



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

MCPB No. 13-45  
Site Plan No. 82011006A  
8621 Georgia Avenue  
Date of Hearing: April 4, 2013

APR 11 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, by MCPB Resolution No. 11-73, on January 23, 2012, the Planning Board approved Site Plan No. 820110060 for a mixed-use development of 191,281 square feet of space, consisting of 6,209 square feet of ground floor retail/restaurant uses below 185,072 square feet of office space, with a maximum building height of 143 feet and 4.0 FAR at 8621 Georgia Avenue, approximately 75 feet west of the intersection of Georgia Avenue and Colesville Road ("Subject Property") on a 0.69 acres of land comprised of one CBD-2 zoned lot located in the 2000 Silver Spring Central Business District ("CBD") Sector Plan ("Sector Plan") area; and


WHEREAS, on November 9, 2012, 8621 Limited Partnership ("Applicant") filed an application to amend Site Plan No. 820110060 to change the primary use of the Subject Property from high-rise commercial to high-rise residential as a mixed-use development of 263,356 square feet of space consisting of 261,737 square feet of residential uses with 292 dwelling units with 12.5% moderately priced dwelling units ("MPDUs") and 17 workforce housing units ("WFHUs"), and 1,619 square feet of commercial use on the Subject Property; and

WHEREAS, Applicant's site plan amendment application was designated Site Plan No. 82011006A, 8621 Georgia Avenue ("Application"); 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 March 20, 2013 setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 4, 2013 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

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Approved as to  
Legal Sufficiency:  4/4/13  
8621 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

WHEREAS, at the Hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82011006A for a mixed-use development of 263,356 square feet of space consisting of 261,737 square feet of residential uses for a maximum of 292 dwelling units, including 12.5% MPDU's and 17 WFHUs, and 1,619 square feet of commercial uses on the Subject Property, subject to the following conditions:<sup>1</sup>

### **Conformance with Previous Approvals**

#### **1. Project Plan Conformance**

The development must comply with the conditions of approval for Project Plan No. 92010001A, or as amended.

### **Environment**

#### **2. Stormwater Management**

The development is subject to Stormwater Management Concept approval conditions dated January 22, 2013 (SM File #233645), unless amended and approved by the Montgomery County Department of Permitting Services ("MCDPS").

### **Public Use Space and Amenities**

#### **3. Public Use Space, Facilities, and Amenities**

- a. The Applicant must provide a minimum of 4,225 square feet of public use space (13.8% of net lot area) on-site.
- b. In-lieu of providing the 1,844 remaining square feet (6.2%) of the required 20% of the net lot area as on-site public use space, the Applicant must contribute to M-NCPPC no less than \$251,497 for the development of Gene Lynch Urban Park, in the Silver Spring CBD. The payment must be submitted to the M-NCPPC prior to release of the first building permit. Any change to the Amenity Fund recipient at the time of building permit must be presented to the Planning Board.

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<sup>1</sup> 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.

- c. As a public amenity, the Applicant must provide streetscape improvements per the Silver Spring Streetscape Standard along the Subject Property's frontage on Georgia Avenue.

#### 4. Recreation Facilities

- a. The development must meet the square footage requirements for all of the applicable recreational elements and demonstrate on the certified Site Plan that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b. The development must provide the following recreation facilities as shown on the certified Site Plan: indoor community space, picnic/sitting area, pedestrian system, swimming pool, indoor fitness facility, outdoor rooftop terrace and landscaped courtyard.

#### 5. Art

- a. The Applicant must provide public art on-site, integrated into the overall site design.
- b. Provide for and install the public art concept designed by artist Catherine Woods, as provided to the Art Review Panel on January 30, 2013.
- c. Any significant changes to the concept presented on January 30, 2013, must be presented to the Art Review Panel and approved by Staff prior to approval of the certified Site Plan.

### **Adequate Public Facilities**

#### 6. Transportation

- a. The development is limited to 263,356 square feet of gross floor area and a maximum 5.5 FAR including a maximum 1,619 square feet of commercial uses and a maximum 292 dwelling units.
- b. The Applicant must participate in the Silver Spring Transportation Management District ("TMD") and must enter into an agreement with the TMD prior to release of the first building permit.

- c. The Applicant must comply with the State Highway Administration letter dated December 7, 2012, or as amended.

7. Validity

The Adequate Public Facility Review ("APF") review will remain valid for eighty-five (85) months from January 23, 2012, the date of mailing of the Planning Board Resolution for Site Plan 820110060.

