



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

JAN 24 2013

MCPB No. 12-108
Site Plan No. 820120140
7001 Arlington Road
Date of Hearing: November 1, 2012

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review site plan applications; and

WHEREAS, on April 26, 2012, AERC 7001 Arlington Road, LLC ("Applicant"), filed an application for approval of a site plan for a five-story building containing 7,000 square feet of retail space and 140 multi-family dwelling units including 15% moderately priced dwelling units ("MPDUs") on 2.7 acres of PD-44 zoned-land, located at on the east side of Arlington Road approximately 330 feet south of the intersection of Bethesda Avenue and Arlington Road ("Subject Property"), in the Bethesda CBD Sector Plan ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 821020140, 7001 Arlington Road ("Site Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued an undated memorandum to the Planning Board, entitled *Preliminary Plan 120120220 & Site Plan 820120140, 7001 Arlington Road*, setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 1, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on November 1, 2012, the Planning Board voted to approve the Application subject to conditions on motion of Commissioner Dreyfuss, seconded by

Approved as to
Legal Sufficiency:

[Signature] 1/3/13

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Commissioner Presley, with a vote of 4-0; Commissioners Anderson, Carrier, Dreyfuss, and Presley voting in favor, with Commissioner Wells-Harley being absent from the hearing.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820120140 for a five-story building containing 7,000 square feet of retail space and 140 multi-family dwelling units including 15% MPDUs on the Subject Property, subject to the following conditions:¹

Conformance with Previous Approvals

1. Development Plan Conformance

The development must comply with the binding elements of the development plan amendment 11-4.

2. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120120220, or as amended.

Environment

3. Stormwater Management

The Site Plan is subject to Stormwater Management Concept approval conditions dated April 18, 2012 unless amended and approved by the Montgomery County Department of Permitting Services ("DPS").

Parks, Open Space, and Recreation

4. Recreation Facilities

- a) Meet the square footage requirements for all of the applicable approved recreational elements and demonstrate on the certified Site Plan that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b) Provide the following recreation facilities: four picnic/sitting areas, an open play area II, horseshoes, a pedestrian system, indoor community space, and an indoor fitness facility.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

5. Parks

- a) The Applicant is not permitted to use the Capital Crescent Trail to access the Subject Property for regular inspection and/or maintenance of stormwater or other facilities located on the Subject Property.
- b) A Park Construction Permit is required prior to commencement of any construction activity on M-NCPPC property.
- c) The Applicant must construct all improvements related to the project including any utilities, retaining walls, fences, or footings, entirely on the Subject Property unless permission is granted to locate them on M-NCPPC property by the Park Construction Permit.
- d) The access path from the site to the Capital Crescent Trail must enter the Trail at or near the Memorial Plaza area. The access path must be three feet wide or as specified in the Park Construction Permit. The exact location, design and specifications for construction of the access trail must be in keeping with the Capital Crescent Trail experience and setting, and must be reviewed and approved by Montgomery County Department of Parks staff ("Parks Staff"). Any portion of the access trail on park property must be constructed as specified in the Park Construction Permit. The fence and gate construction proposed by the Applicant must be reviewed and approved by Parks Staff.
- e) The Applicant and any future assignees shall be responsible for all improvements associated with the Park Construction Permit including but not limited to maintenance, repair, and replacement of any facilities located on parkland, including the access trail and any other features allowed by the Park Construction Permit.
- f) A Parks Senior Urban Forester must be contacted to attend the pre-construction meeting.
- g) At the pre-construction meeting, tree removals and/or tree limb pruning must be identified based on determination by the Parks Senior Urban Forester that trees or limbs are dead, have an excessive lean or are close enough to the Subject Property boundary to be impacted by the trenching.
- h) If tree removals are determined to be necessary at the pre-construction meeting, Applicant must pay a Fee in Lieu for replacement at a dollar amount based upon each inch of tree caliper removed to be determined by the Parks Urban Forester.

