

MAR 7 2012



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

MCPB No. 11-137
Project Plan No. 920120010
Project Name: Bethesda Center
Date of Hearing: December 15, 2011

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review project plan applications; and

WHEREAS, on August 25, 2011, The Bethesda Center, LLC ("Applicant"), filed an application for approval of a project plan for 466,470 square feet of mixed-use development including a hotel, office, and retail on 2.14 gross acres of CBD-2-zoned land, located between Woodmont Avenue and Wisconsin Avenue, approximately 75 feet south of Cheltenham Drive ("Property" or "Subject Property") in the Bethesda Central Business District Sector Plan area ("Sector Plan"); and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920120010, Bethesda Center ("Project Plan" or "Application"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board dated December 1, 2011, setting forth its analysis of and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on December 15, 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 December 15, 2011, the Planning Board approved the Application subject to conditions, on motion of Commissioner Anderson, seconded by

Approved as to
Legal Sufficiency

Christina Sonnet 2/23/12
M-NCPPC Legal Department

Commissioner Wells-Harley, with a vote of 4-0; Commissioners Anderson, Carrier, Dreyfuss, and Wells-Harley voting in favor. Commissioner Presley was absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Project Plan No. 920120010 for 466,470 square feet of mixed-use development including a hotel, office and retail, on 2.14 gross acres in the CBD-2 zone, subject to the following conditions:

1. Development Ceiling

The proposed development is limited to 466,470 square feet of gross floor area for non-residential development, including hotel.

2. Building Height and Mass

- a. The proposed development is limited to the building footprint as delineated in the Project Plan drawings submitted to MNCPPC dated November 14, 2011 unless modified at site plan review.
- b. The building height is limited to 143 feet in height for the southern building (hotel) transitioning to 122 feet in height for the northern building (office), as determined by the Department of Permitting Services approved building height measurement point.
- c. The third level of the southern building (hotel) must include an extensive green roof to provide for a passive outdoor amenity area.
- d. The south elevation of the hotel building must be substantially similar to the architectural drawings (A201-A504) submitted to M-NCPCC dated November 14, 2011.

3. Public Use Space and Amenities

- a. The Applicant must provide a minimum of 18,000 square feet or 24% of the net lot area for on-site public use space and a minimum of 27,000 square feet or 36% of the net lot area for on and off-site public amenity space. The final design and details will be determined during site plan review.
- b. The proposed public use space must be easily and readily accessible to the general public and available for public enjoyment.
- c. The Applicant must provide activating elements (e.g. water and public art), landscaping and other features in general conformance with the illustrative landscape plan depicted in the Application, with final design at the time of site plan approval.
- d. The Applicant must present the plaza design and public artwork to the art review panel for comment prior to approval of the site plan.

4. Staging of Amenity Features

- a. The proposed development will be completed in one phase. A detailed development program will be required prior to approval of the certified site plan.
 - b. The Applicant must complete the on-site public use space improvements prior to issuance of use-and-occupancy permits unless modified by the site plan development program.
 - c. The Applicant must install the landscaping no later than the next growing season after completion of the building and site work.
 - d. The Applicant must contribute a sum of \$5 per gross foot for any gross floor area exceeding 4 FAR to the Housing Initiative Fund, with payments to be made over two installments, the first payment at initial occupancy of the hotel and the second at the 1st anniversary of the initial occupancy of the hotel (with two payments in equal installments).
5. Maintenance and Event Management Organization
Prior to issuance of use-and-occupancy permits, the Applicant will create and implement a maintenance plan for all on-site public use space unless an alternative arrangement is made with another entity.
6. Coordination for Additional Approvals Related to the Review of the Site Plan
- a. The Applicant must obtain written approval from the Montgomery County Department of Transportation (DOT) for the final design and extent of any and all streetscape or other improvements within the rights-of-way.
 - b. The Applicant must present preliminary and final public art and amenity concepts to the Art Review Panel prior to approval of the site plan.
 - c. At the time of site plan submittal, provide M-NCPPC Staff a noise analysis addressing noise levels above grade as well as noise impacts to adjacent properties, specifically related to the hotel loading operations. Additional wall structures may be required to mitigate noise impacts.
 - d. Details of the green roofs to be provided at Site Plan.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference, and upon consideration of the entire record and all applicable elements of § 59-D-2.43, the Montgomery County Planning Board, with the conditions of approval, FINDS:

