

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-080
Site Plan No. 82022015A
MHP Nebel Street
Date of Hearing: July 13, 2023

JUL 26 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, on August 10, 2022, the Planning Board, by Resolution MCPB No. 22-075, approved Site Plan No. 820220150 to transform a vacant and environmentally constrained parcel of land into a 163-dwelling unit affordable housing project with enhancements to pedestrian and vehicular circulation, public open space, and significant stream restoration on 2.66 acres of tract area that is made up of two parcels known as P362 (North Parcel) in the CR-3.0 C-1.5 R-2.5 H-200 zone and P394 (South Parcel) in the CR-4.0 C-2.0 R-3.5 H-250 zone, located on Nebel Street at the intersection of Old Georgetown Road ("Subject Property"), in the White Flint Policy Area and 2010 White Flint Sector Plan ("Sector Plan") area; and

WHEREAS, on February 22, 2023, Montgomery Housing Partnership ("Applicant") filed an application for approval to amend the previously approved conditions to relocate overhead utilities across the street instead of underground along the Site's Nebel Street frontage, reduce the total vehicular parking count by three (3) spaces and revise the public benefits points table and architectural sheets to correspond to parking changes on the Subject Property; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82022015A, MHP Nebel Street ("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 June 29, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

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Approved as to

Legal Sufficiency: /s/ Matthew T. Mills

M-NCPPC Legal Department

WHEREAS, on July 13, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 4-0-1 ; Vice Chair Pedoeem, Commissioners Bartley, Hedrick and Linden voting in favor. Chair Harris recused himself.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82022015A to amend the previously approved conditions to relocate overhead utilities across the street instead of underground along the Site's Nebel Street frontage, reduce the total vehicular parking count by three (3) spaces and revise the public benefits points table and architectural sheets to correspond to parking by modifying the following Condition Nos. 4, 5, 17, 19, and 24 of Site Plan No. 820220150 (the deleted text is in strikethrough, new text is underlined):¹

4. Public Open Space, Facilities, and Amenities

b) Before issuance of the final use and occupancy certificate, the Applicant must construct the streetscape improvements, including the ~~undergrounding relocation of existing~~ utilities, along the Property's frontage on Nebel Street and Old Georgetown Road, consistent with the Advancing the Pike District Streetscape Guidelines.

i. Within the first growing season after the issuance of the Use and Occupancy Certificate, all plant materials associated with the streetscape improvements along all frontages, as shown on the Certified Site Plan, must be provided.

ii. The Applicant must re-route existing overhead facilities on the north side of Nebel Street to existing pole infrastructure located on the south side of Nebel Street and move the poles away from the curb to the edge of the right-of-way within the sidewalk buffer to maintain the minimum sidewalk clearance, open space, and landscape planting plan. Minor engineering related alterations to the utility plan must be substantially similar to the submitted drawings to meet the purpose and intent for rerouting, as determined by M-NCPPC Staff and by Pepco.

iii. The Applicant must provide empty conduits to be buried along the Site's Nebel Street frontage during the time of construction to accommodate future undergrounding, subject to Pepco's review and acceptance of this improvement.

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.

5. 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.

c) Quality Building and Site Design

- i. **Exceptional Design** – The Applicant must implement the architectural elevations provided that satisfies the minimum requirement of four design criteria.
- ii. **Structured Parking** – The Applicant must provide a minimum of ~~143~~ 140 parking spaces within an above-grade and below-grade structure or as required for the total dwelling unit count per Section 59.6.2.4 of the County Code.

17. Transportation

- a) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated May 18, 2022, and April 25, 2023 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- b) Before issuance of any above grade building permit, the Applicant must obtain approval of a Project-based Transportation Demand Management Plan (TDM) from the Montgomery County Department of Transportation (MCDOT).

19. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet A1.0 through Sheet A5.0 of the submitted architectural drawings as revised, as determined by M-NCPPC Staff.

24. Certified Site Plan

Before approval of the Certified Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, development program, and amended Site Plan resolution (and other applicable resolutions and agency letters) on the approval or cover sheet(s).
- d) Modify data table to:
 - i. Reflect development standards approved by the Planning Board and the revised vehicular parking count.

ii. Clarify dedications as previous or proposed.

t) Include the revised overhead utility relocation exhibit in the plan set with overlapping boundaries for the southern open space and tree planting details and revise the Nebel Street road cross-section to reflect the revised utility pole reconfiguration.

