



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

FEB 12 2015

MCPB No. 15-010
Preliminary Plan No. 12012006A
North Bethesda Market II
Date of Hearing: January 15, 2015

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on April 9, 2012, the Planning Board, by Resolution MCPB No. 12-30, approved Preliminary Plan No. 120120060, creating one lot on 4.41 acres (gross) of land split-zoned CR3.0 C1.5 R2.5 H150 and CR4.0 C3.5 R3.5 H300, located in the southeast quadrant of the intersection of Nicholson Land and Woodglen Drive ("Subject Property"), in the White Flint Sector Plan ("Sector Plan") area; and

WHEREAS, on August 26, 2014, The JBG Companies ("Applicant") filed an application for approval to amend the previously approved preliminary plan to allow the Applicant to create five lots and three private street parcels for a maximum of 740,528 square feet of development, including up to 268,000 square feet of non-residential uses and up to 492,000 square feet of residential uses, including a minimum of 12.5% MPDUs; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan Amendment No. 12012006A, North Bethesda Market II ("Preliminary 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 January 5, 2015, setting forth its analysis and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on January 15, 2015, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence regarding the Application; and

WHEREAS, on January 15, 2015, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Presley, seconded

Approved as to
Legal Sufficiency:

 1/28/15

by Commissioner Wells-Harley, with a vote of 5-0; Commissioners Anderson, Dreyfuss, Fani-Gonzalez, Presley, and Wells-Harley voting in favor; and

WHEREAS, on January 29, 2015, prior to approving this Resolution, the Planning Board accepted a minor revision to the January 5, 2015 Staff memorandum.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan Amendment No. 12012006A, including a waiver under Section 50-38(a)(1) of the Subdivision Regulations, subject to the following conditions, which supersede the conditions of approval of Preliminary Plan No. 120120060:¹

1. Approval is limited to five lots and three private street parcels for a maximum total density of 740,528 square feet of development, including up to 268,000 square feet of non-residential use, and up to 492,000 square feet of residential uses including a minimum of 12.5% MPDUs.
2. Prior to issuance of any building permit, the Applicant must dedicate, and the record plat must show, the following:
 - a. the Sector Plan recommended a 150-foot right-of-way (75 feet from centerline), and 12 feet of reservation (an additional 6 feet on either side of the 150-foot right-of-way), for a total of 81 feet from centerline for Rockville Pike (MD 355); and
 - b. the Sector Plan recommended 80-foot right-of-way (76.5-feet of dedication and a 3.5-foot easement) from the opposite right-of-way line for the Executive Boulevard frontage.
3. Prior to issuance of any building permit for the residential tower on Lot 5 (at the corner of Nicholson Lane and Woodglen Drive), the Applicant must dedicate, and the record plat must show, the Sector Plan recommended 90-foot right-of-way (45 feet from centerline) for Nicholson Lane.
4. Private streets, Street A and the 'Paseo,' must be located in their own parcels, separate from the approved development, and the record plat must reflect a public use and access easement over private streets and adjacent parallel sidewalks.
5. Prior to issuance of any above-grade building permit, the Applicant must enter into a Traffic Mitigation Agreement (TMAG) with the Montgomery County Department of Transportation (MCDOT) and the Planning Board to participate in the North Bethesda Transportation Management District (TMD) and assist in achieving and maintaining the non-auto driver mode-share goals recommended in the Sector Plan. The TMAG must include a requirement for the Applicant to provide space for one bike sharing docking station and to pay the capital cost of the station. In negotiating

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.

the TMAG, high priority should be given to also including five years of operating costs.

6. No demolition, clearing, grading, or recordation of plats may occur prior to approval of the Certified Site Plan.
7. The Planning Board accepts the recommendations of MCDOT in its letters dated February 3, 2012, and October 30, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letters, except for condition Number 2 in the letter dated October 30, 2014, and bullet 11 of Condition 20 in the letter dated February 3, 2012, regarding the bike sharing station. The Applicant must comply with all other conditions of both letters, which may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
8. The Planning Board accepts the recommendation of MDSHA in its letters dated November 14, 2013, and March 17, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval. If a traffic signal is warranted at MD 355 and Executive Boulevard, the installation of the signal and associated intersection improvements shall be the responsibility of the Special Taxing District.
9. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) - Water Resources Section in its letter dated November 21, 2014, conveying stormwater management concept plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
10. The Subject Property is within the Walter Johnson High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the high school level at the unit rates for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
11. The Certified Preliminary Plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of Site Plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for this lot. Other limitations for Site development may also be included in the conditions of the Planning Board's approval."

12. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
13. All necessary easements must be shown on the Record Plat.
14. The Applicant must comply with the White Flint Urban District requirements when it is established by the Montgomery County Council.

