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MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 11-73
Site Plan No. 820110060
Project Name: 8621 Georgia Avenue
Date of Hearing: July 21, 2011

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and

WHEREAS, on November 19, 2009, the Planning Board approved Project Plan 920100010 (MCPB Resolution 09-144) for a 191,281-square-foot mixed use office building, including approximately 6,209 square feet of ground floor retail/restaurant uses below approximately 185,072 square feet of office uses on 1.1 acres¹ of CBD-2 zoned land, located on Georgia Avenue opposite the intersection of Fidler Lane ("Property" or "Subject Property"); and

WHEREAS, on February 15, 2011, 8621 Limited Partnership ("Applicant"), filed an application for approval of a Site Plan for a mixed use building of 191,281 square feet comprised of approximately 6,209 square feet of ground floor retail/restaurant uses below approximately 185,072 square feet of office uses on the 0.69 acres of the Subject Property² ("Site Plan" or "Plan"); and

WHEREAS, Applicant's Site Plan application was designated Site Plan No. 820110060, 8621 Georgia Avenue (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated July 11, 2011, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

¹ The Gross Tract Area of the Property is 1.1 acres (47,883 s.f.). As a result of previous dedication of 17,486 s.f. of land, the Net Tract Area for development is 0.69 acres (30,397 s.f.). MCPB Resolution 09-144 for approval of Project Plan 920100010 referred to the Gross Tract Area of the Property, while this Resolution for approval of the corresponding Site Plan refers to the Net Tract Area because that is how the Property was presented in their respective hearings.

² See footnote #1.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 100, Bethesda, MD 20814 Chairman's Office: 301.495.4600 Fax: 301.495.1320

MNCPPC Legal Department

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

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WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on July 21, 2011, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on July 21, 2011, the Planning Board approved the Application subject to conditions on the motion of Commissioner Anderson; seconded by Commissioner Presley; with a vote of **4-0**, Commissioners Anderson, Carrier, Presley, and Wells-Harley voting in favor. Commissioner Dreyfuss was absent from the Hearing.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820110060 for a mixed use building of 131,281 square feet comprised of approximately 6,209 square feet of ground floor retail/restaurant uses below approximately 185,072 square feet of office, on the Property, subject to the following conditions:

Conformance with Previous Approvals

1. Project Plan Conformance

The development must comply with the conditions of approval for Project Plan 920100010 as listed in MCPB Resolution 09-144, except as modified by the Site Plan.

Environment

2. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated October 12, 2010 unless amended and approved by the Montgomery County Department of Permitting Services.

3. LEED Certification

The Applicant must achieve a LEED (Leadership in Energy and Environmental Design) Certified Rating Certification at a minimum. The Applicant must make good faith efforts to achieve a LEED Silver rating. Before the issuance of any use and occupancy certificate, the Applicant must inform M-DCPPC 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.

Public Use Space and Amenities

4. Public Use Space

- a. The Applicant must provide a minimum of 1,760 square feet of public use space (5.8% of net lot area) on-site.
- b. In lieu of providing the remaining 4,319 square feet (14.2%) 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 \$582,802 for the development of Gene Lynch Urban Park, in the Silver Spring CBD. The payment must be submitted to the M-NCPPC prior to the release of the first building permit.

5. Amenities

As a public amenity, the Applicant must provide a total of approximately 3,840 square feet, or 12.6% of the net lot area of streetscape improvements per the Silver Spring Streetscape Standard along the property's frontage on Georgia Avenue.

6. Art

- a. Provide for and install the public art concept designed by artist Rodney Carroll, as provided to the Planning Department's Art Review Panel on June 29, 2011, and illustrated in the Certified Site Plan
- b. The proposed art must be presented to the Art Review Panel and approved by Area One staff prior to completion of the Certified Site Plan.
- c. Significant changes to the concept, as determined by Area One staff, proposed after Certified Site Plan will require a Site Plan Amendment.

Transportation & Circulation

7. Transportation

- a. 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. The Applicant must comply with the draft letter from the State Highway Administration dated June 1, 2011 [Appendix D], or as amended, to provide the following:

1. Formalize the pedestrian crossing of Georgia Avenue at its intersection with Fidler Lane on the south side of the intersection with an attractive landscaped pedestrian refuge and a pedestrian activated walk signal, if approved by SHA.
2. Extend corner curbing at Georgia Avenue/Fidler Lane to further facilitate the pedestrian crossing
3. Provide a southbound left-turn lane at Fidler Lane, if approved by SHA.

b. Adequate Public Facilities

1. The APF review for this development will remain valid for 85 months from the date of mailing of the Planning Board Resolution for the Site Plan.
2. Total development under the subject site plan is limited to a maximum total of 191,281 sf. of development comprised of approximately 6,209 square feet of retail/restaurant and 185,072 square feet of office uses.

