



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

MCPB No. 15-143
Site Plan No. 820150130
Ripley East
Date of Hearing: December 3, 2015

DEC 8 2015

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on July 30, 2015, Diamondback Investors, LLC ("Applicant"), filed an application for approval of a site plan for up to 367,606 square feet of total development, including up to 352,406 square feet of residential development, for up to 360 multi-family residential units, and up to 15,200 square feet of non-residential uses on 1.40 acres of CR5.0 C4.0 R4.75 H200T zoned-land, located at the southwest corner of Georgia Avenue and Bonifant Street ("Subject Property"), in the Ripley/South Silver Spring Overlay Zone, Silver Spring CBD Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820150130, Ripley East ("Site 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 of 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, 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 as certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820150130 for up to 367,606 square feet of total development, including up to 352,406 square feet of residential development for up to 360 multi-family residential units

Approved as to
Legal Sufficiency

 4/23/15
M-NCPPC Legal Department

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with 15 percent MPDUs, and up to 15,200 square feet of non-residential uses on the Subject Property, subject to the following conditions:¹

1. Sketch Plan Conformance
The development must comply with the binding elements and conditions of approval for Sketch Plan No. 320150010 and any amendments.
2. Preliminary Plan Conformance
The development must comply with the conditions of approval for Preliminary Plan No. 120150220 and any amendments.
3. Noise Attenuation
 - a. Prior to the issuance of any above grade residential building permit, the Applicant must provide certification to Staff from an engineer who specializes in acoustical treatment that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
 - b. After construction is complete and prior to issuance of the final residential Use and Occupancy Certificate, the Applicant must provide certification to Staff from an engineer specialized in acoustics confirming that the dwelling units were constructed in accord with the approved specifications for noise attenuation.

Public Use Space, Facilities and Amenities

4. Public Use Space, Facilities, and Amenities
 - a. The Applicant must provide a minimum of 1,781 square feet of public open space (5% of the net lot area).
 - b. The Applicant must construct the streetscape improvements along the Subject Property's frontage on Georgia Avenue and Bonifant Street as shown on the Certified Site Plan.
 - c. Prior to the issuance of any residential Use and Occupancy certificate, all public open space areas on the Subject Property's Georgia Avenue and Bonifant Street frontages must be completed. However, if the alignment or construction of the Purple Line makes the completion of the public open space areas along the Bonifant Street frontage by this date impractical, the Planning Director may approve a limited site plan amendment to establish a new deadline for completion of the Bonifant Street improvements. Similarly, any adjustments to the location of public open space areas along the Bonifant Street frontage as the result of the Purple Line may be approved by the Planning Director as a limited site plan amendment.

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.

5. Recreation Facilities

- a. Prior to Certified Site Plan approval, the Applicant must demonstrate conformance with the M-NCPPC Recreation Guidelines.
- b. The Applicant must provide at a minimum the following recreation facilities on-site: 6 picnic/sitting areas, a pedestrian system, an indoor community space, and an indoor fitness facility.

6. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities on the Subject Property including, but not limited to pedestrian pathways, landscaping, hardscape, recreation facilities, and public open space.

7. Public Benefits

The Applicant must provide the following public benefits and meet the applicable criteria and requirements of the Zoning Ordinance and the 2012 *CR Zone Incentive Density Implementation Guidelines* for each one:

a. *Transit Proximity*

The Subject Property is located within one-quarter mile of the Silver Spring Transit Center and Metro Station, which allows the development to be eligible for Level 1 transit as defined in the Zoning Ordinance. Final area calculations must be included on the Certified Site Plan.

b. *Connectivity and Mobility*

i. *Minimum Parking*

The Applicant must not provide/construct more than 262 parking spaces.

ii. *Trip Mitigation*

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).

c. *Diversity of Uses and Activities*

i. *Affordable Housing/MPDUs*

- a. The Applicant must provide affordable housing units in accordance with the MPDU recommendations in Montgomery County's Department of Housing and Community Affairs' (MCDHCA) letter dated September 17, 2015, which the Planning Board accepts and hereby incorporates as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDHCA provided that

the amendments do not conflict with other conditions of the Site Plan approval.

