



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

MCPB No. 18-002
Sketch Plan No. 320180010
4540 Montgomery Avenue
Date of Hearing: January 11, 2018

JAN 16 2018

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review sketch plan applications; and

WHEREAS, on August 4, 2017, Promark Development, LLC (“Applicant”) filed an application for approval of a sketch plan for construction of up to 61,250 square feet of a mixed-use project including residential and ground floor retail uses on 0.28 acres of land zoned CR 5.0, C-4.0, R-4.75, H-175, located at 4540 Montgomery Avenue on the southwest quadrant of the intersection of Montgomery Avenue and Pearl Street, Lot 14, Block 5 (“Subject Property”) in the Bethesda CBD Policy Area and the 2017 *Bethesda Downtown Sector Plan* area; and

WHEREAS, Applicant’s sketch plan application was designated Sketch Plan No. 320180010, 4540 Montgomery Avenue (“Sketch 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 December 29, 2017 setting forth its analysis and recommendation for approval of the Application subject to certain binding elements and conditions (“Staff Report”); and

WHEREAS, on January 11, 2018, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain binding elements and conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Sketch Plan No. 320180010, 4540 Montgomery Avenue, for construction of up to 61,250

Approved as to
Legal Sufficiency:

M. NCPPS Legal Department
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square feet of a mixed-use project including residential and ground floor retail uses on 0.28 acres of land zoned CR-5.0 C-4.0 R-4.75 H-175 on the Subject Property, subject to the following binding elements and conditions:¹

A. Binding Elements. The following site development elements are binding under Section 59-7.3.3.F of the Montgomery County Zoning Ordinance:

1. Maximum density and height;
2. Approximate location of lots and public dedications;
3. General location and extent of public open space;
4. General location of vehicular access points; and
5. Public benefit schedule.

All other elements are illustrative.

B. Conditions. This approval is subject to the following conditions:

1. Density

The Sketch Plan is limited to a maximum of 61,250 square feet of total development with residential and retail uses. The maximum number of dwelling units will be determined at Preliminary Plan.

2. Height

The development is limited to a maximum height of 175 feet, as specified in the Zoning Ordinance.

3. Incentive Density

The development must be constructed with the public benefits listed below, unless modifications are made under Section 59.7.3.3.I. Total points must equal at least 100 and be chosen from at least four categories as required by Section 59.4.5.4.A.2. The requirements of Division 59.4.7 and the *CR Zone Incentive Density Implementation Guidelines* must be fulfilled for each public benefit. Final points will be established at Site Plan approval.

- a. Major Public Facility, achieved through contribution towards the future construction of a "Shared Street" along Pearl Street as envisioned in the *2017 Bethesda Downtown Sector Plan*;
- b. Connectivity and Mobility, achieved through minimum parking;
- c. Quality of Building and Site Design, achieved through architectural elevations and exceptional design; and

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

- d. Protection of the Natural Environment, achieved through building lot termination, energy conservation and generation, and a vegetated roof.

4. Building Design

- a. The Applicant must submit their architectural design concept to the Design Advisory Panel prior to submittal of Site Plan.
- b. Demonstrate at Site Plan how the project is providing alternative treatments to the recommended tower separation guidelines because of site constraints.
- c. Because of the very limited tower separation from the adjacent building a more dynamic facade treatment on the west elevation should be explored and demonstrated at Site Plan.
- d. Demonstrate at the time of Site Plan that consideration was given to providing a dynamic treatment on the portion of the south facade that will be visible from the street, CCT and Future purple line tracks to avoid a blank wall condition.

5. Streets and Streetscape

- a. The Applicant must participate in the implementation of the Pearl Street shared street, as recommended in the Sector Plan with further details to be determined at the time of Site Plan.
- b. The Applicant should provide a 15-foot-wide sidewalk along Pearl Street as envisioned in the Design Guidelines for street types designated as "Neighborhood Main Streets".
- c. The Applicant must install the Bethesda Streetscape Standard along the Frontage along Montgomery Avenue and Pearl Street, including the undergrounding of utilities.

6. Bicycle Facilities

The Applicant must coordinate with the Montgomery County Department of Transportation to implement master planned bicycle facilities along the project frontages, including:

- a. Separated bicycle lanes on Montgomery Avenue, and
- b. Pearl Street shared street design.