Site Plan

8. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A13-A16 (stamped June 23, 2011 by the Planning Department) of the submitted architectural drawings, as determined by M-DCPPC Area One staff.

9. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards 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. The height of the rooftop light poles shall not exceed 12 feet, including the mounting base.

10. Landscape Surety

The Applicant shall provide a performance bond in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The amount of the surety shall include plant material, on-site lighting, and site furniture within the relevant block of development. Surety to be posted prior to issuance of first building permit.
- b. Provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial bond amount.
- c. Completion of plantings to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d. Provide a screening/landscape amenities agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

11. 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. A Pre-Construction Meeting to be held with a DPS-Site Plan Enforcement Inspector prior to commencing construction. The project will be completed in one phase. All construction is to be staged from Georgia Avenue unless otherwise agreed to by other adjacent parties. All site features will be completed prior to issuance of the final Use and Occupancy permit.
- b. The trip mitigation agreement must be completed prior to the issuance of the first commercial building permit.
- c. No clearing or grading prior to M-NCPPC approval of certified site plan, except for demolition of the existing surface parking lot as necessary to accommodate improvements to Georgia Avenue, and all necessary alterations to reconfigure the existing driveway to maintain vehicular circulation, egress and parking. Parking access shall be maintained from Georgia Avenue.
- d. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion and must not occur prior to approval of the Sediment Control Plan.
- e. Streetscape improvements including paving, lighting, street furniture and tree planting and other landscaping, for Georgia Avenue and all on-site public use space areas to be completed prior to release of the final Use

and Occupancy permit for the building. Street tree planting and other landscaping can be installed up to 6 months after the issuance of the final Use and Occupancy permit to address construction and weather related issues.

- f. The Plaza (and associated pedestrian access walkways) including all paving, lighting, site furnishings and public art, as well as any other on-site amenities including, but not limited to paths, benches, trash receptacles and bicycle facilities, shall be completed prior to release of the final Use and Occupancy permit for the building.
- g. The Public Art feature designed and created by Rodney Carroll, and approved as part of the site plan, shall be installed prior to issuance of the final Use and Occupancy permit.
- h. The in-lieu payment for the amenity fund must be submitted prior to the release of the first building permit.

12. 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 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 the development program on the Cover sheet stamped "6/23/2011" by the Planning Department; add landscaping to note #5 and remove note #8.
- d. Modify data table to reflect development standards enumerated in the staff report.
- e. Ensure consistency of all details and layout between site plan and landscape plan.

- f. Provide the transportation improvements on the certified site plans as approved by SHA.

BE IT FURTHER RESOLVED, that all site development elements as shown on 8621 Georgia Avenue drawings stamped by the M-NCPPC on June 23, 2011, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

This Site Plan is consistent with the approved Project Plan, 920100010 except where expressly modified by the Planning Board.

2. *The Site Plan meets all of the requirements of the zone in which it is located, and where applicable, conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the Central Business District 2 (CBD-2) zone as demonstrated in the project Data Table below. The building height, density, setbacks, vehicular access and public use space design remain unchanged from the approved Project Plan.

Data Table

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 for Site Plan Approval and Binning on the Applicant
Min. Gross Tract Area (square feet)	18,000	47,883
Previously Dedicated Area		-17,486
Proposed Dedicated Area		0
Net Lot Area		30,397
Max. Density		
Office (sf.)		135,072
Office (FAR)		3.87
Retail/Restaurant (sf.)		5,209
Retail/Restaurant (FAR)		0.13
Total (sf.)	191,532	191,281
Total (FAR)	4.0	4.0
Max. Building Height (ft.) (Measured from the center of the building on Georgia Avenue)	143	143
Max. Stories	n/a	13
Min. Building Setbacks (ft.)		
Georgia Avenue ROW	n/a	0
Side/Rear	n/a	0
Rear	n/a	0
Min. Public Use Space, (% of Net Lot Area)	20	20
Min. On-Site Public Use Space, (sf.)	6,079	760
Min. On-Site Public Use Space (% of Net Lot Area)	-	5.8
Min. On-Site Public Use Space provided off-site via Amenity Fund (sf.)	-	4,319
Min. On-Site Public Use Space provided off-site via Amenity Fund (% of Net Lot Area)	-	14.2
Contribution to Amenity Fund for implementation Gene Lynch Urban Park <ul style="list-style-type: none"> • 14.2% of assessed land value; AND • 4,319 sf. @ \$35/sf. 	-	\$532,802
Min. Off-Site Public Amenity Space (sf.)	-	3,840
Min. Off-Site Public Amenity Space (% of	-	12.6

