



MONTGOMERY COUNTY PLANNING BOARD
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 11-109
 Project Plan No. 91994003B
 Project Name: Montrose Crossing
 Date of Hearing: November 3, 2011

DEC 20 2011

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 February 15, 1995, the Planning Board approved Project Plan 919940030 for up to 467,806 square feet (0.34 FAR) of commercial uses and 150 multi-family dwelling units; and

WHEREAS, on February 11, 2004, the Planning Board approved Project Plan Amendment 91994003A under which the conditions of approval for Project Plan 919940030 continued in full force and effect, except that the allowable densities were revised to up to 462,599 square feet (0.34 FAR) of commercial uses and 230 multi-family dwelling units; and

WHEREAS, on June 20, 2011, BVS Montrose, LLC ("Applicant"), filed a Project Plan Amendment designated 91994003B, Montrose Crossing, (the "Amendment") together with a site plan amendment for approval of the following modifications, which will be shown on the certified site plan:

1. Addition of a free-standing bank;
2. Addition of a free-standing restaurant;
3. Minor site, landscaping, and lighting changes; and
4. Removal of the "festive place maker" public art; and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated October 21, 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 staffs of other governmental agencies, on November 3, 2011, the Planning Board held a public hearing on the Application (the "Hearing"); and

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

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

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

WHEREAS, on November 3, 2011, the Planning Board approved the Application subject to conditions, on motion of Commissioner Anderson, seconded by Commissioner Dreyfuss; with a vote of 4-0, Commissioners Anderson, Carrier, Dreyfuss, and Wells-Harley voting in favor, Commissioner Presley being absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board hereby APPROVES the Amendment, subject to the following conditions:

1. Compliance with Previous Approvals

All previously approved conditions in the Opinion for Project Plan Amendment 91994003A, dated February 11, 2004, remain in effect, except as modified by this Amendment.

2. Removal of Condition 15

Condition 15, "Improvements to Montrose Gateway", is no longer applicable and is removed.

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, 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.

The Amendment replaces previously approved retail space with office and restaurant uses. Because these uses continue to provide services for employees, residents, and visitors as intended by the RMX-3C zone, the findings of the previous Project Plans remain valid. As the data table shows, all required development standards are met or exceeded; the Amendment increases green area and decreases building coverage.

<i>Data Table for the RMX-3C Zone</i>			
Development Standard	Required/Allowed	Previously Approved	Approved with this resolution
Gross Site Area	n/a	29.82 acres	33.38 acres ¹
Previous Dedications	n/a	1.86 acres	1.86 acres
Net Site Area	n/a	31.68 acres	31.52 acres
Density			
Min. Dwelling Units	150 units/acre	230 total	230 total
Max. Commercial FAR	0.5	0.34	0.27
Max. Gross Nonresidential Leasable Floor Area (square feet)	1,300,000	462,599	384,424
Min. Setbacks (feet)			
Residential Building from any Street	30 (15 with waiver)	15	15
Commercial Building from any Street	25 (12.5 with waiver)	12.5	12.5
Parking from any Street	10	10	10
Min. Parking	2155	2294	2303
Min. Green Area or Outside Amenity Area (% of net lot)			
Within Commercial Portion	10 (133,904sf)	12.9 (174,906sf – based on previous net lot)	15 (203,203sf)
Within Residential Portion	20 (6,780sf)	22 (8,061sf – based on previous net lot)	23 (8,061sf)

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

The Amendment replaces previously approved retail space with office and restaurant uses. Because these uses continue to provide services for employees, residents, and visitors as recommended by the Master Plan, the findings of the previous Project Plans remain valid. No Urban Renewal Plan applies to this site.

(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.*

¹ After minor resubdivision is platted.

