



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

MCPB No. 15-118
Sketch Plan No. 320150080
819 Silver Spring Avenue
Date of Hearing: September 17, 2015

NOV 10 2015

RESOLUTION

WHEREAS, under Section 59.7.3.3. of the Montgomery County Code the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review sketch plan applications; and

WHEREAS, on June 19, 2015, Hopscotch Properties LLC ("Applicant"), filed an application for approval of a sketch plan for construction of up to 12,110 square feet of non-residential uses, including general office, retail, and restaurant uses on 0.19 acres of CR-3.0 C-2.0 R-2.75 H-60T and Fenton Village Overlay zoned land, located at 819 Silver Spring Avenue, approximately 60 feet east of Fenton Street ("Subject Property") in the Silver Spring CBD sector plan ("Sector Plan") area; and

WHEREAS, Applicant's sketch plan application was designated Sketch Plan No. 320150080, 819 Silver Spring Avenue ("Sketch Plan" 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 September 4, 2015, setting forth its analysis of and recommendation for approval of the Application subject to certain binding elements and conditions ("Staff Report"); and

WHEREAS, on September 17, 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, on September 17, 2015 the Planning Board voted to approve the Application subject to certain binding elements and conditions, on the motion of Commissioner Fani-Gonzales, seconded by Commissioner Presley, with a vote of 5-0; Chair Anderson, Commissioners Dreyfus, Fani-Gonzales, Presley and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED that, the Planning Board approves Sketch Plan No. 320150080 819 Silver Spring Avenue, for construction of up to 12,110

Approved as to
Legal Sufficiency:

 10/29/15

square feet of non-residential uses, including general office, retail, and restaurant uses, on the Subject Property, subject to the following binding elements and conditions:¹

A. Binding Elements. The following site development elements shown on the Sketch Plan stamped "Received" by the M-NCPPC on June 19, 2015 are binding under Section 59.7.3.3.F of the Montgomery County Zoning Ordinance:

1. Maximum density and height;
2. Approximate location of lots and public dedications;
3. General location of vehicular access points; and
4. Public benefit schedule.

All other elements are illustrative.

B. Conditions. This approval is subject to the following conditions:

1. Density

The development is limited to a maximum of 12,110 square feet of total non-residential development.

2. Height

The development is limited to the maximum height of 45 feet.

3. Incentive Density

The development must be constructed with the public benefits listed below, unless modifications are made under Section 59-7.3.3.1. Total points must equal at least 100 and be chosen from at least four categories as required by Section 59-4.5.4.2.a. The requirements of Division 59-4.7 and the *CR Zone Incentive Density Implementation Guidelines* must be fulfilled for each public benefit. Final points will be established at Site Plan approval.

- a. Transit Proximity, achieved through proximity to a Metro station;
- b. Connectivity and Mobility, achieved through Way-finding and Minimum Parking;
- c. Diversity of Uses and Activities, achieved through Small Business Opportunities;
- d. Quality of Building and Site Design, achieved through Architectural Elevations and Public Art; and
- e. Protection and Enhancement of the Natural Environment achieved through Energy Conservation and Generation, Vegetated Roof and Cool Roof.

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

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 that as conditioned herein the elements of the Sketch Plan are appropriate in concept and appropriate for further review at site plan. Specifically, the Planning Board FINDS the Sketch Plan:

1. *meet the objectives, general requirements, and standards of this Chapter;*

The Sketch Plan meets the development standards of Section 59-4.5.4, as shown in Table 1, Sketch Plan Project Data Table.

Table 1-Sketch Plan Data Table			
Section 59 - 4	Development Standard	Permitted/ Required	Approved
	Gross Tract Area (sf) Existing Lot 21: CR-3.0 C-2.0 R-2.75 H-60 T Prior Dedications TOTAL	n/a n/a	8,400 2,100 10,500
4.5.4.B.2. b	Max. Density (Existing Lot 21) CR-3.0 C-2.0 R-2.75 H-60 T Commercial FAR/GFA Residential FAR/GFA	2.0/21,000 2.75/28,875	1.15/12,110 0/0
4.5.4.B.2. b	Max. Building Height (feet) CR-3.0 C-2.0 R-2.75 H-60 T	60/45 ²	45
4.5.4.B.3	Min. Setback (feet) Front Side Rear	0 0 0	0 0 0
4.5.4.B.1	Open Space	0	0
6.2.4.B	Parking (spaces) General office Min./Max. Office/restaurant (worst case) Min./Max.	25/37 32/59	12 ³

² As limited by the Fenton Village Overlay Zone for non-residential uses on blocks containing single-family residential zoning (4.9.7.C.1.d.)

