



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

Agenda Date: April 25, 2013

Agenda Item No.: 1

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Rose Krasnow, Acting Planning Director

VIA: Robert Kronenberg, Acting Chief, Area One
Neil Braunstein, Planner Coordinator, Area One

Re: Resolution for Site Plan No. 820130050,
MCPB No. 3, 8415 Fenton Street

Attached, please find a redlined version of the Resolution for Site Plan No. 820130050, 8415 Fenton Street. The Resolution was adopted by the Planning Board at the March 21, 2013, Planning Board Hearing. Because this resolution has not been mailed it will not be titled as a corrected resolution. This redlined version of the Resolution addresses errors on pages 2 and 5 of the original Resolution.

The correction addresses 1. Project Plan Conformance a., b., and c., under *Conformance with Previous Approvals* on page 2 of the Resolution. This condition incorrectly refers to certain requirements as stemming from the project plan approval. The revised resolution either deletes those statements entirely as duplicative, or restates them elsewhere in the conditions. A reference to the Silver Spring Streetscape Standards was added to the condition regarding installation of sidewalks, street lights and street furnishings. This standard reference was inadvertently left out of the original Resolution.

cc: Carol Rubin, Associate General Counsel



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

MAY 17 2013

MCPB No. 13-26
Site Plan No. 820130050
8415 Fenton Street
Date of Hearing: February 28, 2013

RESOLUTION

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

WHEREAS, on October 23, 2012 Fenton Development, LLC ("Applicant")¹ filed an application for approval of a site plan for a mixed-use development consisting of 259 dwelling units with 12.5% MPDUs, 18,650 square feet of retail, and 29,228 square feet of institutional use (church) on 117,416 gross square feet (2.7 acres) of CDB-1, CBD-0.5, R-60, and Fenton Village Overlay zoned land in the 2000 Silver Spring CBD Sector Plan area and the 2000 North and West Silver Spring Master Plan area, located at the intersection of Wayne Avenue and Fenton Street; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820130050, 8415 Fenton Street; and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board dated February 15, 2013 setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on February 28, 2013 the Planning Board held a public hearing on the Application, where it heard testimony and received evidence about the Application; and

WHEREAS, at the Hearing, the Planning Board voted to approve the Application subject to certain conditions, by motion of Commissioner Anderson and seconded by Commissioner Presley, by a vote of 5-0;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820130050 for a mixed-use development composed of 259 dwelling units with

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.

Approved as to
Legal Sufficiency

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320

MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

12.5% MPDUs, 18,650 square feet of retail and 29,228 square feet of institutional use (church) on 117,416 gross square feet (2.7 acres), subject to the following conditions:²

Conformance with Previous Approvals

1. Project Plan Conformance

The proposed development must comply with the conditions of approval for Project Plan No. 920120020 as listed in the Planning Board resolution dated August 15, 2012.

Environment

2. Forest Conservation

The Applicant must obtain approval of a Final Forest Conservation Plan from the Planning Department prior to issuance of a Sediment Control Permit from the Department of Permitting Services. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan. The Applicant has approval to remove three onsite specimen trees with the potential to remove one offsite specimen tree.

3. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated July 10, 2012 unless amended and approved by the Montgomery County Department of Permitting Services. The sediment and erosion control plan and stormwater management plan must be submitted with the revised Final Forest Conservation Plan to ensure consistency with the Limits of Disturbances (LODs) and the associated tree/forest preservation measures.

4. 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. Submission of this report constitutes compliance with this condition.

² All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on January 10, 2013 are required except as modified by the following conditions.

Parks, Open Space, & Recreation

5. Recreation Facilities

- a. Meet the square footage requirements for all of the applicable proposed recreational elements and demonstrate on the certified site plan that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b. At a minimum, provide the following recreation facilities: four picnic/sitting areas, tot lot, a pedestrian system, indoor community room, and an indoor fitness facility.

6. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, tot lot, all plantings, steps, paving, handrails, public elevator, public art and stormwater recharge areas. The applicant is also responsible for maintaining the public elevator that will provide wheelchair access between the upper and lower plaza (public use space).

Density & Housing

7. Moderately Priced Dwelling Units (MPDUs)

- a. The proposed development must provide 12.5 percent of the total number of units on-site as MPDUs in accordance with the letter from the Department of Housing and Community Affairs to M-NCPPC dated February 4, 2013.
- b. The MPDU agreement to build shall be executed prior to the release of any residential building permits.
- c. All of the required MPDUs must be provided on site.

