



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

**JUL 26 2013**

MCPB No. 13-54  
Site Plan No. 820130100  
Silver Spring Library Residential  
Date of Hearing: April 18, 2013

**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 January 18, 2013, Silver Spring Library Residences LP ("Applicant") filed an application for approval of a site 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 site plan application was designated Site Plan No. 820130100, Silver Spring Library Residential ("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 April 8, 2013 setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

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

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Approved as to  
Legal Sufficiency

*Christina M. - 7/10/13*  
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WHEREAS, on April 18, 2013, the Planning Board voted to approve the Application subject to conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, 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 the mixed-use development with 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, including a waiver of 97% of the parking requirement, subject to the following conditions:<sup>1</sup>

### **Conformance with Previous Approvals**

#### **1. Project Plan Conformance**

The development<sup>2</sup> must comply with the conditions of approval for Project Plan No. 920130040, or as amended.

### **Environment**

#### **2. Stormwater Management**

The development is subject to Stormwater Management Concept approval conditions dated March 28, 2013, unless amended and approved by the Montgomery County Department of Permitting Services ("MCDPS").

### **Public Use Space, Facilities and Amenities**

#### **3. Public Use Space, Facilities, 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.

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<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.

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

- b. As a public amenity, the Applicant must provide streetscape improvements per the Silver Spring CBD Streetscape Standard along the Subject Property's frontage on Bonifant Street; including the undergrounding of utilities.
- c. All public use space areas on the Subject Property must be completed prior to issuance of use and occupancy permits for the residential development.

4. Recreation Facilities

- a. The Applicant must meet the square footage requirements for all of the applicable recreational elements and demonstrate on the certified Site Plan that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b. The Applicant must provide the following recreation facilities: indoor community space, picnic/sitting area, pedestrian system, and an indoor fitness facility.

**Adequate Public Facilities**

5. Transportation

- a. The development is limited to a maximum 155 residential dwelling units and 9,000 square feet of commercial uses.
- b. The Applicant must enter into a Traffic Mitigation Agreement ("TMAg") with the Planning Board and the Montgomery County Department of Transportation ("MCDOT") to participate in the Silver Spring Transportation Management District ("TMD"). The Applicant must execute the TMAg prior to the release of any building permit for the development.
- c. The Applicant must provide 20 private and 10 public bicycle parking spaces. The private spaces must be in a secured and well-lit bicycle room adjacent to the covered parking area and the public spaces must be inverted-U racks installed along the building's retail frontage (weather protected preferred). Specific locations of the public bicycle rack locations must be identified on the certified Site Plan.
- d. The Planning Board has accepted the recommendations of the Maryland Transit Administration ("MTA") in its letter dated March 21, 2013, and does hereby incorporate them as conditions of the Site Plan approval. Therefore,

the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MTA provided that the amendments do not conflict with other conditions of the Site Plan approval.

- e. The Applicant must provide an unobstructed sidewalk width of at least 6 feet along the Subject Property's Bonifant Street frontage and at least 8 feet along the east building face (along the proposed Purple Line transitway alignment internal to the site).

#### 6. Schools

The Subject Property is within the Northwood High School Cluster area. The Applicant must make a School Facilities Payment to MCDPS at the high school level at the multifamily 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.

#### 7. Validity

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

### **Density & Housing**

#### 8. Moderately Priced Dwelling Units

The Applicant must comply with the Department of Housing and Community Affairs ("DHCA") letter dated March 14, 2013 and include the following:

- a. The development must provide at least 50% of the total number of units onsite as affordable as defined by the Montgomery County Housing Policy, including a minimum of 12.5% of the total number of units as MPDUs, consistent with the requirements of Chapter 25A.
- b. The MPDU agreement to build between the Applicant and DHCA shall be executed prior to the release of any building permits.
- c. All of the required MPDUs shall be provided on-site.

9. Workforce Housing Units

The Applicant must comply with the DHCA letter dated March 14, 2013 and include the following:

- a. The development must provide onsite a minimum 32 units as WFHUs, consistent with the requirements of Chapter 25B, Article V.
- b. The WFHUs agreement to build between the Applicant and DHCA shall be executed prior to the release of any building permits.
- c. All of the proffered WFHUs shall be provided on-site, which was the basis for the Planning Board's approval of the building height.

