



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 10-162
 Project Plan No. 920070080
 Project Name: Falkland North
 Date of Hearing: November 18, 2010

MONTGOMERY COUNTY PLANNING BOARD

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 June 16, 2010, Home Properties Falkland Chase, LLC, ("Applicant") filed a revised application for approval of a project plan for a mixed-use multi-building development totaling 1,276,329 gross square feet, including 70,000 square feet of retail uses and 1,250 dwelling units (with 12.5 percent MPDUs and 4.72 percent workforce housing) ("Project Plan"), on 9.77 acres of CBD-R1-zoned land located in the northeast quadrant of the intersection of 16th Street and East-West Highway in the Silver Spring CBD ("Property" or "Subject Property"); and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920070080, Falkland North (formerly Falkland Chase) (the "Application"); and

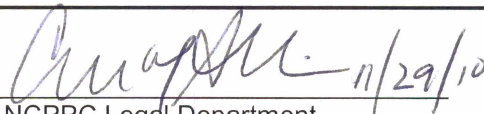
WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated November 8, 2010, which was revised on November 10, 2010, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions (together, the "Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on November 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

WHEREAS, on November 18, 2010, the Planning Board approved the Application subject to conditions, on motion of Commissioner Presley; seconded by

Approved as to
 Legal Sufficiency:

 11/29/10

M-NCPPC Legal Department

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Commissioner Wells-Harley; with a vote of 4-0, Commissioners Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor and Commissioner Alfandre being absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Project Plan No. 920070080 for a mixed-use multi-building development totaling 1,276,329 gross square feet, including 70,000 square feet of retail uses and 1,250 dwelling units (including 12.5 percent MPDUs and 4.72 percent Workforce Housing), on 9.77 gross acres in the CBD-R1 zone, subject to the following conditions:

1. Development Ceiling

The proposed development is limited to 1,276,329 total square feet of gross floor area.

2. Building Height and Mass

The proposed development is limited to the building footprints as delineated in the project plan drawings submitted to MNCPPC dated October 22, 2010, unless modified at site plan review, and to a maximum of 143 feet in height from the approved building height measuring point as determined by the Department of Permitting Services.

3. Historic Preservation

The Applicant must obtain a Historic Area Work Permit for work associated with the stream restoration on the south parcel.

4. Environment

- a. The proposed development shall comply with the preliminary forest conservation plan. The applicant shall satisfy all conditions prior to any clearing, grading or demolition on the site. Conditions include:
 - i. Applicant must provide 1.19 acre credits of afforestation to meet forest conservation requirements.
 - ii. Approval of a final forest conservation plan consistent with the approved preliminary forest conservation plan prior to any clearing, grading or demolition on the site.
- b. Final forest conservation plan must meet all requirements of Chapter 22A, Forest Conservation Law and COMCOR 18-01AM, Forest Conservation Regulations, and must include detailed and specific tree protection measure for impacted trees prepared by an ISA-certified arborist.
- c. A traffic noise analysis must be performed and submitted with the site plan application to determine the current and projected noise levels, so that the amount of architectural treatment needed can be determined.

5. Declaration of Restrictive Covenant

The Applicant must comply with the terms of the Declaration of Restrictive Covenant between Home Properties Falkland Chase, LLC, and M-NCPPC, executed August 2, 2010.

6. Public Use Space and Amenities

- a. The Applicant must provide a minimum of 20% of the net lot area for on-site public use space and a minimum of 21.4% of the net lot area for on and off-site public amenity space. The final design and details will be determined during site plan review.
- b. The proposed public use space and amenities must be easily and readily accessible to the general public and available for public enjoyment.

7. Issues to be Addressed Prior to Site Plan Approval

- a. The Applicant must address the existing north-south axis that runs through both the subject parcel and the historic parcel to the south by terminating it on the subject property in a clear and unambiguous fashion.
- b. The architectural character of the proposed buildings must promote compatibility with the historic character of the other Falkland parcels.
- c. The Applicant must demonstrate how the proposed public use space will attract pedestrian activity from both residents and passers-by.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and as set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference, and upon consideration of the entire record and all applicable elements of § 59-D-2.43, the Montgomery County Planning Board, with the conditions of approval, FINDS:

- (a) The proposed development complies with all of the intents and requirements of CBD-R1 zone.**

Intents and Purposes of the CBD Zones

The Montgomery County Zoning Ordinance states the purposes which the CBD zones are designed to accomplish. The following statements analyze how the Project Plan conforms to these purposes:

- (1) *"To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the site plan or combined urban renewal project plan is approved on review by the Planning Board."*

The Falkland North Project Plan (#900070080) is consistent with the February 2000, Approved and Adopted Silver Spring CBD Plan. The Master Plan provides for the development of Downtown Silver Spring under the following themes: Transit-Oriented, Commercial, Residential, Civic, Green and Pedestrian Friendly. The Falkland North project is in line with these themes as it provides for mixed-use development (commercial and residential) with significant public amenities in close proximity to the Silver Spring Transit Center. It furthers the Plan's goals of creating a mix of housing choices supported by parks, retail, civic uses and employment opportunities adjacent to transit and with convenient access to the greater region.

