



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

MCPB No. 13-36
Project Plan No. 920130030
Date of Hearing: March 14, 2013

MAR 17 2013

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review project plan applications; and

WHEREAS, on December 20, 2012, Bethesda Commerce, LLC ("Applicant"), filed an application for approval of a project plan for a mixed use high-rise multi-family building in the Bethesda Metro Core District. The proposed development provides 140,345 square feet of residential property with an additional 5,000 square feet of commercial/non-residential space. The building will be 15-stories and 143 feet in height as measured from Commerce Lane with approximately 120 multifamily units. The gross tract area is 29,069 square feet on 0.67 acres of CBD-2 zoned-land, located at the intersection of Old Georgetown Road and Commerce Lane in the central portion of the Bethesda Metro Core. The Property ("Subject Property") is situated on Lot 10 and Plat 4718 at the southeast corner of Old Georgetown Road and Commerce Lane. The address is 7535 Old Georgetown Road, Bethesda, Maryland, in the Bethesda CBD Approved and Adopted Sector Plan, 1994 plan ("Master Plan") area; and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920130030, Bethesda Commerce, ("Application" or "Project Plan"); and

WHEREAS, following review and analysis of the Application by Planning Board Staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated February 28, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 14, 2013, the Planning Board held a public hearing on the Application, and at the hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to
Legal Sufficiency:

Christina Soren 4/4/13
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WHEREAS, at the Hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board APPROVES Project Plan No. 920130030 for the construction of a 15-story building that is 143 feet in height. There will be approximately 120 multifamily units with 12.5 percent MPDUs on the Subject Property, subject to the following conditions:¹

1. Development Ceiling

The development is limited to a maximum of 145,345 square feet of gross floor area, including a maximum of 120 multi-family dwelling units and approximately 5,000 square of non-residential space.

2. Preliminary Plan

The Applicant must file a preliminary plan concurrently with the site plan for the limited purpose of removing the building restriction line currently shown on the record plat.

3. Building Height and Mass

The development is limited to the building footprint as delineated in the project plan drawings submitted to MNCPPC dated February 8, 2013 unless modified at site plan review and to 143 feet in height as determined by the Department of Permitting Services approved building height measurement point.

4. Housing

The development will provide a minimum of 12.5 percent moderately priced dwelling units (MPDUs) based upon the total number of units, in accordance with Chapter 25A.

5. Transportation

- a. The Project Plan is limited to up to 120 multi-family dwelling units (or 140,345 square feet of residential space) and 5,000-square-feet of general retail space.
- b. At site plan review, the Applicant must comply with the following:

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

1. The Applicant must satisfy the transportation Adequate Public Facilities (APF) test at site plan including an updated traffic study, if necessary.
 2. The Applicant must enter into a Traffic Mitigation Agreement with the Montgomery County Department of Transportation (MCDOT) and the Planning Board to participate in the Bethesda Transportation Management Organization. The Traffic Mitigation Agreement must be fully executed prior to release of any building permits.
 3. The Applicant must provide a Public Improvement Easement (PIE) to widen the sidewalk to provide a 5 feet wide ADA path along Commerce Lane to be approximately 12 feet wide between the back of curb and face of the proposed building.
 4. The Applicant must participate in the Pedestrian Road Safety Audit with MCDOT along Commerce Lane and the Maryland State Highway Administration (SHA) along Old Georgetown Road to design the streetscaping that would minimize mid-block pedestrian movements across these road frontages while not requiring a long-term maintenance burden for the responsible agency.
6. Public Use Space
- a. The Applicant must provide a minimum of 22.6% of the net lot area for on-site public use space and a minimum of 25.7% 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 must be easily and readily accessible to the general public and available for public enjoyment.
 - c. The Applicant must improve Old Georgetown Road and Commerce Lane streetscapes, in accordance with the Bethesda Streetscape standards.
 - d. The Applicant must provide the plaza design and rooftop design, and other features in general conformance with the illustrative landscape plan depicted in the staff report.
 - e. The Applicant must present the plaza design and public artwork to the art review panel for comment prior to submittal of the site plan.
7. Staging of Amenity Features
- a. The proposed development will be completed in one phase. A detailed development program will be required prior to approval of the certified site plan.