**Density & Housing**

8. Moderately Priced Dwelling Units

The Applicant must comply with the Department of Housing and Community Affairs ("DHCA") letter dated March 1, 2013 and include the following:

- a. The development must include on-site a minimum of 12.5% of the total number of units as MPDUs, consistent with the requirements of Chapter 25A.
- b. The MPDU agreement to build between the Applicant and DHCA must be executed prior to the release of any building permits.
- c. All of the required MPDUs must be provided on-site.

9. Workforce Housing Units

The Applicant must comply with the DHCA letter dated March 1, 2013 and include the following:

- a. The development must include a minimum 17 units as WFHUs, consistent with the requirements of Chapter 25B, Article V.
- b. The WFHUs agreement to build between the Applicant and DHCA must be executed prior to the release of any building permits.
- c. All of the proffered WFHUs must be provided on-site.

## **Site Plan**

### **10. Site Design**

The exterior architectural character, proportion, materials, and articulation for each building must be substantially similar to the schematic elevations shown in the certified Site Plan set, as determined by Staff.

### **11. Landscaping**

- a. The Applicant must provide all landscape structures, including walls, fences, railings, paving, etc. per sheets L1.0-L3.1.
- b. The Applicant must provide all trees, shrubs and groundcovers in accordance with approved landscape drawings, sheets L4.0-L4.1.
- c. The Applicant must construct the streetscape improvements, including the undergrounding of utilities, consistent with the Silver Spring Streetscape standards.

### **12. Lighting**

- a. The Applicant must provide the lighting distribution and photometric plan with summary report and tabulations that conforms to the Illuminating Engineering Society of North America standards for residential/commercial development.
- b. The Applicant must provide all on-site down light fixtures as full cut-off fixtures.
- c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d. The height of the rooftop light poles must not exceed 12 feet, including the mounting base.

### **13. Surety**

Prior to issuance of first building permit 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, exclusive of the sheeting and shoring permit for the structured parking, the 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.

#### 14. 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 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, the Plaza (and associated pedestrian access walkways) including all paving, lighting, site furnishings and public art, rooftop terrace, community room, swimming pool, benches, trash receptacles and bicycle facilities must be installed prior to final 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 Public Art feature designed and created by Catherine Woods, and approved as part of the Site Plan, shall be installed prior to issuance of the final use and occupancy permit.

- e. The fee-in-lieu payment for the Amenity Fund must be submitted prior to the release of the first building permit.

**15. 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.

BE IT FURTHER RESOLVED, that all site development elements as shown on 8621 Georgia Avenue drawings stamped by the M-NCPPC on February 22, 2013, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that all conditions of Site Plan No. 820110060 are superseded by this 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 Project Plan No. 92010001A for the Subject Property reviewed concurrently with this Application in terms of design layout, development standards, and conditions of approval.

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

As demonstrated in the Data Table below, the Site Plan meets all the requirements of the CBD-2 zone under the optional method of development. The Site Plan meets the purpose of the zone by providing a mixed-use development with primarily residential uses (292 total multi-family units) and first floor commercial uses (1,619 square feet) within close proximity to mass transit facilities, and these uses are permitted in the CBD-2 Zone.

The Amendment meets the density requirements of the CBD-2 zone. The overall density, which is proposed at 5.5 FAR for this 0.69-acre site, is slightly above the maximum density of 5.0 FAR. However, as permitted by Section 59-A-6.18.2(c)(1) of the Zoning Ordinance, the Planning Board finds that the additional density is necessary to accommodate the WFHUs.

The Amendment increases the maximum height of the building from 143 to 161 feet for one additional residential floor to accommodate WFHUs and increased floor to ceiling height on the rooftop for building amenities. Although the maximum building height permitted in the CBD-2 zone is 143 feet, as permitted by Section 59-C-6.2, footnote 11 of the Zoning Ordinance, the Planning Board can approve a building up to 200 feet in height, under the optional method of development if the additional height is necessary for the project to accommodate workforce housing under Section 59-A-6.18. The approved building height of 161 feet is suitable for a residential building in the Silver Spring urban core, and as part of the project plan approval, the Planning Board found that the 161 foot building height was necessary for the project to accommodate the number of workforce housing units that are being provided.

