



JUL 28 2015

MCPB No. 15-41
Preliminary Plan No. 120150010
Gables White Flint
Date of Hearing: April 30, 2015

CORRECTED RESOLUTION

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

WHEREAS, on July 30, 2014, LG Georgetown LLC, filed an application for approval of a preliminary plan of subdivision to create one lot ~~and a private roadway parcel~~, for up to 490,000 square feet of residential uses and 31,000 square feet of non-residential development on approximately 5.14 acres in the CR-3 C1.5 R2.5 H70 and CR-4 C2.0 R3.5 H250 Zones (the Property), located along Old Georgetown Road (MD 187), south of the future Market Street and west of realigned Executive Boulevard (future Grand Park Avenue) in the 2010 White Flint Sector Plan ("Master Plan" or "Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120150010, Gables White Flint ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, April 17, 2015, setting forth its analysis and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on April 30, 2015 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

WHEREAS, at the Hearing, the Planning Board voted to approve the Application, subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120150010, subject to the following conditions:

1. This approval is limited to one lot for a maximum density of 521,000 square feet of total development, including a maximum of 490,000 square feet of residential

APPROVED AS TO LEGAL SUFFICIENCY
Christina... 7/15/15
MNCPPC LEGAL DEPARTMENT

uses and a maximum of 31,000 square feet of non-residential uses. A minimum of 12.5% of residential units must be moderately priced dwelling units (MPDUs).

2. The Applicant must dedicate, and the record plat must reflect, the Sector Plan recommended 70-foot right-of-way for business district street (Market Street) as shown on Montgomery County Department of Transportation (MCDOT) Capital Improvements Program (CIP) White Flint West Workaround No.501506 and the approved Preliminary Plan No. 120150010.
3. The Applicant must dedicate, and the record plat must reflect, the Sector Plan recommended 150-foot right-of-way for Old Georgetown Road (MD 187) as shown on MCDOT's CIP White Flint West Workaround No.501506 and the approved Preliminary Plan No. 120150010.
4. The Applicant must dedicate, and the record plat must reflect, the Sector Plan recommended 89 foot right-of-way for a realigned Executive Boulevard (future Grand Park Avenue) as shown on MCDOT's CIP White Flint West Workaround No.501506 and the approved Preliminary Plan No. 120150010.
5. The Planning Board accepts the recommendations of MCDOT in its letter dated December 4, 2014 and March 6, 2015 and April 28, 2015 electronic mails, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. Prior to the release of any residential building permit, the Applicant must enter into a Traffic Mitigation Agreement (TMAg) with MCDOT and the Montgomery County Planning Board to participate in the North Bethesda Transportation Management District (TMD) and assist in achieving and maintaining the non-auto mode share goals recommended in the White Flint Sector Plan.
7. Private Street A and Private Street B must be implemented with a common access easement to Montgomery County in a form approved by the M-NCPPC Office of General Counsel and the Montgomery County Attorney's office. The easement must be shown on the record plat for the private streets and adjacent parallel sidewalks. The common access easement must, at a minimum, include the following:
 - a. The design of the roads must follow or improve on the corresponding Montgomery County Road Code standard for a similar public road, unless approved by MCDOT and the Planning Board.
 - b. Installation of any public utilities must be permitted within such easements.
 - c. The streets may not be closed for any reason unless approved by MCDOT.

- d. The public access easements must be volumetric to accommodate uses above or below the designated easement areas.
 - e. Montgomery County may require the Applicant to install appropriate traffic control devices within the public easement and the easement must grant the right to the County to construct and install such devices.
 - f. Maintenance and Liability Agreements will be required for each Easement Area. These agreements must identify the respective Applicant's responsibility to maintain all of the improvements within their easement areas in good fashion and in accordance with applicable laws and regulations.
 - g. The Applicant is obligated to remove snow and provide repairs to keep the roads in working order and open and if, for any reason, the Applicant does not, the County must have the right, but not the obligation, to remove snow and/or provide repairs.
 - h. The boundary of the easements must be shown on the record plat.
8. The Planning Board accepts the recommendations of the Maryland State Highway Administration (SHA) in its letter dated February 4, 2015, 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 letter, which may be amended by SHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 9. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Water Resources Section in its letter dated December 22, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations 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 Planning Board accepts the recommendations of Montgomery County Fire and Rescue (MCFRS) Service in its letter dated December 16, 2014 and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations set forth in the letter, which may be amended by MCFRS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 11. The Subject Property is within the Walter Johnson High School Cluster. The Applicant must make a School Facilities Payment to MCDPS at the multi-family residential, 5 or more floors, for all residential 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.

