



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 09-77
 Site Plan No. 820090110
 Project Name: The Monty
 Date of Hearing: July 2, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and

WHEREAS, on January 23, 2009, Monty, LLC, ("Applicant") filed an application for approval of a site plan for a mixed-use 17-story multi-family apartment building with a maximum of 200 units, including 30 MPDUs (15 percent), and up to 7,700 square feet of non-residential uses, ("Site Plan" or "Plan") on 1.12 acres of CBD-2-zoned land, located between Fairmont and St. Elmo Avenues 150 feet south of Norfolk Avenue ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820090110, The Monty (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 22, 2009, 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 staff of other governmental agencies, on July 2, 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

WHEREAS, on July 2, 2009, the Planning Board approved the Application subject to conditions on the motion of Commissioner Alfandre; seconded by Commissioner Robinson; with a vote of 5-0, Commissioners Alfandre, Cryor, Hanson, Presley, and Robinson voting in favor.

Approved as to
 Legal Sufficiency:

8787 Georgia Avenue, NCRPC Legal Department 10 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820090110 for a mixed-use 17-story multi-family apartment building with a maximum of 200 units, including 30 MPDUs (15 percent), and up to 7,700 square feet of non-residential uses, on 1.12 gross acres in the CBD-2 zone, subject to the following conditions:

1. Project Plan Conformance

The proposed development must comply with the conditions of approval for amended Project Plan 92007002A as listed in the Planning Board resolution dated March 20, 2008.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan 120090060 as listed in the Planning Board Resolution dated March 30, 2009, unless amended.

3. Maintenance of Public Amenities

The Applicant is responsible for maintaining all on-site publicly accessible amenities including, but not limited to, paving, landscape, public art, and exterior lighting, unless otherwise coordinated with another party.

4. Transportation

a. The Applicant must satisfy the Policy Area Mobility Review (PAMR) test by paying a total of \$22,000 to the Montgomery County Department of Transportation (MCDOT) for transportation-related improvements in Bethesda CBD prior to release of any building permit. The payment of \$11,000 per PAMR trip was proposed by the Applicant as an alternative to installing an information kiosk that was proposed at preliminary plan review.

b. The Applicant must provide two bike racks near the main entrance and eight bike lockers in the garage near the elevator in a well-lit area. Final location to be determined at Certified Site Plan.

5. LEED Certification

The Applicant must achieve a LEED (Leadership in Energy and Environmental Design) Certified Rating Certification at a minimum. The Applicant must make good faith efforts to achieve a LEED Silver rating. Before the issuance of any use and occupancy certificate, the Applicant must inform M-NCPPC staff of the LEED Certification Level for which they are applying. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate the Applicant must provide to staff a written report for public record purposes only from the Applicant's LEED consultant analyzing the feasibility of achieving a

LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating, including their associated extra cost.

6. Site Design

- a. The Applicant must relocate the two benches shown in the center bay of the pedestrian promenade to the end bay at St. Elmo Street.
- b. The Applicant must provide an electrical outlet immediately adjacent to the center bay of the pedestrian promenade.
- c. The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet A04-A06 of the submitted architectural drawings, as determined by M-NCPPC Development Review and Urban Design staff.

7. Public Use and Amenity Space

- a. The Applicant must provide a minimum of 5,480 square feet as on-site public use space.
- b. The on-site public use space must be easily and readily accessible to the general public and available for public enjoyment.
- c. Provide for off-site public amenity a minimum of 10,480 square feet of streetscape improvements along St. Elmo Avenue, Fairmont Avenue, and Norfolk Avenue, including, but not limited to, pavers, street trees, street lights, and undergrounding of utility lines, as illustrated in the Certified Site Plan.

8. Public Art

- a. Provide for and install the public art concept designed by artist Dan Steinhilber, as presented to the Planning Department's Art Review Panel on May 15, 2009, and illustrated in the Certified Site Plan.
- b. Any significant changes to the concept presented on May 15, 2009, must be presented to the Art Review Panel and approved by Development Review staff before Certified Site Plan.
- c. Significant changes to the concept, as determined by Development Review staff, proposed after Certified Site Plan will require a Site Plan Amendment.

9. Lighting

- a. All onsite light fixtures must be full cut-off fixtures.
- b. Deflectors shall be installed on all fixtures causing potential glare or excess illumination.

10. Development Program

The Applicant must construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the Certified Site Plan. The Development Program shall include a phasing schedule as follows:

- a. All streetscape improvements to St. Elmo Avenue, Fairmont Avenue, and Norfolk Avenue, as illustrated on the Certified Site Plan, must be completed before issuance of the project's first use and occupancy permit.
- b. On-site public use space, including the associated public art installation, paving, seating, lighting, and landscaping, must be completed before issuance of the project's first use and occupancy permit.
- c. All on-site landscaping, lighting, and recreation facilities must be completed within six months of the issuance of the project's first use and occupancy permit.
- d. Specify phasing of pre-construction meetings, dedications, sediment/erosion control, or other features must be specified by Certified Site Plan.

11. 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 final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Modify data table to reflect development standards enumerated in the staff report.
- c. Ensure consistency off all details and layout between site plan and landscape plan.
- d. Provide final details for construction and installation of public art concept.

