



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

**MAY 1 2013**

MCPB No. 13-22  
Preliminary Plan No. 120130020  
Studio Plaza  
Date of Hearing: February 21, 2013

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on September 11, 2012, Fairfield Investment Company LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision to create 3 lots on 5.11 acres of land in the CBD-1 and Fenton Village Overlay zones, located on the block bound by Thayer Avenue, Fenton Street, Silver Spring Avenue, and Mayor Lane ("Subject Property"), in the Silver Spring CBD Policy Area and the Silver Spring CBD Sector Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120130020, Studio Plaza ("Preliminary Plan" 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 February 11, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on February 21, 2013, 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, on February 21, 2013, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfus, seconded by Commissioner Wells-Harley, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfus, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120130020 to create 3 lots on the Subject Property, subject to the

---

Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

following conditions:<sup>1</sup>

1. The development must comply with the conditions of approval for Project Plan 920070010 as listed in the Planning Board resolution No. MCPB 09-104, dated September 15, 2009.
2. This Preliminary Plan is limited to 3 lots for a maximum of 626,781 square feet of base density (exclusive of bonus residential density for providing MPDUs), and a maximum net new trip generation of 297 morning peak-hour trips and 351 evening peak-hour trips (based on a traffic study for 739,553 square feet of development, with a maximum 625,373 square feet of residential development, including a maximum of 749 total dwelling units, and 114,180 square feet of commercial uses, including 36,180 square feet of retail and 78,000 square feet of office).
3. For each site plan approval sought in conjunction with this Preliminary Plan for the build-out of Studio Plaza, the Applicant must demonstrate at the time of that site plan review, with a traffic statement or similar instrument, that the total cumulative number of trips generated by the mix of uses, including any density bonuses, does not exceed the maximum trip generation described above.
4. Prior to recordation of any plat, for the properties identified as parcels 1, 20, and 27 on the Preliminary Plan, the Applicant must record a document in the County Land Records that identifies that a portion of the density attributable to those parcels was utilized for Preliminary Plan 120130020. All record plats associated with this preliminary plan must reference these documents.
5. 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 issuance of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building

---

<sup>1</sup> 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.

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.

6. The Applicant must comply with the conditions of approval for the revised preliminary Forest Conservation Plan No. 120130020, approved as part of this Preliminary Plan, subject to the following conditions:
  - a. Final Forest Conservation Plan must include detailed and specific tree protection measures for off-site trees affected by the Limits of Disturbance (LOD).
  - b. A fee-in-lieu that satisfies the 0.64 acre afforestation requirement must be submitted by the Applicant then approved by M-NCPPC staff prior to any clearing, grading or construction activity within the project area.
  - c. The Final Forest Conservation plan must be signed by the plan preparer and Applicant, and the Applicant must provide and sign the developer's certificate.
  - d. The sediment and erosion control plan and stormwater management plan for each phase must be consistent with the Limits of Disturbances (LODs) and the associated tree/forest preservation measures of the Final Forest Conservation Plan.
  - e. The Applicant must satisfy all conditions prior to Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.
7. The Applicant must satisfy all conditions prior to Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.
8. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated February 1, 2013, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

9. Prior to Certification of the Preliminary Plan, remove all references to "Private Street" from the Preliminary Plan.
10. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
11. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated January 21, 2009, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
12. The Applicant must dedicate and show on the record plat(s) the following dedications:
  - a. Thirty feet from the existing pavement centerline along the Subject Property frontage for Thayer Avenue.
  - b. Thirty-five feet from the existing pavement centerline along the Subject Property frontage for Silver Spring Avenue. For the property identified as part of Lot 7, recorded in Plat 54, dated January 23, 1904, a plat showing this dedication must be recorded in the land records of Montgomery County prior to issuance of any building permit for Lot 2.
  - c. Forty feet from the existing pavement centerline along the Subject Property frontage for Fenton Street.
13. 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/or to the design standards of all applicable road codes.
14. The record plat must show necessary easements.

15. All record plats must include a note that the lot includes public use space, and that the public use space show on the Certified Site Plan(s) must be maintained in perpetuity.
16. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.
17. The Subject Property is within the Blair High School cluster area. As applicable, the Applicant must make a School Facilities Payment to MCDPS at the middle school level at the high-rise unit rates for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
18. No clearing, grading or recording of plats prior to certified site plan approval for each phase.
19. For each phase of development, final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at Site Plan.
20. 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 location or right-of-way width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the site plan.

BE IT FURTHER RESOLVED, that, having considered 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 (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

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

The Silver Spring CBD Sector Plan sets forth a vision for the redevelopment of downtown Silver Spring based on six themes:

- Transit-oriented downtown
- Commercial downtown
- Residential downtown
- Civic downtown
- Green downtown
- Pedestrian-friendly downtown.

