



Site Plan Amendment 82008011A, North Bethesda Center Parcels F, I, & J

<input type="checkbox"/>	Joshua Sloan, Coordinator	Joshua.Sloan@montgomeryplanning.org	301.495.4597
<input type="checkbox"/>	Shahriar Etemadi, Supervisor	Shahriar.Etemadi@montgomeryplanning.org	301.495.2116
<input type="checkbox"/>	Khalid Afzal, Acting Chief, Area 2 Planning Division	Khalid.Afzal@montgomeryplanning.org	301.495.4650

Notice of Application: August 2, 2011; Notice of Public Hearing: September 9, 2011

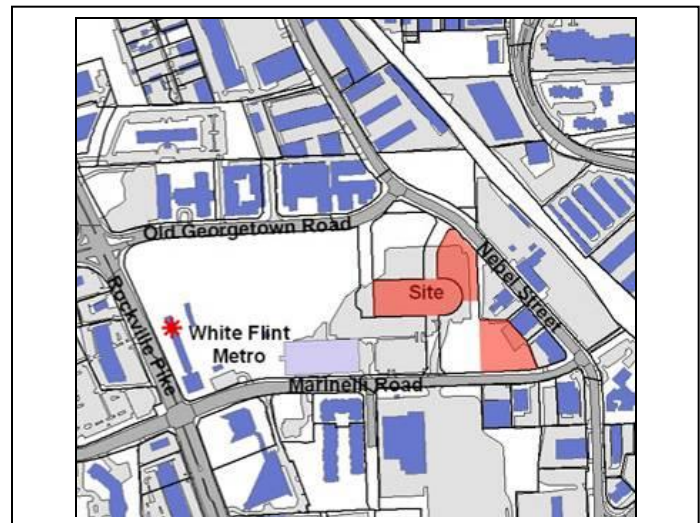
description

Location:

- Southwestern quadrant of the intersection of Old Georgetown Road and Nebel Street;
- TS-M Zone;
- White Flint Master Plan.

Applicant:

- LCOR North Bethesda Phase II, LLC



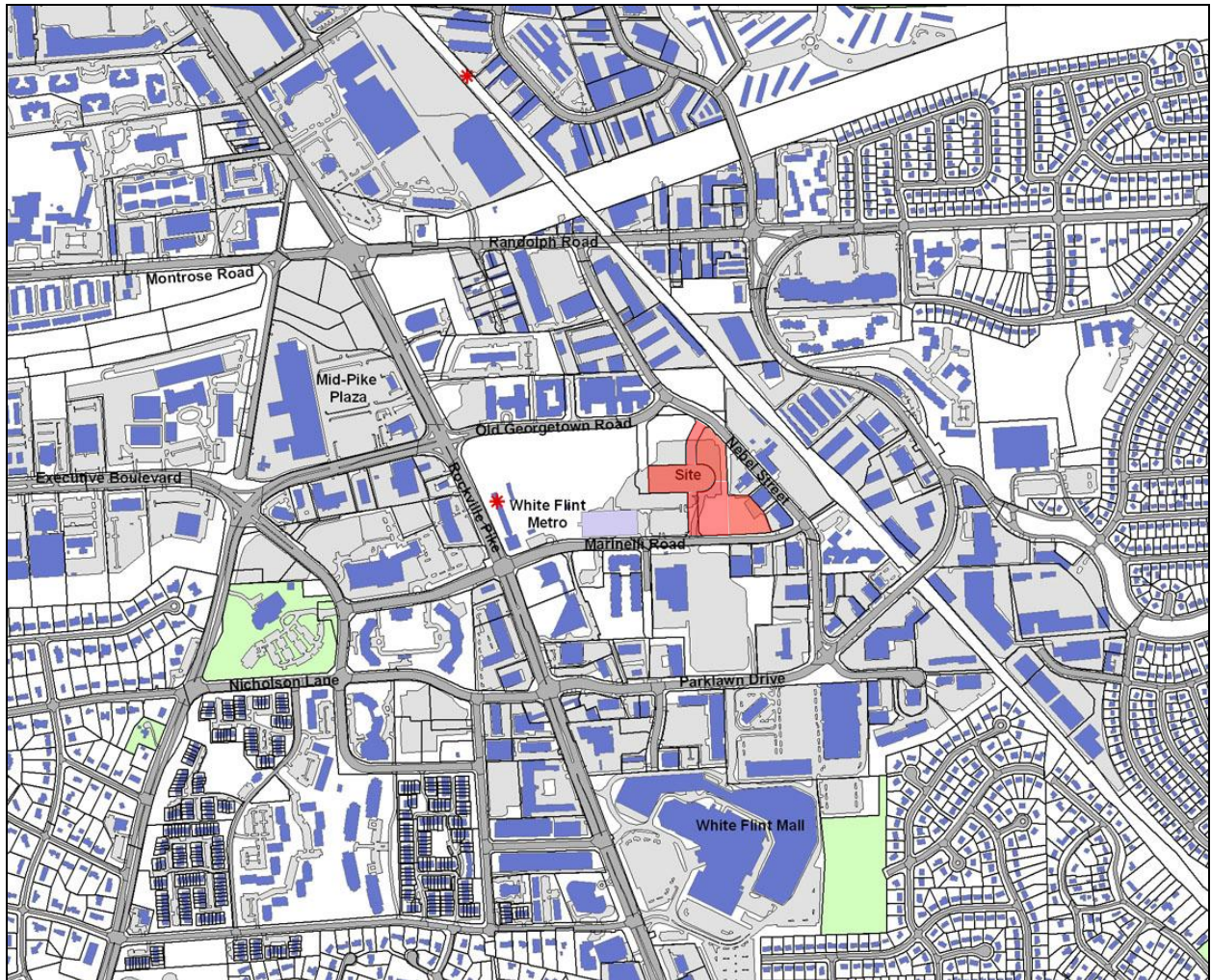
summary

- Site Plan Amendment to add 14 dwelling units but decrease building size due to change in unit types; shift parcel boundaries to accommodate structures; and make minor site design changes.
- Staff finds the changes are minor in nature and do not modify the original findings of approval.
- Approval with conditions is recommended.

