



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

**Staff Report: Site Plan 820090150 – 4500 East West Highway**

**ITEM #:** \_\_\_\_\_

**MCPB HEARING**

**DATE:** July 23, 2009

**REPORT DATE:** July 10, 2009

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief *RK*  
 Robert Kronenberg, Supervisor *RK*  
 Development Review Division *PAW*

**FROM:** Joshua Sloan, Coordinator *JS*  
 Development Review Division  
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**APPLICATION DESCRIPTION:**

210,000 square feet for office use and 13,300 square feet for general commercial use, on 1.28 gross acres in the CBD-2 Zone; located in the southwest quadrant of the intersection of East West Highway and Pearl Street within the Bethesda Central Business District Sector Plan.

**APPLICANT:** 4500 Highway, LLC, dba The Clarett Group

**FILING DATE:** March 30, 2009

**RECOMMENDATION:** Approval with conditions.

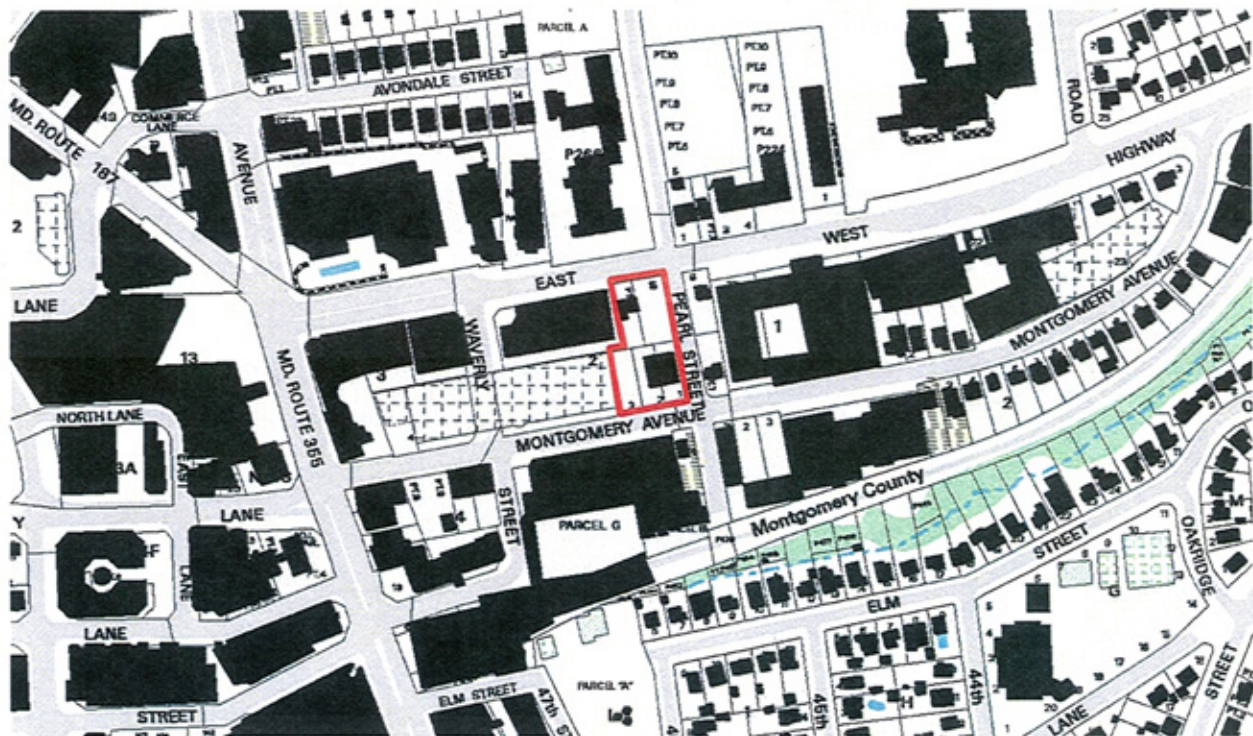
**EXECUTIVE SUMMARY:**

The proposed development would replace the existing commercial uses and create one office building with ground-floor retail and restaurant uses. The maximum floor area ratio (FAR) proposed is 4.0 and the maximum building height is 98 feet. The minimum on-site public use space proposed is 20% of the net lot area; off-site amenity improvements would equal 28.2% of the net lot area. Ingress and egress to the loading area and underground parking would be from Montgomery Avenue and a lay-by is proposed along Pearl Street. The building has pedestrian access along each of its three street frontages. A major gateway art feature, fountain, and plaza are proposed on the northern end of the site along East West Highway.

## SITE DESCRIPTION

### Vicinity

The subject property is located along the entire western frontage of Pearl Street between Montgomery Avenue and East West Highway. The adjacent uses include a County parking garage and office building to the West and two one-family dwelling units occupied by commercial uses directly across Pearl Street. To the north, across East West Highway, is Our Lady of Lourdes Church and the Waverly House Apartments. To the south, across Montgomery Avenue is the Air Rights Center complex. The site is within easy walking distance of local schools, residential areas, and the Bethesda Metro Center.



*Vicinity Map*

### Site Analysis

The subject property is currently improved with a fast food restaurant, a small office building, and associated surface parking. There are four curb-cuts – two on East West Highway and two on Pearl Street providing access to the existing buildings. The site has a slight grade, approximately 2.5%, from a high point in the northwest corner down to the southeast corner; more importantly, there is a slope across the East West Highway frontage of about four feet that directly impacts the proposed design of the plaza. There are no historic or environmental features on site. There is little vegetation and only a small patch of lawn – the remaining area of the site is paved or covered by buildings.

The sidewalks along each frontage provide minimal but adequate pedestrian access. A master-planned bikeway along Pearl Street has not been implemented and will be required of this project.



