



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

MCPB No. 13-82  
Site Plan Amendment No. 82006020A  
900 Thayer Avenue  
Date of Hearing: May 30, 2013

**JUN 27 2013**

**RESOLUTION**

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on July 14, 2006, the Planning Board, by Resolution MCPB No. 06-08, approved Site Plan No. 820060200, 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 site 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, Applicant's application to amend the site plan was designated Site Plan No. 82006020A, 900 Thayer Avenue ("Site 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

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Approved as to  
Legal Sufficiency:

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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 Site Plan No. 82006020A for a 66 foot, 119,691 sf. building with 124 units (with 12.5% MPDUs) and up to 5,300 sf. of retail, by adding the following conditions, which supersede in their entirety the conditions of approval for Site Plan 820060020.:<sup>1</sup>

1. Project Plan Conformance

The proposed development must comply with the conditions of approval for Project Plan 92005003A.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan 12005077A. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, Montgomery County Department of Transportation (MCDOT) conditions, and Montgomery County Department of Permitting Services (MCDPS) stormwater conditions.

3. Density

This Site Plan is limited to a maximum gross floor area of 119,691 sf., including up to 5,300 sf. of retail and up to 124 dwelling units. The total number of dwelling units includes 16 MPDUs (12.5 %), in addition to 108 market rate units.

4. Moderately Priced Dwelling Units (MPDUs)

- a. The proposed development must provide a minimum of 12.5 percent of the total number of dwelling units as MPDUs on-site in accordance with Chapter 25A. The Applicant is providing only the minimum percentage and is not receiving bonus residential density for providing additional MPDUs on-site.
- b. The MPDU agreement to build shall be executed prior to the release of any building permits, except sheeting and shoring permits.

5. LEED Certification

Except as approved by MCDPS, the Applicant must achieve a LEED (Leadership in Energy and Environmental Design) Certified Rating Certification at a minimum. The Applicant must make good faith efforts to achieve a LEED Silver rating. Before the issuance of any use and occupancy certificate, the Applicant must inform M-NCPPC staff of the LEED Certification Level for which they are

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<sup>1</sup> 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.

applying. 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 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. Maintenance of Public Amenities

The Applicant is responsible for maintaining all on-site publicly accessible amenities including, but not limited to, the public use space, public art, and associated landscaping and site furnishings, unless provided by contract with another party.

7. Architecture

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A201, A202, A203, and A204 of the submitted architectural drawings, as determined by staff.

8. Landscaping

The Applicant must ensure that plant species specified for publicly accessible on-site spaces are shade-tolerant.

9. Private Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.
- b. All onsite down- light fixtures must be full cut-off fixtures.
- c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.

10. Noise

- a. Provide certification from an acoustical engineer that the building shell for residential dwelling units to be constructed within the projected 65 dBA Ldn noise contour is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The certification must be provided to M-NCPPC staff for concurrence prior to issuance of building permits.
- b. The builder must provide a signed commitment to construct any impacted units in accord with the acoustical design specifications. Any changes to the building shell construction that may adversely affect acoustical performance after issuance of building permit must be approved by an acoustical engineer and M-NCPPC staff prior to their implementation.

- c. The builder must construct any impacted units in accord with the acoustical design specifications. Any changes to the building shell construction that may adversely affect acoustical performance after issuance of building permit must be approved by an acoustical engineer and M-NCPPC staff prior to their implementation.

#### 11. Surety

Prior to issuance of first building permit (exclusive of sheeting and shoring) within each relevant phase of development, Applicant must provide a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. Applicant must provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial surety amount.
- b. The amount of the bond or surety shall include plant material, on-site lighting, recreational facilities, and site furniture within the development.
- c. Prior to issuance of the first building permit, Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.
- d. Surety shall be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety will be followed by inspection and reduction of the surety.

#### 12. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. All off-site streetscape improvements, including undergrounding of utility lines, street lamps, and sidewalks must be installed prior to the issuance of any use and occupancy permit. Street tree planting may wait until the next growing season.
- b. On-site amenities including, but not limited to, the public use space, public art, landscaped stormwater facilities, sidewalks, benches, trash receptacles, and bicycle facilities must be installed prior to release of any final residential building occupancy permit.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Certified Site Plan and Sediment Control Plan.
- d. The development program must provide phasing for installation of on-site landscaping and lighting.
- e. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, trip mitigation, and other features.

**13. Certified Site Plan**

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the forest conservation exemption, stormwater management concept approval, development program, inspection schedule, and Site Plan resolution on the approval or cover sheet.
- b. Modify data table to reflect development standards enumerated in the Planning Board Opinion.
- c. Ensure consistency off all details and layout between Site Plan and landscape plan.
- d. Provide updated recreation calculations for this development.

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 conditions 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:

As conditioned, the Amendment's revised design, including the elimination of office uses and the increase in the number of dwelling units, is consistent with Project Plan 92005003A, meets the requirements of the CBD-1 and Fenton Village Overlay zones, forest conservation, water quality, and other applicable regulatory requirements, and is compatible with other uses and other site plans and with existing and proposed adjacent development in the Fenton Village neighborhood. As conditioned, the elements of the revised site design, including all buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems, remain adequate, safe, and efficient.

The conditions of approval for the original Site Plan 820060200 have been updated for this Amendment and are superseded in their entirety by the conditions of approval for Site Plan amendment 82006020A. Redundant conditions that are addressed either by the Project Plan amendment or Preliminary Plan amendment conditions being review concurrently with the Site Plan amendment 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*

<b>Development Standard</b>	<b>Proposed for Site Plan Amendment 82006020A</b>
<b>Site Area (square feet)</b>	
Gross Tract Area	41,743
Previous Dedications	13,217
Proposed Dedications	0
Net Lot Area	28,526
<b>Density</b>	
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
<b>Dwelling units, max. total</b>	
MPDUs, min.	16
MPDUs, min. (percentage)	12.5
<b>Building height, max. along Fenton Street (ft.)</b>	
	55*
<b>Building height, max. along Thayer Avenue (ft.)</b>	
	66*
*as measured from the building height measuring point shown on the Certified Site Plan	
<b>Building setbacks, min.</b>	
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 Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

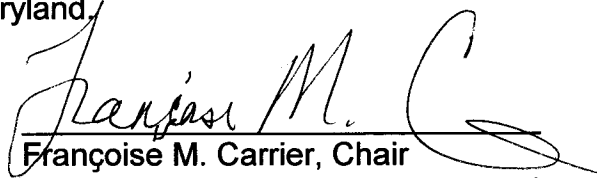
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 27 2013 (which is the date that this resolution is mailed to all parties of record); and

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).

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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 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