**Site Plan**

10. Site Design

The exterior architectural character for all sides of the building, including proportion, materials, and articulation must be substantially similar to the schematic elevations shown in the certified Site Plan set, as determined by Staff.

11. Landscaping

- a. Provide all landscape structures, including walls, fences, railings, paving, etc. per sheets L1.00-L3.00.
- b. Provide all trees, shrubs and groundcovers in accordance with approved landscape drawings, sheets L4.0-L4.1 for Mandatory Referral No. MR 10719-DGS-1.
- c. The Applicant must construct the streetscape improvements, including the undergrounding of utilities, consistent with the Silver Spring CBD Streetscape standards.

## 12. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to the Illuminating Engineering Society of North America standards for residential/commercial development.
- b. All onsite down light fixtures must be full cut-off fixtures.
- c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d. The final lighting plan submitted as part of the certified Site Plan must show light fixtures for the second floor courtyard level. The height of the rooftop light poles must not exceed 8 feet including the mounting base and must be directed downward. Alternatively, if bollards are proposed, the light fixtures must not exceed 4 feet and must be directed downward.
- e. The final lighting plan submitted as part of the certified site plan must show bollard lights along the retail corridor of the building, consistent with those provided on the lighting plan sheet LT1.1 for Mandatory Referral No. MR 10719-DGS-1.

## 13. Surety

Prior to issuance of first building permit Applicant must provide a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The Applicant must provide a cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.
- b. The amount of the bond or surety shall include plant material, on-site lighting, recreational facilities, site furniture, and entrance piers within the relevant phase of development.
- c. Prior to issuance of the first building permit, exclusive of the sheeting and shoring permit for the structured parking, the Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.

- d. Bond/surety shall be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.

#### 14. Development Program

The Applicant must construct the development in accordance with a development program that will be reviewed and approved prior to the approval of the certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- b. On-site amenities including, but not limited to, indoor community space, picnic/sitting area, pedestrian system, and an indoor fitness facility including all paving, lighting, site furnishings, benches, trash receptacles and bicycle facilities must be installed and completed prior to final use and occupancy permit.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the final forest conservation plan, sediment control plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.

#### 15. Certified Site Plan

Prior to approval of the certified Site Plan, the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and Site Plan resolution on the approval or cover sheet.
- b. Modify data table to reflect development standards enumerated in the Staff Report.

- c. Specific locations of the public bicycle rack locations must be identified on the certified Site Plan.
- d. Final location and details of rooftop or onsite lighting.
- e. Corrections of plan sheets C0.0 and C1.0 as shown on the exhibit submitted to Staff on March 20, 2013.
- f. Minor changes to the recreation facilities.
- g. Ensure consistency of all details and layout between Site Plan and landscape plan.

BE IT FURTHER RESOLVED, that all site development elements as shown on Silver Spring Library Residential drawings stamped by the M-NCPPC on April 8, 2013, shall be 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 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 Site Plan conforms to all non-illustrative elements and is consistent with an approved project plan for the optional method of development:*

The Site Plan is consistent with Project Plan No. 920130040 reviewed concurrently in terms of design layout, development standards, and conditions of approval.

2. *The Site Plan meets all of the requirements of the CBD-1 Zone and Fenton Village Overlay Zone.*

As demonstrated in the Data Table in this Resolution, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Site Plan meets all the requirements of the CBD-1 Zone and Fenton Village Overlay Zone under the optional method of development.

The commercial and residential uses within the building are allowed in the CBD-1 zone and the Fenton Village Overlay zone. The Site Plan meets the purposes of the zones by providing a mixed-use development with primarily residential uses (155 total multi-family units) and first floor commercial uses (9,000 square feet). The development will contribute to the creation of a diverse community of people living in



housing that will upgrade the physical environment, as well as contribute to a pedestrian-friendly atmosphere.

The Application meets the density requirements of the zone(s) and recommendations in the Silver Spring CBD Sector Plan. The overall density, which is 1.82 FAR over the entire Site excluding the Library, and a 2.71 FAR with the Library, is within the maximum density of 3.0 FAR.

