



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

MCPB No. 12-58
 Site Plan No. 82008007A
 814 Thayer Avenue
 Date of Hearing: May 31, 2012

JUN 19 2012

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on June 3, 2008, the Planning Board, by Resolution MCPB No. 08-57 approved Site Plan No. 820080070, for fifty-two multi-family dwelling units, including seven moderately priced dwelling units ("MPDUs"), on 0.64 acres of CBD-0.5- zoned-land, located on Thayer Avenue, approximately 150 feet east of Fenton Street ("Subject Property"), in the Silver Spring Central Business District ("CBD") master plan, ("Master Plan") area; and

WHEREAS, on January 12, 2012, Residences at Thayer, LLC, ("Applicant") filed an application for approval of an amendment to the previously approved site plan to:

1. increase the minimum percentage of affordable housing units from 12.5% MPDUs to 80% Federal Tax Credit-financed housing units;
2. modify the building footprint along Thayer Avenue;
3. redesign the public use space and the public streetscape along the Thayer Avenue site frontage;
4. revise the public art concept; and
5. reduce the obligation to provide off-site streetscape improvements on Thayer Avenue.

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82008007A, 814 Thayer Avenue ("Amendment" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated May 18, 2012, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

Approved as to
 Legal Sufficiency:

[Handwritten Signature] 6/4/12

8787 Georgia Avenue, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, on May 31, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board identified as justification for approval of the proposed modifications, both the public good of the additional affordable housing and the Applicant's response to the community preference to omit brick pavers from the standard Silver Spring streetscape improvements; and

WHEREAS, on May 31, 2012, the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Dreyfuss, seconded by Commissioner Presley, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board APPROVES Site Plan No. 82008007A for fifty-two multi-family dwelling units, including forty MPDU-equivalent dwelling units, by adding/modifying the following conditions:¹

1. Project Plan Conformance

The Applicant must comply with the conditions of approval for project plan 920070120, except as modified below with regard to MPDUs, public use space, and streetscape improvements.

2. Preliminary Plan Conformance

The Applicant must comply with the conditions of approval for preliminary plan 120070410 except as modified below with regard to MPDUs and the revised stormwater concept.

3. Site Plan Conformance

The Applicant must comply with the conditions of approval for site plan 820080070 except as modified below with regard to transportation.

4. Stormwater Management

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") Water Resources Section in its letter dated March 13, 2012, ("Agency Letter"), and does hereby incorporate them as conditions of approval of this Amendment. Therefore, the Applicant must comply with each of the recommendations as set forth in in the Agency Letter, which may be amended by MCDPS Water Resources Section, provided

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

that the amendments do not conflict with other conditions of the Site Plan approval.

5. LEED Certification

The Applicant must achieve a Leadership in Energy and Environmental Design ("LEED") 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 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.

6. Maintenance of Public Amenities

- a. The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, public use space and public art as identified on the certified site plan.
- b. As stipulated in a letter from the Downtown Silver Spring Urban District, dated April 13, 2012, the Silver Spring Urban District will maintain the streetscape located in the public right of way. The elements of the streetscape which match the M-NCPPC approved standard Silver Spring streetscape will be maintained at no additional charge. Cost for maintenance of non-standard materials in the public right of way will be the responsibility of the owner of the Subject Property.

7. Transportation

- a. This condition supersedes Site Plan 820080070 approval condition #3 in its entirety.
- b. A right of way permit will be required for any access onto the public alley. As part of that permit, MCDPS will review the geometric design and bollard locations and will require the Applicant to provide signing on the driveway as follows:
 - i. A "Stop" sign and a "Right Turn Only" sign for vehicles leaving the garage and loading area into the alley;
 - ii. A "No Through Trucks" sign for trucks entering from Fenton Street;
 - iii. Subject to DOT approval, "No Through Trucks" painted on the paved alley surface;

- iv. The signs identified in conditions 7.b.i. and 7.b.ii. must be installed to apply to any construction vehicles accessing the site from the alley; and
- v. The signs must conform to the Federal Highway Administrations *Manual on Uniform Traffic Control Devices (MUTCD)* and must be shown on the certified site plan.
- c. By certified site plan, the Applicant must revise the vehicular entrance to the building from the alley to channelize turns toward Fenton Street.
- d. Subject to the property owners' permission and necessary easements, the Applicant must install up to a total of six (6) bollards to be located on the private residential lots in the northwest and southwest corners of the intersection of the public alley and Grove Street.
 - i. Except as otherwise provided by agreement with the private residential lot owners, the Applicant must install the bollards during construction of the building. Installation of the bollards is not a precondition for any building or occupancy permits.
 - ii. This shall not include relocation of any utilities or fences on the private residential lot.
 - iii. The owners of the residential lots may remove the bollards at any time without requiring an amendment of this Site Plan approval.