³ Site is within the Silver Spring Parking Lot District and will be paying the ad valorem tax per 59.6.2 H.1.a.

As defined in 59.4.5.1.A. the intent of the CR-Zone is to:

- a) *Implement the recommendations of applicable master plans.*

The Sketch Plan is consistent with, and furthers, the recommendations of the 2000 *Silver Spring CBD Sector Plan*. The Sector Plans does not have site specific recommendations for this Property; however the project is consistent with the Sector Plan vision themes and the Fenton Village Overlay Zone:

Sector Plan Vision Themes

The Sector Plan's themes articulate the shared goals and vision for the CBD and demonstrate how successful development incorporates multiple themes to "create varied land uses, development patterns, environments, and transportation choices...to create variety, the hallmark of an active downtown."(p. 15) The development meets these goals and vision by creating a mixed-use commercial building that is scaled to the surrounding neighborhood and enhances the pedestrian experience in its vicinity.

Transit-Oriented Downtown

The Property is located approximately 1/3 mile from the Silver Spring Metro/MARC train/Transit Center and is also less than a ¼ mile from a future Purple Line station. By locating within the walksheds of these transportation choices, the workers and visitors coming to the site increase transit demand and support transit-oriented development.

Commercial Downtown

The Application allows for a mix of commercial uses including office, retail, and/or restaurant. These uses will complement the existing commercial uses in Fenton Village in an up-to-date and attractive building.

Residential Downtown

Although the Application does not include residential uses, it shares a block of Silver Spring Avenue that includes both single-family homes as well as approved 4-6-story multi-family development immediately across the street. At four stories the new commercial building will be compatible with these residential uses as the uses on the block intensify toward Fenton Street.

Civic Downtown

The new streetscape, public art and architectural treatments provide a number of elements adding to the fabric of the civic spaces of the Sector Plan area.

Green Downtown

The Application includes recommended elements of the Green Downtown such as new public streetscape, with street trees and other landscape plantings, and provides green roof and landscaped elevated plazas for the building tenants.

Pedestrian-Friendly Downtown

The Application provides new streetscape per the Silver Spring Design Guidelines including sidewalks, lighting and street trees. The Applicant will also provide a way-finding system orienting pedestrians and cyclists to destinations such as major open spaces, cultural facilities and transit opportunities. The building which includes public art on the façade is scaled and designed in a manner sensitive to the comfort/perception of the nearby pedestrians.

- b) *Target opportunities for redevelopment of single-use commercial areas and surface parking lots with a mix of uses.*

The Application will enable redevelopment of the existing single-use commercial building with a higher-density project featuring a mix of office, restaurant, and retail uses. The redevelopment will include a surface parking lot with only 12 spaces and will take advantage of the metered public parking available on-street and in nearby lots and garages within the Parking Lot District.

- c) *Encourage development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities, where parking is prohibited between the building and the street.*

The development will include a mix of non-residential uses, accessible by diverse transport methods, and will present an attractive new façade featuring public art.

- d) *Allow a flexible mix of uses, densities, and building heights appropriate to various settings to ensure compatible relationships with adjoining neighborhoods.*

As required by the Fenton Village Overlay Zone, this non-residential development is limited to four stories in height, compatible with adjacent and approved development on the block. The improved streetscape along the Property's frontage will improve the pedestrian experience for the larger neighborhood and further promote compatibility.

- e) *Integrate an appropriate balance of employment and housing opportunities.*

Fenton Village includes a balance of built and approved residential and non-residential development, the latter including office, retail, restaurant, and service uses. This contextual smaller scale development will provide employment opportunities in a new building, upgrading existing commercial uses on the site.

- f) *Standardize optional method development by establishing minimum requirements for the provision of public benefits that will support and accommodate density above the standard method limit.*

The Application will provide the required public benefits from a minimum of four categories to achieve the desired incentive density above the standard method limit.

In addition the Application meets the purpose of the *Fenton Village Overlay Zone* as defined in 59.4.9.7.A.:

Facilitate the implementation of an organized and cohesive development pattern that is appropriate for an urban environment; Encourage attractive design and ensure compatibility with existing buildings and uses with and adjacent to the Overlay zone; Provide flexibility in the standards to encourage innovative design solutions; Allow for the transfer of the public open space requirements to other properties within the Overlay zone; and Allow new uses.