7. Department of Transportation

The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated November 27, 2017, and hereby incorporates them as conditions of the Sketch 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 Sketch Plan approval.

8. Moderately Priced Dwelling Units (MPDUs)

The Applicant must provide on the Subject Property a minimum of 15% of the total units as Moderately Priced Dwelling Units. The development must provide MPDUs in accordance with Chapter 25A.

9. Future Coordination for Preliminary and Site Plan

In addition to any other requirements for Preliminary Plans under Chapter 50 and Site Plans under Chapter 59, the following must be addressed when filing a Preliminary or Site Plan, as appropriate:

- a. Fire and Rescue access and facility details;
- b. Streetscape details;
- c. Provide details and cross sections showing appropriate soil volumes associated with the new plantings per the Sector Plan;
- d. Provide a tree-save plan addressing any impacts to the neighboring trees.
- e. Demonstration of how each public benefit satisfies the Zoning Ordinance and Incentive Density Implementation Guideline requirements;
- f. Address the SITES & LEED recommendations of the Sector Plan, specifically related to energy efficiency and building design features;
- g. Noise analysis to determine appropriate noise mitigation for noise generated from motor vehicles on Montgomery Avenue;
- h. Dedication along Montgomery Avenue and Pearl Street;
- i. Transportation Impact Study and ADA evaluation within 500-feet of the site;
- j. Traffic Mitigation Agreement to participate in the Bethesda Transportation Demand Management District and achieve the Sector Plan 55% NADMS goal; and
- k. SWM concept approval which addresses the Bethesda Downtown Sector Plan recommendations regarding SWM.
- l. Provide Green Cover exhibit demonstrating a minimum 35 percent green cover achieved for the site.
- m. Coordination with MCDOT in accordance with that agency's letter, dated November 27, 2017.

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 and all applicable elements of the Zoning Ordinance, the Board finds that as conditioned the necessary elements of the Sketch Plan are appropriate in concept and appropriate for further review at site plan and that:

1. *The Sketch Plan meets the objectives, general requirements, and standards of the Zoning Ordinance.*

a. Development Standards

The Subject Property includes approximately 0.28 acres zoned CR 5.0, C-4.0, R-4.75, H-175. The data table below demonstrates the Application's conformance to the applicable development standards of the zone.

Sketch Plan Data Table			
Section 59.4	Development Standard	Permitted/ Required	Approved
	Gross Tract Area per Zone CR 5.0 C-4.0 R-4.75 H-175	n/a	12,250 sf (0.28 ac)
	Prior Dedication	n/a	4,750 sf (0.11 ac)
	Approved Dedication	n/a	2,100 sf (0.05 ac)
	Net Lot Area	n/a	5,400 sf (0.12 ac)
	Commercial Density (GFA/FAR) CR 5.0 C-4.0 R-4.75 H-175	49,000 sf (4.0)	3,062 sf (0.25)
	Residential Density (GFA/ FAR) CR 5.0 C-4.0 R-4.75 H-175	58,188 sf/ (4.75)	58,188 sf/ (4.75)
	Bethesda Overlay Zone Density	n/a	n/a
	Total FAR/GFA	5.0	61,250 sf (5.0)
	Building Height	175 feet	145 feet
	Public Open Space (min)	0% (0 square feet)	0% (0 square feet)
	Minimum Setbacks	n/a	0

The Application will provide the minimum required number of bicycle parking spaces within the building, which will be determined at the time of Site Plan.

The Sketch Plan conforms to the intent of the CR zone as described below.

a) *Implement the recommendations of applicable master plans.*

The Application substantially conforms to the recommendations for the Subject Property included in the 2017 *Bethesda Downtown Sector Plan*. The Subject Property is designated as site 189 on page 120 and 121 of the Plan. The Subject Property is in the Sector Plan area designated as the "Pearl District," an emerging center of activity with potential for concentrated retail growth along Pearl Street between East-West Highway and Montgomery Avenue. Specifically, the Sketch Plan addresses the following goals as outlined in the Pearl District section of the Sector Plan:

- *Improve the visual quality of buildings and streetscapes along Montgomery Avenue to enhance the public realm for pedestrians and incentive economic investment.*

