



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No.11-30
 Project Plan No. 92009001A
 Project Name: Woodmont Central
 Date of Hearing: April 21, 2011

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 25, 2009, Project Plan No. 920090010, Woodmont Central, was approved for 453,109 square feet of multiple family residential use with up to 457 dwelling units, 81,107 square feet of office use, and 19,556 square feet of retail use, on 48,966 square feet of CBD-R2 zoned land at the intersection of Rugby Lane and Del Rey Avenues and 19,122 square feet of CBD-1 zoned land at the intersection of Wisconsin Avenue and Battery Lane; and

WHEREAS, on October 4, 2010, Donohoe Development Company ("Applicant"), filed an application for approval of an amendment to Project Plan No. 920090010 resulting in the creation of two lots for 585,577 square feet of multiple family residential use with up to 455 dwelling units, 81,107 square feet of office use, and no more than 30,295 square feet of retail use ("Project Plan Amendment"), on 59,339 square feet of CBD-R2 zoned land at the intersection of Rugby Lane and Del Rey Avenues and 19,122 square feet of CBD-1 zoned land at the intersection of Wisconsin Avenue and Battery Lane, ("Property" or "Subject Property"); and

WHEREAS, the Applicant's project plan application was designated Project Plan No. 92009001A, Woodmont Central (the "Application"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated April 11, 2011, 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 April 21, 2011, the Planning Board held a public hearing on the Application (the "Hearing"); and

Approved as to
 Legal Sufficiency:

Christina Sorent 8/31/11
 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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WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on April 21, 2011, the Planning Board approved the Application, subject to conditions, on the motion of Commissioner Alfandre, seconded by Commissioner Wells-Harley, with a vote of 4-0, Commissioners Alfandre, Carrier, Presley, and Wells-Harley voting in favor, Commissioner Dreyfuss being absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Chapter 59 of the Montgomery County Code, the Planning Board APPROVES Project Plan No. 92009001A for two lots for 585,577 square feet of multiple family residential use with up to 455 dwelling units, 81,107 square feet of office use, and no more than 30,295 square feet of retail use on 59,339 square feet of CBD-R2 zoned land and 19,122 square feet of CBD-1 zoned land, subject to the following conditions:

1. Previous Approval of Project Plan 92009001A

These conditions replace the previous conditions of approval in full.

2. Development Ceiling

The proposed development is limited to a maximum of 585,577 square feet of gross floor area for both buildings. The total residential floor area is limited to a maximum of 474,175 square feet of gross floor area if a minimum of 15% MPDUs are provided or 388,669 square feet of gross floor area if a minimum of 12.5% MPDUs are provided; the total commercial floor area in either case is limited to a maximum of 111,402 square feet of gross floor area.

3. Density Transfer

A density transfer of any commercial or residential gross floor area between the two created lots must be established and recorded per Section 59-C-6.2355(b) of the Zoning Ordinance.

4. Building Height and Mass

- a. Building massing must substantially conform to the Project Plan amendment drawings. Details of the building must be provided at site plan.
- b. Building heights for the mixed-use building fronting on Del Ray, Auburn, and Rugby Avenues are limited to a maximum of 174 feet if a minimum of 15% MPDUs are provided. If fewer than 15% MPDUs are provided, the building heights are limited to a maximum of 143 feet.
- c. The proposed development at the corner of Wisconsin Avenue and Battery Lane is limited to the building footprint as delineated in the Project Plan drawings submitted to MNCPPC dated May 13, 2009 unless modified at site

plan review and to 90 feet in height from the approved building height measurement point, as determined by the Department of Permitting Services.

5. Public Use Space

Public use space may be distributed disproportionately on either site included in this Project Plan application provided that:

- a. The Applicant must provide a minimum of 20% of the combined net lot area for on-site public use space. The minimum percentage of additional improvements will be determined at site plan. The final design and details will be determined during site plan review.
- b. The proposed public use space must be easily and readily accessible to the general public and available for public enjoyment.
- c. The Applicant must provide a public art program and other features in general conformance with the illustrative landscape plan depicted in the Staff Report.

6. Staging of Amenity Features

- a. The proposed development may be completed in up to three phases. A detailed development program for each phase will be required prior to approval of the certified site plan.
- b. The Applicant must complete the on-site public use space improvements as delineated by the phasing plan prior to issuance of use-and-occupancy permits unless modified by the site plan development program.
- c. The Applicant must install any landscaping described in the phasing plan no later than the next growing season after completion of the building and site work in each phase.
- d. If the total amount of public use space approved with this Application for all three phases is not completed by the end of the approved adequate public facilities validity period, the Applicant must satisfy the 20% requirement for each phase that has been constructed independently by either providing the required space on-site, making a payment approved by the Planning Board, or a combination of both.
- e. A significant amount of retail uses must be provided in all phases of the project with the final amount determined at site plan.
- f. Prior to approval of a site plan for either site included in this Project Plan application, the Planning Board must accept and approve a report explaining in detail the steps the Applicant took to retain the existing retail tenants. If the existing retail tenants are not retained, the report must explain why.