- (a) The Application complies with all of the intents and requirements of the CBD-2 zone.**

Intents and Purposes For All CBD Zones:

The Montgomery County Zoning Ordinance states the purposes which the CBD zones are designed to accomplish. The following statements analyze how the proposed Project Plan conforms to these purposes (59-C-6.212):

- (1) *"To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the site plan or combined urban renewal project plan is approved on review by the Planning Board."*

The Subject Property lies within the boundaries of the Approved and Adopted 1994 Sector Plan for the Bethesda Central Business District. The Sector Plan supports mixed use development, including office uses near Metro. The Project Plan proposes a mixed-use development with 466,470 square feet of commercial uses including 256,672 square feet of office space and 15,799 square feet of restaurant/retail use. There will be 193,999 square feet of hotel space, including a ballroom on the second level of the hotel. The maximum density allowed under the CBD-2 Zone is 5.0 FAR; the proposed density is 5.0 FAR. The proposal maximizes the building height of 143 feet, which is allowed by the zone. 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 with 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 Board finds that the height and massing are consistent with the Sector Plan.

- (2) *"To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents."*

The Sector Plan indicates that a mix of office, retail, restaurant, as well as residential uses is appropriate for the site. The current Application will provide office, retail, restaurant and hotel uses that will be visible and accessible to a greater number of pedestrians. In addition, the Applicant is providing a volunteer contribution to the Housing Initiative Fund as part of its amenity package. In light of the large number of residential and retail proposals in the vicinity that have recently been approved by the Planning Board, this intensity and diversity of land use conforms to the Sector Plan recommendations. Both the general goals of the Sector Plan and the specific

objectives of the area advocate approval of optional method projects that provide employment and housing opportunities near both transit stations and other day-to-day necessities.

The ground-floor uses and off-site public space will serve not only the weekday office workers but also the evening and weekend residents of the CBD, bringing pedestrian activity and vitality to what is currently an underutilized space.

- (3) *"To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas."*

The Project Plan will enhance pedestrian, cyclist, and vehicular circulation by creating a pedestrian pass-through on the site between Woodmont and Wisconsin Avenues, to provide people walking to Metro a more efficient route. The layout of the vehicular circulation allows cars to efficiently drop off passengers and/or enter the site. Doors, sidewalks, elevators, and open space will direct pedestrians in and around the site to access this and adjacent buildings and streets.

The relationship of the proposed buildings to existing buildings is typical and appropriate for a central business district. The building code requires that buildings with windows are setback 15 feet from the property line or 30 feet between buildings, if both buildings have windows. The building to the south is setback 15 feet from the property line above its podium. The proposed building respects the building code and the adjacent building by stepping back 15 feet from the property line above its podium where the proposed building has windows. This practice of providing a podium base with the building mass or tower above provides a compatible relationship for existing and proposed properties in the CBD. Architectural and design enhancements have been implemented to limit the impact on the views of the existing building to the south. The Applicant added windows on the south side of the building to create interest and reflect light. The southeast corner of the building was cut back so the views to the northeast were opened up, and the interiors were redesigned to allow for the installation of green roofs.

In addition, the Applicant conducted shade studies to show the impact of the height and massing of the project on adjacent properties. The studies showed that the shade and massing relationships associated with this development will not cast significant shadow on presently used public areas or block direct sunlight from surrounding properties. The studies show that a

significant portion of the shadows fall on roadways and only during portions of the day, having only minimal detrimental impacts or adverse effects on adjacent properties. In addition the glass facades included in the building design further offset the shadow effect. During the summer months, when outdoor spaces get the most usage, the shadow impact of the proposed building is minimal on the surrounding properties, streets and sidewalks.

The Planning Board finds that overall, the design of the proposed building and public space creates a desirable relationship between adjacent buildings in the central business district and adjacent areas.