The Application will vastly improve the existing corner, because of the quality architecture and improvements to the existing streetscape, which will begin to develop an inviting pedestrian experience south on Pearl Street toward the Purple Line. The existing eastern boundary of the Subject Property consists of a vacant gravel parking lot sloping down to the Pearl Street right-of-way, which lacks curb and gutter. As a result, the Subject Property appears to be flowing into Pearl Street, without any physical or visual boundary. The Sketch Plan includes a new sidewalk that will include landscaping and pavers to enhance connectivity in this area in accordance with the Sector Plan. The transparency of the building on the ground floor, in addition to the residential lobby and the corner retail space which will anchor the building, will promote pedestrian activity and help improve the streetscape in this area of Bethesda.

- *Promote more mix of land uses to enhance 24-hour activity in the district.*

The Sketch Plan will transform a vacant lot within 1,100 feet of the Bethesda Metro into unique residential units with activating ground floor retail contributing to diverse housing opportunities in the CBD with MPDUs that ensure the project provides economic diversity within the Pearl District.

- *Promote Pearl Street as a new main street with local neighborhood serving retail.*

The Application provides for ground floor retail at the corner of Montgomery Avenue and Pearl Street promoting an activated streetscape and providing the appropriate uses as outlined in the Pearl District goals in the Sector Plan. The Sketch Plan will contribute to the future construction of the “shared street” along Pearl Street as recommended in the Sector Plan.

- *Enhance pedestrian connectivity throughout the district.*

The Sketch Plan will vastly improve the existing corner, as a result of the quality architecture and improvements to the existing streetscape including adding a needed sidewalk along the Pearl Street frontage, which will begin to develop an inviting pedestrian experience south on Pearl Street toward the Capital Crescent Trail.

The Sketch Plan conforms to the 2017 *Bethesda Downtown Sector Plan*.

- b) *Target opportunities for redevelopment of single-use commercial areas and surface parking lots with a mix of uses.*

The Sketch Plan will redevelop the existing vacant surface parking lot with a mixed-use building with residential and ground-floor retail uses catalyzing a much-needed transformation of the Pearl District. The Application meets the objective of this finding.

- c) *Encourage development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities, where parking is prohibited between the building and the street.*

The Application encourages such development by proposing market-rate residential units in a variety of unit types as well as 15% MPDUs, offering housing opportunities for a range of incomes proximate to the numerous transit options of downtown Bethesda. The Sketch Plan facilitates pedestrian, bicycle, and vehicular movement near the Metro and bus service improving the streetscape along its two frontages. The Sketch Plan does not propose any parking between the building and the street frontages.

- d) *Allows a flexible mix of uses, densities, and building heights appropriate to various settings to ensure compatible relationships with adjoining neighborhoods.*

The Sector Plan identifies this area as an emerging center of activity with potential for concentrated retail growth along Pearl Street between East-West Highway and Montgomery Avenue. The Application will provide activating ground-floor uses in the form of retail at the corner of Montgomery Avenue and Pearl Street and needed residential uses with height and density compatible with the Sector Plan recommended character of the Pearl District.

- e) *Integrate an appropriate balance of employment and housing opportunities.*

4540 Montgomery Avenue will have a variety of housing opportunities available at a variety of price levels. Employment opportunities within the Application may be found within the small commercial space on the ground floor. The Sector Plan identified several distinct districts within Downtown Bethesda to guide development compatibility. The Subject

Property is within the Pearl District which contains a mix of office and residential uses, many constructed prior to the 1976 Bethesda Central Business District Sector Plan. Montgomery Avenue contains the rear service entrances to high-rises on the north and a variety of offices in single-unit houses on the south. The recommended concept for this district is to promote open space and street activity through a mixed-use environment with improved pedestrian connectivity and new public space opportunities. The Application provides the appropriate land use, as recommended in the Sector Plan.

- f) *Standardize optional method development by establishing minimum requirements for the provision of public benefits that will support and accommodate density above the standard method limit.*

The Application will provide the required public benefits from a minimum of four categories to achieve the desired incentive density above the standard method limit. Final determination of public benefit points will be determined at the time of Site Plan.

