



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

MCPB No. 11-32
Site Plan No. 820110020
Project Name: Woodmont Central
Date of Hearing: April 21, 2011

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 September 27, 2010, Donohoe Development Company ("Applicant"), filed an application for approval of a Site Plan for 585,577 square feet of multiple family residential use with up to 455 dwelling units, 81,107 square feet of office uses; and no more than 30,295 square feet of retail uses ("Site Plan" or "Plan") on 48,966 square feet of CBD-R2 zoned land at the intersection of Rugby Lane and Del Rey Avenues and 19,122 square feet of CBD-1 zoned land at the intersection of Wisconsin Avenue and Battery Lane ("Property" or "Subject Property"); and

WHEREAS, Applicant's Site Plan application was designated Site Plan No. 820110020, Woodmont Central (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated April 11, 2011, 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 April 21, 2011, 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 April 21, 2011, the Planning Board approved the Application subject to conditions on the motion of Commissioner Alfandre; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Alfandre, Carrier, Presley, and Wells-Harley voting in favor, Commissioner Dreyfuss being absent.

Approved as to
Legal Sufficiency:

Christina Sonnet 8/31/11

8787 Georgia Avenue, Suite 300, Silver Spring, MD 20910 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. 820110020 for 585,577 square feet of multiple family residential use with up to 455 dwelling units, 81,107 square feet of office uses; and no more than 30,295 square feet of retail uses on 48,966 square feet of CBD-R2 zoned land and 19,122 square feet of CBD-1 zoned land, subject to the following conditions:

Conformance with Previous Approvals

1. Project Plan Conformance
The proposed development must comply with the conditions of approval for Project Plan No. 92009001A as listed in the Planning Board Resolution.
2. Preliminary Plan Conformance
The proposed development must comply with the conditions of approval for Preliminary Plan No. 12009014A as listed in the Planning Board Resolution. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, DPWT conditions, and DPS stormwater conditions.

Environment

3. Forest Conservation & Tree Save
The proposed development must comply with the conditions of the approved final forest conservation plan. The Applicant must satisfy all conditions prior to the recording of a plat(s) or to the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services.

Parks, Open Space, & Recreation

4. Recreation Facilities
 - a. The Applicant must provide at least the recreation facilities shown on the approved certified site plans, as amended.
 - b. The indoor facilities must satisfy the area requirements specified in the M-NCPPC Recreation Guidelines.
5. Maintenance of Public Amenities
The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, landscaping, paving, benches, trash containers, water features, and art works.

Density & Housing

6. Moderately Priced Dwelling Units (MPDUs)

The proposed development must provide one of the two following options, either of which requires an Agreement to Build with the Department of Housing and Community Affairs:

- a. The Applicant may provide at least 12.5% MPDUs subject to the provisions of Chapter 25A for no density bonus as enumerated in the data table in the Planning Board Resolution for this site plan, or
- b. The Applicant may provide at least 15% MPDUs subject to the provisions of Chapter 25A for a 22% density bonus as enumerated in the data table in the Planning Board Resolution for this site plan.
- c. The Applicant must execute an Agreement to Build with the Department of Housing and Community Affairs prior to the release of any residential building permits.

Miscellaneous

7. Public Art

- a. The Applicant must provide a final public art program integrated with the through-block plaza design for the property fronted by Del Ray, Rugby, and Auburn Avenues.
- b. The area subject to this final design must be denoted on the certified site plan with explanatory notes and illustrations as required by Staff and will be subject to MNCPPC inspection and approval.

8. Landscape Surety

The Applicant must provide a performance bond in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The amount of the surety must include all plant material, on-site lighting, recreational facilities, and site furniture within the public use and amenity spaces for each phase of development. Surety to be posted prior to issuance of first building permit within each relevant phase of development and shall be tied to the development program.
- b. Provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial bond amount.
- c. Completion of plantings by phase to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d. Provide a screening/landscape amenities agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

9. Use and Occupancy Restrictions on Commercial Uses

The use and occupancy for the non-residential components of the overall project, including phases 1A, 1B, and 2, cannot exceed the allowed 1.0 FAR at any time, including any non-residential space existing at the time of filing for a use and occupancy permit.

