



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

JUL 26 2013

MCPB No. 13-53
Project Plan No. 920130040
Silver Spring Library Residential
Date of Hearing: April 18, 2013

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-2, the Montgomery County Planning Board is authorized to review project plan applications; and

WHEREAS, on January 18, 2013, Silver Spring Library Residences LP ("Applicant") filed an application for approval of a project plan for a building 110 feet tall, 160,000 square feet in size, containing mixed-use development of 9,000 square feet of commercial uses and 151,000 square feet of residential uses with a maximum of 155 dwelling units including 12.5% moderately priced dwelling units ("MPDU"s) and 16 workforce housing units ("WFHU"s) on ownership lot 32A ("Ownership Lot," or "Subject Property"), which is the southwestern portion of a 1.45 acre property located between Wayne Avenue and Bonifant Street along Fenton Street in the Silver Spring Central Business District on which the future Silver Spring Library will also be located; the Subject Property being zoned CBD-1 within the Fenton Village Overlay zone, within the Silver Spring CBD Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920130040, Silver Spring Library Residential ("Application" or "Project Plan"); 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 April 8, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

Approved as to
Legal Sufficiency:

 7/10/13

WHEREAS, on April 18, 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 April 18, 2013, the Planning Board voted to approve the Application subject to conditions, on motion of Commissioner Dreyfuss, seconded by 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, the Planning Board APPROVES Project Plan No. 920130040, Silver Spring Library Residential, for a building up to 110 feet in height and 160,000 square feet in size, containing mixed-use development with 9,000 square feet of commercial uses and 151,000 square feet of residential space with a maximum of 155 dwelling units provided that at least 50% of the total units are affordable units as defined by the Montgomery County Housing Policy including the statutorily required minimum of 12.5% of the total number of units as MPDUs, plus a minimum 32 units as WFHUs, on the Subject Property, subject to the following conditions:¹

1. Development Ceiling

The development² is limited to 160,000 square feet of gross floor area and a maximum 1.82 FAR over the 1.45 acre tract area including a maximum 9,000 square feet of commercial uses and a maximum 155 dwelling units.

2. Housing

The Applicant must provide at least 50% of the total number of units onsite (excluding the WFHUs) as affordable as defined by the Montgomery County Housing Policy, including the statutorily required minimum of 12.5% of the total number of units as MPDUs, consistent with the requirements of Chapter 25A; and a minimum 32 units as WFHUs consistent with the requirements of Chapter 25B, Article V.

3. Building Height and Mass

The development is limited to the building footprint as delineated in the Project Plan

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.

² The term development throughout this Resolution refers to the residential project, exclusive of the library being developed on the same site.

drawings submitted to MNCPPC dated April 8, 2013, unless modified at site plan review. The development is limited to a maximum building height of 110 feet as determined by the Montgomery County Department of Permitting Services ("MCDPS") approved building height measurement point.

4. Architecture

The exterior architectural character, proportion, material, and articulation must be substantially similar to the schematic elevations shown on Sheets A1.00 through AR.01 of the submitted architectural drawings dated April 8, 2013.

5. Public Use Space and Amenities

- a) The Applicant must provide a minimum of 15,294 square feet of public use space (24% of net lot area) on-site.
- b) As a public amenity, the Applicant must provide streetscape improvements per the Silver Spring Streetscape CBD Standard along the Subject Property's frontage on Bonifant Street.

6. Staging of Amenity Features

- a) The 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.

7. Maintenance

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.

8. Transportation

The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT"), in its letter dated March 20, 2013, and does hereby incorporate them as conditions of the Project Plan

approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT in a manner that does not conflict with other conditions of the Project Plan approval. Prior to recordation of minor subdivision plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.

BE IT FURTHER RESOLVED that all elements of Project Plan No. 920130040, Silver Spring Library Residential, stamped received by the M-NCPPC on April 8, 2013, are required except as modified by the above conditions of approval; and

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 Planning Board hereby adopts and incorporates by reference (except as modified herein) and having considered the entire record, all applicable elements of Section 59-D-2.42, and the relevant provisions of Section 59-D-2.43, the Planning Board, with the conditions of approval, FINDS:

(a) The development complies with all of the intents and requirements of the CBD-1 zone and Fenton Village Overlay zone as applied comprehensively to the Project.

The Subject Property is zoned CBD-1 within the Fenton Village Overlay Zone. Section 59-C-18.191 of the Montgomery County Zoning Ordinance establishes the purpose of this overlay zone:

It is the purpose of the Fenton Village Overlay Zone to address the special development issues in the Fenton Village area as identified in the Silver Spring Central Business District Sector Plan. Specifically, the zone is designed to:

- (a) Facilitate the implementation of an organized and cohesive development pattern that is appropriate for an urban environment;
- (b) Encourage attractive design and ensure compatibility with existing buildings and uses within and adjacent to the overlay zone;
- (c) Provide flexibility of development standards to encourage innovative design solutions;
- (d) Allow for the transfer of the public use space requirement to other properties within the Overlay District; and
- (e) Allow new uses.

