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MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 11-07
Sketch Plan No. 320110030
Project Name: North Bethesda Market II
Date of Hearing: January 20, 2011

RESOLUTION

WHEREAS, under Section 59-C-15.42 of the Montgomery County Code the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review sketch plan applications; and

WHEREAS, on September 24, 2010, JBG/Nicholson Lane East, LLC ("Applicant"), filed an application for approval of a sketch plan for a multi-building mixed-use development with up to 368,000 SF of non-residential uses and up to 372,528 SF of residential uses, but limited by a total cumulative density of up to 740,528 SF, on 4.41 acres of CR-zoned land, located on the west side of Rockville Pike between Nicholson Lane and Executive Boulevard ("Property" or "Subject Property"); and

WHEREAS, Applicant's sketch plan application was designated Sketch Plan No. 320110030, North Bethesda Market II (the "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated January 10, 2011, 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 Planning Board staff ("Staff") and the staff of other governmental agencies, on January 20, 2011, the Planning Board held a public hearing on the Application; and

WHEREAS, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on January 20, 2011, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor and Commissioner Alfandre absent.

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

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NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board approved Sketch Plan No. 320110030 for a multi-building mixed-use development with up to 368,000 SF of non-residential uses and up to 372,528 SF of residential uses, but limited by a total cumulative density of up to 740,528 SF, on 4.41 gross acres of land in the CR Zones, including as binding elements under Section 59-15.42(b)(4)(B) the maximum density and heights, general location and extent of public use space, public benefits, and phasing program as shown on the sketch plans, subject to the conditions below and modification at Site Plan per the restrictions enumerated in section 59-C-15.42(d). This approval is subject to the following conditions and binding elements:

1. Density

The proposed development is limited to a maximum total of 740,528 sf. of development, including 368,000 sf. of non-residential development and 372,528 sf. of residential development.

2. Height

The proposed development is limited to a maximum of height of 150 feet in the portion zoned CR-3 C1.5 R2.5 H150, and 300 feet in the portion zoned CR-4 C3.5 R3.5 H 300.

3. Incentive Density

The proposed development must be constructed with a proportion of the following public benefits necessary to achieve the proposed density. During site plan review, the Planning Board may find that alternative public benefits and their associated incentive density requested are equally acceptable.

a. Transit Proximity

The Applicant proposes 40% incentive density for proximity to the White Flint Metro Station, a Level 1 transit portal.

b. Connectivity and Mobility

The Applicant proposes 30% incentive density overall for the Connectivity and Mobility category, which is achieved through public amenities in the sub-categories of Neighborhood Services (10% incentive), Minimum Parking (10% incentive), Through Block Connection (15% incentive), and Public Parking (6.4% incentive).

c. Diversity of Uses & Activities

The Applicant proposes 5% incentive density through the Dwelling Unit Mix.

d. Design Quality

The Applicant proposes the maximum of 30% allowed incentive density for the Design Quality category, which is achieved through public amenities in the sub-categories of Structured Parking (14.6% incentive), Tower Setback (5% incentive), Public Art (5% incentive), Streetscape (3% incentive), and Exceptional Design (10% incentive).

e. Natural Environment Protection and Enhancement

The Applicant proposes 25% incentive density overall for the Natural Environment Protection and Enhancement category, which is achieved through public amenities in the sub-categories of Building Lot Terminations (BLTs) (5% incentive), Tree Canopy (10% incentive), and Vegetated Roofs (10% incentive).

4. Incentive Density Implementation

At site plan, the Applicant must demonstrate delivery of sketch plan incentive density elements in a timely manner commensurate with project phasing.

5. Building Lot Terminations (BLTs)

Prior to the issuance of building permits for the first 5% of incentive density square footage, the Applicant must provide proof of purchase and/or payment for the required BLTs.

6. Moderately Priced Dwelling Units (MPDUs)

The proposed development must provide MPDUs in accordance with Chapter 25A.

7. Transportation Planning

a. The Applicant must obtain access in coordination with the Maryland State Highway Administration (SHA) regarding future site access from Rockville Pike (MD 355).

b. The Applicant's plans must provide the shared use path, SP-41, North Bethesda Trail, along the east side of Woodglen Drive as recommended in the *Countywide Bikeway Functional Master Plan*.

c. At the time of Preliminary Plan, the Applicant must:

- i. be in compliance with the requirement to pay the special tax for the White Flint Sector Plan area required at the time when the taxing district is established in lieu of satisfying the transportation Adequate Public Facilities tests;

- ii. dedicate any additional right-of-way along Executive Boulevard Extended to provide the *Sector Plan* recommended 80-foot right-of-way;
 - iii. dedicate right-of-way for truncation at the corners of the public roadways adjacent to their site unless a waiver is granted.
- d. At the time of site plan, the Applicant must:
- i. agree to comply with requirements of participating in the Transportation Management District.
 - ii. provide and show on the plan inverted-U bike racks in front of the main entrances to the buildings and bike lockers in the garages.

