



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

MCPB No. 13-81
Preliminary Plan Amendment No. 12005077A
900 Thayer Avenue
Date of Hearing: May 30, 2013

JUN 27 2013

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, by Resolution dated January 10, 2006 the Planning Board approved Preliminary Plan No. 120050770, creating one lot on 0.96 acres of land in the CBD-1 and Fenton Village Overlay zones, located in the southwest quadrant of the intersection of Fenton Street and Thayer Avenue ("Subject Property"), in the Silver Spring CBD Policy Area, Silver Spring CBD Sector Plan ("Master Plan") area; and

WHEREAS, on March 4, 2013, 900 Thayer Avenue, LLC, c/o Redbrick Partners ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan to revise the design to a 119,691 sf. building with 124 units (with 12.5% MPDUs) and up to 5,300 sf. of retail on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12005077A, 900 Thayer Avenue, ("Preliminary Plan", "Amendment" or "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 May 20, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 30, 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, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Anderson, Seconded by Commissioner Presley, by a vote of 5-0, Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor;

Approved as to
Legal Sufficiency

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NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan Amendment No. 12005077A to revise the design to allow a building of up to 119,691 sf. with no more than 124 units (including 12.5% MPDUs) and up to 5,300 sf. of retail on the Subject Property with the following conditions:¹

1. Approval under this Preliminary Plan is limited to one lot for 124 multi-family dwelling units and up to 5,300 sf. of retail. This condition supersedes Preliminary Plan 120050770 Condition No. 1 in its entirety.
2. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated May 24, 2013, and hereby incorporates them as conditions of this approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of this approval.
3. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated January 29, 2013, and hereby incorporates them as conditions of this approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval. This condition supersedes Preliminary Plan 120050770 Condition No. 9 in its entirety.
4. As applicable, the Subject Property is within the Montgomery Blair School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the middle school level at the high-rise parking unit rates for all units not included in the finding of adequate public facilities for Preliminary Plan 120050770 for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

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 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.

As amended, the Preliminary Plan remains consistent with the purposes, intents, and requirements of Montgomery County Code Chapter 50, and, as conditioned by Project Plan 92005003A continues to substantially conform to the Silver Spring CBD Master Plan, and meet forest conservation and water quality requirements. This project previously received Adequate Public Facilities approval for a higher density mixed-use development, through Preliminary Plan 120050770, than what is sought in this amendment. Since the proposed amendment will generate less traffic than the previously approved Preliminary Plan, it remains within its original APF approval.

Because the amendments rely on the APF finding of the original Preliminary Plan – and that Preliminary Plan has been validated by recordation of a plat – the original conditions of approval remain in effect, except as modified herein.

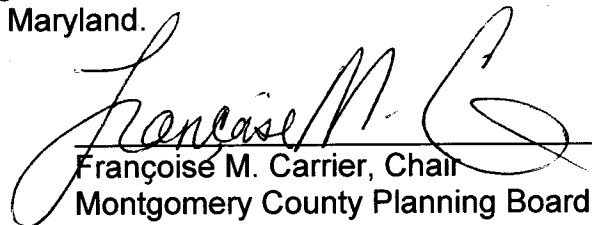
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 27 2013 (which is the date that this Resolution is mailed to all parties of record); and

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).

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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner 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, June 20, 2013, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board