Site Plan

8. Site Design

- a. The exterior architectural character, proportion, materials, dimensions and articulation must be substantially similar to the schematic elevations shown on Sheets A 1.04-A1.05 of the submitted architectural drawings, as determined by the M-NCPPC Area 1 staff.
- b. Church architectural plans and engineering plans to be coordinated with grading plan shown on the landscape architecture plans received January 28, 2013 by time of Certified Site Plan.

9. Landscaping

- a. Provide proposed landscaping per plan, sheets L1.00-L4.10. Applicant to install all trees, shrubs and perennials per approved plans. All hardscape features including walls, steps, planters, retaining walls, and fencing to be installed per above plans.

- b. The Applicant must provide a green panel between the street trees in front of the residential entry on Fenton Street and in front of the Church entry on Wayne Avenue.

10. Private Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential/commercial development.
- b. All onsite down - light fixtures must have house-side shields towards residential windows.
- c. House-side shields shall be installed on all fixtures causing potential glare or excess illumination on any perimeter fixtures abutting the adjacent residential properties.
- d. Illumination levels shall not exceed 0.5 foot candles (fc) at any property line abutting residential properties.
- e. The height of the on-site light poles shall not exceed 12 feet including the mounting base.

11. Public Art and Amenities

- a. Provide for and install the public art concept designed by Studio William Cochran, as presented to the Planning Department's Art Review Panel on January 30, 2013, and illustrated in the Certified Site Plan.
- b. Any significant changes to the concept presented on January 30, 2013 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.
- d. The Applicant must provide a public elevator must be installed in the public use space between Wayne Avenue and Bonifant Street to accommodate handicap access.

12. Surety

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 with the following provisions:

- a. Applicant must provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial surety amount.
- b. 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.
- c. 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.

- d. 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.

13. 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. Street lamps, street furniture and sidewalks must be installed per the Silver Spring Streetscape standards for Wayne Avenue, Fenton Street and Bonifant Street 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 a use and occupancy permit.
- c. 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.
- d. The development program must provide phasing for installation of on-site landscaping and lighting.
- e. Community-wide pedestrian pathways and recreation facilities, including the paseo and the tot lot, must be completed prior to issuance of the final use and occupancy permit for the church.
- f. Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
- g. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

14. 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 off all details and layout between site plan and landscape plan.
- e. Plans for proposed church to be reconciled with engineering and landscape architecture plans.
- f. Provide final details and specifications of the recreation facilities in accordance with the Recreation Guidelines.

BE IT FURTHER RESOLVED, that all site development elements as shown on 8415 Fenton Street drawings stamped by the M-NCPPC on January 28, 2013, 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 and is consistent with an approved project plan for the optional method of development:*

The site plan is consistent with the approved Project Plan 920110010 in every respect, including density, public use space, scope and design.

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

The residential, retail and institutional uses are allowed in the CBD-1 and CBD-0.5 Zones, the Fenton Village Overlay Zone and the R-60 Zone, as demonstrated in the data table on page 22. The building is 75 feet tall at the corner of Wayne Avenue and Fenton Street, stepping down to 45 feet at the southeast corner of the property, closest to the existing single family neighborhood located here. The site plan fulfills the purposes of the Fenton Village Overlay Zone by providing residential development compatible with adjacent residential and commercial uses in the Silver Spring Central Business District.

Requirements of the CBD-0.5, CBD-1.0 R-60 and Fenton Village Overlay Zones

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the CBD-0.5, CBD-1.0 R-60 and Fenton Village Overlay Zones.

Data Table

Development Standard	Permitted/ Required	Proposed for Approval and Binding on the Applicant
Building Height (feet)		
CBD-Zone-59-C-18.192(b)(1)(E)	75	75
CBD-Zone-FVOZ	60	60/45
R-60	35	35
Setbacks (feet)		
CBD-1 & CBD-0.5		
Front (Wayne Ave)	n/a	0
Front (Fenton Street)	n/a	0
Front (Bonifant Street)	n/a	0
R-60		
Front (Wayne Ave)	25	25
Side East	8 and 10 with a total of 18	10
Site Area (square feet)		
Net lot Area	n/a	86,335
Previous Dedications	n/a	27,989
Dedications this plan	n/a	3088
Gross Tract Area	18,000	117,412
Density		
CBD-1: Floor Area Ratio	3.0	3.06
Allowable S.F.	189,885	192,915
CBD-0.5: Floor Area Ratio	1.5	0.87
Allowable S.F.	67,117	50,636
Total CBD Density:	257,002	254,069
R-60	N/A	6,852
Total Project Density	257,002	260,921
Combined FAR across CBD-1 and CBD-0.5 zones:	2.378	2.375
Public Use Space (% of net lot)		
On-Site Public Use Space	20	22.51

