



DEC 15 2010

# MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 10-152  
Site Plan No. 820100120  
Project Name: Silver Spring Park  
Date of Hearing: October 28, 2010

## 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 July 19, 2010, Fenton Group, LLC, ("Applicant") filed an application for approval of a Site Plan for a multi-building, mixed-use development of 147,888 sf., to include a 110-room hotel with 3,602 sf. of ground-floor retail; a 28,170-sf. office building including 5,632 sf. of ground-floor retail; and a multi-family residential building with 58 dwelling units (including 7 MPDUs and 5 WFHUs) ("Site Plan" or "Plan") on 1.57 acres of CBD-1, CBD-0.5, and Fenton Village Overlay-zoned land, located in the southeast corner of the intersection of Fenton Street and Silver Spring Avenue in the Silver Spring Central Business District ("Property" or "Subject Property"); and

WHEREAS, Applicant's Site Plan application was designated Site Plan No. 820100120, Silver Spring Park (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated October 18, 2010, 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 October 28, 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

WHEREAS, on October 28, 2010, the Planning Board approved the Application subject to conditions on the motion of Commissioner Dreyfuss; seconded by Commissioner Presley; with a vote of 5-0, Commissioners Alfandre, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

Approved as to  
Legal Sufficiency:

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

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

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. 820100120 for a multi-building, mixed-use development of 147,888 sf., to include a 110-room hotel with 3,602 sf. of ground-floor retail; a 28,170-sf. office building including 5,632 sf. of ground-floor retail; and a multi-family residential building with 58 dwelling units (including 7 MPDUs and 5 WFHUs) on 1.57 gross acres in the CBD-1, CBD-0.5, and Fenton Village Overlay zones, subject to the following conditions:

1. Project Plan Conformance

The proposed development must comply with the conditions of approval for Project Plan 920100030 as listed in the Planning Board resolution dated April 5, 2010 (MCPB 10-24).

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan 120070420 (MCPB 10-151).

3. LEED Certification

Beyond the requirements of Project Plan 920100030 Condition 3, for the modification of the existing office building the Applicant must comply with the Montgomery County Green Building Law.

4. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible on-site amenities unless a maintenance agreement is entered into with the Silver Spring Urban District.

5. Public Use Space and Amenities

- a. The Applicant must provide on-site a minimum of 8,543 sf. of public use space (17% of net lot area).
- b. In lieu of providing the remaining 1,505 sf. on-site public use space (3% of the required 20% of the net lot area), the Applicant must contribute \$152,728 to M-NCPPC in accordance with Section 59-D-2.31 for development of schematic design architectural drawings for a Bike Station in Gene Lynch Urban Park (the "Designated Amenity"), in the Silver Spring CBD, to be coordinated by the Parks Department, or other appropriate agency as approved by and in cooperation with M-NCPPC;
- c. Within one year of the resolution date, M-NCPPC or other appropriate agency must place the Designated Amenity in the Capital Improvement Program (CIP), and within two years of the contribution, the Designated Amenity must be completed to the satisfaction of M-NCPPC staff. If these funds are not

used for the Designated Amenity within two years of the contribution date, the Planning Board may extend the timeline or approve an alternative amenity site, as recommended by M-NCPPC staff.

- d. As a public amenity, the Applicant must provide streetscape improvements consistent with the Silver Spring Streetscape Standard, including the undergrounding of utilities, along the property's frontages on Fenton Street and Silver Spring Avenue, as illustrated in the Certified Site Plan, for a total of approximately 8,681 sf., or 17.2% of net lot area.
6. Moderately Priced Dwelling Units (MPDUs) and Workforce Housing Units (WFHUs)
    - a. The proposed development must provide 12.5 percent MPDUs on-site. The MPDU agreement to build shall be executed prior to the release of any building permits.
    - b. The Applicant must provide 10 percent WFHUs on-site.
  7. Architecture

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the Certified Site Plan, as determined by M-NCPPC Development Review and Urban Design staff.
  8. Landscaping
    - a. Provide additional landscaping in the on-site park to reduce the proportion of hardscape. Final design to be approved by Development Review and Urban Design staff, in coordination with MCDPS stormwater staff, by Certified Site Plan.
    - b. Before issuance of any building permit, if the planting within the stormwater management easement area approved by MCDPS as a part of the erosion and sediment control plan differs significantly from the planting shown on the landscape plan included with the Certified Site Plan, as determined by M-NCPPC staff, the Applicant must amend the Site Plan to reflect the changes.
  9. Lighting
    - a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential and commercial development.
    - b. All onsite down-light fixtures must be full cut-off fixtures.
    - c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
    - d. The height of any light poles, including the mounting base, shall not exceed the height specified on the Certified Site Plan.

**10. Landscape Surety**

The Applicant shall provide a performance bond in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The amount of the surety shall include plant material, on-site lighting, recreational facilities, and site furniture within the relevant block of development. Surety to be posted prior to issuance of first building permit within each relevant phase of development and shall be tied to the development program.
- b. Provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial bond amount.
- c. Completion of plantings by phase, to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d. Provide a screening/landscape amenities agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

**11. 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. Streetscape improvements, including brick paving, street lights, and the undergrounding of utilities must be completed before any use and occupancy permit. Street tree planting may wait until the next growing season.
- b. All on-site amenities including, but not limited to, non-landscape elements of the public use space, site lighting, benches, trash receptacles, and bicycle facilities associated with each building must be installed prior to release of the building occupancy permit for each building. Landscaping may wait until the next growing season.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- d. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

## 12. 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 final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Add a note to the site plan stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading".
- c. Modify data table to reflect development standards enumerated in the staff report.
- d. Ensure consistency off all details and layout between site plan and landscape plan.

