

MAR 17 2012



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

MCPB No. 11-138
Preliminary Plan No. 120120070
Bethesda Center
Date of Hearing: December 15, 2011

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on August 25, 2011, The Bethesda Center, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 2.14 gross acres of land in the CBD-2 zone, 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 preliminary plan application was designated Preliminary Plan No. 120120070, Bethesda Center ("Preliminary Plan" or "Application"); and

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

WHEREAS, 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 certain conditions, on motion of Commissioner Anderson,

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Spring, Maryland 20710

Christina Somet 2/23/12
MNCPPC Legal Department

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seconded by Commissioner Dreyfuss, 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 50 the Planning Board approves Preliminary Plan No. 120120070 to create one lot on the Subject Property, subject to the following conditions:

1. Approval under this Preliminary Plan is limited to one lot for up to 256,672 square feet of office uses, 193,999 square feet of hotel uses, and 15,799 square feet of retail uses.
2. The Applicant must comply with the conditions of approval for Project Plan No. 920120010.
3. The Applicant must comply with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services ("MCDPS") issuance of sediment and erosion control permits as applicable.
4. The Applicant must obtain approval of a Final Forest Conservation Plan, consistent with the approved Preliminary Forest Conservation Plan and associated conditions, prior to any clearing, grading or demolition on the site.
5. No clearing, grading, demolition, or recording of plats prior to certified site plan approval unless specified with the site plan approval.
6. The fee-in-lieu or certificate of compliance for the off-site forest mitigation must be submitted by the Applicant and approved by M-NCPPC Staff prior to land disturbing activities occurring on the Subject Property.
7. The Applicant must dedicate and the record plat must show dedication of 40 feet of right-of-way as measured from the centerline along the property frontage for Woodmont Avenue and 57 feet of right-of-way as measured along the centerline along the property frontage for Wisconsin Avenue.
8. The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes.
9. The Applicant must satisfy MCDPS requirements prior to recordation of the plat to ensure the construction of the sidewalks per Bethesda Streetscape Standards along the property frontages on Wisconsin Avenue and Woodmont Avenue.
10. The final density and mix of uses will be determined at Site Plan.
11. The Applicant must comply with the conditions of the MCDPS stormwater management approval dated September 8, 2011. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
12. The Applicant must comply with the conditions of the Montgomery County Department of Transportation ("MCDOT") letter dated November 29, 2011.

These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.

13. Prior to site plan approval, the Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s) and/or Maryland State Highway Administration ("MDSHA") prior to issuance of access permits, as applicable.
14. The Applicant must satisfy requirements of Montgomery County Fire and Rescue pertaining to addressing, emergency vehicle access, fire access walk path and the locations of proposed fire department connection, hydrants, door locations and fire control rooms.
15. Final approval of the number and location of buildings, on-site parking, site circulation, sidewalks, and bike paths will be determined at site plan.
16. The record plat must show necessary easements.
17. The certified Preliminary Plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the preliminary plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
18. Transportation
 - a. The Applicant must limit future development on the site to a 203-room hotel, 256,672 SF of office, and 15,799 SF of restaurant/retail.
 - b. The Applicant, prior to the release of any building permit for the proposed development, must pay \$725,400.00 to MCDOT to satisfy the Policy Area Mobility Review (PAMR) requirement of the APF test (to mitigate sixty-two (62) net "new" weekday site-generated peak-hour trips at \$11,700 per peak-hour trip).
 - c. The Applicant must dedicate and show on the final record plat the following rights-of-way along property frontage consistent with the 1994 Approved and Adopted *Bethesda CBD Sector Plan*:
 - i. Wisconsin Avenue – minimum of 57 feet from the roadway right-of-way centerline, and
 - ii. Woodmont Avenue – minimum of 40 feet from the roadway right-of-way centerline.
 - d. Frontage improvements must be finalized at site plan.
 - e. The Applicant must enter into a Traffic Mitigation Agreement ("Agreement") with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District (TMD) and must execute the Agreement prior to the release of any building permit for the proposed development.

- f. The Applicant, as part of the above Agreement or separately, must grant an easement to MCDOT to install a future bike-share station on the site, preferably along Woodmont Avenue. If a bike share station is appropriate at this site, then the location for the proposed bike-share station and the easement agreement with MCDOT for the proposed bike-share station must be finalized at least 30 days prior to any Planning Board hearing on the site plan for the development.

19. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.

BE IT FURTHER RESOLVED, that having given full consideration to 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, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Sector Plan.*

The Subject Property lies within the boundaries of the Approved and Adopted 1994 Bethesda Central Business District ("CBD") Sector Plan. The Sector Plan supports mixed use development, including office uses near Metro. The Planning Board approves 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 development maximizes the building height at 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 Sector Plan indicates that a mix of office, retail, restaurant, as well as residential uses is appropriate for the site. The Preliminary Plan will provide office, retail, restaurant and hotel uses that will be visible and accessible to a greater number of pedestrians. In addition, the Applicant has committed to provide a 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.

