



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

FEB 14 2012

MCPB No. 11-105
Project Plan No. 920110010
Project Name: Fenwick Station
Date of Hearing: October 13, 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 29, 2011, EPN-SSPO, LLC ("Applicant"), filed an application for approval of a project plan for a 60-foot building with 310 residential dwelling units on 2.84 gross acres of land zoned CBD-1 at the intersection of Second Avenue and Spring Street (8616 Second Avenue) ("Property" or "Subject Property"); and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920110010, Fenwick Station ("Application" or "Project Plan"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated October 3, 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 Staff and the staff of other governmental agencies, on October 13, 2011, 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 13, 2011, the Planning Board approved the Application subject to conditions on motion of Commissioner Dreyfuss, seconded by Commissioner Wells-Harley, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

Approved as to
Legal Sufficiency: *Christina M. 1/26/12*

M-NCPPC Legal Department
8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: 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 Project Plan No. 920110010 for a 60-foot building with 310 residential dwelling units, on 2.84 gross acres in the CBD-1 zone, subject to the following conditions:

1. Development Ceiling

The proposed development is limited to 310 dwelling units. The final breakdown for mix of units will be decided at Site Plan.

2. Building Height and Mass

The proposed development is limited to the building footprint as delineated in the project plan drawings submitted to MNCPPC dated September 19, 2011, unless modified at site plan review, and to 60 feet in height as measured from the datum point (Elevation: 347.00) along Spring Street as shown on the Project Plan drawings.

3. Architecture

The exterior architectural character, proportion, material, and articulation must be substantially similar to the schematic elevations submitted to MNCPPC unless modified during site plan review.

4. Housing

The development must provide a minimum of 12.5 percent of the total number of units as Moderately-priced Dwelling Units (MPDUs) consistent with the requirements of Chapter 25A of the Montgomery County Code, Section 25A-5.

5. LEED Certification

The Applicant must achieve a LEED-certified rating certification at a minimum. The Applicant must make good faith efforts to achieve a LEED Silver rating. Before issuance of any use and occupancy certificate, the Applicant must inform MNCPPC staff of the LEED certification level that they are applying for. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate the Applicant must provide to staff a written report for the public record purposes only from the Applicant's LEED consultant analyzing the feasibility of achieving a LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating, including their associated extra cost. Submission of this report constitutes compliance with this condition.

6. Public Use Space & Amenities

a. The applicant must provide a minimum of 15,269 square feet for on-site public use space (20 percent of net lot area) as shown on the Project Plan.

b. The Applicant must provide a minimum of 33,035 square feet of off-site amenities (43 percent of net lot area) as shown on the Project Plan.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and set forth in the Staff Report, 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-2.42 after consideration of the relevant provisions 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 the CBD-1 zone.**

Intents and Purposes of the CBD Zones

The Montgomery County Zoning Ordinance, Section 59-C-6.212, states the purposes that the CBD zones are designed to accomplish. The Project Plan conforms to these purposes as follows:

- (1) *"To encourage development in accordance with an adopted and approved master, 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 Subject Property lies within the boundaries of the 2000 *Silver Spring Central Business District (CBD) Sector Plan* (Sector Plan). The site is located in an area of the CBD designated as "[o]ther [a]reas of the CBD". The Sector Plan recommends reconfirming the existing CBD-1 zone. Since residential development is allowed in the CBD-1 zone, the Application conforms to the land use and zoning recommended by the Sector Plan.

The Sector Plan states certain themes that articulate the shared goals and vision for the CBD, including a transit-oriented downtown, a residential downtown, a green downtown, and a pedestrian-friendly downtown. The Application is consistent with the Sector Plan's themes because the Application is within walking distance of the future multi-modal transit site and will provide future residents with excellent walking access to a variety of mass transit options. The connection to the Capital Crescent trail and Silver Spring Green Trail, along with bike-share options further encourage the use of other modes of transportation. The Application is completely residential with 310 units. The Application provides tree-lined streets and a landscaped plaza with a future bike-share station at the corner of Second Avenue and Spring Street as part of the on-site public use space. Finally, the Applicant will provide the Silver Spring Streetscape (including

brick paving, street furnishings, undergrounding of utilities, and street trees) along Second Avenue and extend the Silver Spring Green Trail along Second Avenue. The improved streetscape encourages pedestrian activation from neighboring residential communities to downtown Silver Spring.

