



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

MCPB No. 13-110
 Preliminary Plan No. 120130220
 The Blairs Master Plan
 Date of Hearing: October 24, 2013

DEC 23 2013

RESOLUTION

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

WHEREAS, on April 25, 2013, Blair Towers, LLC; Blair Office Building, LLC; Blair Shopping Center, LLC; Blair Stores, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create nine recorded parcels on 0.52 acres of land in the CBD-R2 zone, located in the northeast quadrant of the intersection of Fairmont Avenue and Old Georgetown Road ("Subject Property") in the 2000 Silver Spring Central Business District ("CBD") Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120130220, The Blairs Master Plan ("Preliminary Plan" 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 October 11, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 24, 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 October 24, 2013, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Anderson, seconded by Commissioner Wells-Harley, with a vote of 4-0; Commissioners Anderson, Carrier, Dreyfuss, and Wells-Harley voting in favor, and Commissioner Presley abstaining.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120130220 to create nine recorded parcels on the Subject Property, including a waiver of an above ground parking garage that crosses parcel

Approved as to Legal Sufficiency: *Christina Sout* 12/3/13
 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

lines pursuant to Section 50-38, subject to the following conditions:¹

1. This Preliminary Plan is limited to nine parcels for a maximum of the following:
 - a) 125,000 square feet of retail uses
 - b) 200,000 square feet of office uses
 - c) 125,000 square feet for 200 hotel rooms
 - d) 2,800 residential units (new and existing)
 - e) A total of 3,825,400 gross floor area, with a maximum 2.89 FAR
2. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") – Water Resources Section in its stormwater management concept letter dated August 12, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, 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.
3. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated August 19, 2013 and two letters dated October 11, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, 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 the Preliminary Plan approval.
4. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements which are associated with each plat, as required by MCDOT.
5. Prior to recordation of the first plat for the upper escarpment (Parcels A, E, and F as shown on the Preliminary Plan lotting diagram), the Applicant must coordinate with the Maryland State Highway Administration ("MDSHA"), to obtain final approval of access points on East-West Highway (MD 410).
6. Prior to issuance of MDSHA access permits for Street B, the Applicant must satisfy the provisions for access and improvements on Colesville Road (MD 384) as required by the MDSHA.
7. The Applicant must comply with the District of Columbia Department of Transportation ("DDOT") Memorandum, dated June 11, 2013, from Ms. Anna

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.

Chamberlain, regarding coordination and improvements to DDOT roadways.

8. The Subject Property is located in the Montgomery Blair High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the elementary, middle, and high school levels at the multi-family unit rates for all net new residential units 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.
9. The Applicant must show on the applicable final record plat(s) the following right-of-way dedications, Public Improvement Easements, or Public Access Easements consistent with the 2000 Approved and Adopted *Silver Spring CBD Sector Plan* and Montgomery County Code Chapter 50 Subdivision Regulation requirements:
 - a) Colesville Road (MD 384): A dedication of 12.5 feet is required to provide 62.5 feet between the property line and right-of-way centerline to support a master planned future right-of-way of 125 feet.
 - b) East-West Highway (MD 410): A dedication of 25.6 feet is required to provide 55 feet between the property line and right-of-way centerline to support a master planned future right-of-way of 110 feet.
 - c) Private Street B/ Draper Lane: A Public Access Easement, measuring 60 feet wide, over the full extent of the proposed private roadway and sidewalk to support this master planned roadway, except in the following locations as shown on the Preliminary Plan:
 - i. Approximately 63 feet southeast of the intersection of Street C, where the parcel width will be 58 feet, and
 - ii. Approximately 286 feet northwest of the intersection of Street C, where the parcel width will be 58 feet.
10. Prior to approval of the first certified Site Plan associated with Preliminary Plan No. 120130220, Blairs Master Plan, the Applicant must provide for review by Staff a public use and access easement to Montgomery County, in trust for the public, in a recordable form containing provisions to address the following for all private streets within the development:
 - a) The Applicant must determine the final extent, delineation, and alignment of the Private Streets at the time of Site Plan.
 - b) The Private Street must be located within its own parcel, separate from the proposed development, and must be shown on the record plat.
 - c) Entitlement for open and unobstructed public use of the easement for all customary vehicular, pedestrian and bicycle, and loading access. The easement granted to the public must be volumetric, in order to accommodate uses below and above the street easement area, and must accommodate public utility easements.

