



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

MCPB No. 09-118
Project Plan No. 91992004B
Project Name: 4 Bethesda Metro Center
Date of Hearing: June 12, 2008

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review project plan applications; and

WHEREAS, on July 5, 2007, Bethesda Metro Center Holdings, LLC ("Applicant"), filed an application for approval of a project plan amendment for 12,800 square feet of retail uses and 233,284 square feet of general office uses ("Project Plan") on 3.48 acres of CBD-3 zoned land located at the southwest quadrant of the intersection of Old Georgetown Road and Wisconsin Avenue ("Property" or "Subject Property"); and

WHEREAS, Applicant's project plan application was designated Project Plan No. 91992004B, 4 Bethesda Metro Center (the "Application"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated May 28, 2008, 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 staffs of other governmental agencies, on June 12, 2008, 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 June 12, 2008, the Planning Board rejected Staff's recommendation and denied the Application, on motion of Commissioner Bryant; seconded by Commissioner Cryor; with a vote of 4-0, Commissioners Bryant, Cryor, Hanson, and Robinson voting for the motion.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

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DENIES Project Plan No. 91992004B for 12,800 square feet of retail uses and 233,284 square feet of general office uses on 3.48 acres in the CBD-3 zone.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff and upon consideration of the entire record, the Montgomery County Planning Board FINDS:

- (a) The proposed development does not conform to the Bethesda Central Business District Sector Plan.

Although the Sector Plan in many respects supports adding substantial density to the Metro Core District, the proposed plan represents too great of a departure from the vision of the Sector Plan in other respects for the Planning Board to find that it is consistent with the Sector Plan, as required by Section 59-D-2.42(b) of the Zoning Ordinance.

This plan raises a threshold question of whether the proposed development can fit within the 4 FAR density limit that the Sector Plan places on this site. The Board heard conflicting testimony on this question appearing to indicate that there is sufficient remaining capacity within the development envelope to allow this project to move forward consistent with the applicable density limit. But, because the proposed development is inconsistent with the Sector Plan in other significant respects, even assuming that there is sufficient density remaining within the development envelope to allow this project, the Planning Board cannot find that the Application would be consistent with the Sector Plan.

The Project Plan calls for the construction of a 200-foot tall building containing 12,800 square feet of retail uses and 233,284 square feet of general office uses on an area that is currently improved with a three-story food court. The Sector Plan identifies certain sites in the Metro Core District as being suitable for large office projects such as this one. But this site is not one of them. The Sector Plan recommends that the plaza portion of the Metro Core will be enhanced through the addition of retail uses, and made more attractive through some relatively minor modifications, but nothing of the scale proposed by this Application. The Sector Plan specifically recommends this site for retail and service uses, which the Plan defines as "retail or service businesses on the ground floor of a building with less than 2 FAR and up to three floors." The proposed development would far exceed these limitations.

This is unlike the case of a subdivision plan where the Planning Board can waive the requirement for substantial conformance with a master plan recommendation that it finds have been rendered inappropriate by events. In considering a project plan, the Planning Board must find that the proposed development is consistent with the approved Sector Plan. If this prominent site is to be redeveloped in the manner

proposed, it should be based on an amendment of the Sector Plan and the legislative process associated with such a change.

- (b) Because of its location, size, and intensity the proposed development is not compatible with existing development in the general neighborhood.

The proposed development would represent a significant departure from the existing development of the Metro Center site, replacing a relatively low lying existing building with a sizeable building. The Planning Board shares the concerns of those property owners and residents of the area who testified that the proposed building is too massive for its location, and may be too close to certain other existing structures. The Planning Board credits the Applicant with designing the proposed building in a manner that would lighten its perceived mass, including extensive use of glazing and stepping back higher floors. The proposed building also uses contrasting architecture to its advantage. But the proposed building would sit as close as 29 feet to the nearest building. This setback is not inherently incompatible with surrounding buildings, but based on the evidence presented about this specific plan, the Planning Board is not convinced that the location and size of the building are sufficiently compatible with surrounding development to support the award of optional method density sought under this Application.

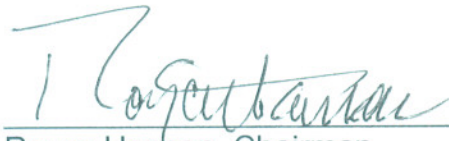
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board, and the date of this Resolution is SEP 21 2009 (which is the date that this Resolution is mailed to all parties of record); and

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 Presley, seconded by Commissioner Wells-Harley, with Chairman Hanson, and Commissioners Presley and Wells-Harley present and voting in favor of the motion, with Commissioners Cryor and Alfandre absent, at its regular meeting held on Thursday, September 17, 2009, in Silver Spring, Maryland.

A handwritten signature in black ink, appearing to read "Royce Hanson", written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board