10. 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. Building demolition and public use space construction;
- b. Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- c. On-site amenities including, but not limited to, sidewalks, benches, trash receptacles, art work, and bicycle facilities must be installed prior to release of any building occupancy permit per phase.
- d. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- e. The development program must provide phasing for installation of on-site landscaping and lighting.
- f. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

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. Add a note to the Site Plan stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading".

- c. Modify data table to reflect development standards enumerated in the Staff Report.
- d. Ensure consistency of all details and layout between Site Plan and landscape plan.
- e. Delineate area subject to Art Review Panel comment and MNCPPC inspection and approval.
- f. Minor modifications and clarifications to conform to these conditions of approval.

BE IT FURTHER RESOLVED, that all site development elements as shown on Woodmont Central drawings stamped by the M-NCPCC on March 29, 2011, 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, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), 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 Site Plan is consistent with the amended project plan, which was reviewed concurrently with the Application to reflect all modifications and ensure conformance.

2. *The Site Plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

As shown by the Project Data Table for the CBD-1 and CBDR2 Zones below, all of the requirements of the zone are met by the Site Plan.

The Subject Property comprises land that is zoned CBD-R2 and CBD-1, both of which are governed by the development standards in Section 59-C-6.23 of the Montgomery County Zoning Ordinance. The typical minimum lot size of 18,000 square feet for optional method projects is not required per section 59-C-6.231 of the zoning ordinance and the Bethesda CBD Sector Plan also recommends no minimum lot size for optional method projects. There is no maximum building coverage for optional method projects, but there is a requirement for a minimum of 20% of the net lot area to be devoted to public use space, which this

Application satisfies by providing a plaza/mid-block pedestrian connection and on-site sidewalks.

The maximum density for mixed-use optional method projects in the CBD-R2 Zone is 5 FAR and in the CBD-1 is 3 FAR; the proposed density is 5.18 FAR for the combined sites if 15% MPDUs are provided. Alternatively, if only 12.5% MPDUs are provided the proposed density for the combined sites is 4.42 FAR.

The only other development standard for an optional method project is building height. In the CBD-1 zone, height is normally limited to 60 feet but may be increased to 90 feet under Section 59-C-6.235(b) of the Montgomery County Zoning Ordinance “[if] approved by the Planning Board in the process of site plan ... as not adversely affecting surrounding properties”. Likewise, in the CBD-R2 zone, the height is normally limited to 143 feet, but may be increased to 200 feet under the same provision. The heights of both buildings are in conformance with the recommendations of the Sector Plan, which states that buildings up to 174 feet are appropriate on the CBD-R2-zone block if 15% MPDUs are provided and up to 90 feet on the CBD-1-zoned block for commercial uses.

Parking calculations for the on-site parking spaces requirement are provided in the Parking Requirements Data Table below. However, because this project is within a Parking Lot District (“PLD”), the parking spaces are not required to be on site. The Applicant is required to pay an ad valorem tax to the PLD for all parking spaces that are not provided on site. In addition, the Applicant requested a waiver of the number of required parking spaces. The parking waiver of 37% of the required spaces is supported by the goals of the Sector Plan, the Office of Legislative Services’ “Transportation Demand Management” report, and the recently published “Montgomery County Parking Study” focusing on parking requirements in transit-oriented, shared use environments. In light of the above and the Subject Property’s close proximity to transit, numerous services & amenities, and employment opportunities, the Planning Board supports the Applicant’s request for a waiver of a portion of the required on-site parking spaces. However, a waiver of the number of required parking spaces does not necessarily equal a reduction in payment of the ad valorem tax. Any reduction in the required payment of ad valorem tax is subject to PLD approval.

Project Data Table for the CBD-1 and CBD-R2 Zones

Development Standard	CBD-1	CBD-R2	Approved by the Planning Board and
	Permitted/ Required	Permitted/ Required	