- b. The Applicant must complete the on-site public use space improvements prior to issuance of use-and-occupancy permits unless modified by the site plan development program.
 - c. The Applicant must install the landscaping no later than the next growing season after completion of the building and site work.
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 entity.
9. Coordination for Additional Approvals Required Prior to Preliminary Plan and Site Plan
- a. The Applicant must obtain written approval from the Montgomery County Department of Permitting Services for the final design and extent of any and all streetscape improvements within the rights-of-way.
 - b. The Applicant must obtain written approval for the transportation design exceptions from DPS related to sight distance, curb cuts on Commerce Lane and loading prior to submittal of the site plan.
 - c. The Applicant must present the public art and amenity concepts to the Art Review Panel prior to submittal of the site plan.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920130030, Bethesda Commerce, LLC., stamped received by M-NCPPC on December 20, 2012, are required except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having considered 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 (except as modified herein), and having considered the entire record, all applicable elements of Section 59-D-2.42, and the relevant provisions of Section 59-D-2.43, the Planning Board FINDS, with the conditions of approval, that:

- (a) *The development complies with all of the intents and requirements of the CBD-2 zone.*

Requirements of the CBD-2 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-2 zone.

DATA TABLE

Optional Method	Zoning Ordinance Permitted/ Required	Proposed for Approval
Site Area (acres)		
Gross Tract Area	18,000 sf	29,069 sf
Less Dedication for Public ROW Previously dedicated area	n/a	15,049 sf
Net Lot Area	n/a	14,020 sf
Density		
Max. Overall (FAR)	5.0 (145,345 sf.)	5.0 (145,345 sf.)
Retail (sf.) Residential (sf.)		5,000 140,345
Residential D.U.s	n/a	120
MPDUs [Chapter 25A]	12.5%	12.5%
Min. Public Use Space, Facilities and Amenities		
Percent of net lot area on-site Percent of net lot area off-site	20% (2,804 sf) n/a	22.6% (3,172 sf) 25.7% (3,602 sf)
Min. Building Setbacks (ft) [59-C-10.3.8]		
Front	n/a	0
Side (West)	n/a	0
Side (East)	n/a	0
Rear	n/a	0
Max. Building Height (ft)		
	143 ft	143 ft., as measured from Commerce Lane

Vehicle Parking		
Retail		0 spaces
Residential		103 spaces*
Bicycle Parking (number of spaces)		
	1 space per 20 parking spaces	44 spaces
Motorcycle Parking		
Number of spaces	0 spaces	0 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:

- ***On-Site Public Use Space Improvements***
 Hardscaped and landscaped plaza with distinctive paving and integrated stormwater management, and an architectural sculptural element.
- ***Off-Site Amenity Improvements***
 Streetscape improvements along Old Georgetown Road and Commerce Lane contribute to the diversity of public spaces in the Bethesda CBD. Combined with the street-level retail, the public space design will create an attractive and welcoming environment.

The Project Plan provides several features that enhance the community to improve local amenities:

- The public use space expands the existing network of open spaces in the area and connects to existing pedestrian routes and the Discovery Trail.
- The physical character of the public realm is well defined by building edges. The open spaces shape the form of the buildings and relate well to the surrounding context of public spaces.
- The design of the architecture will add a contemporary structure to the urban fabric of downtown Bethesda. It will provide a landmark and

gateway element to Wisconsin Avenue that responds to views and vistas within the CBD. It will create a focal point that strengthens the Bethesda core and provides a central open space that allows a respite for pedestrians.

- The proposed plaza will provide an animated space through the use of water, stone, and a major sculpture feature.
- A Public Improvement Easement (PIE) will widen the sidewalk to accommodate the 5' wide ADA passage along Commerce Lane to be a minimum 12 feet wide between the back of curb and face of the proposed building.

Intent 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 **plan** by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan and the site plan approved on review by the Planning Board."*

The Project fulfills the objective outlined in the Bethesda CBD Sector Plan, 1994 by providing infill and maintaining a "compact development with the tallest buildings concentrated in the center (Bethesda)". While there is no specific height recommendation for this site, the Sector Plan suggests a "stepping down from the 200-foot Clark Building to the surrounding 143-foot heights allowed in the CBD-2 Zone" (page57). The proposed building will be 15 stories or 143 feet as measured from Commerce Lane and will be a "step down" from the 200' foot tall Clark building.