(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 Application replaces an aging post office facility with housing, a use recommended in the Sector Plan for the CBD. The residential unit mix for the Application is currently proposed as follows: (1) approximately seven percent of the units (including 19 market rate and three moderately priced dwelling units (MPDUs)) will be studio units; (2) approximately 67 percent will be one-bedroom units (with 181 market rate and 26 MPDUs); (3) approximately 19 percent will be two-bedroom units (with 52 market rate and seven MPDUs); and (4) approximately seven percent will be a mix of two-bedroom den and three-bedroom units (with 19 market rate and three MPDUs). The proposed unit mix is only estimated at this time, with a final unit mix to be established at site plan.

(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 existing buildings surrounding the Property are comprised of a mix of residential, commercial and retail uses, with varying heights and densities. The Application responds to its location on the perimeter of the CBD by employing terracing elements, setbacks, step backs, and horizontal breaks in mass to create a proper transition between the neighboring one-family area and the CBD core.

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

The Application will provide new residential units in close proximity (within 1,400 feet (\pm)) to the Silver Spring Metro Station. Additionally, several bus lines operate in the vicinity of the Subject Property, including a stop directly in front of the Subject Property on Second Avenue. In fact, as part of the development, a new bus shelter will be provided for this stop. The Property is also within walking distance to the Cameron-Second Street Garage, which provides 1,383 public parking spaces. Given the proximity to multiple transit options, it is reasonable to

conclude that a considerable number of nearby residents, employees, and patrons will utilize public transit resources.

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

Because the existing curb cut at Fenwick Lane will be preserved but the curb cut on Second Avenue will be eliminated, vehicular circulation will be improved compared to existing conditions on the Subject Property. The Application's trip generation rates are relatively low compared to the current post office use. As such, the Application should improve vehicular circulation in the area.

A significant component of the Application is the improvement of sidewalks and trail areas adjacent to the Property. The streetscape along Second Avenue will be detailed per the Silver Spring streetscape standards. The Silver Spring Green Trail will be extended from the CBD to the adjacent one-family neighborhood, and walkways will also be established along the proposed building's southern wing to promote efficient pedestrian circulation from Second Avenue to the future Capital Crescent Trail.

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

In accordance with County requirements, 12.5 percent of the residential units within the Application will be developed as MPDUs.

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

The Application will consolidate into a single record lot the various lots and parts of lots that comprise the property. The consolidation will allow the Subject Property to be redeveloped by replacing an aging post office facility with a well-designed multifamily residential building. Although the Sector Plan does not address the potential redevelopment of the Subject Property, the Application conforms to the Sector Plan's general goals and objectives.

Further Intentions of the CBD-1 zone

Section 59-C-6.213(a) of the zoning ordinance states further intentions of the CBD-1 zone:

- (1) 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

(2) To provide a density and intensity of development which will be compatible with adjacent land uses outside the Central Business Districts.

The Application was designed in a manner that is compatible with the surrounding one-family neighborhood while stepping up in height as a transition to the more dense buildings in the core areas of the CBD. The Application will also provide a diversity of unit types and 12.5 percent MPDUs, providing new residential opportunities in the area.

Requirements of the CBD-1 zone

The data table below lists the required development standards approved by the Planning Board and binding on the Applicant. The Planning 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 optional method of development in the CBD-1 zone.

DATA TABLE

Development Standard	Required	Approved
Site Area		
Gross Tract Area	18,000 sq ft	123,762 sq ft (2.84 acres)
Prior dedication	n/a	47,420 sq ft (1.09 acres)
New dedication	n/a	-0-
Existing lot area	n/a	76,342 sq ft (1.75 acres)
Max. Density		
Max. No. of Dwelling Units		
- Market rate	125 DUs/acre	-109 DUs/acre (310 total DUs)
- MPDUs	12.5 percent	-12.5 percent (39 MPDUs)
Min. Public Use Space (% of net lot)		
On-Site Public Use Space	20 percent	20 percent
Off-Site Amenity Space	n/a	43 percent
Total Public Use & Amenity Space	n/a	63 percent