SITE DESCRIPTION

Vicinity & Analysis

The subject property is located in the southwest quadrant of the intersection of Old Georgetown Road and Nebel Street in North Bethesda. The larger North Bethesda Center property, of which the subject site plan amendment is a part, is bounded by Old Georgetown Road on the north, Marinelli Road on the south, Rockville Pike on the west, and Nebel Street on the east. There are train tracks one block to the east, and the White Flint Metro Station is in the southwest corner of the site at Rockville Pike and Marinelli Road.



Vicinity Map

The Parcels included within this Site Plan Amendment, F1, F2, I, and J, are part of the larger North Bethesda Center development. This larger project will include a mix of residential, office, retail, and civic uses within a new street-and-block system. Immediately north and east of Parcels F1 and J, Parcel E contains a recently completed 18-story multi-family building with 312 residential units and 61,246

square feet of supermarket retail. Parcel C to the east of, and adjacent to, the White Flint Metro Station, is currently under construction for 423,745 square feet of office, retail, and restaurant uses.



North Bethesda Center Master Plan

The subject site is located on the eastern side of the larger development. There is a significant grade change away from Rockville Pike toward Nebel Street. The site used to contain a large surface parking lot, but since has been cleared and is now largely vacant. The portion of this subject site along Mariner Road, Parcel I, contains an existing surface stormwater facility.

AMENDMENT DESCRIPTION

Previous Approvals

Zoning/Development Plan

The subject property was rezoned from the R-90 to the TS-M Zone by Local Map Amendment G-801. As part of the Development Plan, the District Council set limits for the residential and commercial development on the entire North Bethesda Center site, parsing the total amount of buildable area among the blocks. Parcel I remained zoned I-1. The site has since been rezoned to the CR Zone, but the proposed project is proceeding under the approved Development Plan.

Preliminary Plan

On March 22, 2005, the Planning Board approved Preliminary Plan 120040490 for the entire North Bethesda Center site for 1,350 multi-family residential units, including 169 MPDUs; 1.148 million square feet of commercial office; 202,037 square feet of general retail and supermarket; and an 80,000 square-foot theatre on nine lots and two parcels on 32.42 acres.

Preliminary Plan Amendment

On March 20, 2008, the Planning Board approved Preliminary Plan Amendment 12004049A modifying three conditions related to platting, APF validity, and public use easements.

Site Plan

On September 16, 2008, the Planning Board approved Site Plan 82080110 for 327 multi-family residential units, including 41 MPDUs, in a 19-story building on Parcel F and approximately 63,100 square feet of public use space on Parcels F & J.

Description of Amendment[s]

The Applicant requests the following modifications to the Site Plan:

1. Reduction of building height from 19 to 18 floors;
2. Reduction of construction area by approximately 29,500 square feet;
3. Modification of unit sizes and mix;
4. Increase of 14 units to 341 total;
5. Removal of certain sun rooms from some units and reconfiguration of 1st floor units' patios;
6. Revisions of site details per previous conditions of approvals;
7. Minor grading, site, and streetscape changes due to stormwater management, utilities, and site conditions;
8. Increase in screening of utilities; and
9. Adjustment of parcel boundaries and addition of a volumetric easement to accommodate structures.

PUBLIC NOTICE

A notice regarding the subject amendment was sent to all parties of record by the Applicant on August 2, 2011. Staff received one inquiry regarding the proposed amendment to which they responded and have not received any further questions or comments.

STAFF RECOMMENDATION

Findings

The proposed modifications to the site plan will not alter the overall character, or impact, of the development with respect to the original findings of approval. Further, these modifications will not affect the compatibility of the development with respect to the surrounding neighborhood. The building height has been reduced and the increase in number of units will be offset by reductions in future site plans under the cap established by the Preliminary Plan approval. Most changes are simple modifications to address utility, permitting, and site constraints and requirements. The changes to the parcel boundaries are minor and remain consistent with the approved preliminary plan as allowed under Chapter 50, Section 50-36; platting will continue as conditionally approved under the extension granted by Subdivision Amendment Resolution 11-01.

Conditions of Approval

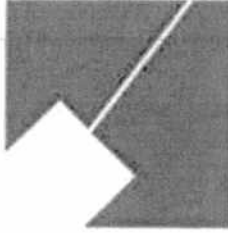
Staff recommends approval of Site Plan Amendment 82008011A, subject to the following conditions:

1. The proposed development must comply with the conditions of approval for Preliminary Plan 120040490, as amended by Preliminary Plan Amendment 12004049A, approved by the Planning Board on September 30, 2004 and March 20, 2008, respectively.
2. The proposed development must comply with the conditions of Site Plan 820080110, approved by the Planning Board on September 26, 2008, except as amended herein.
3. Condition 8.a. is modified to read, in full:
The proposed development shall provide 43 (or 12.5 percent) MPDUs on-site in accordance with the letter from the Department of Housing and Community Affairs dated May 7, 2008, as amended.
4. Condition 9.a. is modified to read, in full:
The Applicant must limit the Site Plan development to no more than 341 multi-family dwellings.