12. Prior to the recordation of Lot 1, the Applicant must provide to M-NCPPC Staff proof that the portions of the subject property owned by Montgomery County have been conveyed to the Applicant.
13. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined at Site Plan.
14. The Applicant must comply with the White Flint Urban District requirements when it is established by Montgomery County Council.
15. No clearing, grading or recording of plats prior to Certified Site Plan approval.
16. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
17. The non-transportation portion of the Adequate Public Facility (APF) for the Preliminary Plan will remain valid for eight-five (85) months from the date of the mailing of the Planning Board Resolution.
- ~~18. This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended).~~
18. In the event that a subsequent site plan approval substantially modifies the subdivision shown on the approved Preliminary Plan, with respect to lot configuration or location or right-of-way width, or alignment, the Applicant must obtain approval of a Preliminary Plan Amendment prior to certification of the Site Plan.
19. 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."
20. All necessary easements must be shown on the Record Plat.

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 Master Plan.*

The Property is within the Metro West District-Block 2: Wall Local Park of the Approved and Adopted (2010) White Flint Sector Plan. The Sector Plan rezoned the Property to CR-3 C1.5 R2.5 H70 and CR-4 C2.0 R3.5 H250 Zones. The CR-3 zone segment is west of existing Executive Boulevard and the CR-4 zone segment is to the east, including a portion of the Bethesda North Conference Center. The Sector Plan recommends the maximum height of 70 feet for the Property.

The Sector Plan recognizes the Gables Residential property as an important site and states that the area "should be primarily residential in character and use". The Sector Plan also states that the "land area remaining after the intersection realignment of Old Georgetown Road and Executive Boulevard will be reconfigured into rectangular blocks in sizes more conducive to redevelopment. Wall Local Park should be redesigned with more active outdoor facilities through developer contributions". In addition, the Sector Plan "envisions a public/private partnership with adjacent properties to relocate the surface parking within a parking structure built in conjunction with new residential development. This would help direct public funds from building structured parking on-site to improving Wall Local Park".

The Preliminary Plan substantially conforms to the Sector Plan recommendations since the development is principally residential and the Applicant has provided land for a future parking garage that will support Wall Park's redevelopment.

Street Network

The public and private streets shown on the Preliminary Plan are consistent with the Sector Plan recommendations. The Sector Plan recommends the creation of Market Street (B-10) as a new 70-foot commercial business street and the realignment of Executive Boulevard (B-15) with a minimum ~~8089~~ foot right-of-way. The Sector Plan referenced Montgomery County Road Code standards 2005.02 and 2004.01, respectively, for these streets. Old Georgetown Road (MD 187) is west of the development and is classified as a major highway (M-4) with a minimum right-of-way of 150 feet. Private Streets A and B are not Master Plan streets, but they provide additional internal circulation for the development.

Montgomery County Department of Transportation (MCDOT), via Capital Improvements Program (CIP) White Flint West Workaround (No. 501506), is responsible for constructing Market Street (B-10), realigned Executive Boulevard (B-15)-future Grand Park Avenue-and Old Georgetown Road improvements. The Applicant's Preliminary Plan has dedicated rights-of-way for roadways that surround the development and incorporates MCDOT's CIP proposal.