The Application continues the transition from the single-family homes of the East Silver Spring neighborhood to the more intensified mix of commercial and residential uses of Fenton Village. Replacing an existing 2.5-story house used as an office with a new four-story mixed-use commercial building will maintain the uses while improving the quality of the architecture, streetscape, and public amenities in Fenton Village. As discussed above, the building height is comparable to other existing commercial buildings and approved multi-family and hotel uses on the block. Under the new zoning code, the size of the site eliminated the requirement to provide public open space on-site, allowing an organized and cohesive redevelopment of the site. The Application meets the purposes of the Fenton Village Overlay Zone.

2. *substantially conform with the recommendations of the applicable master plan;*

As discussed in Finding 1.a) above, the Application substantially conforms to the *Silver Spring CBD Sector Plan*.

3. *satisfy any development plan or schematic development plan in effect on October 29, 2014;*

The site is not subject to a development plan or schematic development plan.

4. *under Section 7.7.1.B.5, for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment, satisfy any green area requirement in effect on October 29, 2014; any green area under this provision includes and is not in addition to any open space requirement of the property's zoning on October 30, 2014;*

This finding is not applicable because the Property's zoning classification on October 29, 2014 was not a result of a Local Map Amendment.

5. *achieve compatible internal and external relationships between existing and pending nearby development;*

As discussed above, the redevelopment updates an existing commercial development on the block in scale with existing and approved development on the block.

6. *provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading;*

The small site is centrally located at the edge of Fenton Village, with easy vehicular access to the site from both Fenton Street and Silver Spring Avenue, pedestrian access from an extensive sidewalk network, and bicycle access from local and regional streets alike. The Application will have minimal vehicular circulation, only 12 parking spaces and one loading space, with adequate space to accommodate each.

7. *propose an outline of public benefits that supports the requested incentive density and is appropriate for the specific community;*

The Application includes public benefits that address the general incentive and density considerations required by Section 59-4.7.1.B. The public benefits:

- a. Take into consideration "the recommendations of the applicable master plan" by enhancing the selection of commercial transit-oriented development at the edge of the CBD by providing a building designed to be compatible with the surrounding residential and commercial development;
- b. Meet the 2012 *Commercial/Residential Zones Incentive Density Implementation Guidelines (CR Guidelines)* by providing the proper calculations and criteria for each public benefit;

- c. Meet “any design guidelines adopted for the applicable master plan area” by installing the Silver Spring streetscape along the site frontage and public art on the facade;
- d. Are appropriate for “the size and configuration of the site” by improving the existing configuration of surface parking lot and aging existing building with a mixed-use project with office and restaurant/retail uses, and minimal parking close to transit;
- e. Adequately address “the relationship of the site to adjacent properties” by designing the building at an appropriate scale for the surroundings with height and massing that complements the existing character of the area;
- f. Consider “the presence or lack of similar public benefits nearby” through the provision of public art, small business opportunities, environmental benefits, and enhanced pedestrian connections, all of which are currently needed in this area; and
- g. Provide “enhancements beyond the elements listed in an individual public benefit that increase public access to, or enjoyment of, the benefit” which echo the interconnectivity of the Sector Plan themes by renewing commercial uses in the CBD in a manner compatible with the surrounding neighborhood and transit-supportive.

Table 2 shows the public benefits approved in concept at Sketch Plan:

Table 2- Sketch Plan Public Benefits Points		
Public Benefit	Incentive Density Points	
	Requested	Approved in Concept
59-4.7.3.B: Transit Proximity	30	30
59-4.7.3.C: Connectivity and Mobility		
Minimum Parking	10	10
Way-finding	5	5
59-4.7.3.D: Diversity of Uses and Activities		
Small Business Opportunities	20	20
59-4.7.3.E: Quality of Building and Site Design		
Public Art	10	10
Architectural Elevations	20	20
59-4.7.3.F: Protection and Enhancement of the Natural Environment		
Energy Conservation and Generation	5	5
Vegetated Roof	12.5	12.5
Cool Roof	5	5
TOTAL	117.5	117.5

Transit Proximity

The Property is located between ¼ mile and ½ mile from the Silver Spring Metro Station which allows the development to be eligible for Level 1 transit as defined

in the Zoning Ordinance. The Property is also located between ¼ mile and ½ mile from a MARC Train station, and less than a ¼ mile from a planned Purple Line station. Therefore the Planning Board approves the full 30 points as suggested in the *2012 Commercial/Residential Zones Incentive Density Implementation Guidelines* (CR Guidelines).

