



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

MAR 30 2009

MCPB No. 09-27
Preliminary Plan No. 120090060
Monty
Date of Hearing: March 12, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

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 September 9, 2008, Monty, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 24,500 square feet of land located on the northwest side of Fairmont Avenue, 150 feet southwest of Norfolk Avenue ("Property" or "Subject Property"), in the Woodmont Triangle Amendment to the Bethesda CBD Sector Plan area ("Sector Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090060, Monty ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated February 27, 2009, 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 staff of other governmental agencies, on March 12, 2009, 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

¹ 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:

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WHEREAS, on March 12, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Robinson; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson, and Robinson voting in favor; Commissioner Presley absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120090060 to create one lot on 24,500 square feet of land located on the northwest side of Fairmont Avenue, 150 feet southwest of Norfolk Avenue ("Property" or "Subject Property"), in the Woodmont Triangle Amendment to 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 mixed-use building with up to 210,188 square feet of floor area, consisting of up to 7,700 square feet of retail floor area and up to 202,488 square feet of residential floor area. The residential floor area may comprise no more than 200 dwelling units, of which 15% must be moderately priced dwelling units (MPDUs).
- 2) The final number of MPDUs as per condition #1 above will be determined at the time of site plan.
- 3) The final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
- 4) The Applicant must comply with the conditions of Project Plan No. 920070020 and Project Plan Amendment No. 92007002A.
- 5) The record plat(s) must reflect liber/folio references for all density transfer easements utilized by the development.
- 6) The record plat must reflect a public use and access easement over all public use spaces.
- 7) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated August 6, 2008. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 8) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated January 22, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 9) The certified Preliminary Plan must include a note stating that a WB-40 vehicle (40-foot wheelbase) is the largest vehicle that can be accommodated by the loading area on Fairmont Avenue.
- 10) The Applicant must obtain all required approvals and provide any required guarantees for the provision of access and improvements as required by MCDOT prior to recordation of plat(s).

- 11) The Applicant must satisfy the Policy Area Mobility Review (PAMR) test by installing or funding the installation of an off-site information kiosk as a non-automobile transportation improvement within the Bethesda Central Business District Policy Area. The location of the kiosk must be coordinated with Bethesda Transportation Solutions and approved by the MCDOT prior to approval of the site plan. Prior to approval of the record plat, the Applicant must install the kiosk or execute a payment schedule, bond, or another acceptable financial instrument with the appropriate government agency.
- 12) The Applicant must provide inverted-U bike racks and bike lockers. The number of bike racks and lockers and their ultimate location will be determined at site plan.
- 13) Before any building permit can be issued, the Applicant must make the applicable school facilities payment to the MCDPS.
- 14) No clearing, grading or recording of plats shall occur prior to certified site plan approval.
- 15) The record plat must show necessary easements.
- 16) 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 Woodmont Triangle Amendment to the Bethesda CBD Sector Plan recommends that properties within the Woodmont Triangle:

- provide opportunities to increase the supply of housing to serve a variety of income levels
- retain existing retail and provide opportunities to expand and create new small-scale retail businesses
- improve the safety and character of existing streets
- utilize density transfer to encourage retention of small-scale retail businesses
- establish north-south, mid-block pedestrian connections

The Sector Plan provides specific recommendations for Block 44 of the Woodmont Triangle Study Area, which is the block on which the Subject Property is located. Because this block is among the closest to the Bethesda Metrorail station, the Sector Plan acknowledges that it has the potential for higher density development. The Sector Plan further recommends that the then-existing CBD-1

and CBD-R2 zoning be changed to CBD-2, which was accomplished with a sectional map amendment.

The proposed subdivision substantially conforms to the recommendations adopted in the Sector Plan in that it will provide 200 new residential units in the study area, 15% of which will be moderately-priced dwelling units (MPDUs), thereby increasing the housing supply. The project is being developed under the optional method with the use of density transfer. The density transfer will increase the development intensity on the Subject Property, in accordance with the Sector Plan, while reducing the development potential on five properties elsewhere in the study area. The reduction in development potential on the five off-site properties encourages the retention of existing small-scale retail businesses, as recommended in the Sector Plan. The Preliminary Plan proposes 7,700 square feet of ground-floor retail space, thereby providing a new opportunity for small-scale retail in the Sector Plan area. The Applicant proposes to install standard Bethesda CBD streetscape, including pavers, street trees, and lighting, on Fairmont Avenue and St. Elmo Avenue, thereby improving the safety and character of those streets. Finally, the Preliminary Plan includes a mid-block pedestrian connection between Fairmont Avenue and St. Elmo Avenue, as recommended in the Sector Plan.

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

Roads and Transportation Facilities

Sector-Planned Transportation Demand Management

The Subject Property is located in the Bethesda Transportation Management District (TMD). The goal of the Transportation Management District is to achieve a 37% non-automobile-driver mode share for employees working in Bethesda CBD. With less than 25 employees, the Applicant is not required to enter into a Traffic Mitigation Agreement with the Planning Board and MCDOT to participate in the Bethesda TMD.

Local Area Transportation Review

In accordance with the Local Area Transportation Review and Policy Area Mobility Review Guidelines, a traffic study was submitted to satisfy Local Area Transportation Review (LATR) because the proposed land uses generate 30 or more peak-hour trips within the weekday morning and evening peak periods. The traffic study shows the calculated Critical Lane Volume (CLV) values at analyzed intersections for existing, background (trips generated from approved

but un-built developments) and total traffic conditions. All of the CLV values are less than the 1,800 congestion standard for the Bethesda CBD Policy Area at all the analyzed intersections in all traffic conditions and, thus, LATR requirements are satisfied.

Policy Area Mobility Review

Under the current Growth Policy, the Policy Area Mobility Review (PAMR) test requires the Applicant to mitigate 30% of the net new peak-hour trips generated by the proposed land uses within the weekday morning and evening peak periods. A site located in proximity to a Metrorail Station, such as the Bethesda CBD, has an inherent PAMR trip reduction credit because transit service is much better than in other parts of the County. The resultant trip reduction is the difference between the vehicular peak-hour trips calculated using the higher county-wide trip-generation rates and the trips calculated using the lower Bethesda CBD rates. The traffic study depicts how the vehicular trip reduction contributes towards meeting the PAMR requirements.

All but two new peak-hour trips within the weekday morning peak period can be satisfied for PAMR because the project is located in the Bethesda CBD Policy Area near a Metrorail Station. As indicated in Condition 11, the Applicant's traffic engineer proposed to install or fund the installation of an off-site information kiosk in the CBD as an off-site non-automobile improvement to mitigate the remaining two trips. The traffic engineer is working with Bethesda Transportation Solutions, MCDOT, and MNCPPC Staff to find an appropriate location for the information kiosk within the Bethesda CBD Policy Area and establish an acceptable installation plan prior to certification of the site plan.

Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed improvements.

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 public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service which has 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. The Application is not within a school moratorium area, but a school facilities payment must be made prior to issuance of building permits on the lot.

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 Preliminary Plan.

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

There is no forest on the site, and the Application is exempt from Forest Conservation Law requirements.

- 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 the Montgomery County Department of Permitting Services ("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 green roof technology and a structural filter. Onsite recharge is not required because this is a redevelopment project. Channel protection is not required because the one-year post-development peak discharge is less than 2 cubic feet per second.

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 ~~Mar 30 2009~~ (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, Cryor, and Presley present and voting in favor of the motion, and Commissioner Alfandre absent, at its regular meeting held on Thursday, March 26, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board