*Data Table for the CBD-2 Zone, Optional Method of Development*

<b>Development Standard</b>	<b>Zoning Ordinance Permitted/ Required</b>	<b>Approved with 82011013A and Binding on the Applicant</b>
<b>Site Area (acres)</b>		
Gross Tract Area	18,000 sf	47,883 sf
Less Dedication for Public ROW	n/a	



Previously dedicated area		17,486
Net Lot Area	n/a	30,397 sf
<b>Density</b>		
Max. Overall (FAR)	5.0	5.5'
Office		n/a
Retail		0.03
Residential		5.47
Residential D.U.s	n/a	292
• MPDUs [Chapter 25A]	12.5%	12.5% (34 MPDUs)
• WFHUs	Required to exceed 143' height	(17 WFHUs)
• Market Rate	240	240
<b>Min. Public Use Space</b>		
Percent of net lot area on-site	20% total	13.8% (4,225 sf)
Percent of net lot area off-site	(6,079 sf)	6.2% (1,844 sf)
<b>Min. Building Setbacks (ft) [59-C-10.3.8]</b>		
Front	0	0
Side (West)	0	0
Side (East)	0	12
Rear	0	0
<b>Max. Building Height (ft)</b>		
	143 ft	161 ft <sup>2</sup>
<b>Vehicle Parking</b> (Number of spaces required per 59-E, located in parking lot district and Applicant will pay tax for parking not provided)		
Retail	8	8
Office	0	n/a
Residential	300	202
<b>Bicycle Parking (number of spaces)</b>		
	1 per 20 parking spaces; 20 maximum	11

Motorcycle Parking		
Number of spaces	2% of total parking spaces; 10 maximum	5

<sup>1</sup>Per Section 59-A-6.18.2(c)(1), 5.5 FAR is permissible in the CBD-2 zone under the optional method of development if the additional FAR is necessary to accommodate workforce housing units.

<sup>2</sup>Per Section 59-A-6.18(c)(3), the Planning Board can approve a building up to 200 feet in height under the optional method of development if the additional height is necessary to accommodate workforce housing units.

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 locations of the proposed buildings and structures are adequate, safe, and efficient. The Amendment includes one building with a similar footprint to the previously approved commercial building. Due to the constraints of a rectangular site area with limited street frontage, a building that occupies the majority of the Georgia Avenue street frontage and extends vertically is the best option in terms of site layout. A building that emphasizes its street presence on Georgia Avenue with the placement of retail square footage, public use space, streetscape improvements, lobby space, and indoor exercise room space within the first floor of the building and visible from Georgia Avenue will adequately activate Georgia Avenue and address the comfort and safety needs of the pedestrian. The orientation of the front façade of the building also adequately emphasizes the building’s presence from Fidler Lane with attractive exterior lighting and sign placement.

Solid panels screen the parking from Georgia Avenue and the panels wrap around a portion of the building to screen some of the parking in this way from the alley. The rest of the parking along the alley will be screened by the placement of opaque metal panels with small open areas to allow for natural ventilation.

b. Open Spaces

The open spaces provided are adequate, safe, and efficient. The CBD-2 Zone has a 20% public open space requirement. Applicants may provide public use

space on-site, off-site, or a combination of the two. The public use space is calculated over the net tract area. The Applicant has elected to provide, and the Planning Board has approved 13.8% of the requirement on-site and 6.2% off-site.

The on-site public use space includes a seating area and feature wall in the northwest portion of the site. The seating area will be integrated with the public art that will be selected for the feature wall. The seating area is within a pedestrian plaza area that acts as an extension of the pedestrian realm from Georgia Avenue. Paving materials are incorporated on the plaza in a pattern that suggests this extension. The public use space also includes the implementation of the Silver Spring streetscape along Georgia Avenue, which will include brick pavers, street trees, lighting, and street furniture. The Site Plan includes a 5 foot-wide sidewalk that extends to the side pedestrian entrance to the building. This sidewalk is adjacent to the building and alley but separated from the alley with a curb. The Planning Board finds this is acceptable since the sidewalk extends to a secondary entrance to the retail area of the building. As conditioned, the remaining public use space requirement will be provided through a payment to the Amenity Fund for development of Gene Lynch Urban Park, in the Silver Spring CBD.

Private open spaces are also provided as part of the amenity package for residents of the building. These spaces include an outdoor rooftop terrace and swimming pool. Immediately adjacent to the roof terrace is a club room with an 18 foot floor to ceiling height at the peak which will provide expansive views of Silver Spring. A landscaped courtyard above the top garage level (level six) of the building is also proposed as a respite area for residents and a means to provide additional daylight to rear units within the building.

