



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

MCPB No. 13-80
Project Plan Amendment No. 92005003A
900 Thayer Avenue
Date of Hearing: May 30, 2013

JUN 27 2013

RESOLUTION

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

WHEREAS, by Resolution dated January 10, 2006, the Planning Board approved Project Plan No. 920050030, for 145,471 sf. of development, including 96 multi-family units (including 15% MPDUs), 15,020 sf. of retail, and 18,200 sf. of office uses on 0.96 acres of CBD-1 and Fenton Village Overlay zoned land, located in the southwest quadrant of the intersection of Fenton Street and Thayer Avenue ("Subject Property"), in the Silver Spring CBD Policy Area, Silver Spring CBD Sector Plan ("Master Plan") area; and

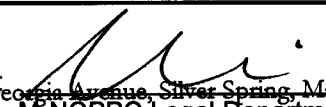
WHEREAS, on March 4, 2013, 900 Thayer Avenue, LLC, c/o Redbrick Partners ("Applicant") filed an application for approval of an amendment to the previously approved project plan to revise the design to a 66 foot, 119,691 sf. building with 124 units (with 12.5% MPDUs) and up to 5,300 sf. of retail on the Subject Property; and

WHEREAS, the March 4 application was designated Project Plan No. 92005003A, 900 Thayer Avenue ("Project Plan," "Amendment," or "Application"); 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 May 20, 2013, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 30, 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:

8/8/13 
MNCPPC Legal Department
www.montgomeryplanningboard.org Phone: 301.495.4605 Fax: 301.495.1320
E-Mail: mcp-chair@mncppc-mc.org

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Anderson, Seconded by Commissioner Presley, by a vote of 5-0, Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor;

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board APPROVES Project Plan No. 92005003A for a 66 foot, 119,691 sf. building with 124 units (with 12.5% MPDUs) and up to 5,300 sf. of retail, subject to the following conditions, which supersede the conditions of approval of Project Plan No. 920050030 in their entirety:¹

1. Development Ceiling

The proposed development is limited to 119,691 sf. of gross floor area, comprised of up to 5,300 sf. of non-residential uses and up to 124 total dwelling units, including 16 MPDUs (12.5%).

2. Public Use Space

- a. The Applicant must provide a minimum of 5,134 sf. of on-site public use space (18% of the net lot area), as illustrated on the Certified Site Plan.
- b. The area located immediately outside the private residential building entrance (approximately 186 sf.) must not be included in the calculation of on-site public use space.
- c. The Applicant must revise the design of the public use space as follows:
 - i. extend the angled bench on the northern micro-bioretenion planter box around the eastern edge of the planter box, along Fenton Street;
 - ii. reconfigure the southern micro-bioretenion planter box to provide a seating wall, bench, or similar seating that directly faces both into the public use space and onto the Fenton Street sidewalk;
 - iii. the final design must be approved by staff prior to Certified Site Plan.
- d. In lieu of providing the remaining 571 sf. (2 %) of on-site public use space required to meet the minimum requirement of 20% of the net lot area, the Applicant must contribute to M-NCPPC \$54,215 for development of Gene Lynch Urban Park in the Silver Spring CBD, or other amenity designated by the Planning Board at the time of Project Plan review. The payment must be submitted to M-NCPPC prior to release of the first building permit.

3. Streetscape Improvements

- a. The Applicant must provide and install the Silver Spring streetscape standard improvements along the site frontages on Thayer Avenue, the

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.

public alley, and Fenton Street, except where the streetscape standard is already installed. Any existing streetscape standard areas disturbed during construction must be repaired to the streetscape standard. Along the public alley, the standard must be installed perpendicular to the alley, to allow for integration into future alley improvements.

- b. The Applicant must provide and install the Silver Spring streetscape standard within the right-of-way on the south side of Thayer Avenue between the western site boundary and the existing driveway into Parking Lot 3, as illustrated on the Certified Site Plan.
- c. For the private properties on the south side of Thayer Avenue between the western site boundary and the existing driveway into Parking Lot 3, the Applicant must make good faith efforts, in writing, to obtain consent from each of the property owners to provide and install the Silver Spring streetscape on the private property between the right-of-way and the existing building face. If the Applicant is unable to obtain the consent of a property owner, the Applicant shall be relieved of the obligation to provide and install the streetscape on that private property without the need for an amendment to the Site Plan.
- d. All streetscape improvements must conform to the Silver Spring Streetscape guidelines, as illustrated on the Certified Site Plan, and must include street trees, street lights, paving, and the undergrounding of utilities. Accommodation of all streetscape elements within the right-of-way is subject to MCDPS approval.

4. Public Art

- a. Provide for and install the public art concept designed and produced with artist Washington Glass Studio, as presented to the Planning Department's Art Review Panel on April 24, 2013, and documented on the exhibit entitled "900 Thayer Extent of Artwork", dated May 1, 2013, and illustrated in the Certified Site Plan.
- b. Any significant changes to the concept presented on April 24, 2013, and illustrated in the May 1, 2013, exhibit, must be presented to the Art Review Panel and approved by staff before Certified Site Plan. Significant changes to the concept, as determined by staff, proposed after Certified Site Plan, will require a Site Plan Amendment.
- c. For inclusion in the Certified Site Plan, the Applicant must provide artwork details describing parameters including, but not limited to, materials, mounting, and illumination.