- (2) *"To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents."*

The proposed mixed-use development includes residential and retail uses in very close proximity to the Silver Spring Metro Station. The diversity of retail bays, in conjunction with the diversity of unit types, will provide great flexibility to accommodate the various needs of residents, workers who pass by the site on foot to and from the Metro and by wheeled conveyance, as well as shoppers who work in nearby offices or live in the adjacent developments.

- (3) *"To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas."*

The proposed building heights transition from the maximum height immediately adjacent to the train tracks and the office buildings north of the site to a lower scale of the low-rise garden apartments south of East-West Highway. The proposed internal private street reintroduces a more urban street grid, improving access along and through the site and creating better public spaces.

- (4) *"To promote the effective use of transit facilities in the central business district and pedestrian access thereto."*

The proposed development is located 300 feet from the Silver Spring Metro Station and immediately adjacent to Metro Bus lines. The significant foot traffic moving to and from the Metro from the residences west of the site will be greatly served by streetscape improvements and retail opportunities in this development.

(5) *"To improve pedestrian and vehicular circulation."*

Vehicular circulation around the site will take advantage of existing entrances from the adjacent public streets by sharing entrances for both the retail and residential parking and loading. Additional vehicular access to the internal private street will assist visitors to the site as well as residents.

Provision of a greater mix of land uses and public spaces along the public roads will greatly enhance the pedestrian experience along the edges of the site, while the private street, landscaped spaces, and plazas will attract pedestrians into and through the site.

(6) *"To assist in the development of adequate residential areas for people with a range of different incomes."*

The proposed development will provide a variety of housing types within the proposed 1,250 dwelling units, including townhouse and multi-family apartment configurations. In addition to the minimum 12.5% MPDU requirement, the Applicant is also providing workforce housing, as well as a minimum mix and distribution of unit types, in accordance with the terms of the Declaration of Restrictive Covenant, signed August 2, 2010.

(7) *"To encourage land assembly and most desirable use of land in accordance with a sector plan."*

The proposed development is located on a single existing parcel. In accord with the Sector Plan, the project promotes redevelopment of the site in a way that locates a diversity of housing and retail opportunities near transit and provides a variety of public green open space and pedestrian linkages along and through the site. Further, the proposed restoration of the stream on the south parcel will help to restore some of the civic grandeur of the adjacent historic site.

Further Intents of the CBD-R1 Zone

Section 59-C-6.213 of the Zoning Ordinance list further intents of the CBD-R1 zone:

To foster and promote the orderly development of the fringes of the Central Business Districts of the county so that these areas will provide land uses at a density and intensity which will encourage small business enterprises and diverse living accommodations, while complementing the uses in the interior portions of these districts; and

To provide a density and intensity of development which will be compatible with adjacent land uses outside the Central Business Districts”; and

...to foster and promote the orderly development of the Central Business Districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable urban environment.

The proposed development meets these intents by expanding the diversity of dwelling units and retail opportunities at the edge of the CBD in an area dominated by residential uses. Multi-family apartments and townhouse units will complement the garden and high-rise apartment buildings in the area, while the proposed ground floor retail, in addition to potentially including a supermarket to serve the surrounding neighborhood, includes smaller retail bays that could readily accommodate neighborhood-oriented retail and service needs.

Requirements of the CBD-R1 Zone

The table below demonstrates the conformance of the Project Plan with the development standards under the optional method of development. Among other standards, the proposed development meets the area, public use space, building height, and density requirements of the zone.

According to the Zoning Ordinance (59-C-6.215(b)) a further requirement of optional method projects is the provision of additional public amenities:

Under the optional method greater densities may be permitted and there are fewer specific standards, but certain public facilities and amenities must be provided by the developer. The presence of these facilities and amenities is intended to make possible the creation of an environment capable of supporting the greater densities and intensities of development permitted.

To this end, the proposed development is proffering a system of linked open spaces and pedestrian paths and associated improvements on both the North Parcel and South Parcel, including landscaped gardens and the restoration and beautification of the existing stream.