			Binding on the Applicant (CBD-1/CBD-R2)
Building Height (feet)	90	174 ¹	90/174
Setbacks (feet)			
To any Property Line (min)	0	0	0
To any Right-of-Way at grade (min)	0	0	2/5.5
Site Area (square feet)			
Net Tract Area	n/a	n/a	78,461
Dedications	n/a	n/a	34,556
Gross Tract Area (min)	n/a ²	n/a	113,017
Density (Floor Area Ratio) w/No MPDU Bonus (option #2)			
Commercial (max)	1.0 (32,507sf) ₃	1.0 (80,510sf)	0.98 (111,402sf)
Total (max)	3.0 (97,521sf)	5.0 (402,550sf)	4.42 (500,071sf)
Density (Floor Area Ratio) w/22% MPDU Bonus⁴ (option #1)			
Commercial (max)	1.0 (32,507sf)	1.0 (80,510sf)	0.98 (111,402sf)
Residential (base max)	n/a	n/a	3.44 (388,669sf)
Residential Bonus (22% of base max)	n/a	n/a	0.76 (85,506sf)
Total (max w/15% MPDUs)	3.44 (111,824sf; based on 1FAR of commercial proposed)	5.88 (473,753sf; based on 0.98 FAR of commercial proposed)	5.18 (585,577sf)

¹ Per master plan, page 22.

² Per master plan, page 25.

³ Per Sector Plan, page 21.

⁴ For this 22% Density Bonus, the Applicant must provide a minimum of 15% MPDUs per Chapter 25A.

Development Standard	CBD-1	CBD-R2	Approved by the Planning Board and Binding on the Applicant (CBD-1/CBD-R2)
	Permitted/Required	Permitted/Required	
Public Use Space (% of net lot)			
On-Site Public Use Space	20	20	21
Off-Site Amenity Space (excluding private amenity space)	n/a	n/a	18.7
Total Public Use & Amenity Space	20	20	39.7

Parking Requirements

Use	Requirement	Total Required	Less 10% CBD Residential Credit	Provided on CBD-1 Property	Provided on CBD-R2 Property	Total Provided	Waiver Requested
Studio	1 per unit	25					
Studio MPDU	0.5 per unit	2					
1-Bed	1.25 per unit	309					
1-Bed MPDU	0.625 per unit	28					
2-Bed	1.5 per unit	164					
2-Bed MPDU	0.75 per unit	15					
3-Bed	2 per unit	10					
3-Bed MPDU	1 per unit	1					
Residential	n/a	554	499	0	377	377	122
Office	2.4 per 1,000sf	195	195	156	0	156	39
Retail	5 per 1,000sf	152	152	0	0	0	152
Total	n/a	901	846	156	377	533	313

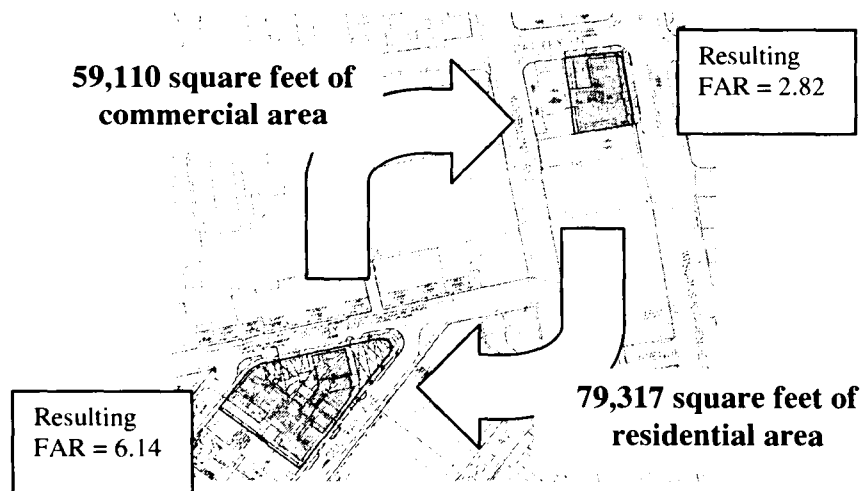
Density Transfer per Section 59-C-6.2355

The Sector Plan calls for a mix of uses in this area and a maximum commercial FAR of 1.0. The two sites are reviewed as one application due to the density transfer provision. The following requirements are applied to applications with density transfer:

- a. The application must meet the FAR restrictions regarding total density and the mix of uses for the combined sites, not the individual sites;
- b. Density can transfer to and from individual sites; and
- c. Total density for each type of use must be capped by an easement on that property.

In this case, the transfer of density provisions allow the developer to calculate the maximum density for every property involved based on the aggregate gross area and then distribute it as desired. The Sector Plan recommendations regarding uses, heights, and amenities guide this distribution, but a requirement of a mix of uses is not a site-by-site determination. Instead, it is determined by the aggregate density for all sites involved.