- i) Trees identified as removals by Parks DSenior Urban Forester must be removed by the Applicant at no cost to the Parks Department.
- j) The Applicant must hire a certified arborist and Maryland Licensed Tree Expert to do the removals and pruning as well as root pruning.
- k) To execute tree work, if equipment is used (i.e. aerial lift), the work must be done from the Subject Property..If working from the Park Property, tree work may be done with climbers on foot using saws or other methods approved by and under the direction of the Parks Senior Urban Forester.
- l) The Applicant must remove all wood and debris from disturbed areas, and stumps must be cut as flush to grade as feasible.
- m) A plan must be in place to keep users of the trail out of harm's way during the tree removal operations such as flaggers, signs, etc as closing the trail is not always an option.
- n) Where there is not an existing retaining wall, all root pruning must be executed on the Subject Property and must take place under the direction of the Parks DSenior Urban Forester.
- o) Tree protection fencing must, at a minimum be 4 foot welded wire and run the length of park property to be impacted by the work.
- p) Where there is an existing retaining wall, per DPS approval, sediment control will be placed on top of the wall and root pruning will not take place.
- q) Armored Trunk protection must be in place within 5 feet of the limits of disturbance.

Density & Housing

6. Moderately Priced Dwelling Units ("MPDUs")

- a) The development must include 15 percent of the total number of units as MPDUs on-site, consistent with the requirements of Chapter 25A.
- b) The MPDU Agreement to Build must be executed between Applicant and Montgomery County prior to the release of any residential building permits.

Site Plan

7. Landscaping

Increase the soil depth over the entire rooftop planting beds so that a minimum soil depth of 3' will be provided. Limited exceptions to the soil depth may be accommodated subject to Staff approval.

8. Lighting

- a) The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.
- b) All on-site down- light fixtures must be full cut-off fixtures.
- c) Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on any perimeter fixtures located on the terrace level abutting adjacent properties.
- d) Illumination levels shall not exceed 0.5 footcandles (fc) at any Subject Property boundary with abutting county roads and residential properties.
- e) The height of on-site light poles above grade shall not exceed 12 feet including the mounting base.

9. Surety

- a) Prior to issuance of first building permit within each relevant phase of development, Applicant must provide a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, and with the following provisions:
- b) Applicant must provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial surety amount.
- c) The amount of the bond or surety shall include plant material, on-site lighting, recreational facilities, site furniture, and entrance piers within the relevant phase of development.
- d) Prior to issuance of the first building permit, Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.
- e) Bond/surety shall be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety. Release of surety for the plantings shall occur 2 years after the inspection.

- f) Applicant shall enter into a covenant with the Planning Board for the perpetual maintenance and replacement, if necessary, of the afforestation trees in accordance with the forest conservation plan, which covenant shall be noted on the record plat.

10. Development Program

The Applicant must construct the development in accordance with a development program approved by Staff prior to the approval of the certified Site Plan. The development program must include the following items in its phasing schedule:

- a) 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.
- b) On-site amenities including, but not limited to, sidewalks, benches, trash receptacles, and bicycle facilities must be installed prior to release of the final building occupancy permit.
- c) Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to certification of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- d) The development program must provide phasing for installation of on-site landscaping and lighting.
- e) Community-wide pedestrian pathways, including the path connection and gate from the private courtyard to the Capital Crescent Trail must be completed prior to issuance of the final building occupancy permit.
- f) Recreation facilities within the building and in the courtyard area must be completed prior to issuance of the final building occupancy permit.
- g) Landscaping associated with the courtyard and building shall be completed prior to issuance of the final building occupancy permit.
- h) Pedestrian pathways and seating areas associated with each facility must be completed as construction of each facility is completed.
- i) The traffic signal for the Arlington Road/Southern Site Access Driveway/Northern Bradley Boulevard Shopping Center intersection must be operational prior to the issuance of the residential Certificate of Use and Occupancy for the development.

