



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

MCPB No. 13-51
Site Plan No. 820120210
Bethesda Center
Date of Hearing: April 4, 2013

APR 22 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 March 7, 2012, the Planning Board, by Resolution MCPB No. 11-137, approved Project Plan No. 920120010, for development of up to 466,470 square feet of commercial mixed-use development for a hotel, office, and retail on 2.14 acres of land in the CBD-2 zone, located between Woodmont Avenue and Wisconsin Avenue south of Norfolk Avenue ("Subject Property"), in the Bethesda CBD Sector Plan ("Sector Plan") area; and

WHEREAS, on July 9, 2012 The Bethesda Center, LLC ("Applicant") filed an application for approval of a site plan for development of up to 466,470 square feet of commercial mixed-use development for a hotel, office, and retail on the Subject Property; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820120210, Bethesda Center 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 22, 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

WHEREAS, on April 4, 2013, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Wells-Harley, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley all voting in favor.

Approved as to
Legal Sufficiency

Amay M. 4/9/13
M-NCPPC Legal Department
www.montgomeryplanningboard.org

9787 Georgia Avenue, Silver Spring, Maryland 20970 Phone: 301.495.4605 Fax: 301.495.1320
E-Mail: mcp-chair@mncppc-mc.org

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820120210 for 466,470 square feet of commercial mixed-use development comprised of up to 253,787 square feet of office uses, 196,357 square feet of hotel uses, and 16,326 square feet of retail uses on the Subject Property, subject to the following conditions:¹

Conformance with Previous Approvals

1. Project Plan Conformance

The development must comply with the conditions of approval for Project Plan No. 920120010 as set forth in the Planning Board Resolution MCPB No. 11-137, dated March 7, 2012, except has modified by this Site Plan.

2. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120120070, as set forth in the Planning Board Resolution MCPB No. 11-138, dated March 7, 2012, and as amended by Preliminary Plan No. 12012007A.

Environment

1. Forest Conservation & Tree Save

The development must comply with the conditions of the approved preliminary forest conservation plan. Prior to the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services ("MCDPS"), the Applicant must:

a. Submit and receive Staff approval of a final forest conservation plan signed by Applicant and the plan preparer that is consistent with the approved preliminary forest conservation plan.

b. Submit the fee-in-lieu or certificate of compliance for the off-site forest mitigation and approved by Staff.

2. Noise Attenuation

The Applicant must provide analysis and attenuate for any noise levels exceeding those recommended by the Planning Boards Noise Guidelines for interior levels.

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.

3. Stormwater Management

The development is subject to Stormwater Management Concept approval conditions dated September 8, 2011, unless amended and approved by MCDPS.

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 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.

Parks, Open Space, & Recreation

5. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible on-site amenities including, but not limited to, paving, seat walls, lighting, planters, water features, trees, plants and shrubs, artwork and street furnishings, including lamp poles, benches, trash receptacles, bike racks.

Transportation & Circulation

6. Transportation

- a. The Applicant must enter into a Traffic Mitigation Agreement ("TMAg") with the Planning Board and Montgomery County Department of Transportation ("MCDOT") to participate in the Bethesda Transportation Management District ("TMD"). The Applicant must execute the TMAg prior to the release of any building permit for the development, exclusive of the building permit for the garage.
- b. The Applicant must provide 20 private and 10 public bicycle parking spaces. The private spaces must be in a secured and well-lit bicycle room in the parking garage near the elevator or entrance, and the public spaces must be inverted-U racks installed along the building's retail frontage (weather protected preferred). Specific Locations of the public bicycle rack locations must be identified on the certified Site Plan.

- c. This site is not appropriate for an on-site bike share facility. Therefore, as a portion of its PAMR mitigation, the Applicant must pay \$57,000 to MCDOT towards an off-site bike-share facility to be located near the site. Contribution and general location to be identified in the TMAg and must be paid prior to the release of a building permit as part of the first PAMR payment due as a condition of the Preliminary Plan No. 12012007A.

Site Plan

7. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet A04-A06 of the submitted architectural drawings, as determined by Staff.

8. Landscaping

- a. Provide trees, shrubs and perennials per approved Site Plan.
- b. Provide paving retaining walls, paving, and bio planters per approved Site Plan.
- c. Provide lighting per approved Site Plan.