APPENDICES

- A. Previous Planning Board Resolutions

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Date Mailed: MAR 22 2005

Action: Approved Staff
Recommendation

Motion of Commissioner Bryant,
seconded by Commissioner Perdue,
with a vote of 5-0;
Chairman Berlage and Commissioners
Perdue, Bryant, Wellington, and
Robinson voting in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-04049

NAME OF PLAN: North Bethesda Town Center (LCOR White Flint)

The date of this written opinion is MAR 22 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

INTRODUCTION

On January 13, 2004, LCOR White Flint, LLC submitted an application for the approval of a preliminary plan of subdivision of property in the TS-M and I-1 zones. The application proposed to create 9 lots on 32.42 acres of land located at on the east side of Rockville Pike (MD 355) between Marinelli Road and Old Georgetown Road (MD 187), in the North Bethesda/Garrett Park master plan area. The application was designated Preliminary Plan 1-04049. On September 30, 2004, Preliminary Plan 1-04049 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application;

all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

SITE DESCRIPTION

The subject property consists of approximately 32 acres and is located on the east side of Rockville Pike (MD 355) approximately 2,000 feet south of its intersection with Montrose Road. The property is bounded on four sides by roads: Rockville Pike on the west, Old Georgetown Road on the north, Nebel Street on the east and Marinelli Road on the south. The site is currently developed with the White Flint Metro Rail Station, a surface parking lot for Metro patrons, a golf driving range and miniature golf course, and stormwater management facilities. The majority of the property is zoned Transit Station Mixed with a small area of I-1 Light Industrial.

PRIOR PLAN APPROVALS

The TS-M zoned portion of the property was rezoned from the R-90 zone in April 2003 per County Council Resolution No. 15-151. The specifications and requirements of this rezoning have been incorporated into the approval of the Preliminary Plan per proposed condition #2.

A Pre-application Submission Application, including a Concept Plan, was submitted for Planning Board approval, pursuant to the provisions of Section 50-33A of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) in September, 2003 (Pre-Preliminary Plan No. 7-04001). The application requested a decision by the Planning Board on the adequacy of school facilities for the proposed subdivision under the Ceiling Element for the FY 2004 Annual Growth Policy (July 2003), and the adequacy of road and public transportation facilities of the proposed subdivision under the Alternative Review Procedures for Metro Station Policy Areas in the FY 2002 Annual Growth Policy – Policy Element (November 2001). The Pre-Preliminary Plan was approved by the Planning Board, with conditions on October 16, 2003. The approval conditions have been incorporated into the approval of the Preliminary Plan per proposed condition #13.

In July 2004 the Planning Board reviewed a Mandatory Referral for the Washington Metropolitan Area Transit Authority's (WMATA) Metro parking garage at White Flint, which is located on proposed Lot "D" of the subject Preliminary Plan. The Board approved the mandatory referral and transmitted comments to WMATA.

PROJECT DESCRIPTION

The preliminary plan consists of nine lots and 2 parcels. Each lot may contain up to a 20-story building with structured parking. The two parcels contain community open space and stormwater management facilities. The proposed development will contain mixed uses including: approximately 1,350 apartment units, twelve and one-half percent of these units, or 169 units will be Moderately Priced Dwelling Units; 1,148,000 square feet of Commercial Office; 202,037 square feet of General Retail; and up to an 80,000 square foot Theater. The plan preserves approximately one acre of trees, which are part of the original 4.7-acre forest and rock outcroppings of the "White Flint" in the Urban Amenity Open Space area. Site plan review pursuant to §59-D-3 is required for this project.

STAFF RECOMMENDATION

Staff recommended approval of this preliminary plan with conditions in its memorandum dated September 23, 2004 ("Staff Report"). Staff's review indicated that the preliminary plan complies with the requirements of Chapter 50, the Subdivision Regulations. Staff found that the preliminary plan will provide safe and adequate access for vehicles and pedestrians, and satisfies the APF requirements.

During Staff's review, a letter was received from the Garrett Park Estates – White Flint Park Citizens' Association ("Citizens' Association"), which expressed concern with the traffic impact from the Bethesda Town Center, in particular on Rockville Pike, and noted that the Preliminary Plan did not show the on-site daycare facility or the on-site indoor community activity space. Staff also received a letter from V3 Properties, LLC ("V3 Properties"), the owner of an adjacent property on Nebel Street. V3 Properties noted that it and its neighbors should be provided access to and through the proposed development, at a minimum pedestrian access.

PUBLIC HEARING

At the public hearing, Staff presented revised conditions of approval to the Board. Staff explained that one of these revisions included the requirement that the Planning Board grant a waiver of a section of the Subdivision Regulations requiring business district streets have an 80' right-of-way to permit rights-of way of 70 feet, which is the width required in the Road Code, Montgomery County Code Chapter 49. Staff also noted that Condition 13 restates the binding conditions of approval of the pre-preliminary plan and that the preliminary plan proposed condition reflected the correction of a mistake in the pre-preliminary plan conditions by referencing the correct fiscal year Annual Growth Policy. Other revised conditions concerned the roadways, including obtaining certain approvals from SHA and WMATA at site plan review.

Transportation Planning Staff advised the Planning Board that adequate public facilities had been addressed at the pre-preliminary plan stage and has been approved by the Board. As such, Staff testified, the primary transportation issue for the Board's consideration at the preliminary plan hearing involved the road network. Staff advised the Board that, through negotiations, the applicant, DPWT and M-NCPPC Staff had arrived at a consensus position that the streets serving the commercial area will all be public. Streets serving the residential area of the project, however, will be private. Staff noted that DPWT has agreed to maintain Bridge Street as a public street, and that traffic control at the intersection of Bridge and Station streets is being given careful consideration to ensure that there will be no backup of traffic on Rockville Pike. Staff noted the importance of that access point to the site because nearly all of the retail will be located along Main Street and that M-NCPPC, DPWT, and the applicant feel strongly that the proposed connection to Rockville Pike at Bridge Road be provided.

The applicant, through its counsel, testified that applicant agrees with Staff's recommendation and conditions of approval, including the revisions. Responding to the comments in the Citizens' Association letter, applicant's counsel advised the Board that issues related to the daycare center and recreational amenities are not properly addressed at the preliminary plan stage and will be addressed at the site plan stage. Applicant also responded to the letter submitted by V3 Properties, which requested pedestrian and/or vehicular access directly into the site at the middle of the block. Noting that the neighboring property is in an I-1 Zone, Applicant pointed out that pedestrian access exists along Nebel Street into the site. Applicant commented that it did not desire to have I-1 traffic coming through the residential component of the proposed development and, furthermore, that a significant change in grade existed between those neighboring properties and the site, which would make such a connection impractical. Moreover, the applicant argued, the proposed road/ sidewalk grid network provides adequate vehicular and pedestrian connections from virtually any direction.

