

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

SEP 16 2009

MCPB No. 09-90
Site Plan No. 820090150
Project Name: 4500 East West Highway
Date of Hearing: July 23, 2009

SEP 16 2009

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 March 30, 2009, 4500 Highway, LLC, dba The Clarett Group ("Applicant"), filed an application for approval of a site plan for 210,000 square feet for office use and 13,300 square feet for retail, restaurant, and/or office use, on 1.28 gross acres in the CBD-2 zone; located in the southwest quadrant of the intersection of East West Highway and Pearl Street ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820090150, 4500 East West Highway (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated July 10, 2009, setting forth its analysis of, 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 July 23, 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

WHEREAS, on July 23, 2009 the Planning Board approved the Application subject to conditions on the motion of Commissioner Alfandre, seconded by Commissioner Presley, with a vote of 4-0; Commissioners Alfandre, Cryor, Hanson, and Presley voting in favor, one Planning Board position being vacant.

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. 820090150 for 210,000 square feet for office use and 13,300

Approved as to
Legal Sufficiency: 

M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

square feet for retail, restaurant, and/or office use, on 1.28 gross acres in the CBD-2 zone, subject to the following conditions:

1. Project Plan Conformance
The proposed development must comply with the conditions of approval for project plan 920080010 as listed in the Planning Board Resolution unless amended.
2. Preliminary Plan Conformance
The proposed development must comply with the conditions of approval of preliminary plan 120080360 as listed in the Planning Board Resolution, unless amended.
3. Transportation
 - a. Final paving within the right-of-way must be approved by the Bethesda Urban Partnership and the Montgomery County Department of Permitting Services. Modification from the material shown on the application to the Bethesda Streetscape Standard brick will not require an amendment to this application.
 - b. The Applicant must pay the Washington Metropolitan Area Transit Authority (WMATA) \$63,600 prior to certification of the site plan. This payment will satisfy the Applicant's obligation under the Policy Area Mobility Review (PAMR) test by funding WMATA's purchase, installation, and maintenance for 10 years of four real-time transit information signs (i.e., "NextBus" signs) to be located within the Bethesda CBD Policy Area or the Friendship Heights CBD Policy Area.
 - c. The Applicant must enter into a Traffic Mitigation Agreement with the Montgomery County Department of Transportation (MCDOT) and the Planning Board to participate in the Bethesda Transportation Management Organization. The Agreement must include providing shower facilities for each gender in the building for employees who commute by bicycle. The Traffic Mitigation Agreement must be fully executed prior to certification of the site plan.
4. Architecture
The building façades on each street frontage must be surfaced predominantly with transparent glass, metal panels, and accent materials similar to the conceptual illustrations provided with the Application.
5. Artwork
 - a. Light levels, including from signage, may not exceed those delineated on the photometric plan in order to control excessive glare on the proposed public art.

- b. The public art proposed by this Application must be designed and fabricated under the specifications of Gordon Heuther.

6. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Off-site lighting, benches, and sidewalks must be installed within six months after construction is completed. Tree planting may wait until the next growing season.
- b. On-site sidewalks, artwork, benches, site amenities, and plantings must be installed prior to release of any building occupancy permit above the first floor.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion.
- d. The development program must provide phasing for installation of landscaping and lighting, dedications, stormwater management, sediment and erosion control, trip mitigation, and other features as necessary.

7. Certified Site Plan

Prior to 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 forest conservation exemption letter, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval sheet.
- b. Minor corrections to site data, labeling and legends.
- c. Final material specifications of plaza materials.
- d. Final dimensions, materials, finishing, and lighting plans for artwork. A note that "Minor revisions to the artwork may be made during fabrication and installation subject to Staff review and approval" must be included on the plan.
- e. Ensure consistency of all details and layout between site plan and landscape plan.

