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

MCPB No. 12-30
Preliminary Plan No. 120120060
North Bethesda Market II
Date of Hearing: March 1, 2012

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 12, 2011, the Planning Board approved Sketch Plan No. 320110030 ("Sketch Plan") establishing several binding elements, including a maximum density of 740,528 square feet of total development including a maximum of 368,000 square feet of non-residential development, and 392,000 square feet of residential development on 4.41 acres (gross) of land split-zoned CR3 C1.5 R2.5 H150 and CR4 C3.5 R3.5 H300, located in the southeast quadrant of the intersection of Nicholson Lane and Woodglen Drive ("Property" or "Subject Property") in the White Flint Sector Plan ("Sector Plan") area; and

WHEREAS, on August 24, 2011, JBG/Nicholson Lane East, LLC ("Applicant"), filed an application for approval of a preliminary plan for one lot; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120120060, North Bethesda Market II ("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 February 17, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report" or "Report"); and

WHEREAS, on March 1, 2012, the Planning Board held a public hearing on the Application (the "Hearing"); and

Approved as to
Legal Sufficiency:

Christina Soma 3/28/12

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

WHEREAS, on March 1, 2012, the Planning Board approved the Application, subject to certain conditions, on motion of Commissioner Presley, seconded by Commissioner Anderson, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120120060, subject to the following conditions:

1. Approval is limited to one (1) lot for a maximum density of 740,528 square feet of total development including up to 368,000 square feet of commercial uses and up to 392,000 square feet of residential uses for up to 414 residential units, including a minimum of 12.5% moderately priced dwelling units (MPDUs). Any non-residential floor area above 348,528 square feet (up to a maximum of 368,000 square feet) must be accompanied by an equal reduction in residential floor area such that the total floor area does not exceed 740,528.
2. The Applicant must dedicate, and the record plat must reflect, the Sector Plan recommended 150-foot right-of-way (75 feet from centerline) and the Sector Plan recommended 12-foot reservation (an additional 6 feet from each right-of-way line) for a total of 81 feet from centerline for Rockville Pike (MD 355) as shown on the Preliminary Plan.
3. The Applicant must dedicate, and the record plat must reflect, the Sector Plan recommended 90-foot right-of-way (45 feet from centerline) for Nicholson Lane as shown on the Preliminary Plan.
4. The Applicant must dedicate, and the record plat must reflect, the Sector Plan recommended 80-foot right-of-way (40 feet from centerline) for Executive Boulevard as shown on the Preliminary Plan. Dedication for truncation at the intersection of Executive Boulevard and Woodglen Drive will occur at the time of future redevelopment of the existing commercial building that is being retained.
5. The Applicant must provide bicycle parking spaces as part of the site plan per at least the minimum number required by the Zoning Ordinance.
6. The Applicant must enter into a Traffic Mitigation Agreement with the Montgomery County Department of Transportation (MCDOT) and the Planning Board to participate in the North Bethesda Transportation Management District (TMD) and assist in achieving and maintaining the non-auto driver mode share goals recommended in the White Flint Sector Plan. The Traffic Mitigation Agreement must be executed prior to release of any building permits. One of the trip reduction measures should be providing a centralized location within the

overall site for bike sharing docks approximately 8-by-40 feet as required by MCDOT.

