



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

MCPB No. 19-041
Site Plan No. 82016007A
Ripley II
Date of Hearing: April 4, 2019

MAY 02 2019

RESOLUTION

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

WHEREAS, on October 19, 2016, the Planning Board, by Resolution MCPB No. 16-099, approved Site Plan No. 820160070, for up to a total of 437,265 square feet of development, with up to 419,181.3 square feet of residential uses, for up to 440 multi-family residential units, including 15% MPDUs, and up to 18,083.7 square feet of ground-floor non-residential uses on 1.66 acres of CR 5.0: C 4.0, R 4.75, H 200T and the Ripley/South Silver Spring Overlay Zone zoned-land, located on Dixon Avenue, approximately 150 feet south of Ripley Street ("Subject Property"), in the Silver Spring CBD Policy Area and Silver Spring CBD Sector Plan "Sector Plan" area; and

WHEREAS, on December 12, 2018, Ripley West, LLC ("Applicant") filed an application for approval of an amendment to the previously approved site plan to increase the height from 200 feet to 270 feet and to update the public benefit schedule on the Subject Property; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 82016007A, Ripley II ("Site Plan," "Amendment," or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated March 25, 2019, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 4, 2019, 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

Approved as to
Legal Sufficiency:

WHEREAS, on April 4, 2019 the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Dreyfuss, seconded by Commissioner Cichy, with a vote of 4-0; Chairman Anderson and Commissioners Cichy, Dreyfuss and Patterson voting in favor, with Commissioner Fani-Gonzalez absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82016007A to increase the height from 200 feet to 270 feet and to update the public benefit schedule by modifying the following conditions and adding conditions 19 and 20:¹

1. Sketch Plan Conformance

The development must comply with the binding elements and conditions of approval for Sketch Plan No. 320150030 and any subsequent approvals.

5. Public Use Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 6,173 square feet of public open space (15% of the net lot area).
- b. The Applicant must construct the streetscape improvements along the Subject Property's frontage on Dixon Avenue and Silver Spring Avenue as shown on the Certified Site Plan.
- c. Prior to the issuance of final residential Use and Occupancy certificates, all public open space areas on the Subject Property's frontages must be completed.

8. Public Benefits

The Applicant must provide the following public benefits and meet the applicable criteria and requirements of the Zoning Ordinance and the *CR Zone Incentive Density Implementation Guidelines* for each one:

a. Major Public facility

Under the terms of a Joint Development Agreement, the County transferred public parking Lot No. 20 to the Applicant, which was for the construction of a new building for Progress Place on the site of the Silver Spring Fire Station, located south of the Property, at 8110 Georgia Avenue, in accordance with Mandatory Referral No. 2015009.

b. Transit Proximity

The Subject Property is located within one-quarter mile of the Silver Spring Transit Center and Metro Station, which allows the development to be eligible for Level 1 transit as defined in the Zoning Ordinance. Final area calculations must be included on the Certified Site 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.

- c. **Connectivity and Mobility**
 - i. **Minimum Parking**

The Applicant must not construct more than 235 parking spaces.
 - ii. **Trip Mitigation**
 - a. The Applicant will enter into a binding Traffic Mitigation Agreement to reduce the number of weekday morning and evening peak hour trips to the site.
 - b. Prior to issuance of the first building permit on the Site, exclusive of any sheeting and shoring permit, the Applicant must execute a Traffic Mitigation Agreement (TMAG) with the Planning Board and MCDOT to participate in the Silver Spring Transportation Management District (TMD). The TMAG must include trip mitigation measures recommended by MCDOT.
- d. **Diversity of Uses and Activities**
 - iii. **Affordable Housing/MPDUs**
 - a. The Applicant must provide a minimum of 15% MPDUs on-site on the Subject Property.
 - b. The Applicant must provide affordable housing units in accordance with the MPDU recommendations in Montgomery County's Department of Housing and Community Affairs' (MCDHCA) letter dated February 14, 2019, which the Planning Board accepts and hereby incorporates as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDHCA provided that the amendments do not conflict with other conditions of the Site Plan approval.
 - c. Prior to issuance of any residential building permit, the MPDU agreement to build between the Applicant and the MCDHCA must be executed.
- e. **Quality Building and Site Design**
 - i. **Public Open Space**