- (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 directly responds to the current market for mixed use by providing residential and commercial uses where the infrastructure, public facilities, jobs, entertainment, and amenities already exist to support their incorporation into the community.

The additional density of the optional method provides an incentive for the proposal to contribute to a variety of land uses and activities by: providing retail at the street level of a residential building; providing a highly visible public plaza with art, seating, and open space; widening the narrow sidewalk along Commerce Lane, and enhancing the public realm.

(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 project's relationship to existing buildings is typical and appropriate for a central business district. The building height and massing complement those of adjacent buildings and help define the intersection of Old Georgetown Road and Commerce Lane.

The Application will enhance pedestrian circulation by integrating the design of the public use space with the adjacent sidewalk, and by providing streetscape improvements along the Old Georgetown Road and Commerce Lane frontage. The public use space design will reflect Bethesda as a "garden" through the imaginative use of on-site rain gardens and Low Impact Development techniques. Furthermore, the open space and ground-floor retail respond to existing pedestrian flows and will enhance activity in this area. The new construction will provide enhancements in the form of streetscape and undergrounding of utilities that will improve the pedestrian circulation system by increasing its attractiveness and the ease of use.

The physical character of the public realm is well defined by building edges. The open spaces shape the form of the buildings and relate well to the surrounding context of public spaces. The design of the architecture will add a contemporary structure to the urban fabric of Downtown Bethesda. It will provide a landmark and gateway element to Wisconsin Avenue and responds to views and vistas within the CBD.

The location will provide an appropriate transition from the edge of the Central Business District where it is located, to the existing commercial and residential dwellings in and around the adjacent area.

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

The development is 570 feet from Bethesda Metro and approximately the same distance from the nearest bus stop. It is a local and regional imperative that infill development be provided at such sites as an alternative to suburban sprawl. As conditioned, the location and accessibility of the development to the local transit system is an excellent realization of the Sector Plan transit and sustainability goals of providing jobs and housing within walking distance of the Metro and shopping areas.

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

The project will improve vehicular circulation by eliminating the drive-through bank circulation presently occurring onsite. The proposed traffic pattern provides vehicle access on one road (Commerce Lane) as opposed to two. Reducing traffic flow on Old Georgetown Road will improve traffic flows.

The Project parallels Old Georgetown Road, a primary vehicle and pedestrian route. Across the street from the northern Subject Property edge is the Bethesda Discovery Trail. Pedestrian circulation will improve by the creation of a wider sidewalk along Commerce Lane and the removal of the bank drive-through which presently causes mobility disruption. The Project provides a major public plaza within the Metro Core acting as a new destination and focal point for the community as well as being on route to and from the Bethesda Metro.

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

The development will provide up to 100 dwelling units with 12.5 percent MPDU's to provide housing for a mix of incomes. The Project Plan will increase the opportunity for people who work in the Bethesda CBD to live within its boundaries who may otherwise not be able to afford detached housing in and around the CBD.

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

The Sector Plan consistently states in several places that a key component is to complete the Metro Core (page 3 and 4). The Sector Plan also recommends providing opportunities for people to live in the downtown area. Further, on page 30, the Sector Plan recommends "modifying County regulations and policies to improve the feasibility and attractiveness of higher-density housing." This Application will provide the recommended higher-density housing in the downtown area.

The land use and zoning section in the Sector Plan provides specific language (pg. 72) regarding site recommendations and design guidelines for Commerce Lane. Many of the recommendations apply more specifically to the Bethesda Place II property; however, some are more pertinent to the Subject Property. There are six recommendations and guidelines that are called out below:

Commerce Lane Site Recommendations and Design Guidelines

Along Commerce Lane the Sector Plan recommends the CBD-2 zone and allows optional method of employment development up to a 4 FAR. Office development will allow a coherent extension of the Bethesda Place project. A mixed-use project of up to a 5 FAR may also be built on the properties.