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 MHP Nebel Street No. 82022015A, 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 provided 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. The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

a. Use and Development Standards

The Subject Property includes 2.66 acres of tract area that is made up of two parcels known as P362 (North Parcel) in the CR-3.0 C-1.5 R-2.5 H-200 zone and P394 (South Parcel) in the CR-4.0 C-2.0 R-3.5 H-250 zone. No changes are included for the use and development standards, and open space requirements for the CR zone that are applicable to the Project. Therefore, the Site Plan Amendment remains in conformance with the applicable development standards as shown on the Certified Site Plan.

b. Optional Method Public Benefits

In accordance with Section 59.4.7.1 of the Zoning Ordinance, the Site Plan must provide a minimum of 100 public benefit points across at least four (4) public-benefit categories. The Site Plan was approved for

253.3 public benefit points in four (4) categories to satisfy the requirements: 1) Transit Proximity, 2) Affordable Housing, 3) Exceptional Design, and 4) Structured Parking. Alongside the provision of 25% MPDUs pursuant to Section 4.7.3.D.6 of the Zoning Ordinance, the Project puts forth additional public benefit points from other categories and provides more benefits than are required. The Amendment makes minor modifications to the public benefit points as shown in Table 1.

Table 1: Approved Modifications to the Approved Public Benefit Calculations

	Max Allowed	Approved by Planning Board	Approved Changes with Amendment
Connectivity and Mobility			
Transit Proximity	70	30	
Diversity of Uses and Activities			
Affordable Housing	No limit	188.2	
Quality of Building and Site Design			
Exceptional Design	10	10	
Structured Parking	20	15.1	15.0
Protection and Enhancement of the Natural Environment			
Cool Roof	15	10	
TOTAL	-----	253.3	253.2

c. General Requirements

i. *Site Access*

The Site Plan Amendment does not include modifications to pedestrian or vehicular access. The Applicant received approval for two new curb cuts along the Nebel Street frontage of the Property, each providing access to separate first and second ingress/egress points as a means of accommodating stacked floorplates for potential future conversion of parking to additional residential units. Access to the parking garage will be made utilizing the northern driveway. Loading and service needs will be accommodated via the southern driveway and associated loading dock. The loading area is internal to the building and will be concealed by a door when not in use.

ii. *Parking, Queuing, and Loading*

The Project must provide adequate parking spaces pursuant to Section 6.2.4.B of the Zoning Ordinance. The Site Plan was approved for an at- and above-grade parking garage under the residential floor plates that includes a total of 143 parking spaces.

The Amendment proposes a total of 140 parking spaces. This is still within the adjusted minimum of 268 spaces required when factoring in the Non-Auto Driver Mode Share (NADMS) percentage goal allowed under Section 59.6.2.3.I.7.a of the Zoning Ordinance. The NADMS goal for the 2010 *White Flint Sector Plan* is 51% for residents. The ordinance allows for a reduction of up to 20%. The Amendment will not modify bicycle parking or loading.

The Board concurs that the parking reduction by three (3) vehicular spaces will not create adverse impacts given the Master Plan recommendation for reductions and the abundance of existing and planned transit as well as the prevalence of bicycling infrastructure. Furthermore, the White Flint Metrorail Station and future MD 355 Bus Rapid Transit stations are located within a walkable distance from the Site.

Table 2: Parking Requirements for Multi-Family Apartments

Standard	Permitted/ Required	Approved by the Planning Board	Permitted/ Required (with increase reduction for NADMS)	Approved with Amendment
Vehicular Parking²				
(8) <i>Efficiency Market - 1 space per unit</i>	<u>Market Rate</u> 122 (min.) 178 (max.)		<u>Market Rate</u> 122 (min.) 178 (max.)	
(42) <i>1-Bedroom Market - 1 space min. / 1.25 max. spaces per unit</i>	<u>MPDU</u> 21 (min.) 60 (max.)	143 spaces	<u>MPDU</u> 12 (min.) 60 (max.)	140 spaces
(54) <i>2-Bedroom Market - 1 space min. / 1.5 spaces max. per unit</i>				

² The baseline parking minimum in the parking table under Section 6.2.4.B may be reduced for MPDUs by multiplying the adjustment factor (0.50) times the baseline minimum.