This plan meets the goals of each of these themes. The site is located approximately one-quarter mile from the future Silver Spring Transit Center, which will contain local and regional rail and numerous bus lines. It is also within a 2-minute walk of the future Purple Line station to be located at the intersection of Fenton Street and Wayne Avenue. The project includes a vertical mix of uses, with multi-family residential and office uses above retail, restaurant, and other street-activating ground floor uses. Central to the design is a large public green space composed of lawn, shade trees, shrubs and groundcovers. Highlighting the civic nature of the central green will be a significant public art component integrated with the design and configuration of the private drive and pedestrian mews that bisects it, helping it to reach out to the adjacent streets and the neighborhoods beyond. Finally, this urban infill project will expand and improve the street and pedestrian network and experience in Fenton Village, with through-block connections, attractive streets, and recreation, retail, and entertainment opportunities. Sidewalks along each street contained within or adjacent to the site will be upgraded street trees, upgraded street lights, and other improvements required as part of the Silver Spring streetscape standard.

The Silver Spring CBD Sector Plan further identifies five "Revitalization Areas," including Fenton Village, of which it states:

Pedestrian traffic in Fenton Village has declined due to a variety of real and perceived problems including lack of demand for the goods and services offered in Fenton Village, inadequate pedestrian circulation, concerns about security, the ability to attract office workers from the nearby Core, and the area's deteriorating visual image.

The area is also physically disjointed, due to a lack of significant renovation or infill development in recent years. In more unified shopping districts, retailers benefit from the combined drawing power of the individual stores. In Fenton Village, the disjointed

patterns of commercial activity and the lack of a resident population dilutes pedestrian traffic – a key component to retail vitality.

This plan specifically addresses those issues.

With the objective to “Revitalize Fenton Village by positioning it to benefit from redevelopment on the Urban Renewal site, facilitate housing that will upgrade the physical environment and bring in new residents, and provide a pedestrian-friendly environment that encourages people to stroll and stay,” the Sector Plan also made recommendations specific to Fenton Village.

The Plan increased the zoning in Fenton Village from CBD-0.5 to CBD-1, doubling the maximum density from FAR 1.5 to 3.0, identified locations for new housing (including this site) and open space, and established an overlay zone to help ensure compatibility. By complying with these various requirements, this plan fulfills the vision and goals of the Sector Plan.

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

As shown in the traffic study submitted by the Applicant, CLV values for intersections included in the study were estimated to be well below the Silver Spring CBD Policy Area Policy Area congestion standard (1,800 CLV). Based on this analysis, the Application satisfies LATR requirements. Further, the PAMR mitigation requirement for the development is fully mitigated during the morning peak-hour as well as during the evening peak-hour. The subject plan satisfies the PAMR requirements of the APF test.

Public facilities and services are available and will be adequate to serve the dwelling units. The subject property will be served by public water and sewer connections. 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 Growth Policy Resolution currently in effect. The Application has been reviewed and approved by the Montgomery County Fire and Rescue Service (MCFRS) who has determined that the property has adequate access for emergency vehicles.

For FY13, projects within the Blair cluster must make a school facilities payment at the middle school level. This project will comply with that requirement, as applicable, as determined by MCDPS.

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

This Application has been reviewed for compliance with the Subdivision Regulations of Montgomery County Code Chapter 50. The Application meets all applicable sections. Access and public facilities will be adequate to support the lots and uses. The lots meet the requirements of the zone, and are appropriate for the location of the subdivision.

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

The Planning Board approved a Preliminary Forest Conservation Plan (PFCP-920070010) on March 13, 2009. The net tract area was 4.41 acres with an afforestation requirement of 0.66 acres to be met both onsite (0.27 acres in landscaping credit) and offsite (0.39 acres in fee-in-lieu).

A revised Preliminary Final Forest Conservation Plan (120130020) was submitted on September 11, 2012. The net tract was decreased by 0.16 acres as a result of a reduction in offsite impacts. The Applicant will meet the total afforestation requirements of 0.64 acres through a fee-in-lieu payment under the Forest Conservation Law.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.*

The MCDPS Stormwater Management Section conditionally approved the Stormwater Management Concept for the Application January 21, 2009. The stormwater management concept consists of a waiver of on-site channel protection measures due to existing shallow storm drain inverts. On-site water quality control will be met via green roofs, flow based filters, and a hydrodynamic separator.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 85 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), 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 in the Montgomery County Land Records, 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     MAY 1 2013     (which is the date that this Resolution is mailed to all parties of record); and

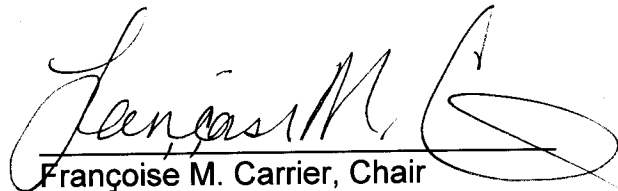


BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

**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 Commissioner Presley, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, April 25, 2013, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board