



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

APR 17 2009

MCPB No. 09-31
Preliminary Plan No. 120070190
Bonifant Plaza
Date of Hearing: March 12, 2009

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 October 5, 2006, 949-961, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 1 lot on 0.59 acres of land located on the north side of Bonifant Street 135 feet east of Georgia Avenue ("Property" or "Subject Property"), in the Silver Spring Central Business District Sector Plan area ("Sector Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070190, Bonifant Plaza ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated March 2, 2009, 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 staff of other governmental agencies, on March 12, 2009, 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

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

Approved as to
 Legal Sufficiency:

8787 Georgia Avenue, Suite 100, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, on March 12, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Robinson; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson, and Robinson voting in favor, Commissioner Presley being absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120070190 to create 1 lot on 0.59 acres of land located on the north side of Bonifant Street 135 feet east of Georgia Avenue ("Property" or "Subject Property"), in the Silver Spring Central Business District Sector Plan area ("Sector Plan"), subject to the following conditions:

1. Approval under this preliminary plan is limited to 1 lot for a maximum of 72 multi-family dwelling units. 12.5 percent of the dwelling units must be moderately priced dwelling units.
2. The Applicant must comply with the conditions of approval for Project Plan 920070060.
3. 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.
4. No clearing, grading or recording of plat prior to certified site plan approval.
5. A landscape and lighting plan must be submitted as part of the site plan application for review and approval by technical staff.
6. The Applicant must comply with the conditions of approval of the Montgomery County Department of Transportation (MCDOT) letter dated February 26, 2009.
7. The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (DPS) stormwater management concept approval letter dated March 7, 2007.
8. The Applicant must dedicate 35 feet of right-of-way from the centerline of Bonifant Street.
9. The Applicant must dedicate 5 feet of right-of-way, for a total width of 20 feet of right-of-way, for the adjacent public alley.
10. The Applicant must enter into a traffic mitigation agreement with MCDOT and the Planning Board to participate in the Silver Spring Transportation Management District.
11. The Applicant must continue to coordinate with the Maryland Transit Authority on design of the building and its relation to the Purple Line transit project as both progress to a more detailed level of design.
12. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Resolution.
13. The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s), as applicable.

14. All necessary easements must be shown on the Record Plat.

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. *The Preliminary Plan substantially conforms to the Sector Plan.*

The approved Silver Spring Central Business District (CBD) Sector Plan recommends the CBD-1 zone for this site, which was applied through the Sectional Map Amendment adopted July 18, 2000, per County Council Resolution 14-600. The Property is within the Fenton Village Overlay Zone, which provides for flexibility of development standards and a range of permitted uses, while ensuring that new development is compatible with nearby uses and incorporates critical design elements, such as streetscaping and useful public open spaces.

The Silver Spring CBD Sector Plan outlines six themes that articulate the shared goals and vision for a revitalized Silver Spring. Three of these themes, a residential downtown, a green downtown, and a pedestrian-friendly downtown apply to this Preliminary Plan. One of the objectives of the Fenton Village Overlay Zone of the Sector Plan is to encourage new residential development that can provide housing opportunities, upgrade the physical environment, and provide a residential market for new CBD commercial opportunities. The proposed Preliminary Plan allows for new housing that will help support the commercial uses in Fenton Village. The project encourages the development of active streets by providing building entries on Bonifant Street and usable public spaces between the building and curb. The quality of the pedestrian environment is improved through the addition of streetscaping per the Silver Spring Streetscape Plan and the provision of artistic elements along the street. For these reasons, the Planning Board finds the Bonifant Plaza Preliminary Plan substantially conforms to the Silver Spring CBD Sector Plan.

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

Roads and Transportation Facilities

The Application does not propose to change the current circulation of the site. Five feet of dedication for the public alley is being provided to achieve the standard commercial alley width of 20 feet. The alley will provide sufficient

primary access for vehicles entering and exiting the building. Pedestrian access is provided via sidewalks on Bonifant Street (15 feet wide). MCDOT is requiring a pedestrian demarcated area along the public alley to provide a pedestrian walking space for the depth of the lot. A small walkway at the rear of the building also provides fire egress for the property to the north. The Planning Board finds vehicular and pedestrian access will be safe and adequate with the proposed improvements.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed dwelling units. The Subject Property will be served by public water and sewer connections. Gas, electric and telecommunications services are also available to serve the Property. Police stations, firehouses, schools and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. This Preliminary Plan is not subject to a School Facilities Payment. The Application has been reviewed and approved by the Montgomery County Fire and Rescue Service (MCFRS) which has determined that the Property has adequate access for emergency vehicles.

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. Access and public facilities will be adequate to support the proposed lot and uses. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The proposed subdivision was reviewed for compliance with the dimensional requirements for the CBD-1 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone.

- 4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The Property is currently developed and there are no significant environmental features on the Subject Property. As a result, the Environmental Guidelines are not applicable. The plan is exempt from the Montgomery County Forest Conservation Law because it is considered a small property, less than 1 acre in size.

- 5. 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.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the site on March 7, 2007. The stormwater management concept consists of on-site water quality control via a green roof, flow-based storm filter and a MCDPS approved hydro-dynamic separator. A partial waiver for water quality was granted for a small portion of the site. Onsite recharge is not required since this is an application for redevelopment. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cubic feet per second.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed [and

BE IT FURTHER RESOLVED, that the date of this Resolution is APR 17 2009 (which is the date that this Resolution is mailed to all parties of record); and

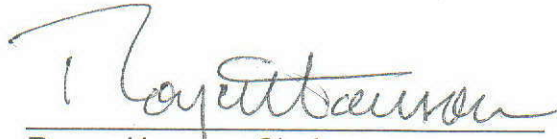
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland 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 Presley, seconded by Commissioner Hanson, with Commissioners Hanson, Cryor, and Presley voting in favor of the motion,

and with Commissioners Alfandre and Robinson absent, at its regular meeting held on Thursday, April 9, 2009, in Silver Spring, Maryland.

A handwritten signature in cursive script, appearing to read "Royce Hanson", written in black ink. The signature is positioned above a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board