With the inclusion of this residential project on the site, the Applicant facilitated the implementation of an organized and cohesive development pattern appropriate for an urban environment within this section of Silver Spring. The ground floor retail is

oriented towards the future library building in order to allow visitors of the library easy access to the retail area. The open space is configured to provide a buffer between the future Purple Line and development across Fenton Street while at the same time providing relief from the massing of the library and residential building. The main pedestrian entry to the residential units is located off of Bonifant Street to complement the less intense commercial development and residential properties on the opposite side of the street.

The building design includes a slightly varied roof line, contrasting building materials, a green roof, and balconies. The Applicant has incorporated sufficient elements into the building design to ensure compatibility with existing buildings and uses within and adjacent to the Fenton Village Overlay zone.

The public use space requirement of 20% of the net lot area is met over the entire Subject Property, with 24% provided, located primarily along the site's Fenton Street frontage.

The Application includes a building height of 110 feet to accommodate WFHUs under Section 59-A-6.18 of the Zoning Ordinance. The Planning Board can approve a building up to 110 feet in height in the Fenton Village Overlay zone pursuant to Section 59-C-18.192(b)(1)(C) of the Zoning Ordinance, provided that the additional building height is necessary to accommodate WFHUs, at least 33% of the project's floor area is residential, and where the additional height is placed near a major highway and decreases in the direction of the closest property zoned in any one-family residential classification. The Planning Board found that a building height of 110 feet is approximate because the building includes at least 33% residential floor area, the Applicant will provide a minimum of 32 WFHUs that require two additional floors, and because the building will have a substantial buffer of public open space nearest the block containing one-family residential homes creating an enlarged building setback from Fenton Street that satisfies the intent of this provision. As conditioned, the Applicant has committed to providing at least 50% of the total number of units as affordable as defined by the County's Housing Policy, contributing to the overall objectives for affordable housing in the County, further supporting the maximum building height in the Overlay Zone.

The FAR is calculated to be 1.82 over the entire Subject Property. This calculation is permitted pursuant to Section 59-C-6.234 footnote 25 of the Zoning Ordinance. This footnote states that the gross floor area of the publicly owned or operated government facility that is provided in satisfaction of the public facility and amenity requirements for the optional method of development under Section 59-C-6.2357 must not be counted in the gross floor area of the optional method project. The Application meets the density requirements because the overall density is 1.82 FAR

over the entire Site excluding the library, and a 2.71 FAR with the library; within the maximum density of 3.0 FAR.

(b) The development conforms to the Sector Plan and the Master Plan.

The Sector Plan envisions Fenton Village as a “diverse community of people living and working together to create a tightly-knit urban neighborhood, conducive to strolling and browsing; its businesses providing personal service and a traditional town atmosphere not found in shopping centers or malls.” More specifically, the objective for Fenton Village is 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 discusses the Fenton Village Overlay zone and how it would encourage redevelopment in Fenton Village by providing more flexibility in development standards and the range of permitted uses. The overlay zone was structured to ensure that new development is compatible with nearby uses and incorporates critical design elements, such as streetscaping and useful public open spaces.

The Applicant has sought some degree of flexibility in development standards for height, which the Planning Board considers reasonable. Furthermore, the Applicant has taken surrounding development into account in the design of the building. Commercial properties to the southwest are much smaller in scale when compared to the Application; however, these properties are zoned CBD-1 and redevelopment is anticipated to occur in the future. The Applicant will install streetscaping along the Bonifant Street site frontage, which could serve as a catalyst for further streetscape improvements. Finally, the Applicant's building design allows the public use space concept to be open and accessible to the general public.

The Sector Plan depicts a possible pedestrian/bike link between Bonifant Street and Wayne Avenue, within Fenton Village, on page 65 of the Plan. The Planning Board discussed a mid-block pedestrian connection from Bonifant Street to Wayne Avenue and determined that the Subject Property was not the appropriate location for this connection. Future redevelopment along Bonifant Street could occur at which time the connection should be further explored to improve connectivity between Fenton Village and the Urban Core of Silver Spring.

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

Adjacent properties include the 143 foot tall Crescent Condominium multi-family building to the northwest; to the northeast across Fenton Street there is redevelopment proposed up to 70 feet in height; and redevelopment potential exists to the southwest with heights up to 110 feet if WFHUs are included. This development adds a 110 foot tall building onto the future Silver Spring library site, which complements the character of existing development in the area. The building includes a uniform flat roof building buffered by the Purple Line tracks and urban community park on the north side of the site. Green roofs are located at the second floor terrace level and main roof of the building, which will enhance the viewshed of surrounding buildings. Service vehicles will conduct operations at the rear of the building by utilizing the alley, which will minimize disruptions along the building frontage within the pedestrian realm. Placement of the seven parking spaces accessed directly from the alley rather than the front of the building allows for a more uniform building design and ensures a more pedestrian friendly retail environment on the site. The "filling in" of the property will help create a more cohesive building line along Bonifant Street and will enhance this pedestrian corridor within Silver Spring.

(d) As conditioned, the development would 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, is subject to a traffic mitigation agreement that meets all the applicable requirements.

