

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-075
Site Plan No. 82012004B
North Bethesda Market II
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, 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 March 1, 2012, the Planning Board, by Resolution MCPB No. 12-31, approved Site Plan No. 820120040 for 740,528 square feet of development on 4.41 acres of CR-4, C-3.5, R-3.5, H-300 and CR-3, C-1.5, R-2.5, H-150 zoned-land, located at the southeast quadrant of the intersection of Nicholson Lane and Woodglen Drive ("Subject Property"), in the White Flint Policy Area and 2010 *White Flint Sector Plan* ("Sector Plan") area; and

WHEREAS, on February 12, 2015, the Planning Board approved an amendment to the previously approved site plan, designated Site Plan No. 82012004A (MCPB No. 15-011), to build the development in three phases instead of one, with the third phase to be approved in a separate, future site plan amendment; to reallocate 100,000 square feet of the approved non-residential floor area to residential density; and to add an option in Phase 1 to not build a residential building on the Subject Property; and

WHEREAS, on March 13, 2023, AvalonBay Communities, Inc., Woodglen Master Owner, LLC, and Woodglen Master Owner II LLC ("Applicant") filed an application for approval of an amendment to the previously approved site plan to develop one seven-story building containing up to 280 residential dwelling units and one single-story retail building containing up to 7,500 square feet of commercial uses on the Subject Property; and

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Approved as to
Legal Sufficiency: /s/ Matthew T. Mills
M-NCPPC Legal Department

WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82012004B, North Bethesda Market 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 June 30, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

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 5-0; chair Harris, Vice Chair Pedoeem, Commissioners Bartley, Hedrick and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82012004B for the development of one seven-story building containing up to 280 residential dwelling units and one single-story retail building containing up to 7,500 square feet of commercial uses by superseding all previous conditions with the following conditions:¹

Density, Height & Housing

1. Density

The Site Plan is limited to a maximum of 292,500 square feet of new development on the Subject Property, including 285,000 square feet of residential uses, for up to 280 multi-family dwelling units, and 7,500 square feet of new non-residential uses, in addition to the existing 67,260 square-foot non-residential building to remain.

2. Height

The development is limited to a maximum height of 80 feet, as measured in accordance with Section 59-A-2.1 from the building height measuring point, as illustrated on the Certified Site Plan.

3. Moderately Priced Dwelling Units (MPDUs)

- a. The Planning Board has reviewed and accepts the recommendations of Montgomery County Department of Housing and Community Affairs (MCDHCA) in its letter dated June 23, 2023, and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations in the letter, which MCDHCA may amend

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.

provided that the amendments do not conflict with other conditions of the Site Plan approval.

- b. The development must provide 12.5 percent MPDUs or MCDHCA-approved equivalent consistent with the requirements of Chapter 25A and the applicable Master Plan.
- c. Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the MCDHCA must be executed.

Open Space, Facilities and Amenities

4. Public Open Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 15,900 square feet of public use space, and 6,350 square feet of public open space (total of 14% of net lot area) on-site.
- b. Before issuance of final use and occupancy certificate for Phase 1 buildings, the Applicant must construct the streetscape improvements along the property's frontages on Nicholson Lane, Woodglen Avenue, Rockville Pike and Executive Boulevard.
- c. Before issuance of final use and occupancy certificate for Phase 1 buildings, the Applicant must underground the utilities along the property's frontage on Woodglen Avenue.
- d. Before the issuance of final use and occupancy certificate for Building A, all public use space and public open space areas on the Subject Property associated with the Public Plaza must be completed.
- e. Before the issuance of final use and occupancy certificate for Building B, all public use space and public open space areas on the Subject Property associated with the Pocket Park must be completed.

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.

- a. **Major Public Facilities**
Before final use and occupancy certificate for Building B, the Applicant must construct the bike facility along Nicholson Lane, extending from Woodglen Drive east to the intersection with Rockville Pike.
- b. **Transit Proximity**

c. Connectivity between Uses, Activities, and Mobility Options

i. Minimum Parking

The Applicant must not provide or construct more than 574 parking spaces as part of Phase 1.

ii. Neighborhood Services

iii. Wayfinding

The Applicant must establish a way-finding circulation system. The Wayfinding Plan may include, but is not limited to internal and external signage, banners, lighting, and design elements that efficiently direct patrons through the Property. The Wayfinding Plan will be incorporated into the Certified Site Plan and will be approved by M-NCPPC Staff before certification. The locations of the proposed signage shall be free of all obstructions and clearly visible from the directed routes.

d. Quality Building and Site Design

i. Exceptional Design

ii. Public Open Space

The Applicant must provide a minimum of 6,350 square feet of public open space, which is in excess of the minimum code requirements of 15,900 square feet of public use space (total of 14 percent of net lot area) on-site.

iii. Structured Parking

The Applicant must provide a minimum of 319 parking spaces within an above-grade structure.

e. Protection and Enhancement of the Natural Environment

i. Building Lot Terminations (BLTs)

Before issuance of any building permit, the Applicant must provide proof of purchase and/or payment of 0.49 BLTs to the MCDPS and M-NCPPC staff.

ii. **Cool Roof**

The Applicant must provide a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12.