- d) Obligation for the Applicant to design and construct the streets pursuant to MCDOT Road Code Standard 2005.01 Modified: Two Lane Business District Street;
 - e) Obligation for the Applicant to construct the streets pursuant to comparable MCDOT structural construction standards, at the Applicant's expense;
 - f) Obligation to install traffic control devices within the easement area, based on prevailing standards, at the County's request, and at the Applicant's expense;
 - g) Obligation for the Applicant to maintain and repair the streets in acceptable conditions for all access and loading purposes, at its expense;
 - h) Obligation for the Applicant to keep the streets free of snow, litter, and other obstructions and hazards at all reasonable times, at its expense;
 - i) Entitlement for the Applicant or its designee to close private streets for normal maintenance and repair at reasonable times and upon reasonable prior notice to the public. Closure for recreational purposes, i.e., block parties, parades, races, etc., must follow MCDOT protocol to include, but not be limited to:
 - i. Signage notifying public of road closures, lane restrictions, or parking restrictions to be in place at least one week prior to closure at locations in accordance with adopted MCDOT standards.
 - ii. Maintain vehicular and pedestrian access to properties abutting closure if possible, and open to emergency vehicle passage at all times.
 - iii. Traffic control devices to be placed in accordance with adopted MCDOT standards.
 - iv. Written notice in accordance with adopted MCDOT standards.
 - v. Coordination with affected civic associations, homeowners associations and businesses to be notified in writing two weeks prior to event.
 - vi. Dimensions of signage in accordance with adopted MCDOT standards.
11. The Applicant must ensure short term public bicycle parking is installed along the retail frontages and near public use space. Secure long term bicycle parking must be installed, internal to the proposed residential buildings or garages, for residents' use. Exact bicycle rack and private long term bicycle parking locations will be determined at the time of Site Plan for each parcel.
12. The Applicant must provide a detailed staging and phasing plan for the proposed development, including all frontage and internal roadway/ sidewalk improvements, at the time of each Site Plan. At a minimum, the proposed

Draper Lane/ Private Street B must be fully constructed and open to traffic prior to the final use and occupancy permit issued for the last newly constructed building within Phase One (i.e. the entire lower escarpment).

13. The Applicant must enter into a Traffic Mitigation Agreement ("TMAg") with the Planning Board and MCDOT to participate in the Silver Spring Transportation Management District and must execute the TMAg prior to the release of any above grade building permit for development on the site exclusive of any sheeting and shoring permit. The TMAg must include trip mitigation measures recommended by MCDOT.
14. The Applicant, as part of the TMAg or separately, must coordinate with the MCDOT Chief of Commuter Services to install a Capital Bikeshare station on the site at a location and at a time mutually agreed upon between the Applicant and the County. The location of the bikeshare station must be finalized, in writing by the MCDOT Chief of Commuter Services, prior to the release of the first building permit within Phase One for the lower escarpment. The access and maintenance agreement for the bikeshare station must be finalized as part of the certified site plan for the project phase which includes a bikeshare station.
15. The Applicant must provide a noise analysis at the time of the first site plan submittal, and all subsequent site plan submittals thereafter. The noise analysis must include exhibits showing existing and 20 year projected 60, 65, and 70 dba Ldn noise contours. If the noise analysis demonstrates an adverse noise impact to portions of residential buildings on the site plan, then prior to issuance of the building permits associated with each site plan an engineer specializing in acoustics must certify that the building shell for the affected portions of the residential building has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The builder must commit to construct the units in accordance with these design specifications, with any changes that may affect acoustical performance approved by the acoustical engineer in advance of installation.
16. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for 145 months from the date of mailing of the Preliminary Plan Resolution.
17. No grading or recording of plats before certified site plan approval unless permitted by the Planning Board at site plan. The Applicant may apply for and obtain demolition and associated rough grading permits at any time.
18. Final approval of the number, location, and height of buildings will be decided at site plan.