- (4) *"To promote the effective use of transit facilities in the central business district and pedestrian access thereto."*

The Project Plan is approximately 1000 feet from Metro and 100 feet from the nearest bus stop. It is a local and regional imperative to provide infill development is provided at such sites as an alternative to suburban sprawl. As conditioned, the location of the proposed development and its accessibility to the local transit system are an excellent realization of the Sector Plan transit and sustainability goals, specifically, providing jobs within walking distance of the Metro and shopping areas.

- (5) *"To improve pedestrian and vehicular circulation."*

The Project Plan will improve pedestrian circulation, primarily through improved on-site pedestrian circulation consisting of a diagonal cut through from Woodmont and Wisconsin Avenue, which provides a more direct route to the Metro. The pedestrian walkway has amenities such as fountains, rain gardens, shade trees, seating areas, public art, and retail. The Application also provides 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.

- (6) *"To assist in the development of adequate residential areas for people with a range of different incomes."*

The Project Plan does not provide residential uses but does provide employment and retail options for residents in the nearby Woodmont Triangle section of Bethesda, a housing resource area. The Application also provides

a significant contribution to the Housing Initiative Fund to promote residential opportunities within the CBD.

- (7) *"To encourage land assembly and most desirable use of land in accordance with a sector plan."*

As part of preliminary Plan No. 120120070, the Applicant will consolidate lots 7 and 12, Sunnyside, and parts of lots 525-526, parts of lots 527-529, parts of lot 530-532 and parcels 086 and 087 Woodmont Avenue into 1 recorded lot with a net lot area of 74,033 square feet after right-of-way dedication for Wisconsin Avenue and Woodmont Drive. The Application incorporates multiple properties to promote greater densities in the CBD, which also allows for stronger site designs, connected streetscapes and greater opportunities for activated public use spaces and amenities.

Further Intentions Specific to the CBD-2 Zone:

Section 59-C-6.213(b) of the Zoning Ordinance states that the CBD-2 zone's intent is:

"[T]o foster and promote the orderly development of the Central Business Districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable urban environment."

The 12-story hotel and 11 story office building in this Application will provide employment opportunities and help fill the demand for hotels in the Bethesda CBD within walking distance from Metro and nearby residential developments. The proposed street-level retail will expand the employment base in Bethesda, contribute to the economic development of the County and provide street-level, after hours, and weekend pedestrian activity. The Project Plan further promotes the orderly development of the Bethesda CBD by designing the buildings to enable a more direct and active pedestrian connectivity to the Metro.

Requirements of the CBD-2 Zone

The Project Plan conforms to the development standards of the optional method of development. Among other standards, the proposed development meets the area, public use space, building height, and density requirements of the zone.

According to the Zoning Ordinance (59-C-6.215(b)) a further requirement of optional method projects is the provision of additional public amenities:

“Under the optional method greater densities may be permitted and there are fewer specific standards, but certain public facilities and amenities must be provided by the developer. The presence of these facilities and amenities is intended to make possible the creation of an environment capable of supporting the greater densities and intensities of development permitted.”

To this end, the Project Plan is providing the following package of amenities and public facilities:

Amenities and Facilities Summary

On-Site Public Use Space Improvements

- Sidewalks with specialty paving
- Art
- Lighting
- Fountains
- Rain Gardens
- Low Impact Development plantings
- Seating

Off-Site Amenity Improvements

- Brick paving
- Street lighting
- Street tree planting in amended soil panel
- Street furniture

Other amenities

- The Applicant has committed to contribute to the Housing Initiative Fund a total amount of \$466,479, in two payments of \$233,235, which equates to \$5/square foot for any FAR achieved over 4.

The Planning Board finds, based on the data table below and other evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-2 zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

DATA TABLE

Development Standard	Permitted/ Required	Approved by the Planning Board and Binding on the Applicant
Building Height (feet)	143	143
Setbacks (feet)		
East Property Line	0	0
North Property Line	0	0
West Property Line	0	0
South Property Line	0	0
Minimum setback between proposed buildings	0	35'
Site Area (square feet)		
Net Tract Area	n/a	74,033
Prior Dedications		14,076
Proposed Dedication	n/a	5,185
Gross Tract Area	22,000	93,294
Density		
Floor Area Ratio *	5.0	5.0
Hotel		193,999
Office		256,672
Retail/Restaurant		15,799
Public Use Space (% of net lot)		
On-Site Public Use Space	20	24