2. *The Sketch Plan substantially conforms to the recommendations of the 2017 Bethesda Downtown Sector Plan.*

The Sketch Plan substantially conforms to recommendations of the 2017 Bethesda Downtown Sector Plan, as described above. The Application will increase the supply of housing to serve a variety of income levels, redevelop an under-utilized property, improve the visual quality and architectural character of the immediate area, provide streetscape improvements that improve the safety and character of the existing streets and catalyze the much-needed transformation of the Pearl District.

3. *The Sketch Plan satisfies, under Section 7.7.1.B.5 of the Zoning Ordinance, the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

The Sketch Plan is not subject to a development plan or schematic development plan.

4. *The Sketch Plan achieves compatible internal and external relationships between existing and pending nearby development.*

The building design is compatible in height and scale with the existing nearby development in the Pearl District.

5. *The Sketch Plan provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading.*

The Sketch Plan provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, and loading. The Application appropriately locates vehicular access for loading on Pearl Street, thus eliminating curb cuts from Montgomery Avenue, and provides a pedestrian/bicycle lobby on Pearl Street. Long term-bicycle parking for residents will be provided in a secure room, accessed from Pearl Street. The final location and capacity of the long- and short-term bicycle parking will be determined at Site Plan.

6. *The Sketch Plan proposes an outline of public benefits that supports the requested incentive density and is appropriate for the specific community.*

Taking into account the considerations in Section 59-4.7.1.B, including the recommendations and objectives of the Sector Plan and any applicable design guidelines, the Incentive Density Implementation Guidelines, the size and configuration of the site and its relationship to adjacent properties, similar public benefits nearby, and additional enhancements related to the individual public benefits, the Planning Board finds that the following outline of public benefits supports the Applicant's request for incentive density and is appropriate for the community surrounding the site. Final determination of public benefit point values will be determined at Site Plan(s).

For the development, the Zoning Ordinance requires 100 points in four categories. Although at the time of Sketch Plan review only the categories need be approved, the following table shows both the categories and points for the public benefits recommended at Sketch Plan to demonstrate the project's ability to meet the requirement to provide sufficient benefit points.

Public Benefits Calculations		
Public Benefit	Incentive Density Points	
	Max Allowed	Requested
59.4.7.3A: Major Public Facility		
Pearl Street "Shared Street" ¹	70	35
59.4.7.3C: Connectivity and Mobility		
Advance Dedication	30	30
Minimum Parking ^{1,2}	20	20
59.4.7.3E: Quality of Building and Site Design		
Architectural Elevations ²	30	15
Exceptional Design ^{1,2}	30	15
59.4.7.3F: Protection and Enhancement of the Natural Environment		

BLTs	30	1
Energy Conservation and Generation^{1,2}	25	15
Vegetated Roof^{1,2}	20	15
TOTAL		146

¹ Denotes Sector Plan priority

² Denotes Bethesda Overlay Zone Requirement per Section 59.4.9.2

Major Public Facility

The Applicant requests 35 points for contributing towards the future construction of a Pearl Street “Shared Street” as envisioned by the Sector Plan. The Applicant’s contribution is based on the improvement of Pearl Street from the centerline west to the Property, for the extent of the Property frontage. The Planning Board supports the Applicant’s request at this time with final calculations and points determined at the time of Site Plan.

Connectivity and Mobility

Advance Dedication: The Applicant requests 30 points for dedicating 2,100 square feet for master planned rights-of-way in advance of a preliminary or a site plan application. Points for this incentive are granted on a sliding scale that allows up to 30 points in the CR zone based on the percentage of tract area that is dedicated. The only advance dedications that will be considered for incentive density in a sketch plan approval are dedications made in anticipation of future development, such as those made prior to filing a site plan or those made within areas that will be developed during later phases of a sketch plan. Final determination will be made at Preliminary Plan. The Planning Board supports the category at this time, but further discussion will be held at the time of Site Plan submission.

Minimum Parking: The Applicant requests 20 points for providing no parking on-site and fewer than the minimum allowed number of parking spaces. Points for this incentive are granted on a sliding scale from no points for providing the maximum allowable number of on-site spaces to 20 points for providing no more than the minimum numbers of spaces on site. Final determination will be made at Site Plan and the Planning Board supports the Applicant’s request. This category is a priority in the Sector Plan.