BE IT FURTHER RESOLVED, that all site development elements as shown on Silver Spring Park drawings stamped by the M-NCPPC on September 24, 2010, 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 presented at the Hearing an 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 the approval conditions of Project Plan 920100030.

2. *The Site Plan meets all of the requirements of the CBD-1, CBD-0.5, and Fenton Village Overlay zones, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan fulfills the purposes of the zones by providing an appropriate density and mix of uses near transit in an urban edge area.

The Site Plan meets all of the development standards of the zone. With respect to building height, setbacks, and density the proposed development meets all the maximum standards allowed. The Applicant is satisfying the on-site public use space requirement through a contribution to the amenity fund, specifically

directed to the preparation of schematic design architectural drawings for a Bike Station at Gene Lynch Urban Park in the Silver Spring CBD.

**Requirements of the CBD-1, CBD-0.5, and Fenton Village Overlay zones**

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the developments standards proposed for approval. The Board finds, based on the aforementioned data table, and other evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-1, CBD-0.5, and Fenton Village Overlay Zones. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

**Data Table**

Development Standards Approved by  
 the Board and Binding on the  
 Applicant

	<b>CBD-0.5</b>	<b>CBD-1</b>	<b>Total</b>
Lot Area, Minimum (sf.)	37,950	30,373	
Aggregate Site Area Allowed by 59-C-6.2352(3)			68,323
Previous dedication	5,250	8,573	13,823
Proposed dedication	1,497	2,765	4,262
Net lot area	31,203	19,035	50,238
Density, Combined Maximum(FAR)	1.5	3	
Density, Total Maximum (sf.)			147,888*
* exclusive of 4,213 sf. of Workforce Housing			91,642
Density, Non-Residential Maximum (sf.)			
MPDUs, Minimum (percentage)			12.5
MPDUs (of pre-WFHU du)			7
WFHUs			5
Total Dwelling Units			58

Building Height, Maximum (ft.)	60
Building Setbacks, Minimum (ft.)	
Fenton Street	0
Silver Spring Avenue	0
East	0
Alley	0
Parking, Maximum (w/ PLD Tax for balance)	117
On-Site Public Use Space (sf.)	8,543
On-Site Public Use Space (% of Net Lot Area)	17
On-Site Public Use Space provided off-site via the Amenity Fund (sf.)	1,505
On-Site Public Use Space provided off-site via the Amenity Fund (% of Net Lot Area)	3
Contribution to Amenity Fund for implementation of a Bike Station for Gene Lynch Urban Park	\$152,728
Off-Site Amenity Space, Min. (sf.)	8,681
Off-Site Amenity Space, Min. (% of Net Lot Area)	17.2
Total On- & Off-Site Public Use & Amenity Space (sf.), Min.	17,224
Total On- & Off-Site Public Use & Amenity Space (% of Net Lot Area), Min.	37.2

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.*

The buildings and structures of the development are located along street edges, except to define public use space, which is appropriate for the character envisioned by the Master Plan. These locations provide easy access to the building from adjoining sidewalks and parking. The locations of the buildings and structures are adequate and efficient, and do not pose any safety concerns on the site.

The open space and on-site public use space will provide an attractive community amenity and allow for future expansion of neighborhood interconnectivity with future adjacent development. The landscaping and

hardscape elements will provide a diversity of sensorial interest. Street trees and lighting are provided along the adjoining streets to enhance the pedestrian environment. The recreation facilities take advantage not only of the on-site park and seating areas, but nearby neighborhood parks and an extensive pedestrian system as well. The open spaces, landscaping, and site details adequately and efficiently address the needs of the proposed use and the recommendations of the Master Plan, while providing a safe and comfortable environment.

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area. The vehicular circulation design efficiently directs traffic into the site with minimal impacts to pedestrian circulation. This balance of design with the site, the recommendations of the Master Plan, and the needs of the use is an efficient and adequate means to provide a 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 structures and uses transition well between the more commercial character of Fenton Street and the one-family residences of East Silver Spring. The hotel use will attract new visitors to the southern end of Fenton Village, providing growth opportunities for neighborhood businesses and restaurants. The addition of ground-floor retail uses in the existing office building will further help to activate Fenton Street. Finally, the building height of the multi-family apartment building steps down as it approaches the adjacent one-family residences and provides a generous setback, further promoting compatibility.

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 site is subject to Section 22A of the County code. The Planning Board previously approved the preliminary forest conservation plan with the Project Plan on March 4, 2010. The applicant will meet the requirement by an in-lieu fee payment. The approved stormwater concept includes a buried stormwater management system and green roofs.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning 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

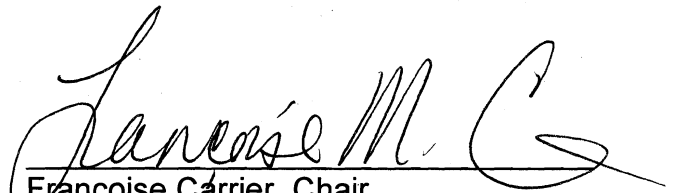
BE IT FURTHER RESOLVED, that the date of this Resolution is ~~DEC 15~~ (which is the date that this Resolution is mailed to all parties of record); and **DEC 15 2010**

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 Vice Chair Wells-Harley, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley voting in favor of the motion, and with Commissioner Alfandre absent, at its regular meeting held on Thursday, December 2, 2010, in Silver Spring, Maryland.

  
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Françoise Carrier, Chair  
Montgomery County Planning Board