The Applicant must provide a minimum of 6,173 square feet of public open space.
 - ii. **Structured Parking**

The Applicant must provide structured parking in an above-grade structure as necessary to achieve 20 public benefit points using the following formula from the *Implementation Guidelines*: $[(A/P)/(A/R)] * 10$, where A=the maximum allowed spaces, R=the minimum required spaces, and P=the proposed spaces.
- d. **Protection and Enhancement of the Natural Environment**
 - i. **Building Lot Terminations**

Before issuance of any above-grade building permit, the Applicant must provide proof of purchase and/or payment equivalent of 0.96 BLTs to the MCDPS.

ii. **Energy Conservation and Generation**

The Applicant must construct the building to exceed the energy-efficiency standards for the building type by 10%. Prior to issuance of final residential Use and Occupancy certificates, the Applicant must submit to Staff a Final Energy Performance Report.

11. **Fire and Rescue**

The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Services (MCFRS) Fire Code Enforcement Section in its letter dated January 28, 2016, and updated August 10, 2016, and March 12, 2019.

12. **Building Height**

The development is limited to the maximum height of 270 feet. The Applicant must provide a minimum 10,000 square foot retail bay in accordance with Section 59.4.9.13.C.1.c of the Zoning Ordinance. The retail bay must front on the public street.

19. **DPS-ROW**

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (MCDPS-ROW) in its letter dated February 8, 2019.

20. **Off-site Forest Conservation Impacts**

Prior to any off-site work on the adjacent property covered by Site Plan No. 820080150, the Applicant must amend the Final Forest Conservation Plan associated with that Site Plan approval to address any tree impacts.

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

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Ripley II, Site Plan Amendment No. 82016007A submitted via ePlans to the 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 having considered the recommendations and findings of its Staff as presented at the hearing and 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. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan, and all findings not specifically addressed remain in effect.*
2. *To approve a site plan, the Planning Board must find that the proposed development:*
 - a. *satisfies any previous approval that applies to the site;*

The Site Plan conforms to all binding elements of Sketch Plan No. 320150030 and subsequent amendments.

- b. *satisfies applicable use standards, development standards, and general requirements under this Chapter;*

i. *Division 4.5. Commercial / Residential Zones*

Development Standards

The Subject Project is approximately 1.66 acres, zoned CR-5.0, C-4.0, R-4.75, H-200T and Ripley/South Silver Spring Overlay Zone. The following table shows the Application's conformance to the development standards of the zone.

Site Plan 82016007A Project Data Table				
Section 59-4	Development Standard	Permitted/Required	Approved Site Plan 820160070	Approved Site Plan Amendment 82016007A
	Net Tract Area (sf)	n/a	41,915	41,915
	Gross Tract Area (sf)	n/a	72,335	72,335
4.5.4.B.2.b	Maximum Density (CR)	5.0 FAR (361,765 sf)	Up to 6.04 FAR (437,265 sf)	Up to 6.04 FAR (437,265 sf)
	Non-residential (C)	4.0 FAR (289,412 sf)	Up to 0.25 FAR (18,083.7 sf)	Up to 0.25 FAR (18,083.7 sf)
	Residential (R)	4.75 FAR (343,677 sf)	Up to 5.79 FAR (419,181.3 sf)	Up to 5.79 FAR (419,181.3 sf)
	Dwelling Units	n/a	Up to 440	Up to 440
	MPDUs (% / units)	12.5% / 55 units	15% / 66 units	15% / 66 units
4.5.4.B.2.b	Building Height (feet)	200	200	270
4.5.4.B.1	Min. Public Open Space (%)	0%	20% (8,383 sf)	15% (6,173 sf)
4.5.4.B.3	Min. Building Setbacks (feet)			
	East Side	0	0	0
	West Side	0	0	0
	North Side	0	0	0