Off-Site Amenity Space	n/a	12
Total Public Use & Amenity Space	20	36
Parking		
Office @ 2.1/1,000 [256,672 sf]	539	
Hotel @ 0.5/# of rooms [203 rooms]	102	
Assembly @ 10/1,000 [11,342 sf]		
Minus 15% Metro Proximity Credit	96	
Restaurant @ 25/1,000 sf for patron use area [7,713 sf]	164	
Minus 15% Metro Proximity Credit		
Retail @ 5/1,000 [4,229 sf]		
Minus 15% Metro Proximity Credit	18	
Total Parking Required	919	
Total Parking Provided		760**

(b) The Application is consistent with the Bethesda CBD (Central Business District) Sector Plan approved under Chapter 56.

Zoning and Land Use

The Subject Property is zoned CBD-2, which is recommended by the Bethesda CBD Sector Plan. All proposed uses are allowed in the CBD-2 Zone and the Project Plan is consistent with the general guidelines to provide employment uses in the Sector Plan. Specifically, the Sector Plan recommends employment and retail uses for the Subject Property. The proposed office, retail, and hotel uses are appropriate for the Property and are consistent with the Sector Plan.

Sector Plan Conformance

The Approved and Adopted Bethesda CBD Sector Plan is organized around several goals that the Project satisfies, including:

- 1) Strengthen the Metro Core as the center of Bethesda, with greatest emphasis on and around the Metro Center and Plaza.
- 2) Increase the choices and activities in the Metro Core associated with retail, restaurants, cultural programming, open space, and pathways.

- 3) Develop a compact core that places the highest intensity in the center, provides distinctive infill buildings, and steps down to lower densities and heights near the edge of the district.
- 4) Emphasize employment near Metro transit to complete Metro Core development.

The Project Plan encourages the establishment of a vibrant and diverse downtown, fulfills the development of infill properties that complement the existing urban fabric, and creates employment opportunities in the downtown. The development will provide an appealing environment for working, shopping, and entertainment. The pedestrian circulation patterns encourage walking, cycling, and the use of mass transit to further implement the goals and objectives of the Sector Plan.

(c) Because of its location, size, intensity, design, operational characteristics and staging, the Application is compatible with and not detrimental to existing or potential development in the general neighborhood.

The adjacent property owners, including their consultants and counsel, testified at the hearing that they were not contesting the height, FAR, or density of the proposed building on their southern boundary, but were opposed to the location, design and massing of the building with respect to the impacts the building has on the existing 14-story Bethesda Place office building on their site. The opposition also voiced concerns over the economic impacts they believed to be detrimental to the existing Bethesda Place development. Planning Staff testified to the merits of the proposed development to fulfill objectives of the Sector Plan for urban infill development, strengthening pedestrian connectivity within the metro core, and creating interesting and attractive public spaces that are not currently available. The Planning Board finds that the Project Plan creates a desirable relationship between the adjacent buildings.

The Project Plan is 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 proposed building locations are oriented in such a manner as to maximize light and air for the Subject Property and the neighboring property to the south and to provide for increased pedestrian activity in public areas. The Planning Board finds that this Applicant has made significant changes to the building design and layout in an effort to minimize negative impacts on neighboring properties and in the general neighborhood.

The site is located in an area of the CBD (CBD-2) with allowable densities of up to 5.0 FAR, and maximum building heights of 143 feet, for optional method of development projects. The Project Plan's 12-story high rise of 143 feet is consistent with the Sector Plan and is the same height as the existing commercial office building to the south. The 12-story office building is considerably higher than the primarily 2-3-story developments to the north and east, but steps down in height and mass to compliment anticipated future redevelopment to the north. However, as development proceeds in Bethesda and the adjacent Woodmont Triangle, potential densities and building heights as envisioned by the Sector Plan will be much higher than the existing fabric. In terms of urban design, the proposal maintains a similar building line as the existing buildings to the south and continues the pedestrian activation of Woodmont Avenue to the south. Moreover, 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.