*Aerial Photograph (looking south)*

## **PROJECT DESCRIPTION**

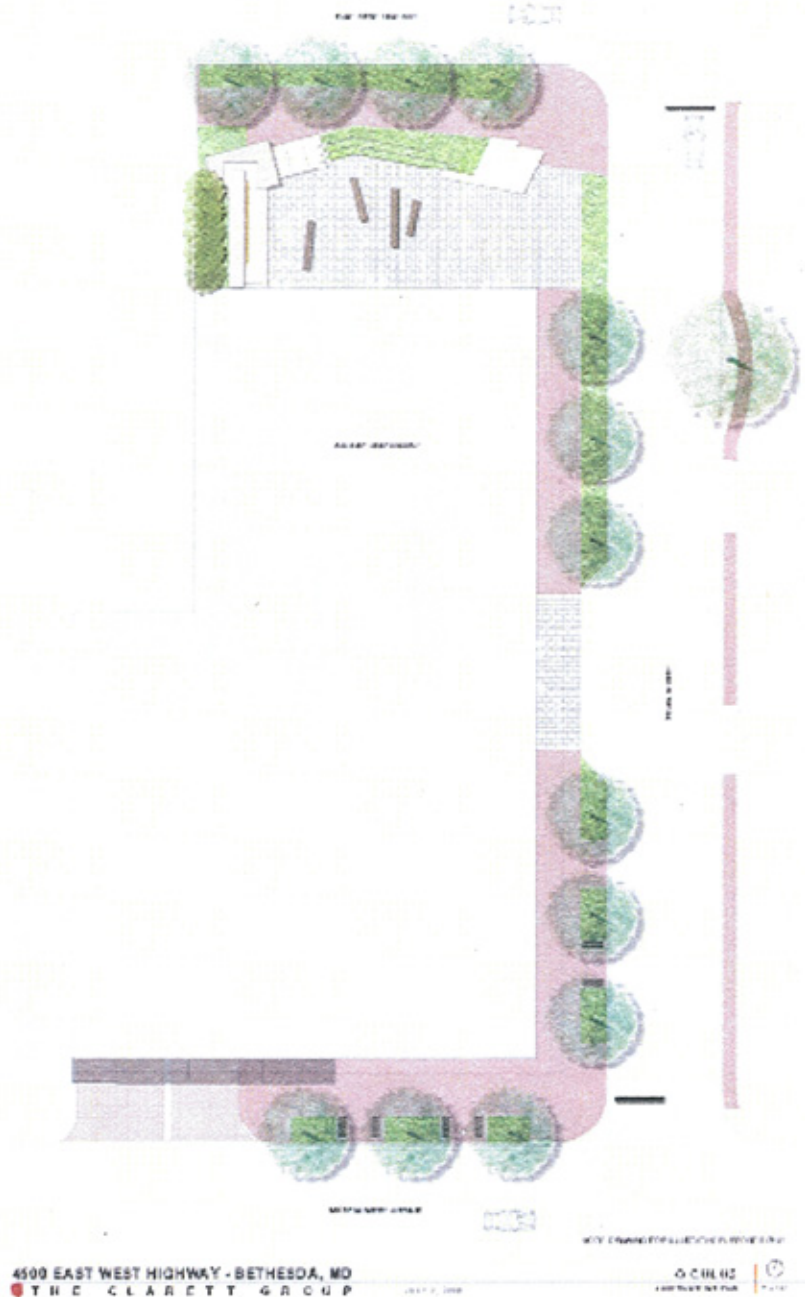
### **Previous Approvals**

This plan is subject to the conditions of approval for project plan 920080010 and preliminary plan 120080360. The subject site plan is largely unchanged from those submissions. There are no other previous approvals that encumber this site.

### **Proposal**

#### Land Use

The proposed development would provide 223,300 square feet of total gross floor area (4.0 floor area ratio) for office and other commercial uses. The sidewalks and open space will provide ample pedestrian space for circulation, congregation, relaxation, and enjoyment of the public art and water feature. The plaza dimensions and orientation are in direct response to the Sector Plan recommendation that this site serve as a gateway to downtown Bethesda.



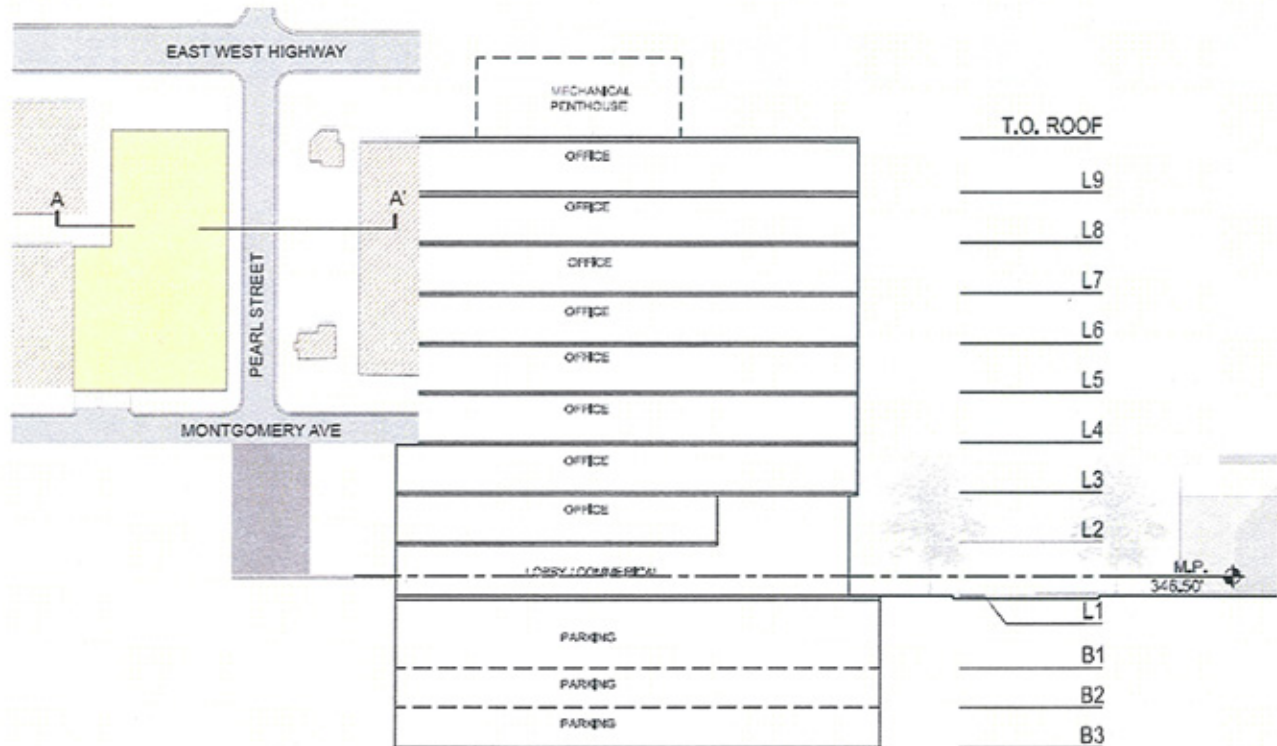
*Illustrative Site Plan*

Architecture

The footprint of the proposed building is set back from the southern property line approximately four feet, the eastern property line approximately seven and one-half feet, the northern property line (where the plaza is located) approximately 45 feet, and is directly on the western property line. The subsurface garage abuts all property lines. Above the first floor, the building will cantilever slightly (about two feet) above the sidewalk along Pearl Street within the property

boundary. This allows for proper office dimensions, while maintaining the proper streetscape width at the narrowest point – the lay-by for deliveries on Pearl Street. The points of access between the sidewalks, open space, and building are located on all frontages; the main office lobby is midway along the Pearl Street frontage.