Development Standard	Permitted/ Required	Proposed for Approval and Binding on the Applicant
Off-Site Public Facility and Amenity Space	n/a	17.10
Total Public Use, Facility & Amenity Space	20	39.64
Parking		
MPDU'S		
Efficiencies: 8	4	
One bedroom units: 19	12	
Two bedroom units: 6	5	
Market Rate units:		
Efficiencies: 56	56	
One bedroom units: 129	162	
Two bedroom units: 41	62	
Total Residential Parking	301	252
Retail Parking 18,650 sf @3.5 sp/1000 sf	66	0
Church Parking 29,228 sf @ XX	128	16
Total Vehicle Spaces	495	268*

**No Parking is required for this site as it is located in the Silver Spring parking lot district. Total number of spaces will be determined at certified site plan.*

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 buildings are located on the site to create a consistent street wall on Wayne Avenue, Fenton Street, and Bonifant Street. They frame the proposed public plaza and paseo, or pedestrian passageway, between Wayne Avenue and Bonifant Street. The locations of the buildings and structures are adequate and efficient, while meeting the aesthetic concerns of the area, and do not pose any safety concerns on the site.

The buildings and structures of the proposed development are located on the Property line and step down in height towards the one-family neighborhood to the southeast, which is appropriate for the character envisioned by the Master Plan. There is easy access to the building from adjoining sidewalks and parking.

b. Open Spaces

The development will provide an 18,375 square foot open space, not including the 1,200 square feet located in the R-60 zone. It serves the church community by providing a public gathering space in the plaza facing Wayne Avenue, while also providing a convenient short cut for pedestrians traveling between Bonifant Street and Wayne Avenue. Landscaping provides shade trees and planters with ornamental plantings that will be used for stormwater management. Public art, composed of an art wall at the transformer enclosure, art glass in the stairs between the two plazas and a large dichromatic art glass sculpture, will create an interesting focal point in the public use space and help draw people into it. Benches and bicycle facilities are provided. A tot lot on the south side of the project facing Bonifant Street provides recreation opportunities for children using the day care that will be operated by the church. The tot lot will be open to the public during non-day care hours.

c. Landscaping and Lighting

In the public right-of-way, street trees and lighting are provided to enhance the pedestrian environment. Lighting in the public plaza will create enough visibility to provide safety. The open spaces, landscaping, and site details adequately and efficiently address the needs of the proposed use and the recommendations of the Master Plan, while providing a safe and comfortable environment.

d. Vehicular and Pedestrian Circulation

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area. Safety is enhanced by several improvements: There is a green panel between the sidewalk and the major building access points on Fenton Street and Wayne Avenue. These planted panels will discourage pedestrians from making dangerous mid-block crossings at these points. The vehicular circulation design efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation. This balance of design with the site, the recommendations of the Master Plan, and the needs of the use is an efficient and adequate means to provide a 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 mixed-use development is compatible with the existing and proposed adjacent and confronting uses. The multi-family residential uses reflect the land use pattern along Fenton Street.

The structures themselves are in scale with the nearby buildings and are located such that they will not adversely impact existing or proposed adjacent uses. The taller buildings occupy the outer edges of the site along Fenton Street and Wayne Avenue, adjacent to the taller buildings across Wayne Avenue in the CBD core. The building heights step down to be more in scale with the one-family homes to the southeast.

5. The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation and, Chapter 19 regarding water resource protection.

An NRI/FSD (420120030) was completed and approved on September 15, 2011. A Final Forest Conservation Plan is conditioned for approval as part of this review. The total net tract area is 2.7 acres with an afforestation requirement of 0.40 acres, to be met as a fee-in-lieu payment.

The property has no forest, streams or wetlands. The forest conservation plan calls for removing three (3) specimen trees. In addition, one (1) offsite specimen tree may be removed if impacts to the CRZ tree cause mortality. There will be impacts to the critical root zones of two (2) additional off-site specimen trees.

The MCDPS Stormwater Management Section approved the Stormwater Management Concept for the Application July 10, 2012. The stormwater management concept consists of a waiver of on-site channel protection measures due to existing shallow storm drain inverts. On-site water quality control will be met via green roofs and biofiltration systems.

BE IT FURTHER RESOLVED, that this Resolution 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 this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 7 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

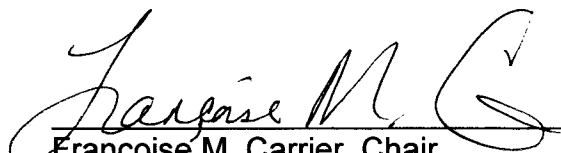
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Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

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 Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, April 25, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board