7. The Applicant shall comply with the White Flint Urban District requirements when it is established by the Montgomery County Council.
8. At the time of the issuance of the first occupancy permit for the project, the Applicant shall prepare and submit a supplemental traffic signal warrant study for the intersection of Rockville Pike and Executive Boulevard as required by the Maryland State Highway Administration (SHA) and/or MCDOT if it is determined that such a study is necessary to supplement the previous signal warrant study prepared by the Applicant of Preliminary Plan No. 120060310 – North Bethesda Market I. The installation of the signal and associated intersection improvements shall be the responsibility of the Special Taxing District.
9. The Applicant must prepare and submit a traffic signal warrant study for the intersection of Woodglen Drive and Executive Boulevard to MCDOT. The study must be submitted prior to recordation of the plat unless amended by MCDOT.
10. All required offsite forest conservation areas must be placed in a Category I Conservation Easement. Category I Conservation Easements must be platted prior to any clearing or grading occurring on site.
11. Substitute approved non-invasive and non-exotic species for *Catalpa* species in the planting plan for trees taken for afforestation credit.
12. Applicant to submit and obtain approval of the forest conservation Certificate of Compliance for off-site forest banking prior to any clearing or grading occurring on site.
13. The Applicant must comply with the conditions of approval of the MCDOT letter dated February 3, 2012. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
14. The Applicant must comply with the conditions of approval of the SHA letter dated January 17, 2012. These conditions may be amended by SHA, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
15. The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management concept approval letter dated August 31, 2011. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
16. The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s), as applicable.
17. The Applicant must satisfy provisions for access permits as required by SHA.
18. The Applicant must comply with the conditions of the Montgomery County Fire and Rescue Service (MCFRS) Development Review Committee memo dated September 26, 2011.

- a. These conditions may be amended by MCFRS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - b. The Applicant must provide the final MCFRS approval letter and final approval of the fire department access plan prior to approval of the record plat.
19. No clearing, grading, or recording of plats prior to certified site plan approval.
 20. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined at site plan.
 21. 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 right-of-way location, width, or alignment, the Applicant must obtain approval of a preliminary plan amendment prior to certification of the site plan.
 22. 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 this lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
 23. Prior to the issuance of any residential building permit covered by this Preliminary Plan, the Applicant must make a School Facilities Payment at the elementary and middle school levels to the Montgomery County Department of Permitting Services. The Applicant is proposing high/low rise w/parking residential units as defined by the Annual School Test effective July 1, 2011. This amounts to \$819.59 per residential unit at the elementary school level, and \$991.03 per residential unit at the middle school level. If the type of residential units changes the applicable school facilities payment, per the Annual School Test effective July 1, 2011, should apply.
 24. The non-transportation portion of 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.
 25. All necessary easements must be shown on the Record Plat.

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 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 Property is in the NoBe District (Block 2) within the *Sector Plan*. The Sector Plan rezoned the property to commercial residential (“CR”) zones, specifically CR4, C3.5, R3.5, H300 and CR3, C1.5, R2.5, H150. The area near the intersection of Woodglen Drive and Executive Boulevard is in the CR3 zone, while the remainder of the Property is in the CR4 zone.

The Sector Plan’s general recommendations for the Property states that the “block contains a significant redevelopment opportunity north of Executive Boulevard and could include a hotel, retail, residential uses, and offices.” It also states that “building heights maybe less than 150 feet to achieve compatibility with the residential development southwest of this block.” None of the major community facilities proposed in the Sector Plan are intended to be located on the Subject Property.

The Preliminary Plan redevelops the Subject Property with the mix of uses envisioned by the Sector Plan. The existing office building (approximately 45 feet tall) at the intersection of Woodglen Drive and Executive Boulevard will remain, which is closest to the residential development to the southwest.

Street Network

The street network is consistent with the Sector Plan recommendation for an internal private street network. The approved internal private street, with different paving patterns, is consistent with the Sector Plan’s recommendation for local streets. Local streets, according to the Sector Plan, “provide access into the interior of the blocks and can have special features to distinguish the different enclaves of development from each other, such as distinctive paving materials.”

Woodglen Drive is classified as a commercial business street (B-3) with a 70 foot right-of-way and Nicholson Lane is classified as an arterial roadway (A-69) with a 90 foot right-of-way. Executive Boulevard, between Woodglen Drive and Rockville Pike (MD 355), was constructed when North Bethesda Market I was developed. Executive Boulevard (B-7) is a commercial business street with an 80 foot right-of-way. An easement was granted for the Subject Property during the North Bethesda Market I approval via Preliminary Plan No. 120060310. Condition 8 (b). The Applicant will dedicate the additional 3.5 feet of right-of-way for Executive Boulevard Extended with this Preliminary Plan.