	South Side	0	0	0
6.2	Parking Spaces, minimum-maximum²			
	Residential	203-483	214	227
	Live/Work	1	1	-
	ADA Parking	7	7	7
	Van Accessible Parking	1	1	1
	Retail	64-109	-	0
	TOTAL	276-592	223	235³
	Loading, Car-share, Electric Charging Spaces, Motorcycle & Bicycle			
	Loading		2	2
	Car-share		3	3
	Electric Charging Spaces		3	3
	Motorcycle/Scooter		6	6
	Bicycle-Retail (short term)		2	2
	Bicycle-Residential (long term/short term)		110	100 (95/5)

ii. *Division 4.7. Optional Method Public Benefits*

In accordance with the Zoning Ordinance, Section 59-4.7.1, the Site Plan Amendment provides the following public benefits to satisfy the requirements: Major Public Facility; Transit Proximity; Connectivity and Mobility; Diversity of Uses and Activities; Quality Building and Site Design; and Protection and Enhancement of the Natural Environment.

Site Plan Amendment No. 82016007A reduces the amount of open space, while still providing more than the required amount per the Zoning Ordinance, therefore the points have been reduced. The Amendment provides 12 additional parking spaces; therefore, the minimum parking

² The parking minimums and maximums are based on 440 multi-family residential units, consisting of 374 market-rate units and 66 MPDUs. The final number of parking spaces may be adjusted between the minimum and maximum allowed under Section 6.2 of the Zoning Ordinance at the time of building permit based on final unit count and/or bedroom mix and square footage of non-residential uses.

³ The Project is located within the Silver Spring Parking Lot District and will be subject to the parking district tax regulations in lieu of providing the full minimum parking, per compliance with Section 6.2.10 of the Zoning Ordinance, which states parking requirements within a Parking Lot District cannot be waived.

points have been updated to reflect that change. Lastly, the Applicant cannot meet the requirements of the Trip Mitigation category, therefore the Planning Board recommends the points be removed. All other public benefit categories and points remain the same as approved with Site Plan No. 820160070.

Connectivity and Mobility

Minimum Parking: The Applicant was approved for 9 points for providing minimum parking at the time of Site Plan No. 820160070. This Amendment increases the total parking spaces provided from 223 to 235, fewer than the maximum number of parking spaces permitted under the Zoning Ordinance. The layout of the parking garage is depicted in the architectural plans and will be included in the Certified Site Plan. Based on the formula in the *Commercial/Residential Zones Incentive Density Implementation Guidelines*, the Planning Board supports 10 points for this benefit.

Trip Mitigation: Although the Applicant is required by M-NCPPC and MCDOT to enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT that includes trip mitigation measures recommended by MCDOT, at this time the Applicant cannot meet the requirements of the *Commercial/Residential Zones Incentive Density Implementation Guidelines* that state the agreement must result in a reduction of at least 50% for trips attributable to the site. Therefore, the Planning Board is eliminating the points from this category. The Planning Board recommends the Applicant continue to work towards the achieving this reduction.

Quality of Building and Site Design

Public Open Space: The Applicant was approved for 19 points for providing public open space at the time of Site Plan No. 820160070. This Amendment reduces the amount of open space. Points for this incentive are granted on a sliding scale based on the percentage of the net lot area. The Site Plan Amendment layout yields 6,173 square feet of additional open space above the required square feet of public use space for a total of 14.7 points. The open space will be: directly accessible to a street; open to the public; designed so that the loading or parking facilities are screened or faced with active uses; contain seating, trash receptacles, landscaping, and other amenities; at least 35 feet wide; designed so that walls of any residential floor area facing the open space have windows on at least 60 percent of the façade between three and eight feet; and designed so that any dwelling unit facing the open space will have access to the open space. The Planning Board supports 14.7 points for this benefit.

