

# **Montgomery County Planning Board**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MAR 07 2023

MCPB No. 23-019

Site Plan No. 82006017I

**NoBe Market (Formerly North Bethesda Market I)**

Date of Hearing: March 2, 2023

## 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, under Section 59-7.7.1.B.1, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on September 28, 2006, the Planning Board approved Site Plan 820060170 by Resolution No. 06-18 for up to 440 multi-family dwelling units, including 15% MPDUs, and up to 223,000 square feet of commercial development on 5.91 gross acres in the TS-M zone; and

WHEREAS, on May 25, 2007, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82006017A by Resolution No. 07-64 for the realignment of Executive Boulevard; inclusion of Rockwall I & II buildings in shared parking analysis; decrease in dwelling units and associated changes; increase in floors in Building B with no change in height; adjustments to the service lane and loading dock; and minor site and architectural clarifications and design adjustments; and

WHEREAS, on September 18, 2008, the Planning Director approved an amendment to the previously approved site plan, designated Site Plan No. 82006017B for minor modifications to paving, landscaping, drainage, seating, artwork, water feature, lighting, and amenity designs and details; and

WHEREAS on September 24, 2009, the Planning Director approved an amendment to the previously approved site plan, designated Site Plan No. 82006017C

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2425 Reedie Drive, Floor 14, Wheaton, MD 20902 | Phone: 301-495-4605 | Fax: 301-495-1320  
[www.montgomeryplanningboard.org](http://www.montgomeryplanningboard.org) | [mcp-chair@mcpcpc.org](mailto:mcp-chair@mcpcpc.org)

Approved as to

Legal Sufficiency: /s/ Emily Vaias

M-NCPPC Legal Department

for minor modifications to rights-of-way, architectural elevations, paving, landscaping, drainage, seating, lighting, and amenity designs and details; and

WHEREAS, on March 3, 2011, the Planning Director approved an amendment to the previously approved site plan, designated Site Plan No. 82006017D for minor modifications to rights-of-way, architectural elevations, paving, landscaping, drainage, seating, lighting, and amenity designs and details; and

WHEREAS, on September 19, 2011, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82006017E by Resolution No. 11-66 for replacement of second-floor retail space with 14 dwelling units; adjustments to residential amenity space, public use space, and cafe seating areas; architectural modifications to reflect change of use; update of data table to reflect changes; and minor landscape and site detail changes; and

WHEREAS, on April 30, 2014, the Applicant withdrew Site Plan Amendment No. 82006017F for certain matters regarding cafe seating and shared use of rights-of-way along Executive Boulevard. The issues were resolved with Planning Department Staff without having to pursue this site plan amendment; and

WHEREAS, on July 22, 2015, the Applicant withdrew Site Plan Amendment No. 82006017G for amendment to parking requirements and to include additional bicycle storage. The Applicant no longer wished to pursue this amendment; and

WHEREAS, on May 1, 2019, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82006017H (MCPB No. 19-035), to convert 14,259 square feet of commercial space into 13 multi-family units in Building A; convert the existing 2,022 square feet of leasing office into additional common amenity space for residents; relocate the existing leasing office from Building C to Building A; and install movable furniture in the exterior plaza on the Subject Property; and

WHEREAS, on November 2, 2022, SPUS8 NoBe LP ("Applicant") filed an application for approval of an amendment to the previously approved site plans to convert 19,350 sf of commercial space in Building B into 14 dwelling units and add 3,500 sf of residential square footage to accommodate new loft space; make modifications to the southern façade of Building B and allow for a potential future rooftop residential amenity; and convert 2,022 sf of unimproved residential amenity space in Building C into two dwelling units on the Subject Property; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan Amendment No. 82006017I, NoBe Market (Formerly North Bethesda Market I) ("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 February 16, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 2, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82006017I to convert 19,350 sf of commercial space in Building B into 14 dwelling units and add 3,500 sf of residential square footage to accommodate new loft space; make modifications to the southern façade of Building B and allow for a potential future rooftop residential amenity; and convert 2,022 sf of unimproved residential amenity space in Building C into two dwelling units by modifying and replacing in its entirety Condition No. 1 (from Site Plan No. 82006017H, MCPB No. 19-035), and adding condition Nos. 3, 4, and 5 below:<sup>1</sup>

**MODIFIED CONDITION:**

1. The Planning Board accepts the recommendations of the Montgomery County Department of Housing and Community Affairs ("DHCA"), in its letter dated January 31, 2023, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Site Plan approval.