Additionally, the proposed building design provides greater benefits to the adjacent properties by 1) replacing parking lots on an underutilized site with a dynamic streetscape experience on Woodmont and Wisconsin Avenues, and 2) creating vibrant architecture that captures sight lines from the street, offers visual vantage points from adjacent buildings and provides stimulating green areas at the street level and on rooftop gardens. 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 space and amenities and mix of uses, makes the additional density permitted through the optional method desirable. 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 the proposed development and existing improvements inherent in any urban transition.

The Board finds that the height, building location, intensity, design, and operational characteristics of the proposed development are compatible with and not detrimental to the existing or potential development in the general neighborhood.

- (d) The Application does not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.**

The project will not overburden existing public services. The project's close proximity to the Metro Station and bus lines on Wisconsin Avenue help to promote public transportation. The proposed use will generate 441 AM peak hour trips and 471 PM peak hour trips (406 net "new" AM peak hour trips and 380 net "new" PM peak hour trips) and the study area intersections will continue to operate within the acceptable congestion standard levels. There is adequate water and sewer capacity within the Bethesda CBD Policy Area to accommodate the project.

A draft Trip Mitigation Agreement has been submitted by the Applicant and will be finalized during the site plan review process. Other public facilities exist on or near the site and no expansion or renovation of these services will be required to be completed by the County. Further, requirements for public safety and fire will be minimally impacted due to the nature of the land use and must be approved by the respective agencies prior to preliminary plan approval.

(e) The Application is more efficient and desirable than could be accomplished by the use of the standard method of development.

A standard method project would only allow a density of 3.0 FAR or 80 dwelling units per acre on this site. Further, the requirement for public amenities would be removed and the public use space requirement would be reduced by one-half. Because infill development and density at transit hubs is a core value of smart growth and given the number and quality of public amenities being provided, the optional method of development is much more desirable and more efficient for this particular site.

(f) The Application includes moderately priced dwelling units in accordance with Chapter 25A of this Code.

The proposed development does not require moderately priced dwelling units ("MPDUs") because it does not provide any residential uses. However, the Applicant is providing a significant contribution to the Housing Initiative Fund to provide additional housing opportunities in the area.

(g) When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from one lot to another or transfer densities, within a lot with two or more CBD zones, pursuant to the special standards of either section 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Project Plan may be approved by the Planning Board based on the following findings.

The Project Plan is located on multiple lots that are proposed to be subdivided into one lot and does not propose any open space or density transfers.

(h) The Application satisfies any applicable requirements for forest conservation under Chapter 22A.

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) #420111760 for the site was approved on July 1, 2011. The urban site is located within two separate watersheds; Little Falls Branch, a use-class I-P watershed and the Lower Rock Creek, a use I watershed.

The Preliminary Forest Conservation Plan (PFCP) identifies an afforestation planting requirement of 0.33 acres. The planting requirement will be met by payment of a fee-in-lieu. A condition of approval is included in Preliminary Plan No. 120120070 requiring that the forest conservation planting requirements be satisfied prior to land disturbance activities occurring onsite.

(i) The Application satisfies any applicable requirements for water quality resources protection under Chapter 19.

The proposed development is subject to the water quality resources protection requirements. The stormwater management concept was approved on September 11, 2011 and proposes to meet required stormwater management goals via environmental site design to the maximum extent practicable by the use of a green roof and micro-bioretenion. Recharge is not required for a re-development site.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920120010, Bethesda Center stamped received by M-NCPPC on November 14, 2011 are required except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board and incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

BE IT FURTHER RESOLVED that the date of this Resolution is MAR 7 2012
(which is the date that this Resolution is mailed to all parties of record); and

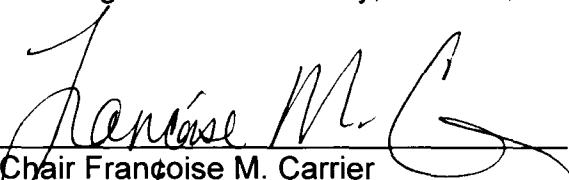
BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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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RESOLUTION

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 and Dreyfuss present and voting in favor of the motion, and Commissioner Presley abstaining, at its regular meeting held on Thursday, March 1, 2012, in Silver Spring, Maryland.


Chair Françoise M. Carrier
Montgomery County Planning Board