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 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:

1. *The Preliminary Plan substantially conforms to the Sector Plan.*

The vision of the Sector Plan includes establishing “policies for transforming an auto-oriented suburban development pattern into an urban center of residences and business.” The Preliminary Plan implements this vision by facilitating the replacement of auto-oriented office and retail buildings surrounded by surface parking lots into an urban, mixed-use community with emphasis on the pedestrian experience in an improved public realm. The Preliminary Plan supports the goals and objectives of the Sector Plan by:

- Creating compact building footprints and a mix of uses in a walkable environment;
- Providing residential units, including 12.5% MPDUs, in a place where no units currently exist; and
- Providing retail space for local retail and commercial services for existing and new residents within walking distance and close to Metro.

The Subject Property is within the NoBe District (Block 2) in the Sector Plan. The Sector Plan notes the “significant redevelopment opportunity north of Executive Boulevard that could include retail, residential, and offices uses,” which the Application facilitates through the inclusion of residential and non-residential uses.

The street network created by the Application is also consistent with the Sector Plan recommendations. The Application provides all dedications necessary to meet the master-planned rights-of-way for all abutting public streets, including space needed to accommodate the improved pedestrian sidewalks, on-road bicycle accommodations, and bus priority lanes recommended by the Sector Plan and 2013 Countywide Transit Corridors Functional Master Plan for Rockville Pike. Internal vehicular circulation will be provided by Private Street ‘A’ (east-west) and the ‘Paseo’ (north-south), which are internal local streets consistent with the Sector Plan’s recommendation for local streets that “provide access into the interior of the

blocks and can have special features to distinguish the different enclaves of development from each other, such as distinctive paving materials.” Additionally, the internal streets will serve as an extension to the recreation loop recommended by the Sector Plan.

2. *Public facilities will be adequate to support and serve the area of the approved subdivision:*

Site Location and Access Points

The Subject Property has frontage on Rockville Pike on the east, Executive Boulevard on the south, Woodglen Drive on the west, and Nicholson Lane on the north. Vehicular and pedestrian access into the Subject Property is approved from all four roadways. The approved network of streets and sidewalks is safe, adequate, and efficient for the approved mix of uses.

Transportation Demand Management

This Subject Property is within the boundary of the North Bethesda Transportation Management District (TMD). The Sector Plan recommends that the TMD establish a 50% non-auto driver mode-share (NADMS) goal for employees. The TMD currently has a 26% transit mode-share. The Applicant must participate in the TMD through a traffic mitigation agreement to achieve the NADMS goals of the Sector Plan.

Sector Plan Roadways and Bikeways

The Sector Plan and the Countywide Bikeways Functional Master Plan recommend the following roadways and bikeways:

1. Rockville Pike (MD 355) is designated as a major highway, M-6, with a recommended 150-foot right-of-way, reservation for an additional 12 feet (for a total of 162 feet), and a recommended shared use path, Local Bikeway, LB-5, on the east side. MCDOT’s Capital Improvements Program Project No. 501116, White Flint District West Transportation, includes reconstruction of Rockville Pike as recommended in the Sector Plan.
2. Nicholson Lane is designated as an arterial, A-69, with a recommended 90-foot right-of-way, recommended bike lanes, BL-27 and a recreation loop.
3. Woodglen Drive is designated as a business street, B-3, with a recommended 70-foot right-of-way and a planned cycle track along the west side of Woodglen Drive. The current right-of-way for Woodglen Drive is 85 feet; no additional right-of-way is required.

4. Executive Boulevard is designated as a business street, B-7, with a recommended 80-foot right-of-way and extension of the White Flint recreation loop on the north side of the street.

The Preliminary Plan provides the dedications required to meet the necessary right-of-way needs of all abutting streets. All internal streets are approved to be private streets lined with retail, providing public art, a public plaza, bicycle racks, and the Recreation Loop Extension. Final details and design standards for all private streets will be determined at site plan.

Available Transit Service

Ride-On routes 5 and 46 and Metrobus J-5 operate along Rockville Pike on the Subject Property's eastern boundary. The entire Subject Property is within a quarter-of-a-mile from the White Flint Metrorail Station. Transit services are adequate to support and serve the approved uses.

Adequate Public Facilities Review

Local Area Transportation Review and Transportation Policy Area Review (LATR/TPAR):

Pursuant to County Council Resolution 16-1324, adopted April 27, 2010, the Subject Property is exempt from LATR and TPAR analysis because the transportation Adequate Public Facilities test for new developments in the Sector Plan area is satisfied by requiring the property owners to participate in, and pay the applicable development impact tax as part of, the White Flint Special Taxing District. The revenue generated from this project will go towards funding the MCDOT CIP Project No. 501116, White Flint District West Transportation, which includes reconstruction of Rockville Pike.

Utilities

The Sector Plan recommends undergrounding utilities, noting that "undergrounding utilities and locating 'wet' and 'dry' utilities under the pavement or under the sidewalk will allow the street tree canopy space to grow." During Phase Two construction, the Applicant will underground all existing overhead utilities along the east side of Woodglan Drive north of the existing office building E (11333 Woodglan Drive).