7. Environmental

The Applicant must achieve the following certification unless the Planning Board, at site plan review, waives this requirement in light of the final quantity and quality of the other amenities being provided and if the Applicant can show that the expense required to achieve the certification is unreasonably high :

- a. For the office building, the Applicant must achieve a LEED Silver rating, or other certification based on equivalent energy and environmental design standards;
- b. For the residential building the Applicant must achieve a LEED certified rating, or other certification based on equivalent energy and environmental design standards.

8. Maintenance and Event Management Organization

Prior to issuance of use-and-occupancy permits, the Applicant will create and implement a maintenance plan for all on-site public use space unless an alternative arrangement is made with another public entity.

9. Moderately Priced Dwelling Units and Workforce Housing

The Applicant must provide a minimum of 12.5% MPDUs as required by Chapter 25A and will not receive any density bonus; alternatively, the Applicant may provide a minimum of 15% MPDUs as required by Chapter 25A for a 22% density bonus. The Applicant could also choose to provide a number of MPDU's that falls between 12.5% and 15%, establishing the total number of units that would be allowed by using the sliding scale found in 25A. The final calculation of market rate units and MPDUs will be determined at site plan.

10. Coordination for Additional Approvals Required Prior to Preliminary Plan and Site Plan Approval

- a. The Applicant must obtain written approval from MCDOT for the final design and extent of any and all streetscape improvements within the rights-of-way.
- b. The Applicant must coordinate with the following agencies for any changes that are created by the conditions of this approval or the final site plan application: MCDOT, MCDPS, SHA, and the Montgomery County Planning Department.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference except as modified herein, 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) *As conditioned, the proposal complies with all of the intents and requirements of the zone.*

Intent 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."*

With respect to density, the Sector Plan recommends allowing the FAR permitted by the optional method of the zone, when a mix of uses is provided. Further, the Sector Plan recommends that non-residential FAR in this area be capped at 1.0 FAR. This Application meets these recommendations.

In addition, the heights of both buildings are in conformance with the recommendations of the Sector Plan, which states that buildings up to 174 feet are appropriate on the CBD-R2-zone block if 15% MPDUs are provided and up to 90 feet on the CBD-1-zoned block for commercial uses.

- (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 Woodmont Triangle Sector Plan Amendment recommends development of the Subject Property with a range of residential uses and limited small-scale retail. The Application will achieve the recommended density with a range of unit types and MPDUs. And, as conditioned, the site will allow for existing and new small businesses to prosper in the area. This mix of uses will enhance the viability of this area as a place to work, shop, and live.

- (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 development of the site on the corner of Wisconsin Avenue and Battery Lane will enhance pedestrian, bicycle, and vehicular circulation by providing sidewalk improvements, bike facilities, and reducing curb cuts on these

busy streets. The layout of retail doors and lobbies will effectively direct pedestrians into and around the site. The relationship of the proposed building to existing buildings is typical and appropriate for a central business district.

The proposed development of the site at the intersection of Rugby Avenue and Del Ray Avenue will provide a better relationship between individual buildings and provide a legible streetscape for pedestrians and cyclists. The internal through-block connection breaks down the scale of the buildings and will enhance the public realm and offer more opportunities to enjoy the amenities provided on site.

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

The proposed development is between $\frac{1}{2}$ and $\frac{3}{4}$ miles from Metro and directly on local bus routes. It is a local and regional imperative that infill development is provided at such sites as an alternative to suburban sprawl. As conditioned, the location and accessibility of the proposed development to the local transit system is an excellent realization of the Sector Plan transit and sustainability goals. The Application will provide jobs and housing within walking distance of the Metro and shopping areas.

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

On both sites, vehicular circulation around the site will generally be improved by the decrease in curb cuts, the consolidation of loading and garage access, and the addition of parallel parking spaces (in the case of the site on Rugby and Del Ray). The pedestrian environment provides numerous enhancements to help realize the potential of these sites. These include streetscape upgrades, pedestrian connections, and open spaces focused on active areas with retail and leisure opportunities.

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

The Application provides a unit mix of studio apartments and one- and two-bedroom units; a proportional mix of these will be MPDUs. This range provides a good housing variety for this area.

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

In the case of the development on Rugby Avenue and Del Ray Avenue, the Application proposes to consolidate over a dozen small lots and parts of lots into one lot. This will allow for the flexibility in building footprint and open space and can better respond to the site constraints and Sector Plan goals. The site on the corner of Wisconsin Avenue and Battery Lane is reconfiguring an existing lot.