An urban boulevard is envisioned for Rockville Pike with improved pedestrian sidewalks, on-road bicyclist accommodation, and bus priority lanes. Rockville Pike is classified as a major highway with a 150 foot right-of-way. The Sector Plan allows for the right-of-way for MD 355 to be increased to 162 feet with the additional dedication placed in reservation. The Montgomery County Department of

Transportation has initiated a Countywide Bus Rapid Transit (BRT) Study that will inform the location of BRT, either in the median or curb lane. The Preliminary Plan shows dedication along MD 355 up to 75 feet with an additional 6 feet in reservation.

The Preliminary Plan shows the required dedication for Executive Boulevard, Nicholson Lane, and Rockville Pike.

Bikeway Network

Woodglen Drive, between Edson Lane and Nicholson Lane, is identified as a dual bikeway (SP-41 and LB-4), and a bike lane is recommended on Nicholson Lane (BL-27). The Sector Plan also recommends the establishment of a recreational loop on Nicholson Lane, which will occur in the future. The Applicant is providing the bikeways for Woodglen Drive and Nicholson Lane as required by the Sector Plan.

Environment

Environmental site design techniques, increasing the tree canopy in the Sector Plan area to 20 percent, and minimization of carbon emissions are some of the environmental recommendations in the Sector Plan. The site plan indicates green roofs for all of the new buildings. A green roof is already in place on the existing office building that will be retained. The streetscape for the Paseo, private street, Woodglen Drive and Rockville Pike will have canopy trees that are closely spaced.

It is unknown at this time what other onsite environmental benefits, such as on-site renewable energy sources or maximization of LEED or Energy Star standards, the Applicant will utilize for this Property. This Application will also minimize parking, which is viewed as an environmental benefit. These measures will further implement the Sector Plan's environmental recommendations.

Utilities

The Sector Plan recommends undergrounding of utilities noting that "undergrounding utilities and locating 'wet' and 'dry' utilities under the pavement or under the sidewalk will allow the street tree canopy space to grow." The Applicant will utilize underground utilities along the east side of Woodglen Drive. The Special Taxing District is responsible for undergrounding of utilities along Rockville Pike and Nicholson Lane.

White Flint Design Guidelines Compliance

The Planning Board Approved White Flint Urban Design Guidelines (2010) provides specific recommendation for open space, streets, and buildings in the NoBe district. Some of the recommendations are:

- Streetscape elements along business streets should extend into proposed streets to ensure pedestrian continuity.

- Encourage compatibility of streetscape elements between newly constructed and future developments along Rockville Pike.
- Provide signage along designated recreation loop extension.

The Preliminary Plan shows steps, fountains, and seating that extends to the private streets as envisioned by the Design Guidelines. The streetscape elements approved along Rockville Pike for the Subject Property have been designed consistent with the Sector Plan vision, and have been designed to connect to the existing development to the south and to allow for future connection as part of future development on the adjoining property to the north. Signage for the recreation loop extension will be provided in the future when the recreation loop is established.

Therefore, based on the analysis above and with the conditions of approval, the Planning Board finds the Preliminary Plan substantially conforms to the Approved and Adopted 2010 White Flint Sector Plan.

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

Site Location and Vehicular Site Access Points

The site of the subject mixed-use development is located on the block formed by Rockville Pike on the east, Executive Boulevard to the south, Woodglan Drive to the west, and Nicholson Lane to the north. The vehicular access points are proposed from all four roadways.

Transportation Demand Management

The Property is within the boundary of the North Bethesda TMD. The Applicant must enter into a traffic mitigation agreement to participate in the North Bethesda TMD. The Sector Plan recommends that the TMD achieve a 39% non-auto driver mode share goal for employees that consists of a 26% transit mode share, 5% ridesharing, and 8% other commuting modes of transportation.

Public Transit Service

Ride-On routes 5 and 46, and Metrobus J-5 operate along the Property's eastern boundary on Rockville Pike. The Property is located ¼ mile from the White Flint Metrorail Station.

Sector Plan Roadway and Bikeway

In accordance with the Sector Plan and Countywide Bikeways Functional Master Plan, the Sector Plan roadways and bikeways are as follows:

1. Rockville Pike (MD 355) is designated as a major highway, M-6, with a recommended 150-foot right-of-way and reservation for 12 additional feet (i.e.,

for a total of 162 feet) with a shared use path, Local Bikeway, LB-5 (on the east side). MCDOT's Capital Improvements Program Project No. 501116, White Flint District West Transportation, includes reconstruction of Rockville Pike.