A representative of the Citizens' Association read and submitted into the record a written statement. The representative pointed out what she believed was an error in excluding from the list of intersections that exceed the CLV congestion standard and requested that the information be updated. She stated that it is in the interest of the community to discourage use of Rockville Pike in favor of alternate routes such as Nebel Street. The representative advised the Board that the Citizens' Association took issue with two aspect of the Preliminary Plan: the construction of new vehicular access from Rockville Pike and the proposal to provide only private road access to Nebel Street.

In its rebuttal time, the applicant clarified that the classification of certain roads as being "private," simply relates to the party who will be charged with maintaining the road. He noted that the private roads would be built to public road standards and the public would have access to those roads. Concerning Bridge Street, the applicant noted that

Transportation Planning Staff had determined during the zoning case that the access to Rockville Pike would relieve some of the traffic congestion at the intersection with Old Georgetown Road. He also advised the Board that deceleration and acceleration lanes would be provided on Rockville Pike at the new access point.

There was considerable discussion by the Board on the amenities and open spaces to be provided and whether they would really serve the community in the manner intended. Board members told the applicant that they want assurance that the proposed amenities would be useful and appear welcoming to the public. Staff and applicant explained to the Board how, conceptually, the amenities would work. They advised the Board that the amenities and open space design will be addressed in some detail at the time of site plan review. The applicant assured the Board that it is aware of the Board's desires with respect to the amenities and open space. The Board also expressed concurrence that the intersection of Nebel and Nicholson requires improvement and asked Staff to look into the matter in order that the Board may forward a recommendation to the County to address any issues there. The Applicant noted that it was required under the alternative review procedure to perform a comprehensive intersection analysis and that such analysis had been conveyed to Staff.

FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies¹; the applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

- a) The Preliminary Plan No. 1-04049 substantially conforms to the North Bethesda/Garrett Park Master Plan.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision. As noted above, the adequate public facilities finding was made at the pre-preliminary plan stage.
- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.

¹ The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

- e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.
- f) The Record of this application contains only the following contested issues:
- Pedestrian and/or vehicular access from adjoining properties in the southeast corner of the property directly into the proposed development: The Board finds, based on evidence of record and testimony at the hearing that providing such direct access is not feasible because of problematic grade changes and the location of proposed stormwater management facilities. The Board notes that adequate access is provided in the northeast corner of the proposed site and that additional "direct" access points are not necessary. The Board further finds that the proposed road/sidewalk grid network provides adequate vehicular and pedestrian connections from virtually any direction, including the adjoining properties.
 - Access to the proposed development directly onto Rockville Pike via Bridge Street: Based on evidence of record and testimony at the hearing, the Planning Board finds that the access point at the proposed Bridge Street and Rockville Pike is critical because nearly all of the retail will be located along Main Street, which is on axis with Bridge Street; and, therefore, it is important for optimal circulation and safety that vehicles entering from and exiting to Rockville Pike have such a convenient access point. Additionally, the Board finds that the proposed access point will facilitate efficient and safe circulation of public transit vehicles on the site. The Board further finds that the proposed connection to Rockville Pike at Bridge Street will not negatively impact traffic on Rockville Pike, because, among other things, it will relieve some of the traffic congestion at the intersection of Rockville Pike and Old Georgetown Road to the north, and deceleration and acceleration lanes will be provided on Rockville Pike to the north and south of the access point. The Board is of the opinion that, in approving a development plan that included access to Rockville Pike via proposed Bridge Street—which access point was not delineated for in the master plan—and delegating final approval of the bridge to the Planning Board as a part of the Board's regulatory review of the proposed development, the District Council, the master plan approving authority, has endorsed access onto Rockville Pike via proposed Bridge Street; and, therefore, the Board's finding of

substantial conformance with the master plan can be made notwithstanding the absence of such an access point from the master plan.

- Private Road access to Nebel Street: The Board finds, based on evidence of record and testimony at the hearing, that providing access to Nebel Street via "private roads" will not discourage drivers from using those roads to access Nebel Street because those roads, when constructed, will be indistinguishable from public roads and will be open to the public.

The Board further finds that any objection (concerning a substantive issue) that was not raised prior to the closing of the Record is waived.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-04049 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-04049, including a waiver of Section 50-26(a)(4) pursuant to Section 50-38, to permit business district streets with a right of way of 70 feet, and subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to 9 lots, 2 parcels with 1,350 Multi-Family Residential Units including 169 MPDUs, 1,148,000 square feet of Commercial Office, 202,037 square feet of General Retail with a possible supermarket, and an 80,000 square foot Theater with matinees and a 3,500-seating capacity.
- 2) Compliance with the specifications and requirements of the approved development plan for Zoning Application No. G-801, County Resolution No. 15-151.
- 3) No clearing, grading or recording of plats prior to site plan signature set.
- 4) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- 5) A landscape and lighting plan must be submitted as part of the site plan application for review and approval by technical staff.
- 6) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.