Further Intentions of the CBD-1 and CBD-R2 Zones

Section 59-C-6.213 of the Zoning Ordinance states:

a) *In the CBD-0.5, CBD-R1, and CBD-1 zones it is further the intent:*

1. *To foster and promote the orderly development of the fringes of the CBDs 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*
2. *To provide a density and intensity of development which will be compatible with adjacent land uses outside the Central Business Districts.*

The development of the CBD-1 site proposes an FAR of 2.82, which is below the development standard, and a maximum height of 90 feet. All adjacent and confronting properties are similarly zoned and have the same or similar Sector Plan Amendment recommended limits on density and height. The small retail bays on this Property will encourage small businesses. There are no residential uses on the CBD-1 site.

b) *In the CBD-R1, CBD-R2, CBD-2, and CBD-3 zones it is further the intent to foster and promote the orderly development of the CBDs 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 development of the CBD-R2 site proposes up to 455 residential units and approximately 19,790 square feet of retail space. This building has a total gross floor area of approximately 493,965 square feet. This property tax base enhances the economic status of the county and provides a range of living opportunities. As conditioned, the retail base will expand at this site providing more employment opportunities, and the built form and open space will provide a desirable urban environment.

Under Section 59-C-6.234(b)(iii), unless waived by the Planning Board, a minimum of 5% of the maximum permitted non-residential density must be retail

or personal service commercial uses. The Planning Board waives this requirement in part because the 5% minimum retail or personal service requirement is not practical or feasible in this particular project due to (1) the limit on non-residential density imposed by the Sector Plan; (2) the requirement for 20% public use space and resulting decrease in first floor building footprints; and (3) the need for offices, lobby, and community spaces necessary for the residential uses recommended by the Sector Plan.

Requirements of the CBD-1 and CBD-R2 Zone

The following data table 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.

Development Standard	CBD-1	CBD-R2	Approved by the Planning Board and Binding on the Applicant (CBD-1/CBD-R2)
	Permitted/Required	Permitted/Required	
Building Height (feet)	90	174 ¹	90/174
Setbacks (feet)			
To any Property Line (min)	0	0	0
To any Right-of-Way at grade (min)	0	0	2/5.5
Site Area (square feet)			
Net Tract Area	n/a	n/a	78,461
Dedications	n/a	n/a	34,556
Gross Tract Area (min)	n/a ²	n/a	113,017
Density (Floor Area Ratio) w/No MPDU Bonus (option #2)			
Commercial (max)	1.0 (32,507sf) ³	1.0 (80,510sf)	0.98 (111,402sf)
Total (max)	3.0 (97,521sf)	5.0 (402,550sf)	4.42 (500,071sf)
Density (Floor Area Ratio) w/22% MPDU Bonus⁴ (option #1)			
Commercial (max)	1.0 (32,507sf)	1.0 (80,510sf)	0.98

¹ Per master plan, page 22.

² Per master plan, page 25.

³ Per Sector Plan, page 21.

⁴ For this 22% Density Bonus, the Applicant must provide a minimum of 15% MPDUs per Chapter 25A.

			(111,402sf)
Residential (base max)	n/a	n/a	3.44 (388,669sf)
Residential Bonus (22% of base max)	n/a	n/a	0.76 (85,506sf)
Total (max w/15% MPDUs)	3.44 (111,824sf; based on 1 FAR of com. proposed)	5.88 (473,753sf; based on 0.98 FAR of com. proposed)	5.18 (585,577sf)
Development Standard	CBD-1	CBD-R2	Approved by the Planning Board and Binding on the Applicant (CBD-1/CBD-R2)
	Permitted/ Required	Permitted/ Required	
Public Use Space (% of net lot)			
On-Site Public Use Space	20	20	21
Off-Site Amenity Space (excluding private amenity space)	n/a	n/a	18.7
Total Public Use & Amenity Space	20	20	39.7

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 providing the following package of amenities and public facilities:

Amenities and Facilities Summary

On-Site Public Use Space Improvements

- Sidewalks
- Art
- Plaza with Focal Features
- LEED Standards
- Mid-block Pedestrian Connection
- Seating & Landscaping

Off-Site Amenity Improvements

- Sidewalks

(b) *The proposal conforms to the approved and adopted Master or Sector Plan or an Urban Renewal Plan approved under Chapter 56.*

Zoning and Land Use

The Subject Property is zoned CBD-1 and CBD-R2, which is recommended by the Sector Plan Amendment. All proposed uses are allowed in these zones and the proposed development is in conformance with the general guidelines to provide housing and limited commercial uses. Specifically, the Sector Plan recommends diverse housing opportunities, which the Application provides and a maximum FAR of 1.0 for commercial uses, which the Application also provides. The proposed uses are appropriate for the Subject Property and conform to the Sector Plan and Sector Plan Amendment.