Connectivity and Mobility

Minimum Parking: Section 59-4.7.3.C.2. allows up to 10 points for providing fewer than the maximum allowed number of parking spaces, where a maximum is applicable. The maximum is set by the CR zone, which for this project is 59 spaces. The Applicant proposes 12 parking spaces (included one handicap space), which is less than the maximum set by the zone. Therefore, the Planning Board approves the full 10 points.

Way-finding: Section 59-4.7.3.C.9. allows up to 10 points for design and implementation of a way-finding system orienting pedestrians and cyclists to major open spaces, cultural facilities and transit opportunities. The Applicant will implement a way-finding system, but given the small size of the site, the Planning Board approves only the 5 points requested.

Diversity of Uses and Activities

Small Business Opportunities: Section 59-4.7.3.D.7. of the Zoning Ordinance permits up to 20 public benefit points for providing on-site space for small, neighborhood oriented businesses. The Applicant must provide on-site space for small, neighborhood-oriented businesses as follows:

- Provide retail bays of no more than 5,000 square feet for all commercial spaces for a period of six years after the issuance of the initial use and occupancy permits.
- The six-year time period is binding upon future owners and successors in title.
- Before a building permit is submitted for approval, the Applicant must file a covenant in the County land records that reflects these restrictions.

The Planning Board approves the Applicant's request of 20 points.

Quality of Building and Site Design

Architectural elevations: Section 59-4.7.3.E.1. of the Zoning Ordinance permits up to 20 public benefit points for providing elevations of architectural facades and agreeing to be bound by particular elements of design that affect the perception of mass, pedestrian comfort, or enhance neighborhood compatibility. The building is designed for compatibility with the adjacent and confronting buildings on Silver Spring Avenue. The Applicant is bound by substantial conformance with the design elements, including transparency, materials, entry design, and public art location, illustrated on the architectural façade drawings in the Certified Site Plan. The Applicant requests 20 points and the Planning Board approves the requested amount.

Public art: Section 59-4.7.3.E.5. of the Zoning Ordinance permits up to 15 public benefit points for installing public art reviewed for comment by the Public Arts trust Steering Committee (Art Review Panel). The Applicant requests 10 points for providing a lighted sculpture on the front of the building. The Applicant presented an initial artwork concept to the Art Review Panel, and will present a revised concept to the Panel before Certified Site Plan. The Planning Board approves the 10 points requested.

Protection and Enhancement of the Natural Environment

Energy Conservation and Generation: Section 59-4.7.3.F.3. of the Zoning Ordinance permits up to 15 public benefit points for constructing buildings that exceed energy-efficiency standards by 17.5% for new buildings. The *CR Guidelines* specify that 5 points may be granted for new building construction that exceeds the standard efficiency by 2.5%. Under the modeled guidance of a LEED-accredited professional, the Applicant has committed to making the building at least 2.5% more energy efficient than the standard building of this type. The Planning Board approves the 5 points requested.

Vegetated Roof: Section 59-4.7.3.F.9. of the Zoning Ordinance permits up to 15 public benefit points for installing a vegetated roof with a soil depth of at least 4 inches and covering at least 33% of the total roof excluding space for mechanical equipment. The Applicant proposes a 4-inch thick vegetated roof covering at least 55% of the total roof. The Applicant requests 12.5 points and the Planning Board approves the requested amount.

Cool Roof: Section 59-4.7.3.F.2. of the Zoning Ordinance permits up to 10 public benefit points for constructing any roof area that is not covered by a vegetated roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, (and a minimum SRI of 25 for slopes above 2:12). The Applicant commits to using appropriate material, finishes and colors to provide the cool roof benefits; therefore the Planning Board approves the full 5 points.

8. *establish a feasible and appropriate provisional phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.*

The development will be built in one phase.

BE IT FURTHER RESOLVED that the Board's approval of a sketch plan is in concept only and subject to further review at site plan, when, based on detailed review the Board may modify the Sketch Plan's binding elements or conditions based on the Montgomery County Code, the Sector Plan, or other requirements; and

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 all elements of the plans for Sketch Plan No. 320150080 819 Silver Spring Avenue, stamped received by M-NCPPC on June 19, 2015 are required except as modified herein; 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 **NOV 10 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-González, seconded by Commissioner Presley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Presley and Fani-González voting in favor, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, November 5, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board