Urban design guidelines for this site include:

- a. *Develop allowable density in several separate buildings. This site is considered an "in-fill" block in which buildings should fill out the building envelope within recommended setbacks.*

The Application provides a maximum 5.0 FAR in a 143 foot tall building with a maximum of 120 units and ground floor retail. The building fills in the block with frontage on Commerce Lane and Old Georgetown Road and complements the existing GSA office building to the northeast of the Subject Property that was recently retrofitted with glass facades and windows to replace the brick. The existing record plat has a 5-foot building restriction line (BRL) along the frontage of Commerce Lane. The Application is for a building that holds the property line along Commerce Lane, as appropriate in a CBD zone being reviewed under the optional method that requires no setbacks. As conditioned and with the approval of a new preliminary plan, for the limited purpose of removing the BRL, the building will comply with the recommended setbacks. If the BRL is not removed through the review and approval of a limited preliminary plan, then the 5 foot setback would apply to Commerce Lane.

- b. *Locate the office buildings' main entrances toward Wisconsin Avenue and Old Georgetown Road. If residential use is included, buildings should provide entrances primarily along Commerce Lane, with ground floor retail.*

The Subject Property does not front onto Wisconsin Avenue; however, it does front onto Old Georgetown Road. Entrances and the primary addressing to

the residential lobby are from Commerce Lane and multiple entrances are proposed from Old Georgetown Road and Commerce Lane for the ground floor retail.

- c. *Locate taller buildings along Wisconsin Avenue. Building heights should step down along Commerce Lane with lower heights along Old Georgetown Road to assure that adequate sunlight and air reach the inner plaza of Bethesda Place.*

The Application provides a 143-foot building that naturally steps down from Commerce Lane to Old Georgetown Road due to the transition of grade from east to west. The building will be lower than the Clark Building at the Metro site which measures at 200 feet. The building will also step down from the existing adjacent GSA office building (Akridge) that fronts onto Wisconsin Avenue. Sunlight and air will be maximized as the plaza and building is oriented to maximize sunlight.

- d. *Achieve building setbacks along Old Georgetown Road comparable to existing building setbacks of Bethesda Place to ensure a continuous sidewalk area.*

The building along Old Georgetown Road will be located at the property line while providing a 20 foot wide pedestrian streetscape and will be comparable to the adjacent building setbacks to the east. The sidewalk area along Commerce Lane will be expanded from the current condition by approximately 5 feet providing for an adequate pedestrian experience from the face of the building to the edge of the tree pits. The expansion of the sidewalk area accommodates an accessible route for ADA compliance and provides for the Bethesda streetscape standards.

- e. *Provide a major open space and pedestrian connection from Commerce Lane through the site, into the inner plaza of Bethesda Place. This will satisfy onsite open space requirements, improve pedestrian access, and create a desirable link of interconnected public spaces within the Metro Core District.*

This recommendation does not specifically apply to this site, however, a pedestrian connection was provided from the Bethesda Place open space down to Commerce Lane with the redevelopment of that site. The enhanced streetscape will enhance the pedestrian connections to the open space.

- f. *Locate vehicular access to rear service areas and underground parking from Commerce Lane. Restrict driveway access from Old Georgetown Road and Wisconsin Avenue.*

Vehicular access for loading and parking to the underground parking is provided from Commerce Lane, restricting the vehicular access from Old Georgetown Road. Since the Subject Property is on a recorded lot, access and dedications are not typically reviewed by MCDOT and the Planning Board. However, MCDOT indicated concerns over the number of curb cuts on Commerce Lane, sight distance implications and the number of truck loading spaces proposed. The Planning Board supports the Application and believes the curb cuts and access points are appropriate for Commerce Lane as this is a Commercial Business District street.

In addition to the land use and planning recommendations above, the Sector Plan provides additional recommendations regarding the downtown environment, urban form, zoning and density as discussed below.

(b) The development conforms to the Bethesda CBD Sector Plan, July 1994.