Structured Parking: The Applicant requests 20 points for structured parking for the parking that will be above grade. The Application provides all parking spaces in an above-ground parking garage and the layout of the parking garage is depicted in the architectural plans and will be included in the Certified Site Plan. The Planning Board supports 20 points for this benefit.

Public Benefits Calculations			
Public Benefit	Incentive Density Points		
	Max Allowed	Previously Approved	Amended 82016007A
59-4.7.3A: Major Public Facilities	70	70	70
59-4.7.3B: Transit Proximity	40	40	40
59-4.7.3C: Connectivity and Mobility			
Minimum Parking	10	9	10
Trip Mitigation	20	10	0
59-4.7.3D: Diversity of Uses and Activities			
Moderately Priced Dwelling Units	No limit	30	30
59-4.7.3E: Quality of Building and Site Design			
Public Open Space	20	19	14.7
Structured Parking	20	20	20
59-59-4.7.3F: Protection and Enhancement of the Natural Environment			
Building Lot Terminations	30	8.6	8.6
Energy Conservation and Generation	10	10	10
TOTAL		216.6	203.3

iii. Division 6.3. Open Space and Recreation

Because the Property's net lot area is less than one-half acre and the Property has only one right-of-way frontage, there is no requirement to provide any open space on-site. However, the Site Plan provides 15% open space, totaling 6,173 square feet.

In addition, the Project meets the active and passive recreation space required by the zone. The development will provide the following on-site recreation facilities: a bike system, a swimming pool, an indoor community space, and an indoor exercise room. The development will provide adequate, safe, and efficient recreation facilities to allow residents to lead an active and healthy life.

6. *provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;*

The Project provides adequate, safe, and efficient parking and circulation patterns. All access, vehicular, loading, pedestrian, and bicyclist, will be provided from the Property's sole street frontage, along Dixon Avenue. These access points are oriented to keep vehicular and loading access along the northern edge of the Property, adjacent to the vehicular access for Solaire Silver Spring directly to the north, so that the southern portion of the Property can be devoted to pedestrian and bicyclist access and an inviting public plaza. The Project will provide the important Sector-Planned connection of Dixon Avenue to Silver Spring Avenue, improving overall circulation in the Ripley District.

The design, scale, and façade of the Project will provide a consistent relationship with the adjacent buildings in the Ripley District, including Solaire Silver Spring and Eleven55 Ripley to the north, both mixed-use projects approved for up to 200 feet in height, the mid- and high-rise buildings to the west across the Metro/CSX railroad tracks, as well as projects that are under construction along Georgia Avenue (Ripley East, a 20-story project located at the corner of Georgia Avenue and Bonifant Street, and Studio Plaza, located east of the Property across Georgia Avenue, an 11-story project). The relationships of building massing, public spaces, and streetscape improvements in the Ripley District strengthen the identity of the Ripley District as a pedestrian-friendly destination in Silver Spring while also allowing for a compatible use of land areas and an appropriate transition between the Urban Core, the Ripley District, and eastward to Fenton Village and southward to South Silver Spring. The Project provides a safe and well-integrated building, open spaces and site amenities.

7. *substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;*

As discussed in the approved Sketch Plan No. 32015003B, the Site Plan substantially conforms with the recommendations of the Sector Plan.

10. *on a property in all other zones, is compatible with existing and approved or pending adjacent development.*

The Site Plan Amendment is compatible with other uses and other site plans, as well with existing and proposed adjacent development. The Project's design and scale is compatible with the adjacent buildings in the Ripley District, the recently constructed Solaire Silver Spring and Eleven55 Ripley projects, both 17-

story mixed-use projects directly to the north and the 200-foot tall Ripley East project, currently under construction.

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 § 59-7.3.4.H; 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 02 2019 (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 Cichy, seconded by Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González and Cichy voting in favor, and Commissioner Patterson absent at its regular meeting held on Thursday, April 25, 2019, in Silver Spring, Maryland.



Casey Anderson Chair
Montgomery County Planning Board