Sector Plan Conformance

The Approved and Adopted Bethesda CBD Sector Plan is organized around the following goals that the Application satisfies:

- Establishment of a vibrant and diverse downtown;
- Development by infill that complements the existing urban fabric;
- Development of a wide range of housing;
- Creation of employment opportunities;
- Creation of an appealing environment for working, shopping, and entertainment; and
- Creation of a circulation patterns that encourage walking, cycling, and the use of mass transit.

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

Because of its proximity to transit, the location is optimal for the proposed intensity of use and density. The architecture and open space of the site on Wisconsin Avenue and Battery Lane have been designed as a continuation of the existing street walls, and at heights similar to surrounding uses and thus will not adversely affect adjacent buildings and uses. The density is below that allowed in the zone and is at an appropriate intensity. The residential building on Rugby and Del Ray avenues has been modified from the original Project Plan approval regarding the design of its footprint and massing to be more compatible with the surrounding streets. The resulting location and intensity of the uses are compatible. The staging

of this building and open space will provide some retail throughout each phase and provide phased improvements.

The operational characteristics of each site will improve the road and sidewalk network because of the reduction of curb cuts and consolidation of loading, parking, and drop-off areas.

- (d) *As conditioned, the proposal would 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.*

The Applicant has submitted a draft traffic management agreement that will be finalized during the site plan review process. Existing public facilities and services are adequate to serve the proposed development. The County is not required to expand or modify these services. Further, requirements for public safety and fire will be minimally impacted due to the nature of the land use and must be approved by the respective agencies prior to preliminary plan approval. After much discussion and one dissenting vote regarding the capacity of existing public services, the Board finds that the proposal will not overburden existing public services.

- (e) *The proposal will be more efficient and desirable than could be accomplished by the use of the standard method of development.*

A standard method project would only allow an FAR of 3 on these combined sites. 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 is a core value of smart growth and given the number and quality of public amenities being provided, this optional method project is more desirable and more efficient for this particular site.

- (f) *The proposal will include moderately priced dwelling units in accordance with Chapter 25A of this Code, if the requirements of that chapter apply.*

The proposed development will provide 15% MPDUs as required by Chapter 25A for a 22% density bonus. A final agreement between the Applicant and the Department of Housing and Community Affairs will be required at the time of site plan review.

- (g) *When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from one lot to another or transfer densities, within a lot with two or more CBD zones, pursuant to the special standards of either section*

59-C 6.2355, the Project Plan may be approved by the Planning Board based on the following findings:

The Application creates two non-contiguous lots and transfer density between each. The combined lot area exceeds the minimum 18,000 square feet. The Project Plan complies with the approval requirements of Section 59-D-2.42(g). The Application will result in an overall land use configuration that is significantly superior in meeting the goals of the Sector Plan and the zone than what would be achieved without the proposed transfer. The Board finds that the proposed optional method development, as conditioned, will be more efficient and desirable than would have been accomplished by a standard method development on this site. It meets these goals by:

- Consolidating public use space;
- Providing more affordable housing;
- Providing more significant amenities; and
- Focusing growth near a transit center.

The proposed development also meets the following provisions:

- The density transfer is measured in terms of gross square feet of development;
- The lots that receive a density transfer do not abut or confront one-family residential zones;
- The development capacity of the combined lots does not exceed the total development capacity otherwise permitted on the separate lots under the optional method of development procedure or any density limit recommended in the Sector Plan; and
- Public use space is provided based on the total area of the lots and is located on-site.

(h) As conditioned, the proposal satisfies any applicable requirements for forest conservation under Chapter 22A.

There is no forest on-site or significant/specimen trees. The Subject Property is subject to Chapter 22A Montgomery County Forest Conservation Law and the Applicant is proposing to meet the planting requirement through an in-lieu fee payment.

(i) As conditioned, the proposal satisfies any applicable requirements for water quality resources protection under Chapter 19.

The Montgomery County Department of Permitting Services (MCDPS) Stormwater Management Section approved the stormwater management concept for the

Commercial site on April 1, 2011. The stormwater management concept includes meeting environmental site design to the maximum extent practicable by the use of a green roof and micro-retention biofilters. This is supplemented with use of two proprietary biofilters to accommodate stormwater runoff from the streets. Due to on-site constraints the channel protection volume cannot be provided and a waiver has been granted by MCDPS. Recharge has been waived because this is a redevelopment project and the majority of the site is covered by sidewalks, a building, and a garage.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 92009001A, Woodmont Central date stamped March 29, 2011 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 SEP 22 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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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 Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson,

Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, September 8, 2011, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board