, at MB-5B and MB-5A. It will look and feel like a large, looming and hulking brick wall. While not quite as bad as Soviet architecture during the cold war, it will have a cold, hard feel. This is dreadful.

So, what did Kensington do in response to comments? It appears to have added several middle windows on the left side of the building above the ground level, as shown on the south elevation and to have put grilles of some form over 10 brick areas on a parking level. *See, 09-ARCH-820200200-007.pdf* (drawing dated 9/14/20, filed in DAIC on 9/21/20. The grilles are a small improvement as viewed from a considerable distance, but do not solve the big brick wall appearance and feeling problem from the vantage point of a person walking or biking on the to-be built Greenway trail on the Gateway to the Park. Moreover, the drawing has all the credibility (none) of some sketch plan drawings that developers are not held to, with respect to the grass

slope to the Willett branch and Willett Branch itself. This is the very grass that as discussed above Kensington didn't agree to provide and the stream bank appears out of scale. The grilles, while a slight bit better, do not materially change the appearance of the building. There does not appear to be any real transparency from the building side overlooking the park other than a 9-foot wall and a parking garage facing the park.

In addition, the balcony over one of the bioretention planters needs to be modified, because it would render the filter far less effective.

4. Public open space requirements for the Kensington property need to be met.

Where is the required open space on the Kensington property and how does it meet requirements? *See* August 30 letter at 2.

5. 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.

See, August 30 letter at pp. 7-8. Please address this in full.

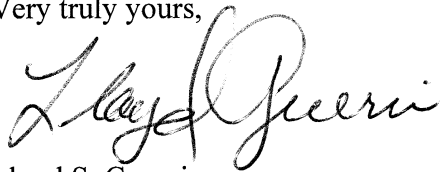
6. The Plans need to be revised to include more parking spaces.

At Kensington's public pre-submission meeting before the initial applications were filed, the public was told there would be 130 parking spaces on site. But the plans show a total of only 91 parking spaces -- 26 at the Lobby Level, 25 at the P1 Level, and 40 at the P2 Level plus eight bicycle spaces for this 155-bed building. It should be noted that Kensington expects to have a peak staff of 50 in a shift, but at shift turnover 70 staff persons may be in the building. Of course, on top of the need for staff parking will be the need for considerable parking for visitors. The Westbard area is poorly served by mass transit. In this context, the number of parking spaces is patently inadequate. Initially, Kensington was seeking a waiver on the number of parking spaces, which should be granted. We have heard that the county planners are considering reducing the parking spaces further below the 91 parking spaces, which obviously is problematic. Regardless of the county planning guidelines, which may work in other locales, the Planning Department should not apply the parking space guidelines in a Procrustean manner here. In the Westbard locale, the new shopping center, apartment and townhouse complex on Westwood I will have limited parking (*see* Site Plan 820180190, MCPB No. 19-033) and overflow parking from Kensington of Bethesda is likely to occur on nearby residential streets, which is most undesirable. Also, some of the visitors may be unable to walk far, so having parking spaces in the building is important.

7. A traffic light needs to be installed.

Near the proposed Kensington building the realigned Westbard Avenue curves and dips down the hill toward River Road, creating a blind spot at the delivery truck area. Below the curve, the sight line is blocked for drivers, bicyclists, and walkers because they cannot see the trucks as they come out of the building. Although the Department of Transportation did a sight study of the trucks coming out of the service area, there was no Sight Study done for the vehicles passing the delivery area on the realigned Westbard Ave. With a traffic light at the intersection just above the service area, the delivery trucks could emerge from the delivery entryway safely.

Very truly yours,



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Vice-chair
Citizens Coordinating Committee on Friendship Heights

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