6. **Recreation Facilities**

- a. The Applicant has demonstrated substantial conformance with the M-NCPPC Recreation Guidelines through Scenario ID 9196.

7. **Maintenance of Public Amenities**

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to sculptural signage, streetscapes, the public plaza and the pocket park.

Environment

8. **Noise Attenuation**

- a. Before issuance of the any building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatment that the building shell for residential dwelling units on the north and east building faces will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
- b. Before issuance of any Use and Occupancy Certificate for residents, the Applicant must certify that the noise impacted units have been constructed in accordance with the certification of an engineer that specializes in acoustical treatments.

9. **Stormwater Management**

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Service (MCDPS) Water Resources Section in its stormwater management concept letter dated March 8, 2023, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

Transportation & Circulation

10. 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 19, 2023 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- b. Before the issuance of any building permit, the Applicant must obtain approval of a Project-based Transportation Demand Management Plan (TDM) from the Montgomery County Department of Transportation (MCDOT).
- c. The applicant shall satisfy the off-site parking by agreement requirements per section 59.6.2.3.G of the Zoning Ordinance prior to the release of the first above-grade building permit.

11. Pedestrian & Bicycle Circulation

- a. The Applicant must provide 114 long-term and 8 short-term bicycle parking spaces.
- b. The new long-term spaces must be in a secured, well-lit bicycle room on the ground floor of the parking garage or a bicycle room located in a parking garage, and the short-term spaces must be inverted-U racks (or approved equal) installed in a location convenient to the main entrance (weather protected preferred). The existing long-term spaces must remain in a secure location within the existing office parking garage. The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.
- c. The applicant must provide one bicycle repair station.
- d. The Applicant must provide the following master planned pedestrian and bicycle facilities, the exact location, design and construction of which must comply with requirements of the Montgomery County Department of Transportation, Division of Traffic Engineering and Operations, before right-of-way permit.
 - i. Nicholson Lane: 8-foot-wide sidewalk, 5-foot-wide pedestrian/bicycle buffer, 6-foot-wide bike lane with 3-foot-wide buffer from traffic.
 - ii. Rockville Pike (MD 355): 2-foot-wide maintenance buffer, 10-foot-wide sidewalk, 10-foot-wide bikeway with 6-foot-wide buffer from traffic.

- iii. Woodglen Drive: 10-foot-wide sidewalk with 6-foot-wide buffer from traffic.

12. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated July 10, 2023 and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

Site Plan

13. Site Design

- a. The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A-31, A-31-R, and A-41 of the submitted architectural drawings, as determined by M-NCPPC Staff.

14. Lighting

- a. Before Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b. All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c. Deflectors will be installed on all new fixtures to prevent excess illumination and glare.
- d. Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by street lights within the right-of-way.
- e. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
- f. On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

15. Site Plan Surety and Maintenance Agreement

Before issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, whichever comes first, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include 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. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b. The cost estimate must include applicable Site Plan elements, including, but not limited to: plant material, on-site lighting, indoor and outdoor recreational facilities, site furniture, trash enclosures, private roads and sidewalks, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and street lights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c. The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

16. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved before the approval of the Certified Site Plan.

17. Certified Site Plan

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 stormwater management concept approval letter, development program, and Preliminary Plan and Site Plan resolutions on the approval or cover sheet(s).
- b. Add the following notes:
 - i. "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."

- ii. "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
 - iii. "The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur before any site development work commencement and before any work that is covered by the site plan surety and maintenance agreement. The Applicant, along with their representatives, must attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times."
- c. Fire and Rescue Access plan should be included in the Certified Site Plan.
 - d. Modify data table to reflect development standards approved by the Planning Board.
 - e. Ensure consistency of all details and layout between Site and Landscape plans.
 - f. Label the east-west private road as "Private Street A".
 - g. Include a wayfinding plan.
 - h. The parking data table should be updated to reflect Planning Board approved parking spaces.
 - i. The parking data table should be updated to reflect the number of bicycle parking spaces approved by the Planning Board.
 - j. Update Public Benefits table to reflect Public Benefit points calculation approved by the Planning Board.
 - k. Label the proposed commercial building as "Buildings A" and the proposed residential building as "Building B".
 - l. Update all drawings to show proposed large street trees along Woodglen Drive and Nicholson Lane, planted at a maximum of 30' on center.
 - m. Update all drawings to show an entryway to the bike storage facilities from the sidewalk along the Private Street A.
 - n. Update all elevation drawings for the parking structure and residential building to clearly identify and separately label all areas for screening treatments, murals, and artworks, provide information regarding the

materials and colors for screening treatments, and include photographic examples, with Staff approval.