BE IT FURTHER RESOLVED that all site development elements as shown on The Monty drawings stamped by the M-NCPPC in May 1, 2009, shall be required, except as modified by the above conditions of approval; and

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

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 proposal conforms to the approved amended Project Plan 92007002A with respect to overall site layout, public space, and building height and massing.

- The Site Plan meets all of the requirements of the CBD-2 zone and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the CBD-2 zone as demonstrated in the project Data Table below. The height, density, and setbacks contained in the Zoning and approved Project Plan are retained with this Site Plan application.

As discussed in the Project and Preliminary Plan staff reports, this project includes density transferred from other lots in within the Woodmont Triangle Sector Plan area. In accordance with the CBD zones and the Sector Plan, this transfer leaves on the sending parcels 27,087 square feet of standard-method development potential.

Requirements of the CBD-2 zone

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the developments standards proposed for approval. The Board finds, based on the aforementioned data table, and other evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-2 Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Data Table

	Development Standards Approved by the Board and Binding on the Applicant
Min. Lot Area (of density receiving site) (sf.)	24,500 (receiving site only)
Min. Public Use Space (sf.)	5,480
Min. Off-site Amenity (sf.)	10,480
Max. Density (sf.)	210,188

Max. Non-Residential Density (sf.)	7,700
Max. Dwelling Units	200
Min. MPDUs (% of total)	15
Max. Building Height (ft.)	174
Max. Building Height (stories)	17
Min. Building Setbacks (ft.) (ground floor/bldg. above)	
Fairmont Avenue	10/4
St. Elmo Avenue	10/3
North side	0
South side	18/14
Max. Parking Spaces	211

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

a. Buildings and Structures

The location of the proposed building well defines the public realm. The building frontages along Fairmont and St. Elmo Avenues maintain the street edge, while the building sets back on the south side to enclose a spacious mid-block pedestrian promenade. This promenade is defined opposite the building by an alternating series of metal and living bamboo panels. These provide visual interest as well as opportunities for passersby to meet, greet, and eat. The design of the promenade has been reviewed for safety with Montgomery County Police CPTED (Crime Prevention Through Environmental Design) experts, and the final proposed design incorporates those recommendations. The building height, as defined by the building code, meets the maximum allowed height. Above that height are changing rooms for the rooftop pool and the screen for the HVAC equipment. The Applicant has coordinated with the Department of Permitting services and received confirmation that, since the pool changing rooms are required by health code to be proximate to the pool itself, the pool room does not count towards the height of the building. There is also proposed an 18-foot mechanical penthouse to

screen and protect the rooftop equipment. This penthouse, for service use only, will be seen from the street only obliquely and will be more attractive than the nakedness of the equipment itself. The locations of the buildings and structures are adequate, safe, and efficient.

b. Open Spaces, Landscaping, and Lighting

The proposal's primary open space, the pedestrian promenade, will serve not only as a convenient means of mid-block access between Fairmont and St. Elmo Avenues, but more importantly as a destination in its own right. The design accomplishes this by providing a generous dimension, 18 feet, flanked by retail entrances on one side and an alluring public art installation combined with landscaping and seating areas on the other. With the landscaping, and "festival" catenary lighting, this main open space promises to be a major draw for the surrounding blocks, and is amply adequate, safe, and efficient.

c. Recreation Facilities

The recreation facilities for the project combine interior private amenities with extensive exterior public amenities. Future residents will be able to avail themselves of a swimming pool, fitness facilities, and meeting/lounge areas, or venture outside on the sidewalks and bike paths of Bethesda to nearby parks, including Battery Lane Park down the street. These recreation facilities are convenient, adequate, safe, and efficient.

d. Vehicular and Pedestrian Circulation

Pedestrian access to the site, both to the pedestrian promenade and residential and retail entrances, is provided by sidewalks finished per the Bethesda Streetscape Standard. As recommended at Project Plan the Applicant has split the vehicular access between Fairmont and St. Elmo Avenues, reducing obstruction of pedestrian activity. Vehicular access to the private underground parking will be from St. Elmo Avenue, while loading will be performed off Fairmont Avenue, taking advantage of this through-block design. Both the pedestrian and vehicular access are more than adequate, safe, and efficient.

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

The proposed 17-story mixed-use apartment building is compatible with and complimentary to the existing and planned redeveloped parcels in the Woodmont Triangle, in building height and massing, and more importantly in how it knits together two streets through the mid-block pedestrian promenade. But the design of this project is also compatible with the adjacent lower-density existing development, providing architectural expression of a lower "base" with unique articulation, building entrances, and retail opportunities.

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 site does not contain any streams, wetlands, floodplains, or other environmentally sensitive features, and there are no environmental buffers on the site. Environmental guidelines for protection of environmentally sensitive areas, therefore, are not applicable to this plan. The application is exempt from Forest Conservation Law requirements.

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 resolution constitutes the written opinion of the Board in this matter and incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this resolution is AUG 7 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).

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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 Alfandre, seconded by Commissioner Cryor, with Commissioners Hanson, Alfandre, and Cryor voting in favor of the motion, and with Commissioner Wells-Harley abstaining and Commissioner Presley absent, at its regular meeting held on Thursday, July 30, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board