Urban District

Functions of an urban district include maintenance of streetscape within the public right-of-way and promotion of the local area. The Applicant must comply with the White Flint Urban District requirements when it is fully established and operational.

Other Public Facilities and Services

All other public facilities and services are available and will be adequate to serve the approved development. The Subject Property is served by public water and

sewer. Gas, electric, and telecommunications services are also available to the Subject Property. Police stations, firehouses, and health services are currently operating within the standards set by the effective Subdivision Staging Policy. The Application has been reviewed and conditionally approved by the Montgomery County Fire and Rescue Service (MCFRS), which must verify that the approved development has adequate access for emergency vehicles prior to recordation of the plat.

The Subject Property is located in the Walter Johnson High School Cluster, which requires a School Facilities Payment at the high school level. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

The Preliminary Plan satisfies the Adequate Public Facilities Ordinance.

- 3. The size, width, shape, and orientation of the approved lot are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The Preliminary Plan will create five lots and three parcels for private streets. The Application meets the requirement and standards of all applicable sections of Chapter 50 of the Montgomery County Code, the Subdivision Regulations. With the approved improvements, access and public facilities will be adequate to support the approved lots, density, and use. The size, width, shape, and orientation of the approved lots are appropriate for this type of subdivision. The Application also complies with the dimensional requirements of the CR3.0 C1.5 R2.5 H150 and CR4.0 C3.5 R3.5 H300 Zones as specified in the Zoning Ordinance. Finally, the application has been reviewed by other applicable County agencies, all of which have recommended approval of the Preliminary Plan.

- 4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the Subject Property on August 30, 2010. The Subject Property contains no forest, streams or their buffers, wetlands or their buffers, 100-year floodplains, specimen trees, or rare, threatened or endangered species.

Staff approved Final Forest Conservation Plan (FFCP) No. 820120040 on February 12, 2012, for the original Preliminary and Site Plans. Based on the Subject Property's size (4.4 acres) and land use category of Mixed-use Development Area, the required afforestation is 0.66 acres. The previous FFCP satisfied the afforestation requirement with 0.21 acres of landscaping credit and 0.45 acres of off-site forest banking. An amended FFCP to alter the composition of the

landscape plantings for afforestation credit was approved as part of the Site Plan Amendment reviewed alongside this Preliminary Plan. The amount of landscape credit requested remains at 0.21 acres, with the balance of the afforestation requirement now to be met through payment of a fee-in-lieu. The FFCP Amendment satisfies all the requirements of the forest conservation law.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.*

The Montgomery County Department of Permitting Services (MCDPS) approved a stormwater management concept plan on August 31, 2011 and reconfirmed it in a letter dated November 21, 2014. The approved project meets stormwater management requirements through a variety of Environmental Site Design techniques, including the use of green roofs and micro-biofilters. Runoff not treated in these facilities will be treated in proprietary underground filter systems before being discharged to the existing storm drain system.

6. *Subdivision Regulations Waiver – 50-38(a)(1)*

The Planning Board, pursuant to Section 50-38(a)(1), grants a waiver to the requirements of Section 50-20(b) to allow the Applicant to construct a below-grade parking garage under the area covered by new construction in Phase One and Phase Two, which will cross both lot lines and private road parcels. Practical difficulties exist, due to the size and configuration of the Subject Property and the compact, high density character of development envisioned by the Sector Plan, that prevent full compliance with the requirements. The waiver is the minimum necessary to provide relief from the requirements; is not inconsistent with the purposes and objectives of the General Plan; and is not adverse to the public interest.

The approved below-grade parking garages for all the new construction in Phases One and Two will be directly beneath the footprint of these buildings as well as the approved Private Street 'A' and the Paseo. Private Street 'A' and the Paseo divide this segment of Phase One into four separate lots and two parcels, and Phase Two into one lot and one parcel. Due to the size and configuration of the Subject Property, and the compact, high density character of the approved mixed-use development envisioned by the Master Plan, it is not feasible for the below-grade parking garage to avoid crossing the approved lot and parcel lines. Therefore, the waiver is the minimum necessary to provide relief from the requirements.

The Applicant will provide underground structured parking to accompany compact, high density mixed-use development consistent with the recommendations of the Sector Plan. Therefore, the waiver is not inconsistent with the Sector Plan.

The approved below-grade garage allows for safe, adequate, and efficient pedestrian circulation for residents and will not impede public vehicular or pedestrian circulation. No other reviewing agency has raised any concerns or objections to granting the waiver. Therefore, the waiver is not adverse to the public interest.

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 Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; 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 FEB 12 2015 (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 Fani-Gonzalez, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Fani-Gonzalez voting in favor of the motion, and Commissioners Dreyfuss and Presley temporarily absent at its regular meeting held on Thursday, February 5, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board