Quality of Building and Site Design

Architectural Elevations: The Applicant requests 15 points for architectural elevations that will further the Sector Plan goal to create quality architecture in the downtown. The building is a contemporary modern glass box with an articulated façade using glass bay windows and balconies to help articulate the residential character of the building and to

compliment the new office glass building developed directly across the street, as well as to reduce the massing and provide visual interest. The pedestrian ground floor will be 100 percent transparent to activate the street and provide a pedestrian friendly environment furthering the goals of the Bethesda Design Guidelines. Incentive density of 10 points is appropriate for development that provides and is bound by architectural elevations as part of a certified site plan showing façade elements outlined in the guidelines. The Planning Board supports the Applicant's request at this time.

Exceptional Design: The Applicant requests 15 points for building or site design that enhances the character of a setting. Per the CR Guidelines, incentive density of 10 points is appropriate for development that meets all the guideline criteria. As a site within the Bethesda Overlay Zone, the Application is subject to the Design Advisory Panel review, which will award points based on the quality of the design. The Applicant asserts that the Sketch Plan provides innovative solutions in response to the immediate context; creates a sense of place and serves as a landmark; enhances the public realm in a distinct and original manner; introduces materials, forms, or building methods unique to the immediate vicinity or applied in a unique way; and integrates low-impact development methods into the overall design of the site and building, beyond green building or site requirements. Further refinement will be determined at the time of Site Plan and the Planning Board supports the Applicant's request at this time. This category is a priority in the Sector Plan.

The Applicant presented the Sketch Plan to the Design Advisory Panel (DAP) on November 29, 2017 and the DAP recommended the following during their meeting:

1. Exceptional Design Points: The design is headed in a positive direction to go higher than the requested 15 points as a creative development solution for a compact site, if there is attention to the recommendations listed below.
 - a. Give more emphasis to the corner of Montgomery Avenue and Pearl Street.
 - b. Articulate the base of the building to correspond to the base of the adjacent Air Rights Building.
 - c. Provide further development of the streetscape to include more trees and stormwater management along the street.
 - d. Explore the view of the building coming from the west along Montgomery Avenue.

- e. Consider a different proportion to further emphasize the top of the building.

Additional context and discussion for the DAP's recommendations are included in the November 29, 2017, DAP meeting summary.

Protection and Enhancement of the Natural Environment

Building Lot Termination (BLT): The Applicant requests 1.0 point for the purchase of BLT easements or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5% incentive density floor area. Points are granted by the calculation of BLTs as provided in Section 59.4.7.3.F of the Zoning Ordinance. The Planning Board supports the Applicant's request at this time.

Energy Conservation and Generation: The Applicant requests 15 points for providing a project that exceeds the energy efficiency standards for new buildings by 17.5% through high efficiency mechanical, electrical, and plumbing systems. Further refinement will be determined at the time of Site Plan and the Planning Board supports the Applicant's request at this time. This category is a priority in the Sector Plan.

Vegetated Roof: The Applicant requests 15 points for providing vegetated roofs with a soil depth of at least eight inches and covering at least 33% of the total roof excluding space for mechanical equipment. The CR Guidelines recommends 20 points for development that provides a vegetated roof with a soil depth of at least four inches over at least 33% of the rooftop, excluding space for mechanical equipment. At the time of Site Plan, the Applicant will provide additional details on meeting the vegetated roof criteria. The Planning Board supports the Applicant's request at this time. This category is a priority in the Sector Plan and the Sector Plan recommends a minimum of at least six inches for vegetated roofs. To achieve the points for this category, the vegetated roof must not include stormwater management areas required by state law.

7. *The Sketch Plan establishes a feasible and appropriate phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.*

The Project will be built in one phase.

BE IT FURTHER RESOLVED that the Board's approval of a sketch plan is in concept only and subject to further review at site plan, when, based on detailed review the Board may modify the Sketch Plan's binding elements or conditions based on the

Montgomery County Code, the 2017 *Bethesda Downtown Sector Plan*, or other requirements; and

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 all binding site development elements shown on the latest version of 4540 Montgomery Avenue, Sketch Plan No. 320180010 received by M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; 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 ~~JAN 16 2018~~ (which is the date that this Resolution is mailed to all parties of record); and

* * * * *

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 Cichy, seconded by Commissioner Patterson, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, January 11, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board