The diversity of open spaces proposed is adequately dispersed throughout the development to provide safe and convenient access to all residents while efficiently providing relief from the density being proposed.

c. Landscaping and Lighting

The landscaping plan submitted as part of the site plan is adequate, safe, and efficient. The Amendment revises the landscape plan as a response to the new amenity layout and building configuration. The landscape continues to provide adequate canopy coverage and shade for public areas. It efficiently defines open spaces and amenity areas by creating an edge or boundary, and adding interest. It also screens and buffers different uses within the project, such as low planters within the courtyard area which provides a degree of privacy to users within the space but does not block sunlight from the surrounding units.

Similarly, the lighting was updated as a response to the new amenity layout and building configuration. The revised lighting is appropriate for a mixed use building of this size because entryways, public areas, and exterior building amenity areas will be illuminated in accordance with the IESNA standards to ensure adequate, safe, and efficient visibility within the exterior and interior areas of the Subject Property.

d. Recreation Facilities

The recreation facilities provided are adequate, safe and efficient. The change to residential units necessitates additional amenities and recreation facilities, which help support the increase in density in this optional method of development project. The recreation facilities provided within the building, which are included in the recreation calculations, include: indoor community space, picnic/sitting area, pedestrian system, a swimming pool, and an indoor fitness facility. Because of the urban nature of the site, the Application can rely on an off-site supply of amenities as well.

The recreation calculations for the overall development were updated to include the revised facilities, which satisfy the 1992 M-NCPPC Recreation Guidelines. These facilities adequately and efficiently meet the recreation requirements of this development on-site while also providing an adequate off-site supply. All facilities will be safe and accessible opportunities for recreation for various age groups.

e. Vehicular and Pedestrian Circulation

The pedestrian and vehicular circulation systems are safe, adequate, and efficient. The Amendment does not propose any revisions to the pedestrian and vehicular circulation systems. There are two primary entrances/exits to the building from Georgia Avenue, emphasizing the pedestrian realm at the front of the building along this major corridor. Approximately 45 feet separates the building from the curb line of Georgia Avenue, and this space includes the sidewalk, landscaping, street furniture and public use space. In addition to three doors along Georgia Avenue (the two entrances and limited access door to building support facilities), there is a secondary entrance/exit provided along the side alley via a five-foot wide sidewalk adjacent to the south building façade, which will provide additional access to the retail area, garage, and bicycle spaces. Covered bicycle parking and motorcycle parking will be provided within the garage which will provide adequate protection from outside elements.

Vehicular access provided to and from the building remains via a service alleyway with right-in, right-out circulation that will provide for adequate, safe, and efficient circulation for vehicular movements. The parking area for this mixed use building was revised to include two full and two half levels of parking above grade and one full level below grade rather than two levels below and three levels above grade as previously proposed for the commercial building. This reconfiguration does not affect the safety of vehicles entering the loading areas and garage.

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

The structure and uses proposed are compatible with other uses and site plans, and with existing and proposed adjacent development. The future redevelopment of the adjacent property to the east (Site Plan #820100100) will benefit from a shared alleyway with the Subject Property and will complete development on the block. The limited commercial square footage proposed at the ground level of the building is in response to the extensive retail space that surrounds the development, particularly on nearby Ellsworth Drive. The building will be the tallest on the block, but because it is centrally located within the block and accessed from Georgia Avenue, the building will not be out of character or visibly jarring from the street.

- 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 Subject Property was granted a Forest Conservation Plan exemption on September 27, 2007. The Amendment does not change the exempted status of the Subject Property.

The stormwater management concept approved by MCDPS on October 12, 2010, consists of Environmental Site Design to the maximum extent practicable by using green roof technology and a micro-bioretenion planter box. Additional treatment is provided by the use of a structural proprietary flow-through underground filter. Due to site conditions, full Environmental Site Design volume cannot be provided and a waiver of the water quantity portion of the requirement was granted.

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

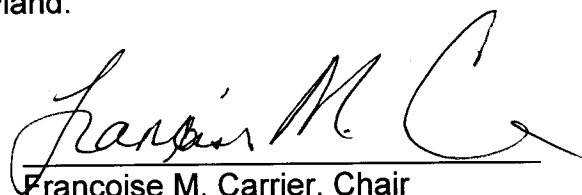
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is APR 11 2013 (which is the date that this resolution is mailed to all parties of record); and

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 Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, April 4, 2013, in Silver Spring, Maryland.



Françoise M. Carrier, Chair  
Montgomery County Planning Board