BE IT FURTHER RESOLVED that all site development elements as shown on the 4500 East West Highway drawings stamped by the M-NCPPC on March 30, 2009 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 as set forth in the Staff Report, which the Planning 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 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.*

The site plan conforms to and is similar in virtually all respects to the approved project plan 920080010 and has only been refined and enhanced with respect to site details and public amenities.

2. *The site plan meets all the requirements of the zone in which it is located.*

Office, restaurant, and retail uses are allowed in the CBD-2 Zone, and the site plan fulfills the purposes of this zone by providing employment and service opportunities.

Development Standard	Permitted/ Required	Approved and Binding on the Applicant
Max Building Height (feet)	143	98
Min Setbacks (feet)		
East Property Line	n/a	7.5
North Property Line	n/a	45
West Property Line	n/a	0
South Property Line	n/a	4
Min Site Area (square feet)		
Net Tract Area	n/a	34,425
Dedications	n/a	21,400
Gross Tract Area	18,000	55,825
Max Density		
Floor Area Ratio	4.0	4.0
Min Public Use Space (% of net lot)		
On-Site Public Use Space	20	20
Off-Site Amenity Space	n/a	28.2
Total Public Use & Amenity Space	20	48.2
Min Parking		

Total Spaces	538	Up to 350 ¹
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As the project data table above indicates, the site plan meets all of the development standards of the CBD-2 zone. With respect to building height, setbacks, and density the proposed development is at or under all the maximum standards allowed. With respect to public-use and amenity space the proposed development provides more than twice the amount required, thus allowing for a greater amount of permeable surface and landscaped open space. The addition of artwork enhances the cultural image and attractiveness of the area.

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

Due to the requirement for 20% public-use space on the site, the building is setback from East West Highway. In many cases in the CBD, this makes the continuation of a street-wall and the pedestrian orientation of a building difficult. In this case, however, the proposed open plaza acts as a gateway from the larger setbacks to the east to the denser CBD core. Further, the Applicant has used this space to create a forecourt that is both inviting and – through the addition of a fountain, plantings, seating, and public art – interesting for the residents and neighbors. The building location, site features, and open space are safe, adequate, and efficient, while meeting the aesthetic goals of the Master Plan. Recreation facilities are not required for this site plan.

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site with the adjacent residential and civic uses and into the commercial center of downtown Bethesda. Safety is enhanced by placing the vehicular access on Montgomery Avenue and reducing the number of curb cuts. The lay-by on Pearl Street is an efficient means of providing a drop-off/pick-up area and does not impede traffic. The construction of bike lanes on Pearl Street will help make this a more bike-friendly area and help reduce the need for automobiles in this area. In sum, the proposed circulation routes provide an efficient, adequate, and safe atmosphere for pedestrians, cyclists, and vehicles.

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

The proposed nine-story commercial building is compatible with the adjacent and confronting uses as well as proposed site plans. The subject site plan will greatly

¹ Parking is not required in the Bethesda Parking District but is provided for informational purposes and will be determined during construction of the development.

enhance the availability and accessibility of Class-A office space, retail and restaurant uses, and public amenities. The structure and plaza are in scale with the adjacent uses and provide transitional height and massing towards the core of the CBD.

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 proposed development is exempt from the requirements of the forest conservation law.

The stormwater management concept consists of on-site water quality control via a green roof and an underground proprietary filter. Onsite recharge is not required for redevelopment applications. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

BE IT FURTHER RESOLVED, that this resolution constitutes the written opinion of the Board and 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 the date of this resolution is SEP 16 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).

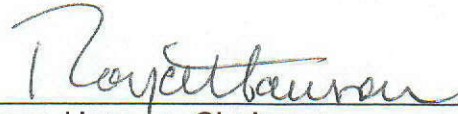
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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Wells-Harley, seconded by

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Commissioner Presley, with Commissioners Hanson, Alfandre, Presley, and Wells-Harley voting in favor of the motion, and with Commissioner Cryor absent, at its regular meeting held on Thursday, September 10, 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