8. Streetscape

The Applicant must provide streetscape treatment along the Subject Property frontage as illustrated on the certified site plan, including:

- a. replacement of the existing utility pole-mounted "cobra" streetlight with two Washington Globe streetlights;
- b. undergrounding of telephone, cable, and other low-voltage lines running between the utility poles located in the northwest corner of the site and on the adjacent residential property to the east; and
- c. relocation and replacement of the existing utility pole-mounted transformers to the public use space in front of the building.
- d. Except as otherwise provided in this condition, the utility pole located in front of the site may stay.
- e. All other aspects of the Silver Spring Streetscape Guidelines must be provided including the appropriate tree pits and amended soil panels. The pavers may be omitted and replaced with a scored concrete pattern.

9. Moderately Priced Dwelling Units ("MPDUs")

- a. The Applicant must provide on-site a minimum of 80 percent of the total number of dwelling units as MPDUs, or equivalent units as defined in County Executive Regulation 13-05, paragraph 3.2. The Applicant is not receiving any density bonus for provision of the MPDUs.

- b. Upon expiration of the affordability period for the Low-Income Housing Tax Credit ("LIHTC") affordable units, 12.5 percent of the total number of dwelling units will be administered as MPDUs in accordance with Chapter 25A for the balance of the applicable MPDU affordability period.
- c. The Applicant must execute an agreement to build with the Department of Housing and Community Affairs prior to release of the building permit.

10. Architecture

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A3.0.1 and A3.0.2 of the submitted architectural drawings plans stamped "Received" by the M-NCPPC on December 20, 2011, as determined by Staff.

11. Public Use Space

- a. The Applicant must provide a minimum of 22.5 percent of the net lot area for on-site public use space and a minimum of 9 percent of the net lot area for off-site public amenity space.
- b. The public use space must be easily and readily accessible to the general public and available for public enjoyment.

12. Public Art

- a. The Applicant must provide a continuous exhibit of a minimum of one public art installation in the public use space in front of the building along Thayer Avenue.
- b. By Certified Site Plan, the Applicant must execute an agreement with the Art Department of the Takoma Park campus of Montgomery College to provide a revolving series of artwork to be located in the public use space in front of the building. This executed agreement must include the concept for the initial artwork and its installation, the process for selecting new artworks, and the process for the removal of installed artworks and the installation of new ones.
- c. The concept for the initial artwork must be reviewed by the M-NCPPC Art Review Panel prior to building permit.
- d. Before the final use and occupancy permit, the Applicant must install the initial artwork in the public use space.
- e. The Applicant must provide lighting for the artwork for evening and nighttime illumination.

13. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for multi-family residential development.
- b. All onsite downlight fixtures must be full cut-off fixtures.

- c. Deflectors shall be installed on all uplighting fixtures, including those for the public art that may cause potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d. Light poles shall not exceed the height specified on the Certified Site Plan.

BE IT FURTHER RESOLVED, that all other site plan conditions of approval for this project remain valid, unchanged and in full force and effect.

BE IT FURTHER RESOLVED, that all site development elements as shown on 814 Thayer Avenue drawings stamped by the M-NCPPC on March 30, 2012, 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 (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan in any manner that would affect the Board's original findings, and therefore all findings not specifically addressed remain in effect.

BE IT FURTHER RESOLVED, that this Resolution 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 this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 19 2012 (which is the date that this resolution is mailed to all parties of record); and

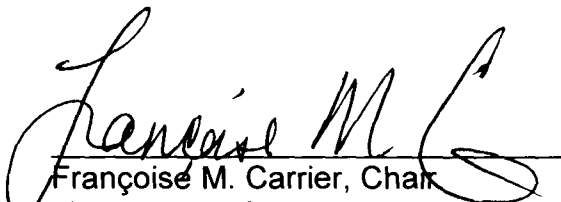
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Vice Chair Wells-Harley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley voting in favor of the motion, and Commissioner Anderson absent, at its regular meeting held on Thursday, June 14, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board