The Planning Board approved a building height of 110 feet to accommodate WFHUs. 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 workforce housing units, 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 suitable for a residential building in this location of the Overlay zone because the building includes at least 33% of residential floor area, the Applicant has agreed to provide a minimum of 32 WFHUs to achieve two additional floors above 90 feet, and because the building will have a substantial buffer of public open space within the site boundary, nearest the block containing one-family residential homes, creating an enlarged building setback from Fenton Street that satisfies the intent of this provision.

While there is no parking requirement for the building since it lies within a Parking Lot District, a tax is required for all spaces not accommodated on-site. Seven parking spaces are located within the building, which equates to 3% of the number of parking spaces that would otherwise have been required under the Zoning Ordinance. The Planning Board waived the remaining 97% parking requirement to provide relief to the Applicant from payment of the Parking District Tax in exchange for a substantial public benefit whereby the Applicant is providing 50% of the units as affordable.

<b>Data Table</b>		
<b>Development Standard</b>	<b>Zoning Ordinance Permitted/ Required</b>	<b>Approved and Binding on the Applicant</b>
<b>Site Area (sf)</b>		
Gross Tract Area	18,000 sf	87,822 sf
Less Dedication for Public ROW Previously dedicated area	n/a	24,779 sf

Net Lot Area	n/a	63,043 sf
<b>Density</b>		
Max. Overall (FAR)	3.0	1.82 <sup>1</sup>
Residential	Min. 33% of FAR must be residential	1.72 (94% of total FAR is residential)
Retail	n/a	0.10
Residential D.U.s	n/a	155
MPDUs [Chapter 25A] Workforce housing	12.5% Required to exceed 90' height	12.5% 32 units required to achieve 110' height
Market Rate	Established from FAR	105
<b>Min. Public Use Space</b>		
Percent of net lot area on-site	20% total (12,608 sf)	24% (15,294 sf)
Percent of net lot area off-site	n/a	
<b>Min. Building Setbacks (ft) [59-C-10.3.8]</b>		
Front	0	0
Side (West)	0	0
Side (East)	0	0
Rear	0	0
<b>Max. Building Height (ft)</b>		
	60 ft (Fenton Village Overlay Zone)	110 ft <sup>2</sup>
<b>Vehicle Parking (number of spaces-site is located in parking lot district and applicant will pay tax for parking not provided)</b>		
Retail	45 spaces	0 spaces
Office	n/a	n/a
Residential	135 spaces	7 <sup>3</sup>

<sup>1</sup>Per Section 59-C-6.234 footnote 25, the gross floor area of the publicly owned or operated government facility must not be counted in the gross floor area of the optional method project.

<sup>2</sup>Per Section 59-C-18.192(b)(1)(C), the maximum height may be increased to 110 feet.

<sup>3</sup>The site is located within the Parking Lot District and, therefore, the applicant is not required to provide on-site parking in accordance with the Zoning Ordinance standards. For this application, the Planning Board approved a 97% parking waiver to provide relief from the parking lot district tax for the remainder of the parking.

Adequate Public Facilities Ordinance requirements were analyzed for this Application, which included a traffic test, school capacity analysis, and Montgomery County Fire Marshal review. 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 Subject Property is

within the Northwood High School Cluster area. The Applicant must make a School Facilities Payment to MCDPS at the high school level at the multifamily unit rates for all units for which a building permit is issued and a School Facilities Payment is applicable. The Subject Property has adequate access for emergency vehicles to serve the building.

3. *The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Buildings and Structures

The Applicant will construct this residential building in the southwest portion of the site on Ownership Lot 32A. The entrance to the residential units will be located from Bonifant Street, minimizing conflicts with pedestrian and vehicles traveling to the library from Wayne Avenue and Fenton Street. At the same time, the retail storefronts of the building will face Bonifant Street and the public use space, activating both of these facades for the pedestrian and linking visitors of the Library to the building. Placing the covered garage of the building along the southwest building façade with access from Bonifant Street constrains the role of the limited number of vehicles on the Subject Property to a safe location on the periphery. Service vehicles accessing the building will use the alley to reach the rear of the building and will have minimal impact on the public realm which is the primary focus along the frontage of the Ownership Lot.

b. Open Spaces

The CBD-1 zone has a 20% public use space requirement for optional method projects. The Application will provide public use space on-site and off-site, in addition to the public amenity provided for streetscape improvements. Considering the Ownership Lot as the site, the Applicant is providing 24% of the net lot area as public use space.