The building would be built in one phase. The Application satisfies the relevant Adequate Public Facility ("APF") tests for a mixed use building consisting of 12,000 square feet of retail and 151,000 square feet of residential development. The Applicant elected to test existing transportation facilities for a higher retail square footage than what is included in this Application to allow flexibility to make amendments to the retail mix in the future. A traffic study, dated February 27, 2013, was submitted for this Application in accordance with the *LATR & TPAR Guidelines* because the development is estimated to generate 30 or more total 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. That traffic study determined that the residential building would generate a total of 53 new peak-hour trips during the weekday morning peak period and 71 new peak-hour trips during the weekday evening peak period. However, the CLV values in the existing, background, and total traffic conditions for the study intersections are below the Silver Spring CBD Policy Area's congestion standard of 1,800 CLV. Based on this analysis, this application satisfies the LATR requirements of the APF test.

Since the development is within the Silver Spring CBD Policy Area, the project is exempt from both the roadway and transit tests set forth in the 2012-2016 Subdivision Staging Policy. As a result, the applicant is not required to pay a transportation impact tax to satisfy the TPAR requirement.

The Application allows for adequate access for Fire and Rescue vehicles as determined by the Montgomery County Fire Marshal. The total number of students generated by 155 multi-family high rise units is projected to be approximately seven elementary, six middle, and five high school students. The project is located in the service areas of Sligo Creek Elementary School and Silver Spring International Middle School, and in the base area of Northwood High School. The current FY 2013 Subdivision Staging Policy requires a high school facility payment for approvals in the Northwood cluster schools, which will be a condition of site plan approval.

The Application includes seven covered parking spaces accessed directly from the service alley that intersects with Bonifant Street. Seven parking spaces equates to 3% of the parking requirement for a building of this size. The Planning Board waived the remaining 97% parking requirement to provide relief from payment of this tax, because the Applicant agreed to provide a substantial public benefit by providing at least 50% of the units as affordable units.

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

Construction of a standard method project would yield a building constructed to the underlying CBD-1 zone standard method provisions, which stipulates a maximum 60 foot building height and FAR up to 2.0. The optional method allows greater densities at key locations, such as proximity to mass transit, in exchange for greater public amenities and facilities. With a 1.82 FAR, and 2.71 FAR with inclusion of the library, more space is available for public use on the site. For a site located in the Fenton Village Overlay zone, a building constructed to standard method requirements would have little public amenities or open space, and would not necessarily contribute to a cohesive development pattern that is appropriate for an urban environment or be considered an innovative design solution for this site. Additionally, the substantial number of affordable housing units provided far exceeds what could be achieved under the standard method. Given the recommendations of the governing Overlay zone, Sector Plan, and the Subject Property's proximity to transit, employment and services, the Planning Board finds the optional method of development is much more desirable and efficient for this particular site.

- (f) The development will include moderately priced dwelling units in accordance with Chapter 25A of the Montgomery County Code.*

The Application includes 18 of the base number of units (137) as MPDUs, or 12.5% MPDUs, in accordance with Chapter 25A. The application was approved by the Montgomery County Department of Housing and Community Affairs. In furtherance

of this public policy, at least half of the units will ultimately be offered as affordable units as defined by the Montgomery County Housing Policy.

- (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, the Project Plan may be approved by the Planning Board based on the following findings:*

The development does not include any transfers of public open space or development density from one lot to another. Because this residential project is located on an Ownership Lot, the public use space requirement is calculated over the entire site.

- (h) The development satisfies applicable requirements for forest conservation under Chapter 22A of the Montgomery County Code.*

The July 1, 2010 preliminary forest conservation plan was reviewed as part of the Mandatory Referral application for the Silver Spring library site, which included the Subject Property. In a letter dated July 13, 2010, Staff approved the final forest conservation plan, and conditions of that plan have been met during clearing and grading for the library.

- (i) The development satisfies applicable requirements for water quality resources protection under Chapter 19 of the Montgomery County Code.*

The Applicant's stormwater management concept approved on March 28, 2013, consists of Environmental Site Design ("ESD") to the maximum extent practicable by using green roof technology and micro-biofiltration. Due to site limitations, full ESD volume cannot be accommodated and a waiver of treatment for the remaining ESD target volume was granted by MCDPS.

- (j) Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the applicable master or sector plan and serves the public interest better than providing the public use space or public facilities and amenities on-site.*

The development does not include any transfers of public open space or development density from one lot to another. Because this residential project is located on an Ownership Lot, the public use space requirement is calculated over the entire site area.

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 Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

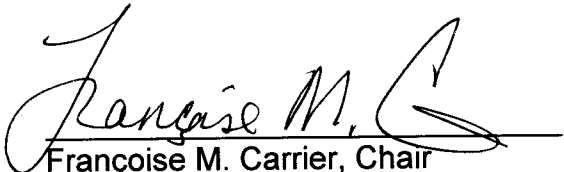
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Planning Board, and that the date of this Resolution is JUL 26 2013 (which is the date that this Resolution is mailed to all parties of record); and

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).

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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 Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 18, 2013 in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board