



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 10-34
Preliminary Plan No. 120090380
Metro Plaza Silver Spring
Date of Hearing: March 18, 2010

APR - 8 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

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 June 17, 2009, Metro Group JV ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would establish uses on an existing 1.4-acre platted parcel in the CBD-3 zone, located in the northwest quadrant of East West Highway (MD 410) and Colesville Road (MD 384) ("Property" or "Subject Property"), in the Silver Spring CBD Sector Plan area ("Sector Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090380, Metro Plaza Silver Spring ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated March 5, 2010, 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 18, 2010, 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

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

WHEREAS, on March 18, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Dreyfuss; with a vote of 5-0, Commissioners Alfandre, Dreyfuss, Hanson, Presley, and Wells-Harley 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. 120090380 to establish uses on an existing 1.4-acre platted parcel in the CBD-3 zone, located in the northwest quadrant of East West Highway (MD 410) and Colesville Road (MD 384) ("Property" or "Subject Property"), in the Silver Spring CBD Sector Plan area ("Sector Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to one lot for 179,050 square feet of office use and 23,900 square feet of retail use.
- 2) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated December 30, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 3) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated August 5, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) The Applicant must exercise reasonable efforts to coordinate with the owner of the adjacent Falklands Property to replace the existing northwest driveway access with a shared access to be used by the Subject Property and the Falklands Property. A shared driveway is not required if shared access is not practical due to circumstances that are beyond the Applicant's control.
- 5) The Applicant must satisfy provisions for access and improvements as required by MDSHA prior to issuance of access permits.
- 6) The certified Preliminary Plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined during the building permit process. Refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for the lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
- 7) Prior to the issuance of any building permit, the Applicant must record a reservation plat which shows an area of the Property to be placed in reservation for right-of-way for the proposed Purple Line. The area of reservation shown on the plat must be consistent with the area shown on a

drawing entitled "Metro Plaza Right-of-Way Reservation," dated February 2010, which is an enclosure of a February 19, 2010 letter from the Maryland Transit Administration (MTA). The reservation will be in effect for three years from the date of the mailing of the Planning Board resolution, but the reservation will expire before the end of the three year period in the event that MTA either acquires the property in the reservation area or otherwise releases the Property from reservation.

- 8) During the time that the above-referenced reservation is in effect, no building permit may be issued for any structure within the reservation area.
- 9) In the event that a portion of the Property is acquired by MTA, no building permit may be issued pursuant to this Preliminary Plan approval until such time as an amendment to the Preliminary Plan is approved. The amendment must correctly depict the revised lot area, lot shape, and maximum allowable building floor area of the portion of the lot that is not acquired by MTA.
- 10) The Applicant must enter into a Traffic Mitigation Agreement with the Planning Board and MCDOT to participate in the Silver Spring Transportation Management District (TMD). The final agreement must be executed prior to the release of any building permit for the proposed development.
- 11) The Adequate Public Facility (APF) review for the Preliminary Plan will become valid on the date of mailing of the Planning Board Resolution and will remain valid for eighty-five (85) months from the date of expiration of the reservation required in Condition No. 7, above.

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 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 Silver Spring CBD Sector Plan considers the Subject Property to be part of the core section of the Central Business District (CBD). In the core area, the Sector Plan recommends high density mixed use development around the metro station.

Although an optional method project could have gone further toward meeting the Sector Plan's goal for high density mixed use development around the metro station, the proposed standard method project is permitted by the zoning ordinance and meets the Sector Plan's recommendation for providing retail uses. The project also adheres to the Sector Plan's vision for a "commercial downtown" with a mutually supportive mix of office and retail. Therefore, the

Preliminary Plan is in substantial conformance with the Silver Spring CBD Sector Plan.

The Public Hearing Draft Purple Line Functional Plan, 2009, proposes a right of way for the Purple Line on part of the Property. This approval includes a condition that requires a portion of the Property to be placed in reservation for three years in order to afford the Maryland Transit Administration an opportunity to acquire right-of-way on the Subject Property. Therefore, the Preliminary Plan is also in substantial conformance with the Public Hearing Draft Purple Line Functional Plan.

