



DEC 8 2015

MCPB No. 15-141
Preliminary Plan No. 120150220
Ripley East
Date of Hearing: December 3, 2015

RESOLUTION

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

WHEREAS, on July 30, 2015, Diamondback Investors, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 1.4 acres of land in the CR 5.0 C 4.0 R 4.75 H 200T zone, located at the southwest corner of Georgia Avenue and Bonifant Street ("Subject Property"), in Ripley/South Silver Spring Overlay Zone, Silver Spring CBD Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120150220, Ripley East ("Preliminary 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 November 20, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 3, 2015, the Planning Board held a public hearing on the Application at which it 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 as certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120150220 to create one lot on the Subject Property, subject to the following conditions:¹

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.

1. Approval is limited to one lot with a maximum density of 367,606 square feet of total development, consisting of up to 360 residential dwelling units and up to 15,200 square feet of non-residential uses. The development must include a minimum of 15% Moderately Priced Dwelling Units (MPDUs).
2. The Applicant must comply with the binding elements and conditions of approval for Sketch Plan No. 320150010 and any subsequent amendments.
3. The Planning Board accepts the recommendations of Montgomery County Department of Permitting Service (MCDPS) – Water Resources Section in its stormwater management concept letter dated April 1, 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 MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
4. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated October 20, 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 MCDOT, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
5. The Planning Board accepts the recommendations of the State Highway Administration (SHA) in its letter dated October 7, 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 MCDOT, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements which are associated with each plat, as required by MCDOT.
7. The Applicant must dedicate and show on the record plat(s) the following dedications:
 - a. A dedication of 20 feet along the Subject Property frontage for Bonifant Street.
 - b. Dedication necessary to provide 70-feet of right-of-way along the Subject Property's Georgia Avenue frontage, measured between the property line and Georgia Avenue centerline.
8. Prior to recordation of the plat(s) the Applicant must satisfy MCDPS requirements to ensure the construction of the following:

- a. A minimum 21-foot wide sidewalk between the building face and the curb along the Subject Property frontage on Georgia Avenue, of which a minimum clear width of 6 feet is provided.
- b. A minimum 20-foot wide sidewalk between the building face and curb along the Subject Property frontage on Bonifant Street, of which a minimum clear width of 6 feet is provided.

9. 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 approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.

10. The record plat must show necessary easements.

11. Prior to issuance of the first building permit, the Applicant must execute a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Silver Spring Transportation Management District (TMD).

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 this Planning Board Resolution.

13. The Applicant may obtain permits for below-grade excavation and sheeting and shoring prior to recording of plats and Certified Site Plan approval. The record plat(s) and Certified Site Plan must be submitted to M-NCPPC prior to any below-grade activity occurring on site.

14. The Applicant must include the stormwater management concept approval letter, agency letters and Preliminary Plan resolution on the approval or cover sheet(s) of the Certified Preliminary Plan.

15. 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.

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.*

Land Use and Zoning

The Ripley District is envisioned as a revitalized, mixed-use district with its primary focal point a high-density commercial development. The Application provides up to 360 multi-family residential units (with final unit count and unit mix to be determined at Site Plan) with 15% on-site MPDUs and up to 15,200 square feet of non-residential uses.

Although the Sector Plan called for a new inter-connected street system, it did not propose any new streets to be constructed through the Subject Property. The Sector Plan also calls for facilitating improvements to the character of Georgia Avenue and the Application will improve upon the existing street frontages of Georgia Avenue and Bonifant Street, providing an enhanced pedestrian environment through setbacks for a wider sidewalk and streetscaping features. All loading and vehicular access will be from the alley on the west side of the Subject Property.

The Sector Plan also called for addressing obstacles to development that include small parcels not suitable for a combination of building floor area and required open space, and the reduction of available building area due to dedication of the Metropolitan Branch Trail. The Applicant has assembled the Subject Property by acquiring a number of small parcels in the Ripley District. While the Subject Property is not located adjacent to the Metropolitan Branch Trail, the Applicant anticipates the significant number of residents who will take advantage of the nearby bicycle facilities and trails, and will provide a bicycle-only access into the Subject Property from the alley on the west side of the building.

Although the 2000 Sector Plan calls to retain the CBD-2 Zone on parcels currently zoned CBD-2 and rezone all CBD-R2 properties in the Ripley District to CBD-2, the Property was rezoned through the Zoning Ordinance rewrite to CR-5.0, C-4.0, R-4.75, H-200T and Ripley/South Silver Spring Overlay Zone, effective October 31, 2014. The intent of the CBD-2 zoning was to encourage redevelopment near the Transit Center by allowing more commercial density in response to the current market (in 2000), but also provide the flexibility for both commercial or residential high-rises, or mixed use projects. The Application will accommodate a mixed-use, high-rise residential development with ground-floor non-residential uses under the optional method of development, which satisfies

the intent of the CBD-2 Zone, the Ripley/South Silver Spring Overlay Zone and the current CR Zone.

The Application conforms to the Sector Plan recommendations for Land Use and Zoning.

Urban Design

The Sector Plan provides urban design goals and guidelines for future development in the Ripley District, which will be addressed at time of site plan.

Housing

The housing objective of the Sector Plan is to develop new residential projects to provide housing and encourage maintenance of existing housing, creating Silver Spring as an even more desirable residential market. The Sector Plan identified the Subject Property as a housing site. The Application provides a new mixed-use project with up to 360 multi-family residential units with 15% on-site MPDUs, offering housing opportunities proximate to the numerous transit options of downtown Silver Spring. The Application meets the Sector Plan housing objective.