Old Georgetown Road

Old Georgetown Road (MD 187), between Nicholson Lane and Executive Boulevard, is classified as a major highway (M-4) with a minimum right-of-way of 150 feet. The Approved and Adopted *Countywide Functional Transit Corridors Master Plan* (December, 2013) recommends Old Georgetown Road as a segment of the North Bethesda Transitway (Corridor 6). A dedicated BRT lane is recommended along Old Georgetown Road between Executive Boulevard and Nicholson Lane. The Functional Plan recommends a BRT station north of the Property at Old Georgetown Road, Executive Boulevard and Towne Road.

Bikeway Network

The Preliminary Plan will begin to implement the bikeway recommendations for adjacent roadways. The Sector Plan recommends a Shared Use Path (LB-1) along Old Georgetown Road (MD 187) and another Shared Use Path (LB-3) along Market Street. The White Flint West Workaround CIP project will implement Share Use Paths that surround the Property.

Environmental

Minimization of carbon emissions and creating a livable urban environment by improving air and water quality are the Sector Plan's two main environmental recommendations. The Preliminary Plan will utilize environmental site design techniques, including green roofs, vegetated walls, and energy standards for the buildings that will exceed the Department of Energy standard by 10 percent. These measures, along with minimization of parking and a network of bikeways and sidewalks will substantially implement the Sector Plan's environmental recommendations.

Based on the analysis above and with the conditions of approval, the Planning Board finds that the Preliminary Plan substantially conforms to the Approved and Adopted 2010 White Flint Sector Plan.

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

Design Exceptions

The Planning Board and MCDOT reviewed and approved the following design exceptions that will contribute to enhancing a mixed-use and pedestrian environment:

- a) Non-standard elements in the right-of-way.
- b) Retaining walls and steps in the right-of-way.
- c) Tree planters in the right-of-way.
- d) Reduction in entrance spacing requirement.
- e) Reduction to the number of required loading spaces.

Site Location and Vehicular Site Access Points

Market Street, a new east-west public street, will serve as the northern boundary to the approved development, the realigned Executive Boulevard will run along the eastern frontage of the development, and Old Georgetown Road (MD 187) will continue to be on the west side of the Property. Two internal, Private Streets A and B, will provide access to Market Street, realigned Executive Boulevard and the parking garage.

Transportation Demand Management

This site is within the boundary of the North Bethesda Transportation Management District (TMD). Prior to the release of any residential building permit, the Applicant must enter into a Traffic Mitigation Agreement (TMAg) with Montgomery County Department of Transportation (MCDOT) and the Planning Board. The Sector Plan requires a Non-Auto Driver Mode Share (NADMS) goal of 34 percent in Phase I of the Sector Plan's staging plan.

Public Transit Service

The Property is located within a ½ mile from the White Flint Metrorail Station entrance. Montgomery County Ride-On route 81 operates along Executive Boulevard's current alignment and Ride-On routes 5 and 26 operate along Old Georgetown Road (MD 187) with a bus stop at the intersection of existing Executive Boulevard and Old Georgetown Road. Metrobus operates routes J-5 and C-8 along nearby Rockville Pike (MD 355).

Sector-Planned Roadways and Bikeways

In accordance with the *Sector Plan* and the *Countywide Bikeways Functional Master Plan*, the classified roadways and bikeways are as follows:

1. Old Georgetown Road (MD 187) is designated as a major highway (M-4) with a recommended minimum right-of-way of 150 feet with a Shared Use Path (LB-1). A 10-foot wide Shared Use Path will be provided along the eastern frontage of Old Georgetown Road.
2. Executive Boulevard (B-15), called Mid-Pike Spine Street in the Sector Plan, is designated as a commercial business street with a minimum recommended right-of-way of 8089 feet. MCDOT's Capital Improvements Program (CIP) No. 501506, White Flint West Workaround, includes the construction of this street with a Shared Use Path.

3. Market Street (B-10) is designated as commercial business street with a minimum recommended right-of-way of 70 feet and a Shared Use Path (LB-3).