The Preliminary Plan is in substantial conformance with the recommendations in the Sector Plan by:

- Establishing a vibrant and diverse downtown;
- Providing infill development that complements the existing urban fabric;
- Creating employment opportunities;
- Creating an appealing environment for working, shopping, and entertainment; and
- Creating circulation patterns that encourage walking, cycling, and the use of mass transit.

The Planning Board finds that the mixed-use Application substantially conforms to the general goals and additional specific recommendations of the Sector Plan, including downtown environment, urban form, and employment, housing and land use described below.

Downtown Environment

The Downtown Bethesda Metro Core District is envisioned as a place that has a choice of retail, restaurant, cultural programming, open space and pathways. It should also include office uses with the potential for additional residential uses. The Board finds that the Preliminary Plan provides several features that address this goal:

- The mix of office, hotel and retail uses fulfills the Sector Plan goal of increasing the mix of uses.
- The public use space expands the existing network of open spaces in the area and provides a more direct connection to the Metro through connections to existing pedestrian routes. The design will reflect Bethesda as a “garden” through the imaginative use of on-site rain gardens and Low Impact Development techniques.
- The physical character of the public realm is well defined by building edges. The open spaces will shape the form of the buildings and relate well to the surrounding context of public spaces.
- The design of the architecture will add a contemporary structure to the urban fabric of Downtown Bethesda. It will provide a landmark and gateway element to Wisconsin Avenue that responds to views and vistas within the

CBD. It will create a focal point that improves the orientation and strengthens the perception of a sub-center at the northern edge of the Bethesda core.

- The amenities will provide an animated space through the use of waterfalls, shade trees, seating areas, and art features.

Urban Form

In general, the Sector Plan encourages mixed-use development that includes retail, office and residential uses located in buildings on active streets.

- The Preliminary Plan will fulfill this goal by including restaurant/retail uses on the ground floor and office and hotel use above.
- The Preliminary Plan strengthens the urban form of the surrounding neighborhood by creating active street frontages both on Woodmont and Wisconsin Avenues.
- The open spaces will be activated by outdoor cafes and retail seating and open, tree-shaded plaza areas that will attract people to gather and stay.
- The new pedestrian circulation connections and choices will increase foot traffic and provide more efficient pedestrian connectivity.
- The cultural and artistic amenities will provide a sense of identity through the unique design of water features, lighting, and landscaping

With regard to building height and the surrounding context, numerous Sector Plan recommendations speak to anticipated infill development with higher-density employment and housing uses downtown. 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 will there be detrimental impacts, while adverse effects on adjacent properties are minimal. 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.

Employment, Housing, & Land Use

The applicable references in the Sector Plan refer to the need for increased choices associated with retail, restaurants, cultural programming, open space, and pathways in this area. The specific objectives with regard to this site are met as indicated:

- The Preliminary Plan creates job opportunities by providing a variety and mix of uses that are employment generators including hotel, office, and retail uses.

- The Applicant will contribute to the affordable housing goals of Montgomery County by contributing to the Housing Initiative Fund. The Applicant will make a payment to the fund based upon a formula of \$5 per FAR foot approved above a 4 FAR. The total payment for the maximum FAR approved for the project will be \$466,479 (93,294 square feet of gross tract area multiplied by 5).
- The design promotes a pedestrian and street-activating environment by applying the Bethesda Streetscape standards to frontage along Woodmont and Wisconsin Avenues. In accordance with these standards, the Application provides widened sidewalks paved with brick, street trees, seating areas, and pedestrian scaled lighting.
- The development consolidates multiple properties for an optional method of development to accommodate the maximum density in the CBD.
- The infill development is more environmentally sustainable because it concentrates growth near transit and other day-to-day needs, thereby reducing vehicular travel and saving open space in our suburban and agricultural areas. In addition the project provides green roofs and bio-filtration techniques at grade that will significantly improve the quality of water flowing off-site during rain events.

Based upon the testimony provided at the Hearing and evidence provided by Staff, the Board finds that the Preliminary Plan is in substantial conformance with the Sector Plan.

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

Public facilities are adequate to accommodate the Application. Vehicular and pedestrian access will be safe and adequate with the proposed improvements. Sidewalks will be reconstructed along Woodmont and Wisconsin Avenues to facilitate pedestrian mobility.

As conditioned, the Application satisfies the LATR and PAMR requirements. A traffic study (dated October 31, 2011) was submitted by the Applicant for the Application per the LATR/PAMR Guidelines since the proposed development was estimated to generate 30 or more 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. The traffic study determined traffic-related impacts of the proposed development on nearby roadway intersections during weekday morning and evening peak periods.