The building is positioned approximately 67 feet from the curb along East West Highway and rises to 98 feet. The façade is primarily glass skin and the building will be built to LEED Silver standards.

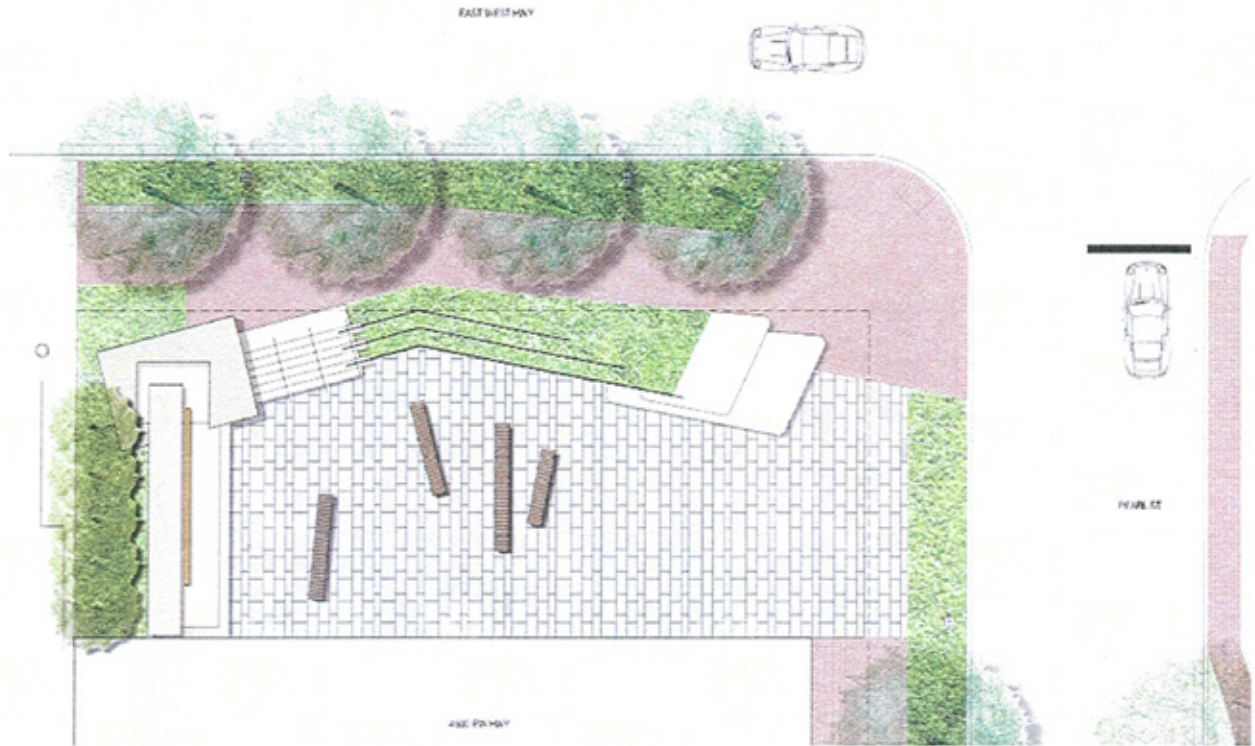


*Illustrative Section*

Public Use Space & Amenities

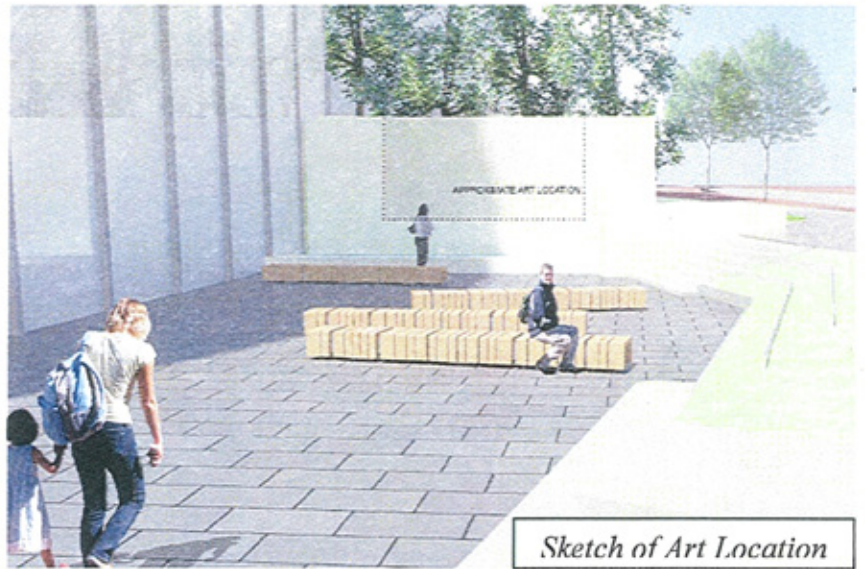
The Applicant proposes to use the optional method of development in the CBD-2 Zone to construct a 98-foot (9-story) office building with ground floor commercial uses. The building will occupy 80 percent of the surface area of the net lot; the remaining 6,880 square-foot will be provided as a plaza and sidewalk area. The plaza will contain public amenities, including distinctive paving, seating, plantings, a fountain, and a major gateway art piece. A subsurface parking garage will be built to the property line on all sides.

The Bethesda CBD streetscape will be constructed along the frontages of East West Highway, Pearl Street, and Montgomery Avenue. The confronting side of Pearl Street will be improved with a 5-foot sidewalk that, although not the streetscape standard, is all that can be accomplished within the existing right-of-way.



*Plaza Illustrative Plan*

The proposed architecture, landscaping, and lighting remain largely unchanged from the previous project plan submission. The proposed artwork, however, has been refined and presented to the Art Review Panel. The large, wall-mounted piece above the fountain has been conceptually refined by Gordon Heuther in collaboration with the landscape architect and architect on the project. This piece is envisioned as an approximately 10-foot by 24-foot metal piece with inlaid red glass. A special patina would be applied to the galvanized steel as well as pigments to echo the color of the inlaid glass. Lighting will play an important part in highlighting the translucent glass, the patterns created by the patinization, and reflections of the water.