Transportation Adequate Public Facilities Review

The White Flint Special Taxing District, established by Council Bill No. 50-10 and Resolution No. 16-570, excludes the typical Local Area Transportation Review (LATR) and Transportation Policy Area Review (TPAR) requirements for development within the White Flint Sector Plan area.

Other Public Facilities and Services

The site is served by public water and public sewer. Gas, electric, and telecommunications services are also available to serve the Property. Public facilities and services, including fire stations and police stations, are available and will be adequate to serve the development. Rockville Station (23) on Rollins Avenue and Bethesda Station (20) at West Cedar Lane and Old Georgetown Road can provide emergency services to the Property. The development is located in the Walter Johnson High School Cluster. A School Facilities Payment is required at the high school level. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

Based on the analysis above and the conditions of approval, the Planning Board finds that the public facilities are adequate to support and service the area for the Preliminary Plan. The Preliminary Plan satisfies the Adequate Public Facilities Ordinance.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision.*

The Preliminary Plan will create one lot ~~and a private parcel for private streets~~. The Planning Board finds that the size, shape, width, and area of the lot and parcel are appropriate for their location within the subdivision. The Application also complies with the dimensional requirements of the CR-3 C1.5 R2.5 H70 and CR-4 C2.0 R3.5 H250 Zones as specified in the Zoning Ordinance. The Application has been reviewed and approved by other County agencies.

Subdivision Regulations Waivers

Under §50-38(a)(1) of the Montgomery County Code, the Board may grant a waiver from the Subdivision Regulations if it finds that: "practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest."

The Applicant requested a waiver from Sections 50-1 and 50-30(c)(1) of the Montgomery County Code. Section 50-30(c)(1) requires that all roads are dedicated to public use to the full extent of any rights-of-way. Section 50-1 includes the definition for a right-of-way which states that "for land platting purposes, every right-of-way shown on a record plat must be separate and distinct from any adjoining lot or parcel, and not included in any other lot or parcel". However, the Planning Board finds that placing Streets A and B in their own parcel creates a practical difficulty because the streets have structures that will be developed below or above the street right-of-way that are critical to the layout and design of the development. This would conflict with the Department of Permitting Services (DPS) interpretation of the County Code, as amended, that precludes any development above or below a ~~public or private~~ right-of-way. The platting of these streets would prevent the East and Central buildings from obtaining a building permit for any development above a right-of-way. The Board finds that granting this waiver is not adverse to the objectives of the General Plan; provides minimum relief from the requirements; and is not adverse to the public interest. Further, the development is consistent with the Sector Plan recommendations for mixed-use development at this location and the configuration of the lot is created by the street network recommended in the Sector Plan.

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

Staff approved a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) for the site on July 2, 2013. The site contains no forest, streams or their buffers, wetlands or their buffers, 100-year floodplains, or rare, threatened or endangered species.

A Final Forest Conservation Plan (FFCP) is approved with Site Plan No. 820150010. Based on the Property's size and development, the Afforestation threshold for this site, plus required off-site disturbance, is 0.79 acres. The Applicant proposes to meet this requirement through payment of a fee-in-lieu, purchase of off-site forest bank credits, or a combination of the two. The FFCP satisfies the requirements of the forest conservation law.

5. *All storm water management requirements shall be met as provided in Chapter 19, article II, title "Storm Water Management," Sections 19-20 through 19-35.*

The Montgomery County Department of Permitting Services (MCDPS) approved a stormwater management concept plan on December 22, 2014. The approved project meets stormwater requirements through a variety of Environmental Site Design techniques, including green roofs and micro-bioretenion.

BE IT FURTHER RESOLVED, that for the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner, or any successors in interest to the terms of this approval.

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 May 7, 2015 (which is the date that ~~this the original~~ Resolution ~~is was~~ 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-González, seconded by Commissioner Dreyfuss, with Chair Anderson and Commissioners Dreyfuss and Fani-González voting in favor of the motion, and Vice Chair Wells-Harley and Commissioner Presley absent, at its regular meeting held on Thursday, July 23, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board