Requirements of the CBD-R1 zone

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the development standards proposed for approval. The Board finds, based on the aforementioned data table, and other uncontested evidence and testimony of record, that the Application meets all of the applicable requirements of the CBD-R1 zone. 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 |
|----------------------------------------------|-----------------------------------------------------------------------------------|
| Gross Tract Area (sf.) | 425,443 |
| Previous Dedications (sf.) | 96,597 |
| Proposed Dedications (sf.) | 3,037 |
| Net Lot Area (sf.) | 325,809 |
| Maximum Density (FAR) | 3 |
| Maximum Density, total (sf.) | 1,276,329 |
| Maximum Density, non-residential (FAR) | 0.16 |
| Maximum Density, non-residential (sf.) | 70,000 |
| Maximum Dwelling Units, total | 1,250 |
| Minimum MPDU (%) | 12.5 |
| Minimum MPDUs (du) | 157** |
| Minimum Workforce Housing (%) | 4.72* |
| Minimum Workforce Housing (du) | 59** |
| Building Height, Maximum (ft.) | 143 |
| Building Setback, Minimum | 0 |
| Parking Spaces, Maximum | 1,672 |
| On-Site Public Use Space, Minimum (% of NLA) | 20 |
| On-Site Public Use Space (sf.) | 65,545 |
| Off-Site Public Amenity Space (% of NLA) | 21.4 |
| Off-Site Public Amenity Space (sf.) | 70,159 |

* as required and limited by the Declaration of Restrictive Covenant

** final number of MPDUs and WFHUs will depend on the final number of units

(b) The proposed development conforms to the Silver Spring CBD Sector Plan.

The Project Plan is consistent with the Sector Plan by providing for the redevelopment of this Property at the edge of the CBD consistent with the themes of Transit-Oriented, Commercial, Residential, Civic, Green and Pedestrian Friendly development. It provides for mixed-use development (commercial and residential) with significant public amenities in close proximity to the Silver Spring Transit Center and furthers the Sector Plan goals of creating a mix of housing choices supported by parks, retail, civic uses and employment opportunities adjacent to transit and with convenient access to the greater region.

(c) Because of its location size, intensity, design, operational characteristics and staging, the proposed development is compatible with and not detrimental to existing or potential development in the general neighborhood.

The proposed development promotes compatibility with existing and potential development primarily by defining the public streets and sidewalks as attractive and activated public spaces that will encourage further pedestrian traffic along and through the site. The building heights step down from the taller buildings along the railroad tracks to the lower heights along East-West Highway and the low-rise garden apartments of the Falklands South Parcel, while the massing of the proposed buildings on the North Parcel correspond with the existing historic structures to the south.

(d) The proposed development does not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.

A draft traffic management agreement has been reviewed and approved by State and County transportation agencies. Other public facilities exist on or near the site and no expansion or renovation of these services will be required of the County. The Applicant is providing all of the required 1,672 parking spaces on-site, and will not burden County parking facilities. Further, requirements for public safety and fire, which will only be minimally impacted given the nature of the land use, will have to be approved by the respective agencies prior to site plan approval.

(e) The proposed development is more efficient and desirable than could be accomplished by the use of the standard method of development.

A standard method project would only allow a density of 1 FAR on this site. Further, the requirement for public amenities would be removed and the public use space requirement would be reduced by one-half. Because infill development and density at transit hubs are core values of smart growth and in light of the number and quality of public amenities being proffered, the project, to be developed, using the optional method of development is much more desirable and more efficient for this particular site.

(f) The proposed development includes moderately priced dwelling units in accordance with Chapter 25A of this Code.

The proposed development will provide 12.5% MPDUs as required by Chapter 25A. A final agreement between the Applicant and the Department of Housing and Community Affairs will be required at the time of site plan review. Additionally, as outlined in the Declaration of Restrictive Covenant, the Applicant must provide 4.72% of the total number of units as Workforce Housing Units on-site, and an identical number off-site within the other Falkland Parcels.

(g) The proposed development satisfies any applicable requirements for forest conservation under Chapter 22A.

The project is subject to the requirements of the forest conservation law. As conditioned, the Project Plan satisfies the requirements.

(h) The proposed development satisfies any applicable requirements for water quality resources protection under Chapter 19.

The Project Plan satisfies the water quality resources protection requirements under Chapter 19. The stormwater management concept consists of channel protection and water quality control via the use of on-site Environmental Site Design and off-site Stream Restoration.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920070080, Falkland North, stamped received by M-NCPPC on October 22, 2010, are required except as modified by the above conditions of approval; and

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 Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and


BE IT FURTHER RESOLVED that the date of this Resolution is DEC 13 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 Commissioner Alfandre, with Vice Chair Wells-Harley and Commissioners Alfandre and Presley voting in favor of the motion, and with Chair Carrier and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, December 9, 2010, in Silver Spring, Maryland.



Marye Wells-Harley, Vice Chair
Montgomery County Planning Board