9. Private Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for commercial development.
- b. All onsite 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 the perimeter fixtures abutting the adjacent residential properties.
- d. Illumination levels shall not exceed 0.5 foot candles (fc) at any property line abutting county roads.
- e. The height of the light poles shall not exceed 12 feet including the mounting base.

10. Public Use Space and Amenities

- a. The Applicant must provide a minimum of 18,000 square feet (24% of the net lot area) for on-site public use space and a minimum of 27,000 square feet (36% of the net lot area) for on and off-site public amenity space.
- b. The Applicant must contribute a sum of \$5 per gross foot for any gross floor area exceeding 4 FAR to the Housing Initiative Fund ("HIF"), with payments to be made in two equal installments; the first payment at initial occupancy of the hotel and the second at the 1st anniversary of the initial occupancy of the hotel.

11. Public Art

- a. Provide for and install the public art concept designed by artist Cliff Garten, as presented to the Planning Department's Art Review Panel on October 9, 2012, and illustrated in the certified Site Plan.
- b. Any significant changes to the concept presented on October 9, 2012, must be presented to the Art Review Panel and approved by Staff prior to certified Site Plan.
- c. Significant changes to the concept, as determined by Staff, proposed after certified Site Plan will require a Site Plan amendment.

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 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 within the Woodmont and Wisconsin Avenue rights-of-way must be installed and completed 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, outdoor seating, specialty paving and bicycle facilities for both outdoor plaza areas must be installed prior to release of the final use and occupancy permit for the first building being occupied; however, in the event the timing of the construction and occupancy of the second building will be

such that full installation of all these amenities with the occupancy of the first building is not practical, amendments to the development program to reflect a more practical delivery schedule for amenities in conjunction with the build-out and occupancy of the first and second building can be made at Staff level (including provision for temporary measures to allow adequate, safe and efficient circulation throughout the Subject Property and public use and enjoyment of the amenities that will be installed prior to final occupancy of the first building).

- 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 bike lanes, including the streetscape improvements and the four-foot-wide on-street bike lane on Woodmont Avenue, if requested by MCDOT at the time of permit, must be installed and completed within six months after street construction is completed.
- f. Landscaping associated with each plaza area must be completed within six months of completion of the first building.
- g. Pedestrian pathways and seating areas associated with each building must be completed as construction of such building is completed.
- h. Public art by artist Cliff Garten must be installed upon completion of the plaza facing Wisconsin Avenue.
- i. The water feature that is integral to the hotel building must be installed prior to final use and occupancy of the hotel building.
- j. 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 to the Site Plan 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 and approved by the Board.
- d. Ensure consistency off all details and layout between site plan and landscape plan.

- e. Show a 5-foot wide public improvement easement ("PIE") parallel and contiguous to the Woodmont Avenue right-of-way along the Subject Property's frontage.

BE IT FURTHER RESOLVED, that all site development elements as shown on Bethesda Center, LLC drawings stamped by the M-NCPPC on February 19, 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 increases the number of hotel rooms and reallocates 2,885 square feet of office use to restaurant/retail and hotel use, as approved with the project plan. The Site Plan is otherwise in conformance with all of the conditions related to Project Plan No. 920120010 as approved for the Subject Property.

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

The Subject Property is zoned CBD-2 and governed by the development standards in Section 59-C-6.2 of the Montgomery County Zoning Ordinance. The minimum lot size of 22,000 square feet for optional method projects is met. There is no maximum building coverage for optional method projects, but there is a requirement for the provision of a minimum of 20% of the net lot area to be devoted to public use space, which this Site Plan also satisfies by providing a public plaza, pedestrian link and sidewalks built per the Bethesda Streetscape Standards. Third, the maximum density for optional method mixed-use projects in the CBD-2 Zone is FAR 5.0. The Application is approved with the maximum FAR of 5.0 under Sect. 59-C-6.234 (b) (iii) (B) because the project (1) includes transient lodging with the hotel, (2) confronts Wisconsin Avenue, a major highway, (3) is located at least 250 feet from single-family zoned land, (4) is in the Bethesda Urban District, (5) has a minimum lot area of 22,000 square feet, and (6) includes a ground floor retail use.

The following data table indicates the proposed development's compliance with the Zoning Ordinance.