- o. Update vehicular parking table on Sheet T-1 to show minimum structured parking of 319 spaces will be provided, with a footnote added to "319" in the provided parking spaces column to permit up to 21 additional parking spaces, for a total of up to 340 structured parking spaces if there are no impacts to building footprint or above-grade architecture.
- p. Show garage screening details based on Staff's exhibit for the proposed location and size of all screening elements. Final design of garage screening will be determined at Certified Site Plan and subject to Staff approval.

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 North Bethesda Market II 82012004B, 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.

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

This provision is not applicable.

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.*

As explained in the Staff Report (incorporated herein by reference), the Site Plan complies with the development standards and requirements set forth for the CR Zone in Division 59-C-15 of the Zoning Ordinance. This Property is not located within an urban renewal area.

The Subject Property includes approximately 4.41 acres zoned CR-4, C-3.5, R-3.5, H-300 and CR-3, C-1.5, R-2.5, H-150. The Application satisfies the applicable development standards as shown in the following data table:

| Development Standard | Permitted/Required | Previously Approved Site Plan Amendment 82012004A | Proposed (Phase 1) |
|----------------------------------|--------------------|---|---|
| Gross Tract Area (Overall) | n/a | 191,925 sf | 191,925 sf |
| Net Lot Area (Overall) | n/a | 158,586 sf | 158,586 sf |
| Net Lot Area (Phase 1)* | | | 127,441 sf |
| Area Zoned: | | | |
| CR-4.0, C-3.5, R-3.5, H-300 | 164,753 sf | 164,753 sf | 164,753 sf |
| CR-3.0, C-1.5, R-2.5, H-150** | 27,172 sf | 27,172 sf | 27,172 sf |
| Residential Density (Building B) | 3.5 FAR (max) | 492,000 sf | 285,000 sf (1.73 FAR) 280 dwelling units |
| Commercial Density | 3.5 FAR (max) | 164,260 sf | 74,760 sf (0.45 FAR) |
| Proposed Building A | | | 7,500 sf |
| Existing Office Building | | | 67,260 sf |
| Total Density | 4.0 FAR (max) | 656,260 sf | 359,760 sf (2.18 FAR) |
| Building Height | 300 feet (max) | 300 feet | 75 feet |
| Public Use Space | 15,900 sf (min) | 22,700 sf | 22,250 sf |

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

Phase 1 will provide internal private streets that will be lined with trees and on-street parking, to promote safe and efficient internal circulation of vehicles, pedestrians and bicyclists. The buildings have been located and designed to define and enhance the pedestrian environment, with street-activating ground floor uses. Additionally, streetscape improvements will be provided to enhance the pedestrian environment.

Safe, adequate, and efficient loading to the site will occur via Private Street A at the center of the Site.

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

Phase 1 has been designed to ensure that it is physically compatible with, and not detrimental to, existing and future development surrounding the Subject Property. Phase 1 has been specifically designed to promote a pedestrian-friendly environment. Phase 1 has been designed to promote connectivity with North Bethesda Market I to the south, with the extension of Paseo Drive to the center of the Subject Property. The Subject Applications also propose to replace an underutilized property with an exciting new Project.

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..*

a. Chapter 22A, Forest Conservation

The Board finds that as conditioned the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

Forest Conservation Plan F20230170 has been submitted to meet the requirements of Forest Conservation Law.

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

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on March 8, 2023. The plan will meet stormwater management requirements through the use of green roofs and micro-bioretenion facilities.

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

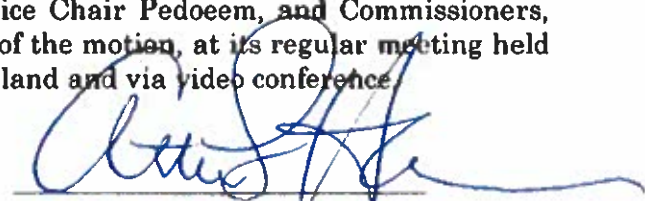
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 26 2023 (which is the date that this resolution is mailed to all parties of record); and

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).

* * * * *

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 Commissioner Bartley, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, and Commissioners, Bartley, Hedrick, and Linden, voting in favor of the motion, at its regular meeting held on Thursday, July 20, 2023, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board

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North Bethesda Market II: Preliminary Plan Amendment
12012006C, Site Plan Amendment 82012004B and
Forest Conservation Plan F20230170