8. Future Coordination for Preliminary and Site Plan

The following must be addressed prior to filing the site plan application in conjunction with any other items that may be identified at a later stage:

- a. Provide the square footage for each of the Neighborhood Services with a maximum retail bay floor area of 5,000 sf. to be considered for incentive density.
- b. Define 'Street A' with sustainable materials and a coherent street streetscape.
- c. Underground utilities within public rights-of-way.
- d. Demonstrate how the proposal will achieve sustainability recommendations, including increased tree canopy; maximization of LEED standards; environmental site design as recommended in the Sector Plan.
- e. Implement the bikeway and recreational loop recommendations as established in the Sector Plan and Design Guidelines, including the recreation loop along Nicholson Lane and the dual bikeway recommendation along Woodglen Drive.
- f. Demonstrate how development along Rockville Pike will contribute to the walkable environment envisioned in the Sector Plan.
- g. Consider ways to provide some level of pedestrian sidewalk activation on the outer facing perimeter of the development area.
- h. Consider ways to consolidate "fragments" of public use space into one substantial pedestrian priority space internal to the block.
- i. Consider alternative to screen service access points from Private Street A to reduce their intrusion on pedestrian space.

- j. Consider solar orientation when locating building mass in proximity to spaces for public use.
- k. Implement White Flint Urban Design recommendations.
- l. Continue the established streetscape in North Bethesda Market I along Executive Boulevard Extended.
- m. Demonstrate compliance with the requirements for streetscape improvements, residential amenity space, and parking in the Zoning Ordinance.
- n. Explore ways to reduce overall parking, including shared parking and incentives in the CR zone.
- o. Provide schematic elevations illustrating exterior architectural character, proportion, materials, and articulation of the proposed buildings and especially structured parking.

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 and all applicable elements of § 59-C-15.42, the Montgomery County Planning Board finds that, as conditioned herein, the elements of the sketch plan specified in Section 59-C-15.42(c) of the zoning ordinance are appropriate in concept and appropriate for further review at site plan. Specifically, the Planning Board finds that as shown in the sketch plan:

- (a) The proposed development meets the requirements and standards of Division 59-C-15;**
- (b) The proposed development will further the objectives of the White Flint Sector Plan; and**
- (c) The proposed development will provide more efficient and effective development of the site than the standard method of development.**

The Sketch Plan meets the requirements of the Division and satisfies the specific objectives of the White Flint Sector Plan by providing density and building height, and augments the transportation and bikeway network consistent with the recommendations of that plan. This optional method of development is more efficient and effective than the standard method of development because it provides more public benefits and places higher density in an area that can

sustain growth with built in infrastructure improvements, including transit. In particular, this project will provide a high number of residential dwelling units and office space within walking distance of the White Flint transit station, and many nearby commercial amenities. The public space and potential restaurant opportunities within the project will not only serve residents and workers on the site, but will provide further benefits and amenities to the surrounding community.

- (d) The proposed building massing and height and public use and other open spaces are located and scaled to achieve compatible relationships with each other and with existing and proposed buildings and open space adjacent to the site and with adjacent communities.**

The proposed development extends the architectural massing and public space of the adjacent North Bethesda Market I development across Executive Boulevard. The proposed commercial and residential buildings are consistent with those of the adjacent development and the proposed new Private Street A. The subject site links the primary public space and internal street of North Bethesda Market I with those of those of the proposed North Bethesda Market II, terminating the vista and redirecting pedestrian circulation and focus back into the adjacent residential neighborhoods. Along the section of Woodglen Drive opposite the site is a surface parking lot and further to the west a high-rise multi-family apartment building. For this area, the North Bethesda Market II development will set the standard for height and future compatibility.

- (e) The general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading areas are adequate, safe, and efficient.**

The general circulation for vehicles, pedestrians and bicyclists is safe, adequate and efficient, integrating this development into the surrounding area. Structured parking and loading is adequately designed into the site, providing integrated access with the general on-site circulation. Safety is enhanced by several improvements, including generous streetscaped sidewalks and a narrow internal street which will encourage slower traffic. The vehicular circulation design efficiently directs traffic into and through 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. Dedication of the rights-of-way associated with this project will be determined during the review of the Preliminary Plan.