The public use space design submitted as part of Mandatory Referral No. 1079-DGS for the Silver Spring Library is designed as an urban community park with a central green, plentiful trees and seating areas, a bio-retention basin, paving materials emphasizing the park as an extension of the library, and lighting to further activate the area at night. The park was designed to provide increased visual interest for the pedestrian and a strong integration with the architecture of the library and future residential building on the Site.

The Applicant is providing on-site amenities specifically for future residents of the building including an indoor community space, indoor fitness facility, a picnic/sitting area, and pedestrian system.

The diversity of open spaces is adequately dispersed throughout the Subject Property to provide safe and convenient access to all residents while efficiently providing relief from the building's mass and density.

c. Landscaping and Lighting

The landscape serves several purposes. It provides adequate canopy coverage and shade for public areas. It efficiently defines open spaces and amenity areas by creating an edge or boundary, and adding interest. It also integrates different uses on the Subject Property by using similar plant materials to connect the library to the retail spaces within the residential building.

Conditions of approval require additional lighting in front of the retail storefronts along the east side of the building. Adequate lighting must also be provided at the second floor courtyard, but must be full cutoff to ensure compatibility with surrounding developments.

d. Recreation Facilities

The recreation facilities provided within the building, which are included in the recreation calculations, include: indoor community space, picnic/sitting area, pedestrian system, and an indoor fitness facility. Because of the urban nature of the site, there is an adequate supply of off-site amenities as well.

The recreation calculations satisfy the 1992 M-NCPPC Recreation Guidelines for 155 multi-family dwelling units. These facilities adequately and efficiently meet the recreation requirements of this development on-site while also providing an adequate off-site supply. All facilities will be safe and accessible opportunities for recreation for various age groups.

e. Vehicular and Pedestrian Circulation

The primary entrances/exits to the building are from Bonifant Street, emphasizing the pedestrian realm at the front of the building along this corridor. Approximately 11 feet separates the building from the curb line of Bonifant Street, and this space includes the sidewalk, landscaping, and street furniture. An internal sidewalk extends away from Bonifant Street to provide access to the retail uses. Pedestrians will not be encouraged to access the building from the

alley behind the site, however, emergency egress for building residents and tenants will be provided in the back of the building from the loading area.

Vehicular access to the garage will be located from the service alley. Due to the limited availability of on-site parking, there should be minimal vehicular traffic accessing the garage. Alley access to the rear of the building will be required for service vehicles, which will safely remove such vehicles from the pedestrian realm on Bonifant and Fenton Streets. Private bicycle parking will be provided in a secured and well-lit room adjacent to the covered parking area which will provide adequate protection from outside elements, and 10 public bicycle parking spaces will also be provided in front of the building near the retail storefronts.

- 4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The Planning Board finds the structure and uses are compatible with other uses and site plans, and with existing and proposed adjacent development. The future redevelopment of the adjacent property to the northeast (Site Plan #820130050, Fenton Street) will benefit from the redevelopment of this site with retail and substantial public use space in close proximity to their site. A green roof on the building and courtyard terrace level on the second floor seeks to enhance the view shed for the Crescent Condominium residents directly northwest of the site. Streetscape improvements will make the Subject Property's Bonifant Street frontage more attractive for customers of the businesses located to the southwest. The retail location will be easily accessible by visitors of the Library, and the quieter side of the building has been appropriately placed along Bonifant Street to be more compatible with the Lofts 24 building across the street.

- 5. The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The July 1, 2010, the 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. The final forest conservation plan contains no forest onsite and the afforestation requirements were already met by a fee-in-lieu payment in connection with the library development.

The 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.

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

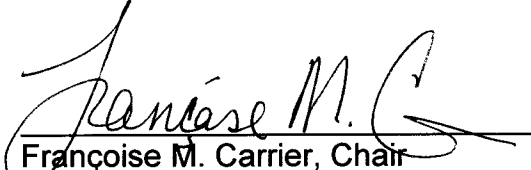
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 26 2013 (which is the date that this resolution is mailed to all parties of record); and

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