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

A traffic study dated August 2009 (Updated December 2009) was submitted for the Preliminary Plan for adequate public facilities (APF) review purposes, as is required for developments that generate 30 or more total peak-hour trips during the typical weekday morning (6:30 a.m. - 9:30 a.m.) and evening (4:00 p.m. - 7:00 p.m.) peak periods.

Using Silver Spring CBD trip generation rates for the proposed office and retail uses and after accounting for existing retail uses on the Property, the study estimated that the proposed development will generate 251 net new peak-hour trips during the morning peak period and 253 net new peak-hour trips during the evening peak period.

For comparison purposes, the study also determined that if non-Silver Spring CBD trip generation rates were used, the development would generate 299 net new peak-hour trips during the morning peak period and 284 net new peak-hour trips during the evening peak period. The development therefore generates fewer peak-hour trips during the morning (48 trips) and evening (31 trips) peak periods as a result of it being located within the Silver Spring CBD.

Local Area Transportation Review

As shown in the traffic study, the capacity analysis demonstrates that under total traffic conditions, critical lane volume (CLV) at the study intersections would be below the applicable congestion standard for Silver Spring CBD Policy Area (1,800 CLV). The Preliminary Plan, therefore, satisfies the Local Area Transportation Review (LATR) requirements of the APF test.

Policy Area Mobility Review

To satisfy the Policy Area Mobility Review (PAMR) requirements of the APF test, the Silver Spring CBD Policy Area requires mitigation of ten percent of new peak-hour trips generated by a development.

The site trip comparison summary provided in the traffic report demonstrates that the proposed development, as a result of being located within the Silver Spring CBD, will generate approximately 16 percent fewer peak-hour trips during the morning peak period and 11 percent fewer peak-hour trips during the evening peak period than a comparable development located outside of the CBD would generate. Since these percentages are more than the required PAMR trip mitigation percentages for Silver Spring CBD Policy Area, the Preliminary Plan satisfies the PAMR requirements of the APF test.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service, which has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, schools, and health services, are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the Property. Electrical, gas, and telecommunications services are also available to serve the Property.

Adequate Public Facilities Validity Period

Section 50-20(c)(3A)(iii) of the Subdivision Regulations states that the validity period for a determination of adequate public facilities "is extended for the duration of any government imposed moratorium, or other government action resulting in a similar effect, that would prevent the applicant from: a. completing the regulatory approvals necessary for obtaining a building permit; or b. obtaining a building permit."

This approval includes a condition requiring that a portion of the Property be placed in reservation for a proposed right-of-way for the Purple Line. The reservation will be in effect for up to three years, and during that time a building permit may not be issued for any building within the reservation area. Consistent with Section 50-20(c)(3A)(iii), the 85-month adequate public facilities review validity period is extended by the length of time that the reservation is in effect. Therefore, this approval includes a modified APF validity condition, with the

duration of the validity period recommended to be 85 months from the expiration date of the reservation.

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

The lot was reviewed for compliance with the dimensional requirements for the CBD-3 zone as specified in the Zoning Ordinance. The lot meets all the dimensional requirements for area, frontage, width, setbacks, and public use space in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

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

The Application is exempt from the Forest Conservation Law.

- 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 on December 30, 2009. The stormwater management concept includes water quality control via two proprietary filtering devices. On-site recharge is not required because the project is considered to be redevelopment. Channel protection is not required because the Application meets the requirements for the Water Resources Technical Policy dated September 2003. A waiver of quality control has been granted for the portion of the site that does not drain to the quality control structures.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is APR - 8 2010 (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 Vice Chair Wells-Harley, with Chairman Hanson, Vice Chair Wells-Harley, and Commissioners Presley, Alfandre, and Dreyfuss present and voting in favor of the motion at its regular meeting held on Thursday, April 1, 2010, in Silver Spring, Maryland.



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