*Sketch of Art Location*

## **PROJECT ANALYSIS**

### **Master Plan**

The Bethesda CBD Sector Plan recommends CBD-2 zoning for the subject property, which was accomplished by a sectional map amendment in 1994. The proposed site plan complies with the recommendations adopted in the Master Plan in that it proposes commercial office and retail development consistent with surrounding development patterns and the current zoning designation. A full analysis of the findings with regard to conformance of this development with the sector plan is detailed in the attached project plan and preliminary plan resolutions.

### **Transportation and Circulation**

#### Sector-Planned Transportation Demand Management

The site is located in the Bethesda Transportation Management District (TMD). The Applicant must enter into a Traffic Mitigation Agreement with the Planning Board and MCDOT to participate in the Bethesda Transportation Management Organization (TMO) to assist in achieving the 37% non-auto-driver mode share goal for employees working in Bethesda CBD.

#### On-Site Vehicular and Bicycle Parking

The Applicant is providing up to 350 of the 538 required parking spaces on the site. Any remaining parking spaces would be accommodated by joining the Bethesda Parking Lot District. Restricting the number of on-site parking spaces encourages employees to commute by public transit and other non-automobile transportation modes.

The Applicant is providing 14 bicycle parking spaces on the site that consists of 3 bike racks (with 2 bikes per rack) near the Pearl Street entrance and 8 bike lockers in a safe well-lit area of the parking garage.

#### Policy Area Mobility Review (PAMR)

Under the *Growth Policy* at the time Preliminary Plan No. 120080360 was approved on October 15, 2008, the Applicant was required to satisfy the PAMR test by mitigating 80 new peak-hour trips generated by proposed land uses on the site within the weekday morning peak period (7:30 to 9:30 a.m.) and the evening peak period (4:00 to 7:00 p.m.). The number of new peak-hour trips was determined in the Transportation Planning staff's memorandum dated October 6, 2008, for the land use scenario with the entire ground-floor used as general commercial space. The Applicant has identified and obtained approval from M-NCPPC and MCDOT to install four real-time transit information signs within a Metrorail Station Policy Area. Each sign installed is equivalent to 20 peak-hours trips.

### **Environment**

As mentioned in the Site Analysis, there are not many environmental features on the subject site, which is heavily built-out and paved. The site is exempt from the requirements of the forest conservation law, but it does include planting areas and trees that will only add to the amount of pervious area and provide some environmental benefits on-site. More importantly, this building will achieve a LEED Silver rating, which – in combination with its proximity to a Metro station – will help mitigate its environmental impact.

**Development Standards**

The subject site is zoned CBD-2, which is governed by the development standards in Section 59-C-6.23 of the Montgomery County Zoning Ordinance. The minimum lot size of 18,000 square feet for optional method projects is met. There is no maximum building coverage for optional method projects, but there is a requirement for the provision of a minimum of 20% of the net lot area to be devoted to public use space, which this project plan amendment also satisfies by providing a plaza and sidewalks. Third, the maximum density for optional method projects in the CBD-2 Zone is 4.0 FAR for non-residential uses; the proposed density is 4.0 FAR. The CBD-2 zone normally limits height for optional method projects to 143 feet but may be increased to 200 feet under Section 59-C-6.235(b) of the Montgomery County Zoning Ordinance for various reasons. However, as discussed in the Sector Plan analysis, the proposed height of 98 feet is appropriate for this densely-zoned area of the Bethesda CBD and does not adversely affect the surrounding properties in any detrimental way given the urban context.

*Project Data Table for the CBD-2 Zone*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Proposed for Approval</b>
<b>Max Building Height (feet)</b>	143	98 <sup>1</sup>
<b>Min Setbacks (feet)</b>		
East Property Line	n/a	7.5
North Property Line	n/a	45
West Property Line	n/a	0
South Property Line	n/a	4
<b>Min Site Area (square feet)</b>		
Net Tract Area	n/a	34,425
Dedications	n/a	21,400
Gross Tract Area	18,000	55,825
<b>Max Density</b>		
Floor Area Ratio	4.0	4.0
<b>Min Public Use Space (% of net lot)</b>		
On-Site Public Use Space	20	20
Off-Site Amenity Space	n/a	28.2
Total Public Use & Amenity Space	20	48.2
<b>Min Parking</b>		
Total Spaces	538	Up to 350 <sup>2</sup>

As the data table shows, all of the requirements of the zone are met by the subject project plan. Because this project is within a Parking Lot District, parking spaces are not required to be

<sup>1</sup> The Sector Plan recommends a building height of 90 feet; 98 feet was approved with the project plan.

<sup>2</sup> Parking is not required in the Bethesda Parking District but is provided for informational purposes and will be determined during construction of the development.



provided but parking calculations have been made on the submitted project plan. Some parking will be provided onsite.

## COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. Staff has received no correspondence on the subject site plan.

## FINDINGS

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

The site plan conforms to and is similar in virtually all respects to the approved project plan 920080010 and has only been refined and enhanced with respect to site details and public amenities.

2. *The site plan meets all the requirements of the zone in which it is located.*

Office, restaurant, and retail uses are allowed in the CBD-2 Zone, and the site plan fulfills the purposes of this zone by providing employment and service opportunities.

As the project data table on page 10 indicates, the site plan meets all of the development standards of the CBD-2 zone. With respect to building height, setbacks, and density the proposed development is at or under all the maximum standards allowed. With respect to public-use and amenity space the proposed development provides more than twice the amount required, thus allowing for a greater amount of permeable surface and landscaped open space. The addition of artwork enhances the cultural image and attractiveness of the area.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

Due to the requirement for 20% public-use space on the site, the building is setback from East West Highway. In many cases in the CBD, this makes the continuation of a street-wall and the pedestrian orientation of a building difficult. In this case, however, the proposed open plaza acts as a gateway from the larger setbacks to the east to the denser CBD core. Further, the Applicant has used this space to create a forecourt that is both inviting and – through the addition of a fountain, plantings, seating, and public art – interesting for the residents and neighbors. The building location, site features, and open

space are safe, adequate, and efficient, while meeting the aesthetic goals of the Master Plan. Recreation facilities are not required for this site plan.