- 7) Record plat to reflect a Category II easement over the tree save area which is part of the Urban Amenity Open Space.
- 8) Record plat to reflect all areas under Homeowners Association ownership and stormwater management areas.
- 9) Compliance with the conditions of approval of the MCDPS stormwater management approval dated May 26, 2004.
- 10) Final access and improvements, as required to be approved by MDSHA prior to issuance of building permit.
- 11) All road right-of-way shown on the approved preliminary plan shall be dedicated by the applicant, to the full width mandated by the North Bethesda/Garrett Park Master Plan, unless otherwise designated on the Preliminary Plan.
- 12) All road right-of ways shown on the approved preliminary plan shall be constructed, by the applicant, to the full width mandated by the Bethesda/Garrett Park Master Plan, and to the design standards imposed by all applicable road codes, unless otherwise amended. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition.
- 13) Compliance with the following transportation-related conditions:

Per the Planning Board's approval of Pre-Preliminary Plan No. 7-04001:

- A. The Applicant to enter into an agreement with the Planning Board and the County Department of Public Works and Transportation to:
 1. meet trip reduction goals established by the Planning Board as a conditions of approving the LCOR Subdivision, which require the Applicant to reduce 50% of the number of weekly peak hour trips attributable to the LCOR Subdivision, either by reducing trips from the subdivision itself or from other occupants of the White Flint Metro Policy Area;
 2. participate in programs operated by, and take actions specified by the North Bethesda Transportation Management District ("TMD") established by County law fro the White Flint Metro Policy Area (or a group of policy areas including that policy area) in order to meet the TMD's mode share goals;
 3. pay an ongoing annual contribution or tax to fund the TMD's operation expenses, including minor capital items such as buses, as established by County law; and

4. pay the applicable transportation development impact tax without claiming any credits for transportation improvements.
 5. Conduct a Local Area Transportation Review ("LATR") traffic study and specify for inclusion in the County's Capital Improvements Program ("CIP") any transportation improvements needed to support the subdivision.
- B. Preliminary plan application shall conform to all other requirements set forth in Chapter 59, Zoning Ordinance, Chapter 50, Subdivision Regulations and other applicable codes.
- C. Planning Board approval of the Pre-Preliminary Plan including the alternative review procedures under Section TA1 of the FY02 Annual Growth Policy does not preclude further consideration by the Board of other trip reduction measures associated with preliminary plan or site plan review, as appropriate, e.g. location of transit stops, provision/location of Kiss-and-Ride and bus circulation areas; on-site and off-site pedestrian and vehicular circulation; on-site parking requirements; phase-in of day care facilities, and other trip reduction measures as appropriate.

Per Transportation Planning review of the Preliminary Plan:

- D. Designate the following internal streets as public commercial/industrial roads with modified cross-sections:
1. The entire length of the north-south streets between Marinelli Road and Old Georgetown Road:
 - a) Station Street
 - i) To be the main bus loading/unloading area, in lieu on Rockville Pike (MD 355) and the current on-site location.
 - ii) To possibly be one-way southward between Main Street/Bridge Street to Marinelli Road that would be determined at site plan.
 - b) LCOR's (not the master-planned business district street) Chapman Avenue
 - c) Citadel Avenue
 2. Bridge Street that is an east-west street between Rockville Pike and Station Street.
 3. Main Street that is an east-west street between Station Street and Citadel Avenue.

The remaining internal streets east of Citadel Avenue within the residential area of the proposed development would be designated as private streets – Main Street Circle and Park Avenue.

- E. Dedicate 70 feet of right-of-way for the five public business district streets with modified cross-sections. Locate PUEs outside the public right-of-way, unless DPWT agrees to relocation of PUEs at Site Plan.
- F. Coordinate with the Montgomery County Department of Public Works and Transportation (DPWT) regarding the unique cross-section design details of the five public streets and the other private streets (i.e., Main Street Circle and Park Avenue) to optimize the vehicular circulation while providing for pedestrians, bicycles, and environmental considerations.
- G. At the site plan review for safe and efficient traffic circulation to, on, and from Bridge Street between Rockville Pike (MD 355) and Station Street and as an alternative access point via the intersections with Marinelli Road and Old Georgetown Road, coordinate the design and resolve the following:
 - 1. Obtain Maryland State Highway Administration (SHA) approval of the proposed access point from Rockville Pike to Bridge Street, including right-turn-in and right-turn-out traffic control measures and associated deceleration/acceleration lanes;
 - 2. Obtain WMATA approval for deceleration/bus activity lane between Marinelli Road and proposed Bridge Street;
 - 3. Prohibit lefts-in and lefts-out at the intersections of Station Street with Marinelli Road and with Old Georgetown Road and only permit rights-in and rights-out; and
 - 4. Coordinate with DPWT regarding the installation of adequate traffic control at the intersection of Bridge Street/Main Street and Station Street to prevent excessive queuing along Bridge Street between Rockville Pike and Station Street.
- H. Coordinate with DPWT regarding their Capital Improvements Program (CIP) project for the extension of Citadel Avenue south of Marinelli Road and their Facility Planning Study for Chapman Avenue north of Old Georgetown Road.
- I. Prior to Site Plan review, coordinate with WMATA and DPWT to relocate the surface kiss & ride, handicapped parking, bus bays, taxi stands, and other parking facilities for the White Flint Metrorail Station on the subject site.
- J. At site plan review, provide the specific details regarding pedestrian and bicycle connections to all residential and non-residential development including the following amenities:

1. Provide 160 bicycle spaces based on 20 spaces per garage for 8 garages with a mixture of bike lockers and bike racks. Coordinate with Transportation Planning staff on appropriate locations and types of bike parking facilities throughout the site.
 2. Provide an 8-foot bikeway along Rockville Pike (MD 355).
- 14) Compliance with the conditions of the MCDPWT letter dated July 15, 2004 as amended September 21, 2004, and as may be further amended.
- 15) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to that date a final record plat must be recorded for all the property delineated on the approved preliminary plan, or a request for an extension must be filed.
- 16) Other necessary easements.

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APPROVED AS TO LEGAL SUFFICIENCY

TAB
M-NCPPC LEGAL DEPARTMENT


DATE

3/11/05

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

CERTIFICATION OF BOARD VOTE ADOPTING OPINON

At its regular meeting, held on **Thursday March 17, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on the motion of **Commissioner Bryant, seconded by Commissioner Robinson, with Chairman Berlage, and Commissioners Perdue, Bryant and Robinson** voting in favor of the motion, **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan 1-04049, North Bethesda Town Center**.