5. Participation in Future Improvement of Adjacent Public Alley

- a. In addition to the Amenity Fund contribution listed in Condition 2.d. above, the Applicant must pay \$42,000 to M-NCPPC to be held in an escrow account and used for the future improvement of the public alley on the

southern boundary of the subject site – presently functioning as a driveway from Fenton Street to Parking Lot 3, and proposed as parking and service access for the subject site (“Contribution”). The Contribution must be submitted to M-NCPPC prior to the release of the first use and occupancy permit for the 900 Thayer Avenue building. The Contribution will be placed into an escrow account specifically earmarked for improvements to the Alley (the “Escrow Fund”). Once the Contribution is submitted to M-NCPPC for deposit into the Escrow Fund, the Applicant shall be relieved of any further obligations for any development or construction relating to the Alley and shall be deemed to have satisfied any and all of its obligations for public amenity space for the 900 Thayer Avenue Project.

- b. The future improvement of this right-of-way is intended to enhance the function of this driveway as an essential component of the mid-block promenade connecting Fenton Street to Georgia Avenue, via the public green space included in the adjacent “Studio Plaza” development located on the same block and illustrated in the Studio Plaza Project Plan 920070010 and Site Plan 820130010. The final design of the future improvements will be determined by the Planning Board at a future Site Plan for Studio Plaza.
- c. No later than 30 days after the issuance of a building permit for the alley improvement, the Escrow Fund must be paid out to the party responsible for constructing the improvement.
- d. If the design of the improvements has not been approved by the Planning Board within 5 years of the mailing date of this resolution, or the improvements have not been constructed within 7 years of the mailing date of this resolution, the Escrow Fund must be paid out to M-NCPPC to be used for parkland acquisition or improvements in the Silver Spring CBD.

BE IT FURTHER RESOLVED, that all site development elements as shown on 900 Thayer Avenue drawings stamped by the M-NCPPC on May 3, 2013, shall be required, except as modified by the above condition of approval; and

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, the Planning Board FINDS, with the conditions of approval, that:

The revised design, including the elimination of office uses and the increase in the number of dwelling units, reduces the overall size of the development. As

conditioned, the design and its attendant public space and amenities, including participation in the future improvement of the adjacent public alley, are consistent with the purposes, intents, and requirements of the optional method of development under the zones, address the goals of the Silver Spring CBD Sector Plan, and are compatible with both existing and potential development in the Fenton Village neighborhood. As conditioned, the proposal continues to provide development of a quality greater than that of the standard method, and will contribute significantly to the redevelopment of Fenton Village. Furthermore the Amendment continues to satisfy the Adequate Public Facilities requirements, as well as those of MPDU, Forest Conservation, and water quality.

The conditions of approval for the original Project Plan 920050030 are superseded in their entirety by the conditions of approval for Project Plan Amendment 92005003A. The original conditions regarding the development ceiling, public use space, and public amenities have been updated to reflect the redesigned project. Standard or redundant conditions are being addressed either by the Preliminary Plan amendment or Site Plan amendment conditions being approved along with this Amendment. Conditions that are no longer applicable have been removed.

The following data table indicates the proposed development's compliance with the Zoning Ordinance.

Project Data Table for the CBD-1 & Fenton Village Overlay Zones

Development Standard	Approved for Project Plan Amendment 92005003A
Site Area (square feet)	
Gross Tract Area	41,743
Previous Dedications	13,217
Proposed Dedications	0
Net Lot Area	28,526
Density	
Floor Area Ratio, max. total	2.87
Floor Area, max. total (square feet)	119,691
Floor Area Ratio, max. non-residential	0.13
Floor Area, max. non-residential (square feet)	5,300
Floor Area, max. residential (square feet)	114,409

Dwelling units, max. total	124
MPDUs, min.	16
MPDUs, min. (percentage)	12.5
Building height, max. along Fenton Street (ft.)	55*
Building height, max. along Thayer Avenue (ft.)	66*
*as measured from the building height measuring point shown on the Certified Site Plan	
Building setbacks, min.	
Western property line	0
Thayer Avenue	0
Public alley	0
Fenton Street	0
Public Use & Amenity Space, min.	
On-site Public Use Space, min. (% of net lot area)	18
On-site Public Use Space, min. (square feet)	5,134
Off-site Public Amenity space, min. (% of net lot area)	15.6
Off-site Public Amenity space, min. (square feet)	4,446
Public Use and Amenity Space, min. total (% of net lot area)	33.6
Public Use and Amenity Space, min. total (square feet)	9,580
Parking, min.	66

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-3.8; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 27 2013 (which is the date that this resolution is mailed to all parties of record); and

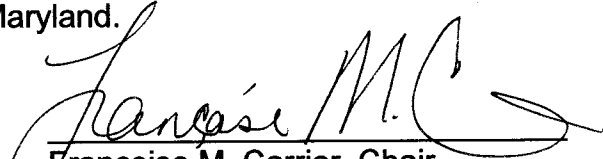
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Anderson, 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, June 20, 2013, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board