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site with the adjacent residential and civic uses and into the commercial center of downtown Bethesda. Safety is enhanced by placing the vehicular access on Montgomery Avenue and reducing the number of curb cuts. The lay-by on Pearl Street is an efficient means of providing a drop-off/pick-up area and does not impede traffic. The construction of bike lanes on Pearl Street will help make this a more bike-friendly area and help reduce the need for automobiles in this area. In sum, the proposed circulation routes provide an efficient, adequate, and safe atmosphere for pedestrians, cyclists, and vehicles.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed nine-story commercial building is compatible with the adjacent and confronting uses as well as proposed site plans. The subject site plan will greatly enhance the availability and accessibility of Class-A office space, retail and restaurant uses, and public amenities. The structure and plaza are in scale with the adjacent uses and provide transitional height and massing towards the core of the CBD.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The proposed development is exempt from the forest conservation law.

The stormwater management concept consists of on-site water quality control via a green roof and an underground proprietary filter. Onsite recharge is not required for redevelopment applications. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

## **RECOMMENDATION AND CONDITIONS**

Staff recommends approval of site plan 820090150, 4500 East West Highway, for one office and commercial building with a maximum FAR of 4.0 on 1.28 gross acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on March 30, 2009 are required except as modified by the following conditions.

1. Project Plan Conformance

The proposed development must comply with the conditions of approval for project plan 920080010 as listed in the Planning Board Resolution unless amended.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for preliminary plan 120080360 as listed in the Planning Board Resolution unless amended.

3. Transportation

- a. Final paving within the right-of-way must be approved by the Bethesda Urban Partnership and the Montgomery County Department of Permitting Services. Modification from the material shown on the application to the Bethesda Streetscape Standard brick will not require an amendment to this application.
- b. The Applicant must satisfy the Policy Area Mobility Review (PAMR) test by funding the purchase, installation, and maintenance for 10 years of four real-time transit information signs (i.e., "NextBus" signs) to be located within the Bethesda Central Business District (CBD) Policy Area or Friendship Heights CBD Policy Area. The Applicant must pay the Washington Metropolitan Area Transit Authority (WMATA) \$63,600 prior to certification of the site plan.
- c. The Applicant must enter into a Traffic Mitigation Agreement with the Montgomery County Department of Transportation (MCDOT) and the Planning Board to participate in the Bethesda Transportation Management Organization. The Agreement must include providing shower facilities for each gender in the building for employees who commute by bicycle. The Traffic Mitigation Agreement must be fully executed prior to certification of the site plan.

4. Architecture

The building façades on each street frontage must be surfaced predominantly with transparent glass, metal panels, and accent materials similar to the conceptual illustrations provided with the Application.

5. Artwork

- a. Light levels, including from signage, may not exceed those delineated on the photometric plan and may not produce excessive glare on the proposed public art.
- b. The public art proposed by this Application must be designed, fabricated, and installed under the direct supervision of Gordon Heuther.

6. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Off-site lighting, benches, and sidewalks must be installed within six months after construction is completed. Tree planting may wait until the next growing season.
- b. On-site sidewalks, artwork, benches, site amenities, and plantings must be installed prior to release of any building occupancy permit.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion.

- d. The development program must provide phasing for installation of landscaping and lighting, dedications, stormwater management, sediment and erosion control, trip mitigation, and other features as necessary.

7. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the forest conservation exemption letter, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval sheet.
- b. Minor corrections to site data, labeling and legends.
- c. Final material specifications of plaza materials.
- d. Final dimensions, materials, finishing, and lighting plans for artwork. A note that “Minor revisions to the artwork may be made during fabrication and installation subject to Staff review and approval” must be included on the plan.
- e. Ensure consistency of all details and layout between site plan and landscape plan.

## **APPENDICES**

### **A. Previous Approval Resolutions**



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

RECEIVED

DEC 10 2008  
 DEC 12 08  
 9:39A

MCPB No. 08-131  
 Project Plan No. 920080010  
 Project Name: 4500 East-West Highway  
 Date of Hearing: October 16, 2008

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION<sup>1</sup>**

WHEREAS, pursuant to Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review project plan applications; and

WHEREAS, on May 30, 2008, 4500 Highway LLC, d.b.a. The Clarett Group, ("Applicant"), filed an application for approval of a project plan for 223,300 square feet of office and retail ("Project Plan") on 1.28 acres in the CBD-2 Zone, at the southwest quadrant at the intersection with East-West Highway and Pearl Street ("Property" or "Subject Property"); and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920080010, 4500 East-West Highway (the "Application"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated October 6, 2008, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on October 16, 2008, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on October 16, 2008 the Planning Board voted to approve the Application, subject to conditions, on the motion of Commissioner Robinson; seconded by Commissioner Cryor; with a vote of 5-0, Commissioners Alfandre, Cryor, Hanson, Presley, and Robinson voting in favor.

<sup>1</sup> This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

*DKC 12/1/08*  
 Approved for legal sufficiency

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Project Plan No. 920080010 for 223,300 square feet of office and retail on 1.28 acres in the CBD-2 Zone, subject to the following conditions:

1. Development Ceiling  
The proposed development is limited to 223,300 square feet of gross floor area.
  2. Building Height and Mass
    - a. The proposed development is limited to the building footprint as delineated in the project plan drawings submitted to MNCPPC dated August 11, 2008 unless modified at site plan review.
    - b. The proposed development is limited to a maximum height of 98 feet in height from the approved building height measurement point.
  3. Public Use Space & Amenities
    - a. The Applicant must provide a minimum of 20% of the net lot area for on-site public use space and a minimum of 28.2% of the net lot area for on and off-site public amenity space. The final design and details will be determined during site plan review.
    - b. The proposed public use space must be easily and readily accessible to the general public and available for public enjoyment.
    - c. The Applicant must provide a water feature or other focal element, seating, plantings, and other features in general conformance with the illustrative landscape plan depicted in the staff report, with final details to be determined during site plan review.
    - d. The Applicant must present the plaza design and public artwork to the art review panel for comment prior to approval of the site plan.
  4. LEED Rating  
The Applicant must achieve a LEED Silver rating, or other certification based on equivalent energy and environmental design standards, unless the Planning Board finds at site plan review that this requirement may be waived in light of the final quantity, quality, and expense of the other amenities provided by the Applicant such as the artwork and focal element.
  5. Staging of Amenity Features
    - a. The proposed development will be completed in one phase. A detailed development program will be required prior to approval of the certified site plan.
    - b. The Applicant must install the landscaping no later than the next growing season after completion of the building and site work.
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6. Maintenance

Prior to issuance of use-and-occupancy permits, the Applicant will create and implement a maintenance plan for all on-site public use space and amenities unless an alternative arrangement is made with the Bethesda Urban Partnership or another entity.