Project Data Table for the CBD-2 Zone

Development Standard	Permitted/Required	Approved and Binding on the Applicant with the Site Plan
Max. Building Height (feet)	143	143
Front	0	0
Right-of-Way	0	0
Rear	0	0
Side	0	0
Minimum setback between buildings (north and south buildings)	0	35
Net Tract Area	n/a	74,033
Prior Dedications		14,076
Proposed Dedication	n/a	5,185
Gross Tract Area	22,000	93,294
Office		253,787
Hotel		196,357
Restaurant/Retail		16,326
Total	466,470	466,470
Floor Area Ratio (FAR)	5.0	5.0*
On-Site Public Use Space	20	24 (18,000 sf.)
Off-Site Amenity Space	n/a	12 (9,000 sf.)
Total Public Use & Amenity Space	36	36 (27,000 sf.)

Building Area (square feet)		
Parking Facility Internal Landscaping (%)		
Parking Spaces		
Office @ 2.1/1,000 [253,787 sf]	533	
Hotel @ 0.5/# of rooms [222 rooms]	111	
Assembly @ 10/1,000 [14,269 sf] Minus 15% Metro Proximity Credit	122	
Restaurant @ 25/1,000 sf for patron use area [7,828 sf] Minus 15% Metro Proximity Credit	167	
Retail @ 5/1,000 [4,590 sf] Minus 15% Metro Proximity Credit	20	
Total Parking Required	803**	803
Total Parking Provided		Up to 576

*The application can achieve a maximum FAR of 5.0 under Sect. 59-C-6.234 (b) (iii) (B) if the following provisions are met (1) includes transient lodging, (2) confronts a major highway, (3) is located at least 250 feet from single-family zoned land, (4) is in an urban district defined in Chapter 68A, (5) has a minimum lot area of 22,000 square feet, and (6) includes a ground floor retail use (FAR).

** Because this project is within a Parking Lot District, parking spaces are calculated to determine the total yield, but are not technically required to be provided on the site. The Applicant is using the mixed use parking calculations pursuant to Section 59-E-3.1, which permits a reduction of spaces based upon the average weekday, weekend and evening allowances. The property is located within the Bethesda Parking Lot District and must pay the PLD tax for the difference between the required and provided spaces. The Application will provide up to 576 spaces with the remainder to be fulfilled by the public parking garages in the Bethesda Parking Lot District.

- 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.*

The buildings and structures are located on the north and south sides of the site atop a below-grade parking structure. The buildings are separated by a pedestrian passageway that provides for pedestrian circulation and a variety of activating ground floor uses, which is appropriate for the character envisioned by the Master Plan. The southern hotel building fronts onto Woodmont Avenue and is complimented by an outdoor restaurant and retail seating. The majority of the retail space is on the ground level of the adjacent office building. These locations provide easy access to the building from adjoining sidewalks and public space. 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 public open space that is provided has been designed to allow a pedestrian connection between two major travel ways and to provide areas for public gathering with seating, shade plantings, fountains and public art. The development would provide 18,000 square feet of on-site public use space and 9,000 square feet of off-site public amenity space. The on-site space is primarily composed of a hardscape plaza that incorporates best management practices for storm water management as part of the planting design. The off-site amenity space would improve the existing sidewalks along the frontages of Woodmont and Wisconsin Avenues by installing an upgraded and wider streetscape consistent with the Bethesda Streetscape Standards. The artwork, designed by artist Cliff Garten, will be placed in the center of the plaza fronting Wisconsin Avenue providing a focal point from Woodmont Avenue.

Landscaping provides shade for outdoor seating in the adjacent retail areas and plazas, open space is used for stormwater management, a traditional foundation planting area for the building, and as a colorful space for ornamental plantings. Street trees and lighting are provided along the street to enhance the pedestrian environment and is in conformance with the Bethesda streetscape guidelines. Interior lighting will provide the visibility for outdoor gathering and the ambiance needed for a successful retail and restaurant space. There are no recreation facilities required for this Site Plan since this is a commercial development, but benches and bicycle facilities are provided. The open spaces, landscaping, and site details adequately and efficiently address the needs of the approved uses, while providing a safe and comfortable environment.

The development will improve pedestrian circulation primarily through the creation of an on-site pedestrian passageway, wider sidewalks on Woodmont

and Wisconsin Avenues and the reduction and consolidation of curb cuts to promote pedestrian circulation and minimize vehicular impacts to the pedestrian environment. In addition the project will provide pick up and drop off of cars for the hotel with an on-site driveway as well as within the underground parking lot. Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area.