- j) Provide each section of the development with necessary roads.
- k) The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

11. Clearing and Grading

Clearing and grading must correspond with construction activities to minimize soil erosion and must not occur prior to certification of the final forest conservation plan, approval of sediment control plan, and Staff inspection and approval of all tree-save areas and protection devices. The Applicant may receive a demolition permit, access permit, and utility permits prior to approval of the certified Site Plan and record plat, subject to approval from MCDOT and DPS.

12. Certified Site Plan

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

- a) Include the certified forest conservation plan, stormwater management concept approval memorandum, development program, inspection schedule, and Site Plan resolution on the 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) Clearly indicate the type of fence to be constructed along the eastern property line that abuts the Capital Crescent Trail. Any fence must not be solid in accordance with the applicable binding element of DPA 11-4 approved by the County Council on January 24, 2012, per Resolution No. 17-330.
- d) Ensure consistency off all details and layout between Site Plan and landscape plan.

BE IT FURTHER RESOLVED, that all site development elements as shown on 7001 Arlington Road drawings stamped by the M-NCPPC on July 30, 2012, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the 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 conforms to all non-illustrative elements and binding elements of DPA 11-4 approved by the County Council on January 24, 2012, per Resolution No. 17-330. Development Plan Amendment application DPA 11-4 decreased the size of commercial uses on the Subject Property and increased the number of residential units. Due to the continuing consolidation policies of the United States Postal Service, a post office facility integrated into the mixed use development on the subject property was no longer feasible. For this reason and due to economic and housing market changes, the Applicant reduced the amount of commercial space on the site from 30,000 square feet to 7,000 square feet to accommodate ground floor retail, and increased the number of dwelling units from 105 to 145. The Development Plan Amendment also increased MPDUs from 12.5 percent to 15 percent, reduced parking from 287 to 215 spaces, and removed an entire level of below-grade parking. The binding elements, as set forth below, limited the density of this site and established parameters for unit affordability, screening, unit type, and lot use/lot size.

- 1) *The building will have a maximum height of 59.9', as measured from the building height measuring point in the centerline of Arlington Road, whose elevation is 306.64', as shown on the development plan.*

The Site Plan maximum height is 59.9 feet.

- 2) *The development will have a maximum density of 1.66 FAR.*

The Site Plan is approved for density of 1.42 FAR.

- 3) *The maximum number of multi-family dwelling units to be contained in the building shall not exceed 145.*

The Site Plan is approved with maximum of 140 dwelling.

- 4) *The building shall include 15.2% moderately priced dwelling units (if 145 units are approved for construction).*

Since a maximum of 140 units are approved, the Applicant is only required to include 15% of the units (or 21 units) as MPDUs.

- 5) *The development will provide a minimum of 50% green area on the site.*

The Site Plan is approved with a minimum 50.8% green area.

- 6) *As part of the site plan process for the 7001 Arlington Road project, the signalization proposed in the development plan must be approved by DPWT, including lane geometry and the provision of necessary rights of way or easement assurances on the west side of Arlington Road. Prior to application for the building permit for construction of the building the final design for the signal must be approved, prior to issuance of the building permit the signal must be permitted and bonded, and prior to the issuance of occupancy permits the signal must be operational.*

MCDOT has approved the signalization concept plan for the intersection of Arlington Road and the new driveway to the parking garage per letter dated September 25, 2012.

- 7) *The residential building walls, exclusive of roof overhangs, cornices, balconies, patios, terraces, underground parking garages, garage stair access ways, and similar appurtenances, will have a minimum 60 foot setback from the eastern property line.*

The Site Plan is approved with a 67.3 foot setback from the residential building walls to the eastern Property line.

- 8) *Access from the subject site to the Capital Crescent Trail will be provided for residents of the project via walkways from the building to the Capital Crescent Trail access point.*

The Site Plan is approved with a walkway from the building to the Capital Crescent Trail.