19. In the event that a subsequent site plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration or location or right-of-way width or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the site plan.

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 Preliminary Plan substantially conforms to the Master Plan.*

The Preliminary Plan Application is consistent with the Sector Plan. Generally, the Sector Plan's vision for Silver Spring's future is "to create a development environment that invites revitalization." The Sector Plan outlines themes of a transit oriented downtown, residential downtown, commercial downtown, green downtown, civic downtown, and pedestrian friendly downtown to achieve this vision. The Application is consistent with all six themes.

The Sector Plan seeks to create a transit oriented downtown—it strives to balance the needs of pedestrians and vehicles as well as commuter and local traffic, and at the same time, maximize the investment in Silver Spring's transit infrastructure. The Subject Property offers improved and direct pedestrian linkages to the Metrorail station and Silver Spring Transit Center from the southern end of the site and points beyond. Vehicular access points to the various garages within the site are located towards the periphery of the Subject Property to minimize conflicting pedestrian and vehicular movements. The Application also includes bus stops on the periphery to directly link residents and visitors of the site to bus transit infrastructure within Montgomery County and the District of Columbia.

With a net new 1,690 residential units, bringing the total number of units on the Subject Property to 2,800, the theme of a residential downtown is supported. With regards to a commercial downtown, the Application includes the maximum amount of commercial development allowed by the Sector Plan and Zoning Ordinance for this site. The commercial development is located on the upper escarpment of the site, off of East-West Highway. This location is closest to the Metrorail station and more established high-rise commercial buildings in the Silver Spring Core. The commercial development is oriented in such a way to draw pedestrians into the site, where vehicular traffic will be less disruptive than on a major thoroughfare. The majority of retail activity on the site

will take place at the ground level, emphasizing the street-oriented commercial nature of the upper escarpment.

For a green downtown and civic downtown, the Application includes a public use space concept that truly invites residents and non-residents to explore its intricacies. Blair Park offers a contiguous green area, 22,500 square feet in size, in an area of the CBD where large green spaces are lacking. Blair Park will be flexible enough to allow for a wide range of public activities, including concerts, farmers markets, and festivals as well as less formal gatherings such as picnics and outdoor ballgames. The overall public use space concept for The Blairs Master Plan, and Blair Park in particular, contributes to the goal of the Sector Plan to achieve a CBD with a wide range of green and civic spaces.

The Application will contribute to a pedestrian friendly downtown environment as envisioned by the Sector Plan. With ground floor retail and residential units on the upper floors, as well as the placement of a significant amount of new parking spaces on the site below grade or partially below grade (with the exception of limited on-street parking spaces), there will be new activity on areas of the site currently used as parking lots. Ground level retail uses will help activate the sidewalk areas in front of buildings in the upper escarpment. The open space concept will link residents living in the lower escarpment to the upper escarpment in an inviting way that encourages pedestrian travel rather than vehicular travel.

The Application will improve future vehicular access by realigning specific site entrances and creating a new internal road network, comprised of private streets, including a master planned road connection (Draper Lane) from Colesville Road to Blair Mill Road. Pedestrian and bicycle access to the site will be provided on all frontage and internal roadways. Parking will be provided through a combination of structured garages and on-street spaces.