7. Coordination for Additional Approvals Required Prior to Preliminary Plan and Site Plan Approval

- a. The Applicant must obtain written approval from the Montgomery County Department of Transportation ("DOT") for the final design and extent of any and all streetscape improvements within the rights-of-way.
- b. The Applicant must obtain written approval of the Maryland State Highway Administration for all access permits and waivers of truncation.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference, and upon consideration of the entire record and all applicable elements of § 59-D-2.43, the Montgomery County Planning Board, with the conditions of approval, FINDS:

(a) *As conditioned, the proposal complies with all of the intents and requirements of the zone.*

Intents and Purposes Of The CBD Zones

The Project Plan conforms to the purposes of the CBD zones as follows:

- (1) *"To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the site plan or combined urban renewal project plan is approved on review by the Planning Board."*

With respect to density, the Sector Plan recommends high to medium office employment, which this Project Plan provides. The building height recommendation, indicated on Figure 3.2 of the Sector Plan, is 90 feet – the proposed height of 98 feet is substantially in conformance with this recommendation. This difference in height allows for provision of the recommended density of office employment, while retaining street-activating service and retail uses on the ground-floor. Given that the 8-foot difference presents no adverse shadow impacts to surrounding buildings or uses, the height is appropriate for this project on this site.

For Metro Core District properties, the Sector Plan recommends that development be as dense as appropriate given the adjacent uses and open space requirements. This plan conforms to the sector plan objectives of providing jobs near transit and open space at this gateway location.

(2) *"To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents."*

The Sector Plan indicates that office land uses are appropriate for the site. The current Application will provide office uses above retail and service uses on the ground floor. These uses will be visible and accessible to pedestrians. Especially in light of the large number of residential and retail proposals in the vicinity that have recently been approved by the Planning Board, this intensity and diversity of land use conforms to the Sector Plan recommendations: both the general goals of the Sector Plan and the specific objectives of the area advocate approval of optional method projects that provide employment and housing opportunities near both transit stations and other day-to-day necessities.

(3) *"To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas."*

The proposed development will enhance pedestrian, cyclist, and vehicular circulation by improving sidewalks, providing an urban plaza, and restriping for bike lanes on Pearl Street. The layout of doors, sidewalks, lobbies, and open space will efficiently direct pedestrians in and around the site.

The relationship of the proposed buildings to existing buildings is typical and appropriate for a central business district. In most cases in the CBD, adjacent buildings with windows are required to be setback at least 15 feet from each other; this proposal meets that standard in order to minimize the impacts on available sunlight and existing views and the setback from East West Highway creates the same effect as would a building stepped to six stories directly adjacent to the sidewalk. The setbacks are provided in the data table although no setbacks are required by the Ordinance for optional method projects and may be adjusted at site plan.

(4) *"To promote the effective use of transit facilities in the central business district and pedestrian access thereto."*



The proposed development promotes effective use of nearby transit facilities because it is located two blocks from Metro and even closer to the nearest bus stop. As conditioned, the location and accessibility of the proposed development to the local transit system is an excellent realization of the Sector Plan transit and sustainability goals. This project also proposes to build only 30% of the usually required parking spaces. This will increase the incentive to take transit.

*(5) "To improve pedestrian and vehicular circulation."*

Vehicular circulation around the site will be greatly enhanced and will be safer because the number of curb cuts (and potential pedestrian/vehicle conflict points) will be reduced from four to one. The current drive-through will also be removed. Pedestrian and cyclist circulation is improved by the creation of bike lanes and improvement of sidewalks.

*(6) "To assist in the development of adequate residential areas for people with a range of different incomes."*

The proposed development does not provide any housing.

*(7) "To encourage land assembly and most desirable use of land in accordance with a sector plan."*

The proposed development will combine several small lots and parts of lots to meet the requirement for net lot area for optional method projects. It is only by combining these lots and developing by the optional method that a high to medium density office use can be built as recommended by the Sector Plan.

Further Intents of the CBD-2 Zone

Section 59-C-6.213(b) of the Zoning Ordinance states:

*In the CBD-R1, CBD-R2, CBD-2 and CBD-3 zones it is further the intent to foster and promote the orderly development of the Central Business Districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable urban environment.*

Section 59-C-6.213(c) of the Zoning Ordinance states:

*In the CBD-2 zone, it is further the purpose:*

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- (1) To provide a density and intensity of development which will permit an appropriate transition from the cores of central business districts to the less dense peripheral areas within and adjacent to the districts; and
- (2) To provide an incentive for the development of residential uses to meet the needs of those employed within the central business districts and those who will be able to use the district transit facilities to travel to and from places of employment.

The proposed development will provide employment opportunities for nearby residents, commercial services, and restaurant uses. The plaza and improved sidewalks will further enhance these opportunities for day-to-day interaction and enjoyment of the CBD.

The density is appropriate for the site - a transition to less dense peripheral areas is not necessary because the building height and massing are greater toward the east and west. The project does not provide any residential uses.

Requirements of the CBD-2 Zone

The table below demonstrates the conformance of the project plan with the development standards under the optional method of development. Among other standards, the proposed development meets the area, public use space, building height, and density requirements of the zone.

**Project Data Table for the CBD-2 Zone**

Development Standard	Permitted/ Required	Approved by the Board and Binding on the Applicant
<b>Building Height (feet)</b>	143	98 <sup>2</sup>
<b>Setbacks (feet)<sup>3</sup></b>		
East Property Line	n/a	7.5
North Property Line	n/a	44
West Property Line	n/a	0
South Property Line	n/a	4
<b>Site Area (square feet)</b>		
Net Tract Area	n/a	34,425
Dedications	n/a	21,400
Gross Tract Area	18,000	55,825

<sup>2</sup> The Sector Plan recommends a building height of 90 feet.

<sup>3</sup> Setbacks are provided in accordance with the Zoning Ordinance but may be adjusted during the site plan review process to account for adjustments to the building footprint.

<b>Density</b>		
Floor Area Ratio	4.0	4.0
<b>Public Use Space (% of net lot)</b>		
On-Site Public Use Space	20	20
Off-Site Amenity Space	n/a	28.2
Total Public Use & Amenity Space	20	48.2
<b>Parking<sup>4</sup></b>		
Total Spaces	601	180

According to the Zoning Ordinance (59-C-6.215(b)) a further requirement of optional method projects is the provision of additional public amenities:

*“Under the optional method greater densities may be permitted and there are fewer specific standards, but certain public facilities and amenities must be provided by the developer. The presence of these facilities and amenities is intended to make possible the creation of an environment capable of supporting the greater densities and intensities of development permitted.”*

The Applicant has proposed to enhance the public elements of the project. To this end, the proposed development is proffering the following package of amenities and public facilities:

Amenities and Facilities Summary

*On-Site Public Use Space Improvements*

- Green Building
- Improved Sidewalks
- Public Art
- Fountain
- Seating
- Planting

*Off-Site Amenity Improvements*

- Sidewalks
- Benches
- Street Trees
- Street Lamp

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<sup>4</sup> Parking is not required in the Bethesda Parking District but is provided for informational purposes.