Max. Building Height	60 ft	60 ft, as measured from Spring Street
Vehicular Parking		
Residential		
- Studio units	19 (@ 1sp/du)=19	330 total parking spaces
- MPDU Studio units	3 (@ 0.5 sp/du)=1.5	
- One-bedroom units	181 (@ 1.25 sp/du)=226.25	
- MPDU one-bedroom units	26 (@ 0.625 sp/du)=16.25	
- Two-bedroom units	52 (@ 1.5 sp/du)=78	
- MPDU two-bedroom units	7 (@ 0.75 sp/du)=5.25	
- Three-bedroom units	19 (@ 2 sp/du)=38	
- MPDU three-bedroom units	+3 (@ 1 sp/du)=3	
Sub-total	388	
Less 15% metro/CBD credit	(-) 58	
Total Spaces	330 total parking spaces	

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 Application is proffering the following package of amenities and public facilities:

- Streetscape improvements along Second Avenue consistent with the Silver Spring streetscape standards;
- Onsite plaza with seating and recreation areas;
- A placeholder for a potential bike-share station;
- Extension of the Silver Spring Green Trail;
- A trail connection from Second Avenue to the future CCT;
- A temporary pathway parallel to the tracks until the CCT is constructed along with the purple line transitway;
- The clearing of debris from an off-site stream channel; and
- An upgraded Fenwick Lane right-of-way.

(b) The proposed development conforms to the 2000 Silver Spring Central Business District Sector Plan.

For the reasons articulated above, the proposed development conforms to the 2000 Silver Spring Central Business District Sector Plan.

(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 Application will contribute toward the ongoing revitalization of downtown Silver Spring by providing new housing choices and residents who will help support nearby businesses. The Application has been designed to ensure that it is physically compatible with existing development in the area. The open space and other amenities that the Application will provide will contribute to the establishment of a more active residential community and allow a gathering place for trail users and nearby residents and employees.

(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.

The Application will not overburden existing public services. The Subject Project's close proximity to the Metro Station and bus lines on Spring Street and Second Avenue help to promote public transportation. The proposed use will generate 93 AM peak hour trips and 93 PM peak hour trips and the study area intersections will continue to operate within the acceptable congestion standard levels. There is adequate water and sewer capacity within the Silver Spring CBD Policy Area to accommodate the Application. The Subdivision Staging Policy Schools Test for FY 2011 indicates that there is adequate capacity (there is no residential moratorium and no school facility payments will be required).

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

The optional method of development allows for the creation of a building that will be compatible with the surrounding structures, including the Easter Seals building, the Alexander House Apartment Complex, and the one-family residences located in the adjacent Woodside Park subdivision. An optional method project provides more residential units to help create a more varied

residential community in the CBD. The addition of up to 310 residential units within the CBD in close proximity to public transportation serves the interests of the CBD and furthers County land use policy.

An associated benefit of the optional method of development is the provision of more public use space than would be provided under the standard method. Whereas a standard method development in the CBD-1 zone would require only 10 percent of net lot area to be designated for public use, the optional method requires 20 percent. Moreover, the Applicant is providing 43 percent of the Subject Property's net lot area as off-site amenity space.

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

The Application will provide 12.5 MPDUs on site, consistent with the requirements of Chapter 25A.

- (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, the Project Plan may be approved by the Planning Board based on the following findings:***

Not applicable.

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

A Natural Resource Inventory Forest Stand Delineation (NRI/FSD) #420111330 for the Subject Property was approved on March 8, 2011. The Subject Property has an afforestation requirement of 0.46 acres to be met through a fee-in-lieu payment.

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

The MCDPS Stormwater Management Section approved the stormwater management concept plan on July 6, 2011.

- (j) Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the applicable Master or Sector Plan and**

serves the public interest better than providing the public use space or public facilities and amenities on-site.

Although the Applicant is providing off-site amenity space, the Applicant still fulfills the 20 percent on-site public use space requirement.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920110100, Fenwick Station stamped received by M-NCPPC on June 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 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 Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

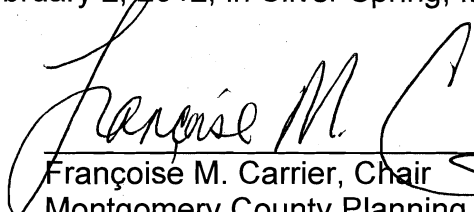
BE IT FURTHER RESOLVED that the date of this Resolution is FEB 14 2012 (which is the date that this Resolution is mailed to all parties of record); and

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 Anderson, 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, February 2, 2012, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board