Certification As To Vote of Adoption
M. Clara Moise, Technical Writer



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

MAR 20 2008

MCPB No. 08-28
Preliminary Plan No. 12004049A
North Bethesda Town Center
Date of Hearing: November 29, 2007

MONTGOMERY COUNTY PLANNING BOARD
RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on September 18, 2007, LCOR White Flint, LLC("Applicant"), filed an application for amendment to a previously approved preliminary plan of subdivision for 32.42 acres of land located on the east side of Rockville Pike (MD 355) between Marinelli Road and Old Georgetown Road (MD 187) ("Property" or "Subject Property"), in the North Bethesda-Garrett Park master plan area ("Master Plan"); and

WHEREAS, the amendment includes a request for an extended twelve-year phasing schedule for recordation of plats for the development, and the establishment of a twelve-year Adequate Public Facilities (APF) validity period; and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 12004049A, North Bethesda Town Center ("Preliminary Plan Amendment" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated November 19, 2007, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPG LEGAL DEPARTMENT

DATE 3/10/08

¹This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on November 29, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on November 29, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Lynch; seconded by Commissioner Robinson; with a vote of 5-0, Commissioners Bryant, Cryor, Hansen, Lynch, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 12004049A for 32.42 acres of land located on the east side of Rockville Pike (MD 355) between Marinelli Road and Old Georgetown Road (MD 187) ("Property" or "Subject Property"), in the North Bethesda Garrett Park master plan area ("Master Plan"), subject to the following conditions:

1) Replace existing Condition #15 as follows:

15) Record plats for this project may be recorded in phases. Prior to the end of each phase, final record plats must be recorded for all development included in the phase, or a request for extension must be filed. The Phasing Schedule is as follows:

- Phase I (expires April 22, 2008): 312 dwelling units and 61,250 square feet of general retail.
- Phase II (expires April 22, 2011): 323 dwelling units, 115,210 square feet of general retail and 355,000 square feet of commercial.
- Phase III (expires April 22, 2014): 640 dwelling units, 25,577 square feet of general retail and 792,200 square feet of commercial.
- Phase IV (expires December 2, 2015): All remaining development.

2) A new Condition #17 to read as follows:

17) The Adequate Public Facilities (APF) Review for the Preliminary Plan will remain valid for twelve (12) years, or one hundred forty-four (144) months from the date of mailing of the Planning Board's Revised Opinion for Pre-Preliminary Plan 7-04001 (date mailed: December 2, 2003).

3) The Applicant will record a separate easement document that will specify other terms of public use within the public access easement.

4) All other conditions of approval as contained in the Planning Board Resolution dated March 22, 2005, remain in full force and effect.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *Public facilities will continue to be adequate to support and service the area of the proposed subdivision.*

The Planning Board finds that roads and transportation facilities, and other public facilities and services, remain adequate to support and service the Property. This includes the proposed private streets within the development for which use and access concerns were raised during public testimony at the public hearing. The Board finds that access will be perpetually maintained by a public access easement required to be placed over the private road on the record plat. The Board accepts the Applicant's proffer to record a separate easement document that will specify other terms of public use within the easement. This proffer was in response to a speaker's testimony concerning the exercise of First Amendment rights, such as freedom of speech and assembly within the easement.

The Board finds that the Applicant's request to establish a twelve year validity period for the Property's Adequate Public Facilities (APF) review is justified based on the size and mixed-use nature of the development, and that this twelve-year period should be calculated from the date of the original APF approval, or December 2, 2003. The Board further finds that the phasing plan for completion of the development as submitted by the Applicant is acceptable.

2. *All previous findings are unaffected and previous conditions remain in full force and effect.*

The Planning Board finds that this Preliminary Plan Amendment does not affect the previous findings of the Board regarding the Preliminary Plan, and all other previous conditions of approval remain in full force and effect.

BE IT FURTHER RESOLVED, that this Amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in connection with the originally approved preliminary plan; and

BE IT FURTHER RESOLVED, that the date of this Resolution is MAR 20 2008 (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).

* * * * *

At its regular meeting, held on Thursday, March 13, 2008, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner Robinson, seconded by Commissioner Bryant, with Commissioners Hanson, Robinson, and Bryant voting in favor, and Commissioner Cryor absent, ADOPTED the above Resolution, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan No. 12004049A, North Bethesda Town Center.



Royce Hanson, Chairman
Montgomery County Planning Board



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

SEP 16 2008

MCPB No. 08-70
Site Plan No. 820080110
Project Name: North Bethesda Center, Parcels F, I, J
Date of Hearing: May 22, 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and


WHEREAS, on October 25, 2007, LCOR North Bethesda Phase II, LLC, ("Applicant") filed an application for approval of a site plan for 327 multi-family dwelling units, including 41 MPDUs (12.5 percent), in a 19-story building on Parcel F, and approximately 63,100 square feet of public use space on Parcels F and J, ("Site Plan" or "Plan") on 7.36 acres of TS-M-zoned land, located in the southwestern quadrant of the intersection of Old Georgetown Road and Nebel Street ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820080110, North Bethesda Center, Parcels F, I, J (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated May 9, 2008, setting forth its analysis and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on May 22, 2008, the Planning Board held a public hearing on the Application (the "Hearing"); and

APPROVED AS TO LEGAL SUFFICIENCY


M-NCPPC LEGAL DEPARTMENT

DATE 9/2/08

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on May 22, 2008, the Planning Board voted to approve the Application subject to conditions on the motion of Commissioner Bryant; seconded by Commissioner Robinson; with a vote of 4-0; Commissioners Bryant, Cryor, Hanson, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820080110 for 327 multi-family dwelling units, including 41 MPDUs (12.5 percent), in a 19-story building on Parcel F, and approximately 63,100 square feet of public use space on Parcels F and J, on 7.36 gross acres in the TS-M zone, subject to the following conditions:

1. Development Plan Conformance
The proposed development shall comply with the binding elements listed in the Zoning Map Amendment G-801 and associated Development Plan.
2. Preliminary Plan Conformance
The proposed development shall comply with the conditions of approval for Preliminary Plan No. 120040490 as listed in the Planning Board Opinion dated March 22, 2005.
3. Site Design
 - a. The proposed building on Parcel F shall maintain a visual expression of a two-story base on the building façade along Wentworth Place and McGrath Boulevard.
 - b. The park at Parcel J shall include a public use easement, including exterior adjacent access areas abutting the public streets.
 - c. Revise the design for the Building F garage wall north and west elevations from Nebel Street along Wentworth Place to McGrath Boulevard, to provide a more attractive and pedestrian friendly experience. The revised design should address both architectural and landscape elements.
4. Landscaping
By Certified Site Plan, coordinate minor revisions to the landscaping for the McGrath Boulevard loop drive and the Parcel J park as required by Montgomery County Fire & Rescue. Staff shall have final approval of any changes.
5. Lighting
 - a. All private exterior on-site down-lighting fixtures shall be full cut-off fixtures.

- b. Deflectors shall be installed on all up-lighting fixtures causing potential glare or excess illumination.
 - c. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads.
 - d. The height of the light poles, including the mounting base, shall not exceed that shown on the Certified Site Plan.
6. LEED Certification
The Applicant shall achieve, for the building on Parcel F, the equivalent of a minimum of 23 points in the USGBC LEED (Leadership in Energy and Environmental Design) Standard for New Construction & Major Renovation (LEED-NC). The final selection of strategies and the verification method shall be determined by Certified Site Plan.
7. Maintenance Responsibility
The Applicant shall be responsible for maintaining all public amenity features, including the park on Parcel J and all private sidewalks and roadways.
8. Moderately Priced Dwelling Units (MPDUs)
 - a. The proposed development shall provide 41 (or 12.5 percent) MPDUs on-site in accordance with the letter from the Department of Housing and Community Affairs dated May 7, 2008.
 - b. The Applicant shall finalize an agreement to build the MPDUs before issuance of a building permit for Parcel F.
9. Transportation
The Applicant shall comply with the following conditions of approval from M-NCPCC-Transportation Planning in the memorandum dated May 7, 2008:
 - a. The Applicant must limit the Site Plan development to no more than 327 high-rise multi-family dwellings.
 - b. The Applicant must provide 2 inverted-U bike racks (accommodating 4 bicycles) within 50 feet of the main public entrance to the multi-family building and 16 single-bike lockers in the garage in a well-lit location within 100 feet of the elevator.
10. Forest Conservation
The proposed development shall comply with the conditions of the Final Forest Conservation Plan. The Applicant shall satisfy all conditions of approval prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.

11. Stormwater Management

- a. The proposed development is subject to Stormwater Management Concept approval conditions dated May 26, 2004, unless amended and approved by MCDPS.
- b. By issuance of building permit, the Applicant shall obtain MCDPS approval for a revised Stormwater Management Concept that removes all stormwater quality and quantity management structures, excluding necessary conveyance infrastructure, from Parcel I.
- c. The Applicant shall not further amend this approved revised Stormwater Management Concept without M-NCPPC approval.

12. Development Program

The Applicant shall construct the proposed development in accordance with the Development Program. A Development Program shall be reviewed and approved by Staff prior to approval of the Certified Site Plan. The Development Program shall include a phasing schedule as follows:

- a. Street tree planting shall progress as street construction is completed, but no later than the issuance of the Parcel F building final use and occupancy permit.
- b. Pedestrian pathways, seating areas, and recreation facilities, including the park on Parcel J, shall be completed prior to issuance of the Parcel F final building use and occupancy permit.
- c. Landscaping associated with Parcel F and Parcel J shall be completed as construction of each facility is completed.
- d. The pool screen along the McGrath Boulevard loop drive shall be completed as construction of the pool is completed.
- e. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- f. Provide each section of the development with necessary roads.
- g. Clarify the phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.

13. Clearing and Grading

No clearing or grading of Parcels F, I, or J, prior to M-NCPPC approval of the Certified Site Plan.

14. Certified Site Plan

Prior to approval of the Certified Site Plan, the following revisions shall be included and/or information provided, subject to Staff review and approval:

- a. Development program, inspection schedule, Site Plan index, and Site Plan Resolution.
- b. Limits of disturbance.

- c. Methods and locations of tree protection.
- d. The final selection of LEED-NC strategies and the verification method, as described in Condition No. 6.
- e. Forest Conservation easement areas.
- f. Note stating the Staff must inspect tree-save areas and protection devices prior to clearing and grading.
- g. Details of the pool screen.
- h. Update the site and landscape plans to reflect necessary minor incidental changes related to the MCDPS-approved revised Stormwater Management concept.
- i. Update the site and landscape plans to reflect design improvements to the Parcel F building garage wall.
- j. Provide a lighting distribution and photometric plan with summary report and tabulations.
- k. Provide schematic details of the colonnade along Wentworth Place for the building on Parcel F.
- l. Provide diagrammatic elevation drawings illustrating compliance with the visual expression of a two-story base on the building façade along Wentworth Place and McGrath Boulevard.
- m. Final locations of bike racks and/or lockers.
- n. Address, to Environmental Planning Staff's satisfaction, the comments contained in the M-NCPPC-Environmental Planning memorandum dated May 5, 2008.

BE IT FURTHER RESOLVED that all site development elements as shown on North Bethesda Center, Parcels F, I, J, drawings stamped by the M-NCPPC on May 6, 2008, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

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.*

With the conditions of approval, the proposed development is consistent with the approved Development Plan for Local Map Amendment G-801 in land use,

density; and general layout. The proposed development also is in conformance with the binding elements as demonstrated in the Project Data Table below.

2. *The Site Plan meets all of the requirements of the TS-M zone and where applicable conforms to an urban renewal plan approved under Chapter 56.*

With the conditions of approval, the Site Plan meets all of the requirements of the TS-M zone and is in accordance with the Development Plan, as demonstrated in the Project Data Table below.