Trip Generation

The peak-hour trip generation estimate for the Application was based on trip generation rates included in the LATR/PAMR Guidelines. The Application will generate 441 peak-hour trips during the weekday morning peak period and 471 peak-hour trips during the weekday evening peak period. After accounting for existing density on the site, the Application is estimated to generate 406 net “new” peak-hour trips during weekday morning peak period and 380 net “new” peak-hour trips during weekday evening peak period.

Local Area Transportation Review

Under Total (Build) traffic conditions, Critical Lane Volume (CLV) values for intersections included in the study were estimated to be below the Bethesda CBD congestion standards (1,600 and 1,800 CLV, respectively). Based on the analysis presented in the traffic study, it is concluded that the Application will satisfy the LATR requirements of the APF test.

Policy Area Mobility Review

To satisfy the PAMR requirements of the APF test, a development located within the Bethesda CBD Policy Area is currently required to mitigate 25% of “new” peak-hour trips generated by the development.

Based on the site trip generation summary, the PAMR mitigation requirement for the proposed development is calculated as 102 peak-hour trips for the morning peak period and 95 peak-hour trips for the evening peak period.

By virtue of being located within the Bethesda CBD, the Applicant is also eligible to receive a PAMR trip mitigation credit (determined by comparing Countywide and CBD trip generation estimates for a development). This peak-hour trip mitigation credit is equivalent to the difference in trip generation (i.e., net “new” trips) between similar developments located outside the CBD (determined using countywide trip generation rates) and located within the CBD (determined using CBD trip generation rates).

Thus, a development outside the CBD, similar to that proposed on the site, after discounting for existing on-site density, would generate 487 net “new” peak-hour trips during the morning peak-period (i.e., 81 more peak-hour trips than the net “new” site CBD peak-hour trips) and 413 net “new” peak-hour trips during the evening peak-period (i.e., 33 more peak-hour trips than the net “new” site CBD peak-hour trips). The Application, as a result of being located within the Bethesda CBD, will receive a credit of 81 peak-hour trips for the morning peak period and

33 peak-hour trips for the evening peak period towards its PAMR mitigation requirement. With the above credit, the proposed development is required to mitigate 21 peak-hour trips during the morning peak period and 62 peak-hour trips during the evening peak period. The Applicant is therefore required to mitigate 62 peak-hour trips to satisfy the PAMR requirements of the APF test.

The Planning Board finds that the methodology in calculating the PAMR requirement is consistent with the intent and established procedures in place to determine credits for CBD developments. The Applicant must therefore, prior to the release of any building permit for the proposed development, pay \$725,400.00 to MCDOT to satisfy the PAMR requirements of the APF test (to mitigate 62 net "new" weekday site-generated peak-hour trips at \$11,700 per peak-hour trip).

Other Public Facilities

The Subject Property will be served by public water and sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service, which has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, schools, and health services, are operating according to the Subdivision Staging Policy and will be adequate to serve the Property. The Application is not proposing any residential; therefore, is not impacting any local area school facilities. Electrical, telecommunications, and natural gas services are also available to serve the Subject Property.

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

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. Access and public facilities will be adequate to support the proposed lot and uses. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The Preliminary Plan was reviewed for compliance with the dimensional requirements for the CBD-2 zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. Proposed on-site Public Use Space exceeds the minimum requirement of 20%.

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

A Natural Resources Inventory/Forest Stand Delineation (NFI/FSD) #420111760 for the site was approved on July 1, 2011. The urban site is located within 2 separate watersheds; Little Falls Branch, a use-class I-P watershed and the Lower Rock Creek, a use I watershed.

The submitted Preliminary Forest Conservation Plan (PFCP) identifies an afforestation planting requirement of 0.33 acres. The planting requirement will be met by payment of fee-in-lieu. The conditions of this Resolution require that the forest conservation planting requirements are satisfied prior to land disturbing activities occurring onsite.

The Planning Board finds that with the conditions imposed by this Resolution the Preliminary Forest Conservation Plan complies with the requirements of Chapter 22A, the Montgomery County Forest Conservation Law.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the site on September 8, 2011. The stormwater management concept consists of meeting required stormwater management goals via environmental site design guidelines to the maximum extent possible through the use of green roofs and micro-bioretenion. Onsite recharge is not required for redevelopment applications.

BE IT FURTHER RESOLVED, that 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; and

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), as amended) 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 among the Land Records of Montgomery County, Maryland 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 MAR 17 2012 (which is the date that this Resolution is mailed to all parties of record); and

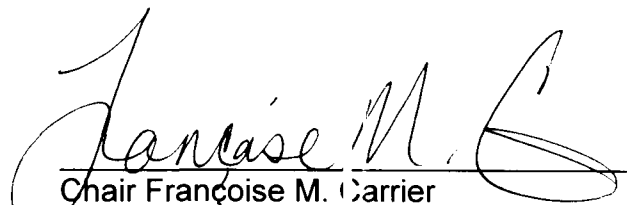
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

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