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

Roads and Public Transportation Facilities

Vehicular access to the Subject Property is provided directly from an existing one-way (southbound) public alley located west of the Subject Property off Bonifant Street, approximately 200-feet west of Georgia Avenue. The Purple Line light rail project will run on Bonifant Street along the Subject Property's frontage, and Bonifant Street will operate as a single-lane one-way (westbound) street between Georgia Avenue and Ramsey Avenue. Resident vehicular parking will be contained within a structured subgrade garage beneath the building.

Bonifant Street is currently improved as a three-lane Business District roadway within a 70 foot-wide public right-of-way and is configured to accommodate a single lane of westbound traffic and two lanes of eastbound traffic. At its intersection with Georgia Avenue, eastbound traffic must turn either left or right onto Georgia Avenue; no through-traffic is permitted across Georgia Avenue at this intersection. Georgia Avenue is currently improved as a six-lane Major Highway within a variable-width right-of-way that will remain in its current configuration and will be dedicated to its ultimate right-of-way of 140 feet. This right-of-way is consistent with the minimum right-of-way requirements described

in both the 2000 *Silver Spring CBD Sector Plan* and the 2013 *Countywide Transit Corridors Functional Master Plan*.

Pedestrian and bicycle access to the Subject Property will be provided along the its Georgia Avenue and Bonifant Street frontages. As a result of the right-of-way dedication, the pedestrian accommodation on the Bonifant Street frontage will be at least 20 feet from the building face to roadway, significantly greater than the existing 5 foot-wide sidewalk. Additionally, the Subject Project provides a designated bicycle garage entrance for building residents via the public alley along the rear of the building. No specific master planned bikeways are recommended for either Bonifant Street or Georgia Avenue, though the Sector Plan identifies Bonifant Street as a "mixed street" that could accommodate bicyclists within the vehicular travelway. However, the Sector Plan did not anticipate the Purple Line on Bonifant Street.

The immediate area is well served by transit that includes the Red Line Silver Spring Metrorail Station, Metrobus, RideOn, and the Silver Spring VanGo Circulator. Future transit in the area includes a proposed Purple Line station at the existing Silver Spring Metrorail Redline station to the west, and a Purple Line station at the new Silver Spring Library to the east.

As a commercial development within the Silver Spring Transportation Management District (TMD), the Applicant is required to enter into a Traffic Mitigation Agreement to participate in the Silver Spring TMD.

LATR/TPAR

A traffic study dated July 31, 2015 was submitted for the subject application per the *LATR/TPAR Guidelines* since the development was estimated to generate more than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. A site trip generation summary for the development, provided in the Staff Report, shows that the Project will generate 117 peak-hour trips during the weekday morning peak period and 143 peak-hour trips during the weekday evening peak period.

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis for the weekday morning and evening peak-hour periods, provided in the Staff Report, shows that the total (Build) condition will remain within the policy area congestion standard of 1,800 CLV. Based on the analysis presented in the traffic study, the subject application will satisfy the LATR requirements of the APF test.

Since the development is within the Silver Spring CBD Policy Area, the Application is exempt from both the roadway and transit tests set forth in the 2012-2016 *Subdivision Staging Policy*. As a result, the development is not required to pay the transportation impact tax to satisfy the TPAR requirement.

Other Public Facilities

Public facilities and services are available and will be adequate to serve the development. The Subject Property will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, schools, and health services are operating according to the *Subdivision Staging Policy* resolution currently in effect and will be adequate to serve the Property. The Subject Property is located in the Blair School Cluster. The Application is exempt from the School Facilities Payment because it is located in the former Silver Spring Enterprise Zone, even though the Blair School Cluster is over the 105% utilization rate at the middle and high school levels (per Section 52-94 and 52-89(c)(5) of the County Code). Electrical, telecommunications, and gas services are also available to serve the Subject Property.

- 3. The size, width, shape, and orientation of the approved lots 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.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections.

The size, width, shape, and orientation of the lot is 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.

Section 50-26(c)(3) of the Subdivision Regulations requires that the property lines of corner lots be truncated 25 feet from the intersection. This provides additional right-of-way area at intersections that ensures adequate sight distance is available and creates space for traffic channelization. But the regulation also allows the Planning Board to specify a greater or lesser truncation depending on the specific sight distance and channelization needs at the intersections adjacent to the Subject Property.

In this case, the Applicant is not proposing truncation at the intersection of the Public Alley and Bonifant Street. Truncation at this intersection is not necessary because adequate sight distance exists. Providing truncation would negatively impact the design of the development and the provision of the required public use space. For these reasons, the Planning Board finds that truncation in this location is not appropriate at this intersection.

The Application also substantially conforms to the 2000 *Silver Spring CBD Sector Plan*. The Application complies with the specific density recommendations for the Subject Property as well as the applicable urban design, roadway, and general recommendations outlined in the Sector Plan. As evidenced by the Preliminary Plan, the site is sufficiently large to efficiently accommodate the mix of uses.

Under Section 59-4.5.4 of the Zoning Ordinance, the dimensional standards for the lots will be determined with approval of the subsequent site plan.

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

A. Forest Conservation

This Preliminary Plan is subject to the Chapter 22A, Montgomery County Forest Conservation Law, but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(1) because the proposed activity occurs on a tract of land less than 1.5 acres with no existing forest, or existing specimen or champion tree, and the afforestation requirements are not in excess of 10,000 square feet.

5. *All storm water management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The MCDPS Stormwater Management Section approved the stormwater management concept on April 1, 2015. According to the approval letter, the stormwater management concept meets stormwater management requirements via a green roof and micro-bioretenion planter boxes.

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 DEC 8 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 Dreyfuss, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor of the motion, at its regular meeting held on Thursday, December 3, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board