The following Project Data Table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Project Data Table

Development Standards	Development Standards Approved by the Planning Board and Binding on the Applicant
Min. Tract area, Site Plan	7.36 (Parcels F, I, J)
Max. Density of Development (d.u.)*	327
Studio	38
One-bedroom (with & without den)	204
Two-bedroom	85
* Residential density in the Development Plan was limited only by dwelling units, not FAR	
MPDUs (%)	12.5
MPDUs (d.u.)	41
Min. Building Setbacks (ft.)	
Nebel Street	0
East lot line	15
All other	0
Min. Public Use Space (%)	19.5 (Parcels F, J)
Min. Public Use Space (sf.)	63,100 (Parcels F, J)
Min. Active/Passive Recreation (%)	19.5 (Parcels F, J)
Min. Active/Passive Recreation (sf.)	63,100 (Parcels F, J)
Max. Building Height (stories)	19
Max. Building Height (ft.):	232**

** The Development Plan specifies that the maximum building height must include "height of parking structures." Since the building on Parcel F has an exposed parking structure, the building height shall be measured from the level of approved street grade on Nebel Street opposite the parking garage to the highest point of roof surface of the flat roof.

Parking Spaces		
Studio, market rate (33 units)		33
Studio, MPDU (5 units)		2.5
One-bedroom, market rate (179 units)		223.75
One-bedroom, MPDU (25 units)		15.625
Two-bedroom, market rate (74 units)		111
Two-bedroom, MPDU (11 units)		8.25
Subtotal	(327 units)	394.125
Discount for transit station development area		-39.4125
Discount for entrance w/in 1,600' of metro		-19.70625
Total discount		-59.11875
Total spaces provided		392

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

a. Buildings and Structures

The proposed multi-family residential building well defines the urban pedestrian experience, maintaining the street wall and contributing to the urban character of the larger development. Along with the building on adjacent Parcel E, an 18-story mixed-use building with a ground-floor supermarket and residential units above, the plan provides and maintains a decisive street edge for Wentworth Place. The location of the building and associated structures is adequate, safe, and efficient.

b. Open Spaces

The plan proposes 63,100 square feet of open space. The landscaped residential green will provide ample opportunity for active and passive recreational opportunities for residents and visitors and is attractively landscaped, further encouraging its use. All sidewalks are generously dimensioned and feature standard streetscape elements, including pavers and street trees. The open spaces are adequate, safe, and efficient.

c. Landscaping and Lighting

The proposed landscaping for the residential park includes trees as well as low plantings to provide shade while allowing broad visibility, encouraging its use through improved security. The proposed landscaping for the private residential areas within the private site will also provide

many opportunities for enjoyment and respite. The landscaping is adequate, safe, and efficient.

The lighting plan provides illumination sufficient for the safe enjoyment of the public spaces throughout the day, while limiting the amount of light trespass into adjacent residential developments and the skies above. The lighting is adequate, safe, and efficient.

d. Recreation Facilities

Recreation demand is satisfied through a combination of on- and off-site amenities. The TS-M zone allows a portion of the active/passive recreation facilities to be provided interior to the building, so the proposal includes both exterior and interior amenities including the residential park, private fitness facilities, a private pool, a multitude of seating areas, and a robust pedestrian network linking this development with the surrounding communities. Off-site amenities include a County Recreation Center on Marinelli Drive. The recreation facilities are adequate, safe, and efficient.

e. Vehicular and Pedestrian Circulation

This site is served by Metro rail and bus service directly on-site at the intersection of Rockville Pike and Marinelli Road. Pedestrian circulation through a development-wide sidewalk system connects residents directly to the surrounding residential, commercial, and retail uses, and through transit to the rest of the region.

Vehicular circulation to the site will be provided from both public and private roads, with a grid of streets offering a variety of routes in and out of the site. Garage access for Parcel F will be provided off Wentworth Place. A loop drive around the residential green will provide drop-off and visitor access to the building. The pedestrian and vehicular circulation systems are adequate, safe, and efficient.

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

The larger North Bethesda Center project will set the standard for the redevelopment of the White Flint area through good street-making, attractive design, and a street-activating mix of uses. The building height, massing, and configuration go beyond compatibility to improve upon the overall urban design quality of the area.

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.*

The Forest Conservation Plan for the over-all North Bethesda Center site, which includes a substantial tree-save area on the main retail street, is in compliance with Chapter 22A.

The approved Stormwater Management Concept consists of quality management for the buildings through on-site underground filters and for the streets and pervious areas through two surface sand filters. The Applicant proposed to address stormwater quantity management for the whole site through an underground vault located on Parcel I. In Staff's opinion, the quality management for the buildings is better addressed by removing all stormwater quality and quantity management structures, excluding necessary conveyance infrastructure from Parcel I, which will free Parcel I for future development; and therefore, approval for this Application is conditioned by the Applicant obtaining approval from MCDPS for a revised Stormwater Management Concept. The Planning Board finds, with this condition, that all applicable provisions of Chapter 19 are met.

Per Staff's recommendation and in accordance with the conditions of approval for this Application, the Applicant is in the process of revising their stormwater management concept to relocate the facilities within the site, freeing Parcel I for future development. The Applicant must obtain MCDPS approval for this revised Stormwater Management Concept. While the Board recognizes that the Applicant already has an approved stormwater management concept in accordance with Chapter 19, it strongly supports the Staff's recommendation to revise the concept.

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

16 2005 BE IT FURTHER RESOLVED, that the date of this Resolution is _____ (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).

* * * * *

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 Robinson, seconded by Commissioner Cryor, with Commissioners Hanson, Robinson, and Cryor voting in favor of the motion, and Commissioners Alfandre and Presley abstaining, at its regular meeting held on Thursday, September 11, 2008, in Silver Spring, Maryland.


Royce Hanson, Chairman
Montgomery County Planning Board