**NEW CONDITIONS:**

3. Before 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 site plan resolution on the approval sheet.
  - b) Modify the Recreation Amenity Analysis on Sheet C-3 to demonstrate that sufficient recreational amenities are provided for 440 units.
4. Prior to issuance of the first permit for any residential unit approved by this Amendment, the Applicant/developer/builder must provide certification from an

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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.

acoustical engineer that the units will be constructed so that all interior level noise levels do not exceed 45 dBA Ldn.

5. Before the final inspection for any residential unit approved by this Amendment, the Applicant/developer/builder must certify to M-NCPPC Staff that units have been constructed in accordance with the certification of the engineer that specializes in acoustical treatments.

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 NoBe Market (Formerly North Bethesda Market I), Site Plan No. 82006017I, 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 of its Staff as presented at the hearing and/or 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:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan as revised by previous amendments, and all findings not specifically addressed remain in effect.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The data table below reflects density changes approved with this Amendment, including an increase in the number of dwelling units from 424 to 440 (the maximum number of units approved for the Project under Preliminary Plan No. 120060310). All other development standards remain unchanged.

*Data Table: TS-M Zone, Section 59-C-8  
 (Zoning Ordinance in Effect on October 29, 2014)*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Previously Approved</b>	<b>Approved by this Amendment (No. 820060171)</b>
	<b>Density</b>		
Commercial	n/a	135,041 SF <sup>1</sup>	115,691 SF <sup>2</sup>
Base Residential	n/a	377,333 SF	400,183 SF
Total Density	n/a <sup>3</sup>	512,374 SF (1.99 FAR)	515,874 SF (2.01 FAR)
MPDU requirement	12.5%	64 (15% of total)	66 (15% of total)
MPDU Bonus Density	n/a	76,840 SF (22% of base)	76,840 SF (22% of base)
Total Residential Density with MPDU bonus	n/a	454,173 SF	477,023 SF
Total Density with MPDU bonus	2.4 FAR per Master Plan	589,214 SF (2.29 FAR)	592,714 SF (2.31)
Total number of units	n/a	424	440
	<b>Parking</b>		
Total vehicle spaces	1524 <sup>4</sup>	1,793 spaces	1,793 spaces

<sup>1</sup> Not including 59,900 SF of cellar space that is not counted as density. The actual amount of previously approved commercial development is 194,941 sf.

<sup>2</sup> Not including 59,900 SF of cellar space that is not counted as density. The actual amount of approved commercial development onsite is 175,591 sf.

<sup>3</sup> See total Density with MPDU bonus.

<sup>4</sup> Based on Site Plan 820060170 approval of 223,000 sf of commercial (inclusive of 59,900 SF of cellar space) and up to 440 dwelling units.

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 MAR 07 2023 (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 Commissioner Presley, seconded by Commissioner Piñero, with a vote of **04-00-01**; Chair Zyontz, Vice Chair Presley, and Commissioners Branson, and Piñero, voting in favor of the motion, Commissioner Hill abstaining at its regular meeting held on Thursday, March 2, 2023, in Wheaton, Maryland and via video conference.

  
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Jeffrey Zyontz, Chair  
Montgomery County Planning Board

Maura Bilafer  
11418 ROCKVILLE PIKE  
NORTH BETHESDA MD 20852

Tim Geitz  
50 Riverside Avenue  
Westport, CT 06880

Elizabeth Rogers  
7600 Wisconsin Avenue, STD 700  
Bethesda, MD 20814

Steven Robins  
7600 Wisconsin Avenue, STD 700  
Bethesda, MD 20814

NoBe Market (formerly North Bethesda Market I),  
Site Plan Amendment  
No. 82006017I