- 9) *Any fencing along the eastern property line will not be solid in order to allow views from the Capital Crescent Trail to the subject site.*

The Site Plan is approved with screening the rear of the lot with a 60-inch high fence with a metal picket design that will not be solid to allow for views from the Trail.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

The Site Plan meets all of the requirements of the Planned Development ("PD") zone and satisfies the design, housing, amenity, circulation, and other purposes of the PD zone. The project will provide a unified form of development at an overall density and mixture of unit types that is generally consistent with the recommendations in the Master Plan, consistent with the purpose of the zone. The design and layout of the proposed development provides appropriate vehicular linkages, provides for the safety, convenience and amenity of residents, and assures compatibility with the surrounding land uses.

The site is zoned PD-44 consistent with DPA 11-4 approved by the County Council and specifically recommended in the Master Plan. The PD-44 Zone allows the proposed retail and residential uses.

Requirements of the PD-44 Zone

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, the Application meets all of the applicable requirements of the PD-44 Zone.

Data Table

Development Standard	Zoning Ordinance Permitted/ Required	Binding Elements per DPA 11-4	Approved & Binding on the Applicant
Gross Tract Area (GTA)	n/a	n/a	117,725 sf
Density			
Residential FAR		1.66 FAR	1.42 FAR
Max. Residential Density (du/acres) 59-C-7.14(a)	44 du/ac (if 12.5% MPDUs provided) 53.68 du/ac (if 15% MPDUs provided) ¹	n/a	51.85 du/ac (including 22% density bonus)
MPDUs (%)	12.5% minimum	15.2% (if 145 units are approved)	15% (if 140 units are approved)

Max. Number of Dwelling Units	145 (including 22% density bonus for 15% MPDUs)	145 maximum	140 (119) (21)
- Market Rate			
- MPDUs			
Housing Mix (59-C-7.13)			
Min. one-family detached	Permitted, but not required		
Min. one-family attached/townhouses	Permitted, but not required		
Multi-family	50% ²	100%	100%
Min. Setbacks			
Main Building (ft)			
Adjoining one-family detached zoned land (59-C-7.15)	n/a	60 ft	60 ft
From public street	n/a	n/a	0
Front yard	n/a	n/a	0
Rear yard (opposite front door)	n/a	n/a	67.3
Side yard	n/a	n/a	0
Max. Building Height (feet)			
	n/a	59.9 feet	59.9 feet
Min. Green Area			
(% of GTA) (59-C-7.16)	50%	50%	50.8% (59,802 sf)
Land Dedicated to Public Use			
(59-C-7.17) (acres)	n/a	n/a	4,176 sf
- MCDOT Public Roads			
Parking Spaces (59-E)			
Residential	155	n/a	176
Retail	35		35

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 Site Plan is approved with 7,000 square feet of retail uses and 140 multifamily dwelling units. The location of the retail is appropriately oriented to the street and the dwelling units are adequately oriented towards the Capital Crescent Trail with a substantial setback and appropriately placement above the street oriented retail space. The general Z-shape of the building creates two landscaped courtyard areas for residents of the building and helps provide a buffer between the dwelling units and the parking garages located to the north and south of the site.

The parking garage will be built to the rear property line with access located off of Arlington Road along the south side of the building and setback from the street to avoid pedestrian conflicts. Along the north side of the building a second driveway will be provided for loading activities to reduce impacts to vehicular traffic flow in the garage and the residential building entrance.

b. Open Spaces

The PD-44 zone has a minimum green area requirement of 50 percent of the gross tract area instead of an open space requirement. The Site Plan depicts a green area satisfying this requirement consisting of the second-story terrace, the streetscape and sidewalk proposed along Arlington Road, and the buffer area along the Capital Crescent Trail, all adequate, safe, and efficient for the site layout.

c. Landscaping and Lighting

The landscape plan, which places an emphasis on native species is adequate, safe, and efficient. The landscape plan meets the PD-44 zone forest conservation requirements for an optional method project, provides an adequate buffer and screening from the Capital Crescent Trail and adjacent one-family detached community to the east of the proposed development, and provides canopy coverage and shade for the picnic areas, the edge of the open play area, and the streetscape in front of the building. A variety of plant materials are incorporated into the landscape plan to add interest and delineate the various spaces, including ornamental trees, herbaceous plants, and deciduous shrubs. The streetscape will be constructed in accordance with the Bethesda streetscape standards using the Zelkova tree species.