2. Nicholson Lane is designated as an arterial, A-69, with a recommended 90-foot right-of-way and recommended bike lanes, BL-27.
3. Woodglen Drive or Mid-Pike Spine is designated as a business street, B-3, with a recommended 70-foot right-of-way and a dual bikeway (bike lanes and a shared use path on the east side).
4. Executive Boulevard is designated as a business street, B-7, with a recommended 80-foot right-of-way and the White Flint recreation loop extension (on the north side) between Rockville Pike and the internal private street on the Subject Property.

Transportation Adequate Public Facilities Review

In lieu of the typical Local Area Transportation Review and Policy Area Mobility Review tests, the transportation Adequate Public Facilities test would be satisfied for new developments in the White Flint Sector Plan area by requiring the property owners to participate and pay for infrastructure improvements as part of the White Flint Special Taxing District. The revenue generated from this project will go towards funding the MCDOT Capital Improvements Program Project No.501116, White Flint District West Transportation, which includes reconstruction of Rockville Pike.

Other Public Facilities and Services

Except for schools, other public facilities and services are available and will be adequate to serve the proposed development. The Subject Property is served by public water and sewer. Gas, electric, and telecommunications services are also available to serve the Property. Police stations, firehouses, and health services are currently operating within the standards set by the effective Subdivision Staging Policy. Pursuant to County Council Resolution 16-1324, adopted April 27, 2010, the Property is exempt from LATR and PAMR analysis because it is subject to payments under the White Flint Special Taxing District. The Application has been reviewed and conditionally approved by MCFRS, which must verify that the proposed development has adequate access for emergency vehicles prior to recordation of the plat.

The Property is located in the Walter Johnson High School Cluster, which requires a School Facilities Payment at the elementary and middle school levels. This amounts to \$819.59 per residential unit at the elementary school level, and \$991.03 per residential unit at the middle school level. The School Facilities Payment must be made prior to the issuance of any residential building permit covered by this Preliminary Plan.

Therefore, based on the analysis above and with the conditions of approval, the Planning Board finds public facilities are adequate to support and service the area of the Preliminary Plan.

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

The lot has been reviewed for compliance with 50-29(a) of the Subdivision Regulations. The Planning Board finds that the size, shape, width, and area of the lot are appropriate for the location within the subdivision.

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

Environmental Guidelines

A Natural Resource Inventory/Forest Stand Delineation ("NRI/FSD") for the Property was approved by Staff on August 30, 2010. The Property contains no forest, streams or stream buffers, wetlands or wetland buffers, 100-year floodplains, or rare, threatened or endangered species.

Forest Conservation

The net tract area of the site is 4.41 acres. Based on the Mixed-use Development Area land use category, the required afforestation is 0.66 acres. The Preliminary and Final Forest Conservation Plans satisfy this requirement with a combination of 0.21 acres of credit for on-site landscaping, and 0.45 acres of off-site reforestation credit to be fulfilled at an approved forest conservation bank.

Therefore, the Planning Board finds the Preliminary and Final Forest Conservation Plan meets the Environmental Guidelines and Forest Conservation Law.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the Property. This finding is based on the determination by DPS that the Stormwater Management Concept Plan approval meets DPS' standards.*

A stormwater management concept plan was approved by MCDPS on August 31, 2012, meeting stormwater management requirements through a variety of Environmental Site Design techniques, including the use of green roofs and micro-bioretenion, to be supplemented by underground filters.

BE IT FURTHER RESOLVED that for the purpose of this Resolution, the term "Applicant" shall also mean the developer, the owner or any successor in interest to the terms of this approval.

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 Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution is the written opinion of the Planning Board, and the date of this Resolution is APR 19 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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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of an Order 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 Dreyfuss and Presley voting in favor of the motion, and Commissioner Anderson absent at its regular meeting held on Thursday, April 5, 2012, in Silver Spring, Maryland.



Françoise Carrier, Chair
Montgomery County Planning Board