The vehicular circulation design efficiently directs traffic into and through the site with minimal impacts to pedestrian circulation. As designed, the vehicular turning movements in and out of the site maximize the car and loading operations for the office and hotel uses. Loading operations enter the garage from Woodmont Avenue from the northern office building and exit onto southbound Wisconsin Avenue. Cars for the office and hotel have multiple access points to the garage from both Wisconsin and Woodmont Avenues, providing for a more efficient circulation within the garage and creating a safer environment 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 buildings will be compatible with both existing and potential development in the general neighborhood and with adjacent properties. The project has been designed to ensure that it is physically compatible with existing and planned development in the general area. The building locations are oriented in such a manner as to provide for increased light and air for the overall property and to provide for increased pedestrian activity in public areas. The building design and layout will minimize any adverse impacts on neighboring properties and properties in the general neighborhood.

The 12-story high rise of 143 feet is the same height as the existing commercial office building to the south, and considerably higher than the primarily 2-3-story developments to the north and east. However, as development proceeds in Bethesda and the adjacent Woodmont Triangle, densities and building heights as envisioned by the Master Plan will be much higher than the existing fabric. In terms of urban design, the Application maintains a similar building line as the existing buildings to the south and continues the pedestrian activation of Woodmont Avenue to the south. The architecture will minimize the impacts of a fairly large building upon the surrounding community by breaking-up the massing into 2 towers separated by a pedestrian mews.

The height and massing does not adversely affect the surrounding properties in a manner inconsistent with urban environments. The project steps down in height from 143 feet closest to the Metro Core to 122 feet on the northern edge furthest

away from the core. This is consistent with adjoining and nearby properties, some of which have been constructed and others being approved but not yet built, including Bethesda Place located directly to the south at 143 feet, 4900 Fairmont at 174 feet to the west, and the Lionsgate to the south at 143 feet.

The relationship of the proposed buildings to existing buildings is typical and appropriate for a central business district. In most cases in the CBD, adjacent buildings with windows are required to be setback at least 15 feet from each other. By setting the building back 15 feet at the 2nd floor where the building to the south has windows will minimize the impacts on available sunlight and existing views. Providing a podium base with the building mass or tower above provides a compatible relationship for existing and proposed properties in the CBD.

Additionally, the building design provides greater benefits to the adjacent properties by replacing the low density improvements on an underutilized site with dynamic buildings that capture sight lines from streets, providing green areas on the different levels of the buildings, paying attention to architecture to offer visual vantage points from adjacent buildings. The building massing fills in the void created by the existing commercial properties and surface parking and extends the character of the block created by the properties from the Metro moving northward. The benefits provided by this project, including the public use and amenities and mix of uses, justifies the additional density permitted through the optional method, negating any perceived detrimental impacts to existing or potential development in the general area. In fact, the design of the project serves to create a good precedent for urban infill redevelopment that allows the transition of the downtown area into the urban environment envisioned by the Sector Plan, minimizing any negative impacts associated with this urban transition.

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 Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) #420111760 for the site was approved on July 1, 2011. The site is not associated with any environmentally sensitive features such as forest areas, including specimen trees, stream buffers, wetlands, 100 year floodplains or steep slopes.

The preliminary forest conservation plan requires an afforestation planting of 0.33 acres, which will be met by payment of a fee-in-lieu. As conditioned, the planting requirements must be satisfied prior to land disturbing activities occurring onsite.

The development is subject to the water quality resources protection requirements. The MCDPS Stormwater Management Section approved the storm water management concept for the site on September 8, 2011. The storm water management concept consists of meeting required stormwater management goals via environmental site design guidelines to the maximum extent possible by the use of green roofs and micro-bio retention. Onsite recharge is not required for redevelopment applications.

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

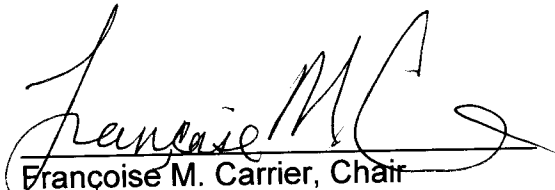
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is APR 22 2013 (which is the date that this resolution is mailed to all parties of record); and

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 Presley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, April 18, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board