(b) *The proposal conforms to the approved and adopted Master or Sector Plan or an Urban Renewal Plan approved under Chapter 56.*

#### Zoning and Land Use

The subject property is zoned CBD-2, which is recommended by the Sector Plan. All proposed uses are allowed in the CBD-2 Zone and the proposed development is in keeping with the general guidelines to provide employment uses in the Sector Plan. Specifically, the Sector Plan recommends high to medium office uses. The proposed office and commercial uses are appropriate for the subject site and conform to the Sector Plan.

#### Sector Plan Conformance

The Approved and Adopted Bethesda CBD Sector Plan is organized around several objectives for the Metro Core District that the Project satisfies:

- Strengthen the Metro Core as the center of Bethesda, with greatest emphasis on and around the Metro Center and plaza.
- Increase the choices and activities in the Metro Core associated with retail, restaurants, cultural programming, open space, and pathways.
- Develop a compact core that places the highest intensity in the center, provides distinctive infill buildings, and steps down to lower densities and heights near the edge of the district.
- Emphasize employment near Metro transit to complete Metro Core development.

By creating an appropriately scaled commercial building with the potential for retail and/or restaurant space and a well-designed public space, the proposed development will help fulfill these objectives.

(c) *Because of its location, size, intensity, design, operational characteristics and staging, it would be compatible with and not detrimental to existing or potential development in the general neighborhood.*

The location is optimal for as much intensity of use and density as are found to be compatible with the context, i.e., the proposed development must be designed so as not to adversely affect adjacent buildings and uses. The architecture and open space have been designed to provide a gateway to downtown Bethesda, infuse art and interest into the area, and create a landmark building near the heart of the CBD.

The operational characteristics will enhance the safety and efficiency of the site by limiting vehicular access to one point and providing sidewalks and entrances around the entire periphery of the building.

- (d) As conditioned, the proposal would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.*

A traffic management agreement will be finalized prior to the site plan review process. Policy Area Mobility Review must also be satisfied prior to site plan approval. Other public facilities, such as utilities, exist on or near the site and no expansion or renovation of these services will be required to be completed by the County. Further, requirements for public safety and fire will be minimally impacted due to the nature of the land use and must be approved by the respective agencies prior to preliminary plan approval. Public schools will not be impacted by this development.

- (e) The proposal will be more efficient and desirable than could be accomplished by the use of the standard method of development.*

A standard method project would only allow a density of 2.0 FAR on this site. Further, the requirement for public amenities would be removed and the public use space requirement would be reduced by one-half. Because infill development and density near transit hubs is a core value of smart growth and given the quality of public amenities being proffered, the optional method of development is more desirable and more efficient for this particular site.

- (f) The proposal will include moderately priced dwelling units in accordance with Chapter 25A of this Code, if the requirements of that chapter apply.*

The proposed development does not require MPDUs because it does not provide any residential uses.

- (g) When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from on lot to another or transfer densities, within a lot with two or more CBD zones, pursuant to the special standards of either Section 59-C-6.2351 or 59-C-6.2352, the Project Plan may be approved by the Planning Board based on the following findings:*

The proposed development will consolidate several lots or parts of lots, but will be built on the one new lot and does not propose any open space or density transfers.

- (h) As conditioned, the proposal satisfies any applicable requirements for forest conservation under Chapter 22A.*
-

The project is exempt from the requirements of the forest conservation law.

- (i) *As conditioned, the proposal satisfies any applicable requirements for water quality resources protection under Chapter 19.*

The proposed development is subject to the water quality resources protection requirements. The stormwater management concept consists of on-site water quality via green roof and an underground proprietary filter. On-site recharge is not required since this is redevelopment. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0cfs.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920080010, 4500 East West Highway stamped received by M-NCPPC on August 11, 2008 are required except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that this Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

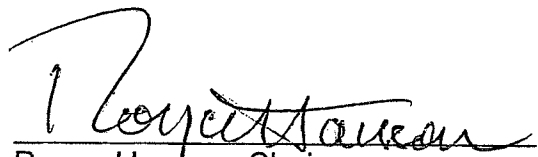
BE IT FURTHER RESOLVED that the date of this Resolution is DEC 10 2008 (which is the date that this Resolution is mailed to all parties of record); and

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 Presley, seconded by Commissioner Robinson, with Commissioners Hanson, Robinson, Alfandre, Cryor, and Presley voting in favor of the motion, at its regular meeting held on Thursday, December 4, 2008, in Silver Spring, Maryland.

  
Royce Hanson, Chairman  
Montgomery County Planning Board



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

RECEIVED

DEC 16 08  
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DEC 12 2008

**MCPB No. 08-133**  
**Preliminary Plan No. 120080360**  
**4500 East West Highway**  
**Date of Hearing: October 16, 2008**

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION<sup>1</sup>**

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on May 30, 2008, McDonalds USA and 4500 Highway Corporation, LLC (collectively, "Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 55,825 gross square feet of land located in the southwest quadrant of the intersection of East West Highway (MD 410) and Pearl Street ("Property" or "Subject Property"), in the Bethesda CBD Sector Plan area ("Sector Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120080360, 4500 East West Highway ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated October 6, 2008, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on October 16, 2008, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

<sup>1</sup> This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

Approved as to  
Legal Sufficiency:

*DAL 12/2/08*

8787 Georgia Avenue, Suite 200, Bethesda, MD 20814 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

WHEREAS, on October 16, 2008, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Cryor; seconded by Commissioner Robinson; with a vote of 5-0, Commissioners Alfandre, Cryor, Hanson, Presley, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120080360 to create one lot on 55,825 gross square feet of land located in the southwest quadrant of the intersection of East West Highway (MD 410) and Pearl Street ("Property" or "Subject Property"), in the Bethesda CBD Sector Plan area ("Sector Plan"), subject to the following conditions:

1. Approval under this Preliminary Plan is limited to one lot for a maximum of 223,300 square feet of building space that consists of one of the following options:
  - a. A total of 210,000 square feet of general office use and 13,300 square feet of commercial use, which may include retail, restaurant, and/or office uses; or
  - b. A total of 223,300 square feet of general office use.
2. The Applicant must comply with the conditions of approval of Project Plan 920080010.
3. The Applicant must satisfy the Policy Area Mobility Review (PAMR) test by installing and/or funding sidewalks, bike paths, real-time transit information signs, and/or similar non-auto transportation improvements within the Bethesda/Chevy Chase and CBD Policy Areas. The Applicant must identify the specific PAMR improvements, scheduling of their implementation, and be approved by the Montgomery County Department of Transportation ("MCDOT") and the Transportation Planning staff prior to the Planning Board's hearing for the site plan. The improvements may be implemented by governmental agencies with payment schedule, bond, or other acceptable financial instruments from the Applicant.
4. The Applicant must dedicate and show on the record plat additional right-of-way along the Sector-Planned roadways as follows:
  - a. Ten (10) more feet of right-of-way for a total of 40 feet from the centerline of East West Highway (MD 410).
  - b. Fifteen (15) more feet of right-of-way for a total of 40 feet from the centerline of Montgomery Lane (MD 410).
  - c. Twelve (12) more feet of right-of-way for a total of 30 feet from the centerline of Pearl Street.
5. The Applicant must enter into a Traffic Mitigation Agreement with MCDOT and the Planning Board to participate in the Bethesda Transportation Management



Organization. The Traffic Mitigation Agreement must be fully executed prior to certification of the site plan.

6. The Applicant must provide four inverted-U bike racks at sidewalk grade and secure interior bike storage for at least eight bikes in the garage or in the building with the ultimate location(s) to be determined prior to certification of the site plan in coordination with the M-NCPPC bikeways planner.
7. The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services ("MCDPS") stormwater management approval dated August 6, 2008.
8. 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 Master Plan and to the design standards imposed by all applicable road codes.
9. The Applicant must comply with the conditions of the MCDOT letter dated July 15, 2008, and amended on August 22, 2008, unless otherwise amended.
10. The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s) and Maryland State Highway Administration ("MDSHA") prior to issuance of access permits.
11. No clearing, grading or recording of plats prior to certified site plan approval.
12. Final approval of the number and location of buildings, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
13. The record plat must show necessary easements.
14. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board resolution.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Sector Plan.*

The Bethesda CBD Sector Plan recommended CBD-2 zoning for the Subject Property, which was accomplished by a sectional map amendment in 1994. The proposed subdivision complies with the recommendations adopted in the Sector Plan in that it proposes commercial office and retail development consistent with surrounding development patterns and the current zoning designation.

Further, the proposed Preliminary Plan specifically is consistent with the Sector Plan because:

- The proposal creates jobs near transit and along bike paths;
-

- The proposed uses will continue the restaurant and service uses frequented by local students and residents;
  - The design promotes a pedestrian and street-activating environment by providing the opportunity for ground-floor commercial uses; and,
  - The infill development is more environmentally sustainable because it concentrates growth near transit and other day-to-day needs, thereby reducing vehicular travel and saving open space in our suburban and agricultural areas.
2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

#### Roads and Transportation Facilities

The subject site is located on the west side of Pearl Street between East West Highway and Montgomery Lane (MD 410). The vehicular access point into the underground parking garage and loading dock is from Montgomery Lane. Temporary parking for delivery vehicles is provided with a proposed lay-by along Pearl Street, so these vehicles will not block other traveling motorists and bicyclists on the bike lane. Pedestrian facilities would not be adversely impacted by the proposed redevelopment. The existing sidewalk along the Property frontage of Montgomery Lane, Pearl Street, and East West Highway are proposed to be upgraded to the current standards. Speakers at the Hearing raised concerns regarding to safety for pedestrians in the vicinity of the Subject Property. However, the Planning Board finds that vehicle and pedestrian access and circulation will be safe and adequate with the proposed improvements.

In accordance with the Local Area Transportation Review ("LATR") and Policy Area Mobility Review ("PAMR") guidelines, a traffic study was submitted because the proposed commercial redevelopment generates 30 or more peak-hour trips within the weekday morning and evening peak periods. In the traffic study, the critical lane volume ("CLV") values were calculated for the existing, background, and total future traffic conditions. The CLV values do not exceed the applicable congestion standard at all the analyzed intersections for any of the traffic conditions. Therefore, the Application satisfies the LATR requirements.

Under the current Growth Policy, the PAMR test will require the Applicant to mitigate 30% of the net new peak-hour generated site trips within the weekday morning and evening peak periods. To accomplish this, the Applicant proposes off-site non-auto improvements such as sidewalks, bike paths, and real-time transit information signs. The specific measures have not yet been determined, so approval of the Preliminary Plan Application should be conditioned upon identifying and obtaining approval from M-NCPPC and MCDOT of all mitigation

measures, including non-auto transportation improvements within the Bethesda/Chevy Chase Policy Area, prior to certification of the site plan.

#### Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and sewer systems. The Application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the Property. Electrical, gas, and telecommunications services are also available to serve the Property.

- 3. The size, width, shape, and orientation of the proposed lot is appropriate for the location of the subdivision.*

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

The lot was reviewed for compliance with the dimensional requirements for the CBD-2 zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

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

The Property contains no environmentally sensitive areas or natural resources, and the Application is exempt from the Forest Conservation Law.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by MCDPS that the Stormwater Management Concept Plan meets MCDPS standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept on August 6, 2008. The stormwater management concept includes water quality control via a green roof and underground filter. Channel

protection is not required because the one-year post-development peak discharge is less than two cubic feet per second.

6. No corner truncations are necessary at the intersections of Pearl Street and East West Highway and Pearl Street and Montgomery Avenue.

The Application proposes no truncation at the intersections of Pearl Street with East-West Highway and Pearl Street with Montgomery Avenue. Truncation at these intersections is not necessary because adequate sight distance exists at both intersections. Further, East-West Highway is one-way westbound and Montgomery Avenue is one-way eastbound, reducing the potential for vehicular and pedestrian conflicts. Both intersections are signalized, which further enhances their safety and removes the concern that there is not sufficient space within the right-of-way to place traffic signal equipment. Providing truncation would negatively impact the design of the proposed public plaza and the relationship of the proposed building to the public street. MDSA has no objection to approval of the Preliminary Plan without truncation. For these reasons, the Planning Board finds that truncation is not necessary at these intersections.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) 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 among the Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that the date of this Resolution is DEC 15 2008 (which is the date that this Resolution is mailed to all parties of record); and

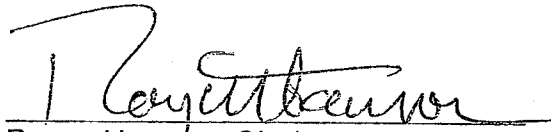
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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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Royce Hanson, Chairman  
Montgomery County Planning Board