The immediate area is well served by transit that includes the Red Line Silver Spring Metrorail Station, Metrobus, RideOn, and the Silver Spring VanGo Circulator. Future transit in the area includes a proposed Purple Line station at the existing Metrorail Redline station. Specific transit routes near the Site include:

1. RideOn Bus Routes 1, 2, 3, 4, 5, 11, 12, 13, 18, and 28
2. WMATA Metrobus Routes J5, Q1, Q2, Q4, S2, S4, Y5, Y7, Y8, Y9, Z2, Z6, Z8, Z9, Z11, Z13

Master Plan Roadways and Pedestrian/Bikeway Facilities

The 2000 Approved and Adopted Silver Spring CBD Sector Plan and the 2005 Countywide Bikeways Functional Master Plan include the following nearby roadway/bikeway facilities:

1. Blair Mill Road: a Business District roadway with master planned on-road bicycle facilities located along the southern site frontage, between Eastern Avenue, NW and East-West Highway, with a minimum master planned right-of-way of 70 feet.
2. Colesville Road: a Major Highway with master planned dual bicycle facilities located along the northern site frontage, between Eastern Avenue, NW and East-West Highway, with a minimum master planned right-of-way of 125 feet.
3. East-West Highway: a Major Highway with master planned shared use path bicycle facilities located along the eastern site frontage, between Colesville Road and Blair Mill Road, with a minimum master planned right-of-way of 110 feet.
4. Draper Lane/Private Street B: a proposed Business District roadway with master planned on-road bicycle facilities located through the site, between Colesville Road and Blair Mill Road, with a master planned right-of-way of 60 feet.

The Preliminary Plan satisfies the master plan roadways and pedestrian/bikeways recommendations. For Colesville Road, the Applicant must dedicate 12.5 feet to provide 62.5 feet between the property line and right-of-way centerline to support a master planned future right-of-way of 125 feet. For East-West Highway, the Applicant is required to dedicate 25.6 feet to provide 55 feet between the property line and right-of-way centerline to support a master planned future right-of-way of 110 feet. Because of the location of an existing building on the site, a deviation from the master plan recommendation that all future right-of-way for East-West Highway come from the south side was approved by the Planning Board. The proposed right-of-way dedication is consistent with dedication previously approved for the 1200 East-West Highway development (#120050840). The right-of-way shown on the Preliminary Plan allows for a consistent dedication line with all necessary roadway facilities.

For Private Street B, the Planning Board finds that private ownership is in the public interest, in accordance with the 2000 Silver Spring CBD Sector Plan. This roadway will accommodate two-way vehicular access, on-street parking, and pedestrian and bicycle facilities within a 60 foot wide parcel and public access easement. Roadway construction will be in accordance with MCDOT roadway standard 2005.01 Modified, a Two Lane Business District Street.

2. *Public facilities will be adequate to support and service the area of the approved subdivision.*

Adequate Public Facilities Review

A traffic study (dated March 20, 2013 and revised with errata sheets on July 16, 2013) was submitted for the subject application per the *LATR/TPAR Guidelines* since the

development was estimated to generate more than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods.

Trip Generation

A site trip generation summary for the development shows that the Application will generate 894 peak-hour trips during the weekday morning peak period and 1,163 peak-hour trips during the weekday evening peak period. When compared to existing uses (less those identified for removal through this Application), the development will result in an increase of 582 peak-hour trips during the morning peak period and 701 peak-hour trips during the evening peak period. As a commercial development within the Silver Spring Transportation Management District (“TMD”), the Applicant must enter into a Traffic Mitigation Agreement to participate in the Silver Spring TMD.

Local Area Transportation Review

A summary of the capacity analysis/Critical Lane Volume (“CLV”) analysis for the weekday morning and evening peak-hour periods shows that the total built condition will remain within the policy area congestion standard of 1,800 CLV. Based on the analysis presented in the traffic study, it is concluded that the Application will satisfy the LATR requirements of the APF test.

Transportation Policy Area Review

Because the development is within the Silver Spring CBD Policy Area, the Application is exempt from both the roadway and transit tests set forth in the 2012-2016 Subdivision Staging Policy. As a result, the Applicant is not required to pay transportation impact tax to satisfy the TPAR requirement.

The Application for The Blairs Master Plan development satisfies the LATR and TPAR requirements of the APF review.