The lighting consists of four pole mounted light fixtures along the Arlington Road street frontage with a maximum height of 16 feet. Onsite, the Applicant

will provide 3 deck site lights and 11 deck pole lights. Per the conditions of approval, these pole lights be no greater than 12 feet in height (as measured above grade), which is more residential in character and reduces visibility from adjacent properties and thus increases compatibility with the neighborhood. The lighting proposed will create enough visibility to provide safety but not so much as to cause glare on adjacent properties.

d. Recreation Facilities

The recreation facilities provided include four picnic/sitting areas, an open play area (level II), horseshoes, a pedestrian system, indoor community space, and an indoor fitness facility. This development meets all the recreation requirements on-site and satisfies the 1992 M-NCPPC Recreation Guidelines. Close proximity to the Capital Crescent Trail will provide additional opportunities for recreation.

e. Vehicular and Pedestrian Circulation

Access to the site will be from Arlington Road at two locations; one using the existing curb cut on the north side of the Subject Property for loading operations and the other a new driveway on the south side. The newly constructed access point will accommodate traffic entering the garage for residential parking as well as retail parking. This access point will be aligned with the Bradley Shopping Center Driveway on the west side of Arlington Road and with a signal at Arlington Road to accommodate traffic in this location, the vehicular circulation efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation in the area.

The Applicant has provided autoturn studies to ensure that all necessary vehicular movements can be made in the garage as shown on the Site Plan. The pedestrian circulation system adequately and efficiently integrates this site into the surrounding area. The streetscape along the property frontage ranges from 23 to 28 feet with a minimum of 6 feet clear sidewalk for pedestrians. From Arlington Road, pedestrian connections for future residents are provided via a 10 foot wide sidewalk area located along the southern façade of the building where there is a residential lobby and from Arlington Road on the northern side of the building there is a narrower 4 to 5 foot wide sidewalk connecting to a secondary entrance. An additional connection along the eastern façade of the building is provided to give residents of the building access to the Capital Crescent Trail which facilitates excellent access to the surrounding area. The Site Plan efficiently accommodates pedestrians entering and leaving the site.

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

The combination of multifamily residential and retail is recommended in the Master Plan for this site. Further, as noted in the Plan, a multifamily residential building at this location will provide a proper transition between the one-family residential homes of the Sacks neighborhood and the surrounding commercial uses along Arlington Road. The location of the retail space will serve as a buffer because all commercial activity on site will be consolidated on Arlington Road, the furthest portion of the site from the Sacks neighborhood. Only the residential activity should be visible from the Sacks neighborhood.

The visual appearance of the Subject Property will be greatly improved. The density and resulting activity levels will be compatible with the mix of urban land uses in the surrounding area. The site design will also make the building and density compatible with the trail and nearby homes. The site design will provide sunlight between two large, existing structures that sit on opposite sides of the Subject Property adjoining the trail and will provide a green buffer with space for extensive plantings. The building height will be similar to adjacent and nearby buildings, and the rear setback will prevent the building from looming over trail uses. The new traffic light will bring improvements to traffic flow along Arlington Road near the Subject Property.

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.*

A preliminary Forest Conservation Plan² and stormwater management concept were approved with Preliminary Plan No. 120120220. The Site Plan must comply with the conditions of approval for Preliminary Plan No. 120120220, or as amended.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

² Submission and approval of a final Forest Conservation Plan is a condition of the Preliminary Plan approval.

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

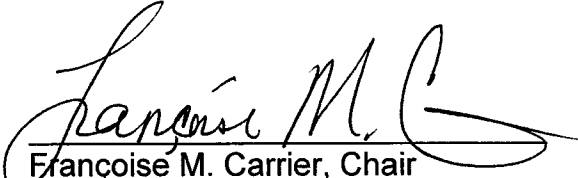
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JAN 24 2013 (which is the date that this resolution is mailed to all parties of record); and

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 Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor, at its regular meeting held on Thursday, January 17, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board