Net Lot Area)		
Min. Total On- & Off-Site Public Use & Amenity Space (sf.)	-	9,919
Min. Total On- & Off-Site Public Use & Amenity Space (% of Net Lot Area)	-	32.6
Max. Parking Spaces (site is located in a Parking Lot District and will pay tax for parking not provided)	401 (0 per PLD)	290

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. *Locations of buildings and structures*

The proposed building provides an appropriate higher-density, mixed office use with ground-floor retail on an optimal site for accessibility to mass transit and neighborhood facilities. The design and layout of the building are compatible with the existing and proposed development in the north end of the Silver Spring CBD in terms of massing, detailing, and height. Both the use and the design elements of the architecture provide an adequate, safe, and efficient building on the subject site.

b. *Open Spaces*

The plan includes 5.8 percent of the net lot area for public use on-site, including a forecourt with a public art component adjacent to Georgia Avenue and associated streetscape improvements along Georgia Avenue. The in-lieu payment for the remainder of the public use space requirement promotes the development of other public spaces within the core area. The Board finds that this contributes to an improved pedestrian experience that is adequate, safe, and efficient.

c. *Landscaping and Lighting*

The plan includes adequate levels of lighting for street level public spaces including the shared access drive. Landscaping is well placed and allows good sight lines for adequate surveillance for safety while providing tree canopy shade on the sidewalk. The existing street trees, which are zelkovas, may be removed to allow for installation of the Silver Spring streetscape along Georgia Avenue with new elm trees consistent with the current streetscape design. The Board finds that this contributes to an adequate, safe and efficient site plan.

d. Recreation Facilities

Since there is no residential component to this project, no recreation facilities are required.

e. Pedestrian, Bicycle and Other Vehicular Circulation Systems

The vehicular circulation allows entries and exits from Georgia Avenue for both parking and service from a service alley shared with the adjacent property. This improves the pedestrian circulation by reducing and consolidating the curb cuts on Georgia Avenue. The slope of Georgia Avenue is managed well in the design of the pedestrian access from the sidewalk to the forecourt, arcade and building entrance. Steps are kept to a minimum and connectivity is maximized with ample level areas for entering the forecourt and building. High visibility between the sidewalk, public use space and public art, and visual cues in the pavement design, contribute to the connectivity. Access to an interior bicycle storage area is also provided from the service alley. Pedestrian, bicycle and other vehicular circulation is adequate, safe, and efficient.

The Board discussed additional improvements within the Georgia Avenue right-of-way, a state road, for the benefit of increased pedestrian safety and vehicular circulation. The Board recognized that any improvements on Georgia Avenue would require approval from the State Highway Administration and encouraged the Applicant to continue coordinating with the SHA to implement the improvements as conditioned and subsequently approved by SHA.

Adequate Public Facilities (APFO) was reviewed with this site plan application since a preliminary plan was not required. The Board found that the application satisfies the APF ordinance for the transportation related improvements associated with this development.

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

The building is compatible with other constructed, proposed, and planned high-rise mixed-use development along Georgia Avenue, including the adjacent office buildings and other mixed-use structures, in terms of massing, scale, design, detailing, and layout.

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 Site Plan is exempt from providing a Forest Conservation Plan. The proposed stormwater management concept was approved by the Department of Permitting Services (DPS) on October 12, 2010. The stormwater management concept consists of "Environmental Site Design to the Maximum Extent Possible" using a green roof. Additional treatment is provided by the use of a structural proprietary flow-through underground filter. Due to site conditions, onsite recharge cannot be provided. A waiver of water quality control has been granted for a small area that will not drain to the proposed water quality structure.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board and 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

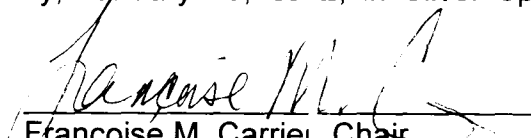
BE IT FURTHER RESOLVED, that the date of this Resolution is JAN 23 2012 (which is the date that this Resolution is mailed to all parties of record); and JAN 23 2012

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 Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley present and voting in favor of the motion at its regular meeting held on Thursday, January 19, 2012, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board