Other public facilities and services

Other public facilities and services are available and will be adequate to serve the development. The Subject Property will be served by public water and sewer systems. The Application has been reviewed by the Montgomery County Fire and Rescue Service (“MCFRS”), and emergency vehicle access has been deemed adequate. Electrical and telecommunications services are also available to serve the Subject Property. Local health clinics, police stations and fire stations are all operating within acceptable levels as established by the Subdivision Staging Policy.

The Subject Property is located in the Montgomery Blair High School Cluster. The 1,690 new multi-family housing units are subject to the Annual School Test effective for FY14. The current Subdivision Staging Policy School Test for FY 2014 requires school facility

payments for subdivision approval at the elementary, middle, and high school levels in the Blair Cluster.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision.*

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The parcels in their respective locations are of a satisfactory size, width, shape and orientation that are appropriate for the location of the subdivision.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

There are no onsite wetlands, floodplains, streams or their associated buffers on the Subject Property. There is neither onsite forest nor specimen trees onsite. The Applicant applied for an exemption from submitting a forest conservation plan. Exemption 42013105E was confirmed on January 16, 2013 because the Subject Property is less than 1.5 acres in size and therefore qualified for an exemption under section 22A-5(s)(1) of the Montgomery County Forest Conservation Law, because the Application is on a tract of land less than 1.5 acres with no existing forest or existing specimen or champion trees, and the afforestation requirements would not exceed 10,000 square feet.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "storm water management", Section 19-20 through 19-35.*

The stormwater management concept for the Preliminary Plan was deemed acceptable by the Department of Permitting Services on August 12, 2013. The concept meets the required stormwater management goals by the use of Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP) with the use of a green roof and micro-bioretenion/planter boxes. A waiver for the full quantity volume is granted since full treatment of ESD volume is not possible due to onsite constraints. The concept plan complies with Section 50-24(j), which requires that stormwater requirements be satisfied as part of preliminary plan review; however, the stormwater management concept must be resubmitted prior to any future site plan approvals so additional details can be reviewed by DPS. The Blairs Master Plan will implement stormwater management treatment where none exists today, reduce impervious cover, and increase the number of trees on the site, all of which help slow down and infiltrate stormwater runoff.

6. *Practical difficulties or unusual circumstances exist so that a waiver is required of Section 50-29(b)(2) of the Subdivision Regulations is appropriate, and i) a waiver is the minimum necessary to provide relief, ii) such a waiver is not inconsistent*

with the purposes and objectives of the General Plan, and iii) such waiver is not adverse to the public interest.

The Planning Board approved an above grade parking garage that crosses parcel lines pursuant to Chapter 50-38 of the Subdivision Regulations, which gives the Board the authority to grant a waiver "from the requirements of this Chapter upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest." Section 50-20(b) of the Subdivision Regulations references underground parking facilities which extend under rights-of-way but makes no reference to above ground parking facilities that extend over parcel lines. The two additional levels to the existing parking garage located south of Private Street B will extend over Private Street B. This connection will help create a cohesive mixed use project with logical connections between buildings and open spaces. The extension of the parking garage across Private Street B will connect the upper and lower escarpments in spite of the challenging gradient between these two areas of the plan.

The waiver is the minimum necessary to provide relief from the strict application of Section 50-20(b) of the Subdivision Regulations. The waiver is needed to supply an adequate number of parking spaces for the commercial development on the site and achieve a cohesive mixed use development. The waiver is not inconsistent with the purposes and objectives of the General Plan but will allow for greater compliance with the recommendations contained in the Sector Plan, which calls for a commercial downtown that builds on the CBD's existing base of business activity. The waiver is not adverse to the public interest, for the garage will not adversely affect the operations of Private Street B.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; 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 DEC 23 2013 (which is the date that this Resolution is mailed to all parties of record); and

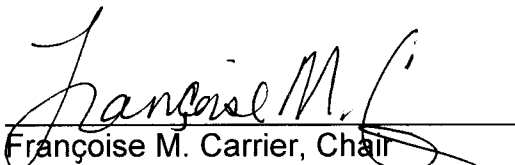
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Vice Chair Wells-Harley, 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, December 12, 2013, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board