(18) 3-Bedroom Market - 1 space min. / 2 spaces max. per unit	Multi-Family Apartments Subtotal		Multi-Family Apartments Subtotal	
(2) Efficiency MPDU - 0.5 space min. / 1 space max. per unit	143 (min.) ³		134 (min.)	
(15) 1-Bedroom MPDU - 0.5 space min. / 1.25 spaces max. per unit	238 (max.)		238 (max.)	
(18) 2-Bedroom MPDU - 0.5 space min. / 1.5 spaces max. per unit				
(6) 3-Bedroom MPDU - 0.5 space min. / 2 spaces max. per unit				
Bicycle Parking	82 spaces	82 spaces	N/A	N/A
0.50 spaces per unit x 163				

3. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A Stormwater Concept Plan was previously approved with the initial Plan by the Montgomery County Department of Permitting Services on June 29, 2022. The Plan will continue to meet stormwater management requirements using micro-bioretenion areas, planters, and a green roof.

b. Chapter 22A, Forest Conservation

The Site Plan Amendment does not propose any changes to the previously approved Forest Conservation Plan. Therefore, the Planning Board finds that the Forest Conservation Plan remains in compliance with the requirements of the Forest Conservation Law.

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

No changes are included with this Amendment to circulation patterns, loading areas, open spaces, site amenities, or building massing. The Project will still

³ Figure does not reflect reductions for NADMS percentage goal under 59.6.2.3.I.7.a of the Montgomery County Zoning Code. An initial 5% NADMS reduction for 163 units results in 155 minimum spaces. An additional adjustment for 41 MPDUs further reduces the minimum by 21 spaces for a total of 134 minimum required spaces.

provide two levels of structured parking on the ground level and one level underground within the footprint of the building. The loading and service areas for the Project will still be accessed from the eastern-most curb cut off Nebel Street and will be primarily concealed from view from Nebel Street.

5. *The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Planning Board's previous Site Plan approval required that the existing six (6) utility poles and associated overhead wires along the Nebel Street frontage of the Property be relocated to an underground conduit system. However, Pepco found that the Applicant's initial design proposal for undergrounding the overhead utilities is not in Pepco's interest according to system needs and standards for existing pole transfers. Subsequently, the Applicant submitted a new design proposal to Pepco that was found acceptable. Therefore, the Applicant requested to amend the associated Site Plan (No. 4b) condition of approval to eliminate the undergrounding requirement and instead re-route the existing overhead facilities to existing pole infrastructure located on the south side of Nebel Street.

The Amendment allows for the removal of the overhead wires from in front of the Applicant's building and to relocate them to the opposite side of the street where there is not an existing multi-family building sited close to the street. This relocation effectively reduces the number of new poles necessary to install along the building's frontage while also creating a safer environment for the MHP building to operate during fire emergencies. No new poles south of the MHP building and no guy/support poles in front of the MHP building are required to be installed. According to the Applicant's utility consultant, the following additional utility work will occur to implement this new configuration: 1) Install two (2) new poles north of the MHP building and relocate one (1) existing pole north of the MHP building and 2) Replace three (3) existing poles on the opposite side (south side) of Nebel Street. These poles will be slightly shifted away from the curb to the edge of the right-of-way.

The Site Plan Amendment will continue to conform with the major recommendations of the 2010 *White Flint Sector Plan*, the 2010 *White Flint Design Guidelines*, the 2021 *Advancing the Pike District Urban Design Guidelines*, and the intent of the Planning Board's initial condition of approval to improve aerial access for fire safety purposes. As previously noted, the undergrounding of the existing above ground utilities was intended to address the fire emergency response to the third floor through the top sixth floor. Without the undergrounding of overhead wires, response time from the ground floor would be diminished and force lengthier rooftop emergency operations. Not only is the streetscape aesthetic

addressed, but the alternative location for the overhead utilities addresses the life safety concerns that were underscored.

Finally, from the perspective of the White Flint Master Plan, the goal is still to underground utilities in the urbanizing White Flint area. As a result, this approval is conditioned to provide empty conduits to be buried along the Site's Nebel Street frontage during the time of construction to accommodate future undergrounding, subject to Pepco's review and acceptance for implementation.

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 JUL 26 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 consistent with the Maryland rules for the judicial review of administrative agency decisions.

* * * * *

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 Linden, seconded by Vice Chair Pedoeem, with a vote of 4-0-1; Vice Chair Pedoeem, and Commissioners, Bartley, Hedrick, and Linden, voting in favor of the motion, Chair Harris abstaining, at its regular meeting held on Thursday, July 20, 2023, in Wheaton, Maryland and via video conference.


Artie Harris, Chair
Montgomery County Planning Board

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Item 9 – MHP – Nebel Street Applicant: Montgomery
Housing Partnership, Site Plan No. 82022015A