- (f) The proposed public benefits and associated requested incentive density will further the objectives of the applicable master or sector plan and the objectives of the CR zones.**

The proposed public benefits and associated requested incentive density are appropriate for the site and the applicable zoning, and meet the objectives of the White Flint Sector Plan, specifically to include enhanced pedestrian connectivity, a diversity of uses and public spaces, increased tree canopy, and excellence in design.

The proposed development must be constructed with the public benefits approved by this resolution, except that the Applicant may request to adjust the percentage or type of public benefits shown on the Public Benefits Table of the sketch plan during site plan review as long as the total equals at least 100 percent of the incentive density required by section 59-C-15.81. The Applicant may eliminate, add, or modify individual public benefits if the Planning Board finds that any changes continue to support the findings required by the zone.

- (g) The general phasing of structures, uses, public benefits, and site plans is feasible and appropriate to the scale and characteristics of the project.**

The proposed development will be constructed in a single phase, comparable to the companion North Bethesda Market I development. The public benefits proposed will be constructed along with the rest of the project. Timing for the construction of the amenities will be detailed with the Site Plan review.

- (h) Other Issues**

At the time of site plan, the Planning Board may approve changes to this sketch plan under certain circumstances. If the applicant proposes to change a condition of approval or binding element or agrees to a change proposed by another party, the proposed change must satisfy the requirements for approval of a sketch plan and site plan, including Section 59-C-15, Section 59-D-3.4, and the White Flint Sector Plan. If Planning Staff proposes to change a condition of approval or binding element, however, the Board may approve the change if necessary to ensure conformance with Section 59-C-15, Section 59-D-3.4, or the master plan. In other words, for the Board to approve an applicant-proposed change of a binding element it must find consistency with applicable standards; for the Board to approve a modification to a staff-proposed binding element that the applicant has not agreed to it must find that the proposed change is necessary to meet the

site plan approval standards, including conformance with zoning and master plan requirements.

Alternatively, based on detailed review of a site plan, the Board may find that any element of the approved sketch plan, including a binding element, does not meet the requirements of the zone, master plan, or other findings necessary to approve a site plan, and deny the site plan application.

The Board's review of sketch plans is governed by Section 59-C-15.42(c), which provides that "in approving a sketch plan" the Board must find that certain elements of the plan are "appropriate in concept and appropriate for further detailed review at site plan." Because the Board's approval of a sketch plan is in concept only and subject to further detailed review at site plan, it necessarily follows that the Board may find, based on detailed review of a site plan, that any element of a sketch plan does not meet the requirements of the zone, master plan, or other requirements of site plan approval. The Board does not have the authority at the time of sketch plan to predetermine that any element of the sketch plan will satisfy all applicable requirements for site plan approval. As a practical matter it would be unwise for it to do so, due to the limited detail contained in a sketch plan and the sketch plan's unlimited validity period. If the Board were unable to require changes to binding elements at the time of site plan to ensure compliance with all code and master plan requirements, it might have decided to approve fewer elements of this plan as binding.

Although the Board does not have the authority to provide complete certainty about the conditions of approval or binding elements of a sketch plan, this does not mean that the Board should or will require changes to an approved sketch plan without good reason. To do so would be inefficient and unfair to applicants and community members whose expectations about the future shape of development will be formed by what the Board approves in a sketch plan.

BE IT FURTHER RESOLVED that all elements of the plans for Sketch Plan No. 320110030, North Bethesda Market II stamped received by M-NCPPC on December 1, 2010, are required except as modified herein; and

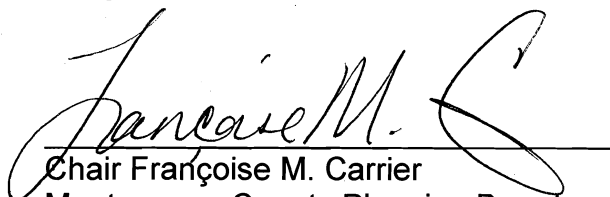
BE IT FURTHER RESOLVED that the date of this Resolution is JUL 5, 2011 (which is the date that this Resolution is mailed to all parties of record); and

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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RESOLUTION

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 Dreyfuss, seconded by Commissioner Presley, with Chair Carrier, Commissioners Dreyfuss and Presley present and voting in favor of the motion, and Vice Chair Wells-Harley and Commissioner Alfandre absent at its regular meeting held on Thursday, June 2, 2011, in Silver Spring, Maryland.


Chair Françoise M. Carrier
Montgomery County Planning Board