The Amendment replaces previously approved retail space with bank and restaurant uses. Because these uses are smaller in size and similar in intensity to the removed retail space, the development will remain compatible and not detrimental to existing and potential development in the neighborhood. Since the proposed building locations will occupy parking areas that will not be needed for any future road or driveway connections through the site, the operational characteristics are also not detrimental to existing or potential development. A perpetual easement for access to the Montrose School site has been retained and is not impacted by the proposed bank and restaurant locations. Therefore, the findings of the previous Project Plans regarding location, size, intensity, design, and operational characteristics and staging remain valid.

- (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 proposed Amendment is within the limits tested by the approved preliminary plan and will continue to meet all transportation- and traffic-related conditions of approval. For these reasons, the previous findings regarding public services and traffic mitigation remain valid and no Traffic Mitigation Agreement is required.

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

The Amendment is similar in layout, use, and intensity to the previously approved Project Plan. For this reason, the previous finding that the proposal is more efficient and desirable than could be accomplished by the standard method of development remains valid.

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

No modification of the total number of dwelling units or MPDUs provided by the development is requested by this Amendment.

- (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 6.2351 or 59-C 6.2352 (whichever is applicable), the Project Plan may be approved by the Planning Board based on the following findings:*

The proposed development is located on one existing lot and does not propose any open space or density transfers.

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

This Amendment qualifies for an exemption from preparing a Forest Conservation Plan under Section 22A-5(t) of the Forest Conservation Law. This exemption applies to,

“a modification to existing developed property if:

- (1) no more than 5000 square feet of forest will be cleared;
- (2) the modification does not affect any forest in a stream buffer or located on property in a special protection area which must submit a water quality plan; and
- (3) the modification does not require approval of a new subdivision plan.”

Because this Amendment meets all three criteria, an exemption was granted on June 30, 2011.

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

The Amendment is subject to the water quality resources protection requirements. The stormwater management concept, approved on May 18, 2011, proposes to meet Environmental Site Design to the Maximum Extent Practicable via micro-biofilters and bioswales. The remaining volume will be treated using a structural, proprietary filter.

- (j) When the Planning Board allows any public use space, or public facilities and amenities to be provided offsite, the Planning Board must find that the space or improvement: (1) is consistent with the goals of the applicable master or sector plan; and (2) serves the public interest better than providing the public use space or public facilities on-site.*

Applicant requested permanent removal of an on-site sculptural piece – the “festive place maker” required by the initial approval.

This piece – a number of large, colorful pedestrians and bicyclists rendered in flat, metal cutouts, like giant paper dolls – was removed for the construction of the Montrose Parkway underpass. Because the land was conveyed to the State Road Commission, which does not want to replace them in the remaining forested area, and no space large enough on the subject site is available, it is appropriate to find a better location for these works. Discussions are underway with numerous public and

non-profit agencies, but if no suitable site can be found, it is recommended that the works be decommissioned and returned to the artist.

These works are not critical to the goals of the Master Plan; green area, sidewalk connections, and more sustainable land use have been deemed more important to creating a sense of place originally intended by these pieces. Moreover, the Montrose Parkway underpass makes this area less suitable for artworks, which cannot be appreciated through the tangle of ramps, bridges, and control signals. Future development in the area should, possibly through the process of the upcoming White Flint II Sector Plan, find more suitable applications for public art, open space, and amenities.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 91994003B, Montrose Crossing stamped received by M-NCPCC on June 3, 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

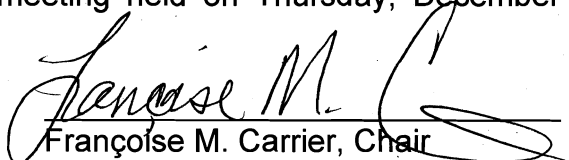
BE IT FURTHER RESOLVED that the date of this Resolution is DEC 20 2011
(which is the date that this Resolution is mailed to all parties of record); and

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).

* * * * *

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 Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Dreyfuss present and voting in favor of the motion, and Commissioner Presley temporarily absent, at its regular meeting held on Thursday, December 15, 2011, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board