The Subject Property is zoned CBD-2, which is recommended by the Sector Plan. All proposed uses are allowed in the CBD-2 Zone and the development is in keeping with the general guidelines to provide employment uses in the Sector Plan. There are many references throughout the Sector Plan to support the Application including:

1. *"Strengthen the Metro Core as the center of Bethesda, with greatest emphasis on and around the Metro Center and plaza."*

This Application will strengthen the Metro Core by intensifying the use of this 0.32 acre site from a current 9,286 square foot drive-thru bank with surface parking and two drives thru lanes, to a high-rise mixed-use building with 120 units, ground floor retail, and an artistically designed open space plaza. The 'Core' will also be strengthened by providing infill residential development, improving the pedestrian network, providing significant and well-designed open space, building uniformity in alignment with the intended "step down" concept, retail space, and helping to "achieve a greater focus of activities, a better sense of community, and more attractive open space" (pg. 61) as per the Sector Plan.

2. *"Increase the choices and activities in the Metro Core associated with retail, restaurants, cultural programming, open space, and pathways."*

This Application will increase the choices and activities in the Metro Core by providing 5,000 square feet of street oriented retail along Old

Georgetown Road and Commerce Lane. It will provide approximately 3,100 square feet of public use space which includes a small public plaza with plantings and public art, facing Old Georgetown Road.

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

The Project Plan is designed to enhance the block and not affect adjacent buildings and uses. The building will improve the aesthetics of the block by the construction of a state of the art building that is vibrant, modern, and elegant. The ground floor commercial use will activate the block. The public plaza will encourage public use and activity while offering a respite from the busy Bethesda Metro station located adjacent to the Subject Property. The building will also improve the quality of life for the local employees and residents by providing opportunities for eateries and shopping. The artistic elements within the plaza will attract visitors and by-passers to improving the neighborhoods liveliness. To this end, the architecture and open space have been designed to not only be compatible with the use but to be an integrated community.

The Project Plan provides a desirable relationship between the Application and the existing buildings of the CBD. The Application provides an appropriate transition from the edge of the Central Business District where it is located, to the existing offices and businesses adjacent to the Subject Property.

- (d) The development does not overburden existing public services nor those programmed for availability concurrently with each stage of construction.*

A draft traffic management agreement has been submitted by the Applicant and will be finalized during the site plan review process. Other public facilities exist on or near the site and no expansion or renovation of these services will be required to be completed by the County. 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 site plan approval.

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

A standard method mixed use project would only allow a density of 3 FAR. Due to the size of the lot, development under the standard method would not likely be successful as density limits would prohibit economic feasibility. 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, the Application's compliance with the Sector Plan recommendations that require more density, and the number and quality of public amenities being proffered, the optional method of development is much more desirable and more efficient for the Subject Property.

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

The Application under this CBD-2, Optional Method development, provides 12.5 percent MPDU's in accordance with Chapter 25A of the Montgomery County Code.

- (g) The development satisfies any applicable requirements for forest conservation under Chapter 22A of the Montgomery County Code.*

A Forest Conservation Law small property exemption was confirmed for the Subject Property on October 16, 2012. The exemption is still valid for the Application as currently approved.

- (h) The proposed development satisfies any applicable requirements for water quality resources protection under Chapter 19 of the Montgomery County Code.*

The Application will meet the Montgomery County Stormwater Management and Environmental Site Design requirements through the installation of a green roof and micro-bioretenion systems.

- (i) Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the Bethesda CBD Sector Plan, July 1994 and serves the public interest better than providing the public use space or public facilities and amenities on-site.*

The Application will provide 3,172 square feet (22.6%) of on-site public use space within the plaza, and 3,602 square feet (25.7%) of off-site public amenity space within the sidewalk.

BE IT FURTHER RESOLVED, that this Resolution 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

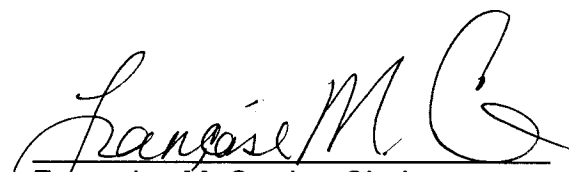
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board and that the date of this Resolution is ~~APR 17 2013~~ (which is the date that this Resolution is mailed to all parties of record); and

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 Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley, voting in favor at its regular meeting held on Thursday, April 11, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board