Prior to any bonus density calculations, 65,014 square feet of residential development rights are proposed to be transferred from the commercial site to the residential site and 59,105 square feet of office and retail development rights are proposed to be transferred from the residential site to the commercial site. Following a density bonus of 22% of base maximum, 79,317 square feet of residential development rights are proposed to be transferred from the commercial site to the residential site and 59,110 square feet of office and retail development rights are proposed to be transferred from the residential site to the commercial site. The picture below reflects the density transfer after the density bonus.



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

The Application locates buildings and structures along the adjacent roads with setbacks only as necessary to create a comfortable and engaging pedestrian realm, providing easy access to the buildings from adjoining sidewalks and parking. The Applicant's proposed massing will decrease impacts on the pedestrian realm and is appropriate for a downtown, urban context. Building heights meet Sector Plan recommendations. The locations of the buildings and structures are adequate and efficient, meet the aesthetic concerns of the area, and pose no safety concerns

The open space provided by the Applicant is concentrated primarily on a mid-block plaza connecting two streets and providing significant activated frontage opportunities. This will serve patrons, residents, visitors, and retail owners well. The landscaping of the open space will provide shade, stormwater management, and a colorful space for ornamental plantings. Street trees and lighting along the street will enhance the pedestrian environment. Interior lighting will provide safety but will not cause glare on the adjacent roads or properties.

The Applicant's proposal provides significant recreation facilities on site for residents including pools, a fitness room, and a garden area. Residents can also use the nearby facilities of Battery Lane Urban Park. The open spaces, landscaping, and site details adequately and efficiently address the needs of the proposed use and the recommendations of the Sector Plan, while providing a safe and comfortable environment.

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area. Safety is enhanced by several improvements, including reduced curb cuts and better lighting. The vehicular circulation design efficiently directs traffic into the parking and loading areas with minimal impacts to pedestrian circulation. This balance of design between site constraints, the recommendations of the Sector Plan, and the needs of the use is an efficient and adequate means for providing a safe atmosphere for pedestrians, cyclists, and vehicles.

The Applicant has chosen not to provide all the parking normally required because the site is located in a PLD and is in close proximity to non-automobile transportation alternatives. The provision of fewer spaces will discourage single-occupancy automobile use and assist in meeting the non-auto-driver mode share goal of the Bethesda Transportation Management District.

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

The proposed uses are similar to adjacent existing and proposed development that is, or will be, created at similar densities. The structures themselves are in scale with the nearby buildings per the recommendations and vision of the Sector Plan and are located such that they will not adversely impact existing or proposed adjacent uses.

As recommended in the Sector Plan, the Applicant proposes a mixed-use building fronting on Del Ray, Auburn, and Rugby Avenues, at a maximum height of 174 feet if the Applicant provides 15% MPDUs and 143 feet if fewer MPDUs are provided. This height is less than the confronting building to the south and, as discussed by the Sector Plan, is necessary to accommodate more affordable housing in the area without adversely affecting neighboring sites. The commercial building is proposed at the typical CBD-1 height of 90 feet.

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 Application is not subject to water resources protection but is subject to the forest conservation law, which will be satisfied through a payment for off-site planting.

The stormwater management concept has been approved by the Montgomery County Department of Permitting Services (MCDPS) and includes meeting Environmental Site Design (ESD) to the Maximum Extent Practicable by the use of a green roof and micro-retention biofilters. This is supplemented with use of two proprietary biofilters to accommodate stormwater runoff from the streets. Due to onsite constraints, the channel protection volume (CPV) portion of the ESD cannot be provided. A waiver of CPV has been granted by MCDPS and recharge has been waived since this is redevelopment and the majority of the site is currently covered by sidewalks, a building, and a garage.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board 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

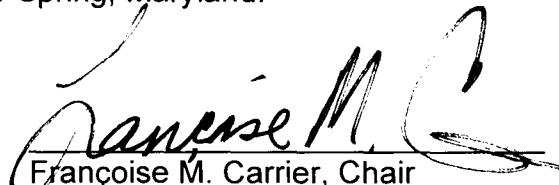
BE IT FURTHER RESOLVED, that the date of this Resolution is SEP 16 2011 (which is the date that this Resolution is mailed to all parties of record); and

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 Presley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, September 8, 2011, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board