- b. Prior to issuance of any residential building permit, the MPDU agreement to build between the Applicant and the MCDHCA must be executed.

d. *Quality Building and Site Design*

i. *Structured Parking*

The Applicant must provide structured parking in a below-grade structure as necessary to achieve 20 public benefit points using the following formula from the *Implementation Guidelines*: $[(A/P)/(A/R)]*10$, where A=the maximum allowed spaces, R=the minimum required spaces, and P=the proposed spaces.

ii. *Tower Step-back*

The Applicant must step back the building's façade a minimum of 10 feet above the second floor façade with a second step back of a minimum of 6 feet, 150 feet above the Georgia Avenue sidewalk. The Certified Site Plan must show the step backs.

e. *Protection and Enhancement of the Natural Environment*

i. *Building Lot Terminations*

Before issuance of the any above-grade building permit, the Applicant must provide proof of purchase and/or payment of BLTs to the MCDPS.

ii. *Cool Roof*

The Applicant must provide a 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.

iii. *Energy Conservation and Generation*

The Applicant must construct the building to exceed the energy-efficiency standards for the building type by 17.5%. Prior to issuance of any residential Use and Occupancy certificates, the Applicant must submit to Staff a Final Energy Performance Report.

iv. *Vegetated Roof*

The Applicant must install a vegetated roof with a soil depth of a minimum of 4 inches covering a minimum of 33% of the building's roof, excluding space for mechanical equipment and cool roof, as shown on the Certified Site Plan.

Transportation & Circulation

8. Pedestrian & Bicycle Circulation

- a. The Applicant must provide 112 private and 4 public bicycle parking spaces, which may be adjusted based on final unit count and square footage of non-residential uses established at Certified Site Plan.
- b. The private bicycle parking spaces must be in a secured, well-lit bicycle room and the public spaces must be inverted-U racks, or approved equivalent, installed in a location convenient to the main entrance (weather protected preferred). The specific location(s) of the bicycle rack(s) must be identified on the Certified Site Plan.
- c. The Applicant must provide a minimum 21-foot wide sidewalk along the Subject Property's frontage on Georgia Avenue and a minimum 20-foot wide sidewalk along the Subject Property's frontage on Bonifant Street. Any adjustments to the Bonifant Street sidewalk width as the result of the Purple Line may be approved by the Planning Director as a limited site plan amendment.

Site Plan

9. Building Height

- a. The massing on the Bonifant Street frontage, including the side facing Georgia Avenue, is limited to a maximum height of 200 feet, as measured from the building height measuring point in accordance with Section 59-4.1.7.C.2. The building height measuring point is the level of the approved curb grade opposite the middle of the front of the building on Bonifant Street.
- b. The primary massing on the Georgia Avenue frontage is limited to 175 feet in height, as measured from the building height measuring point in accordance with Section 59-4.1.7.C.2. The building height measuring point is the level of the approved curb grade opposite the middle of the front of the building on Bonifant Street.

10. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the architectural drawings included in the Certified Site Plan, as determined by Staff.

11. Landscaping

- a. Prior to issuance of any residential Use and Occupancy Certificate, all on-site amenities along the Subject Property's Georgia Avenue and Bonifant Street frontages including, but not limited to, streetlights, sidewalks/pedestrian pathways, hardscape, benches, trash receptacles, bicycle facilities, recreation amenities, including the pedestrian system and picnic/seating areas, and public use space must be installed. However, if the alignment or construction of the

Purple Line makes the completion of these amenities along the Bonifant Street frontage by this date impractical, the Planning Director may approve a limited site plan amendment to establish a new deadline for completion of the Bonifant Street amenities. Further, any minor adjustments in location or type of on-site or public use space amenities (including adjustment to street tree species) along the Bonifant Street frontage as the result of the Purple Line may be approved by the Planning Director as a limited site plan amendment.

- b. Prior to issuance of any Use and Occupancy Certificate for floors 10 through 20, the recreation amenities located on the 2nd floor, including the indoor community space and the indoor fitness facility for the residents, must be installed.
- c. Prior to issuance of the final residential Use and Occupancy Certificate, all rooftop amenities must be installed.
- d. The Applicant must install landscaping no later than the next growing season after completion of site work.

12. Lighting

- a. Prior to issuance of any above-grade building permit, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations.
- b. Deflectors must be installed on all proposed up-lighting fixtures to prevent excess illumination and glare.
- c. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
- d. On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

13. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety as required by Section 59-7.3.4.G.1 of the Montgomery County Zoning Ordinance, with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b. The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, paths and associated improvements.

- c. The bond or surety must be tied to the development program, and completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.
- d. The bond or surety must be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific Certified Site Plan sheets depicting the limits of development.

14. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved by Staff prior to the approval of the Certified Site Plan.

15. 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 letter, stormwater management concept approval letter, development program, and Sketch Plan resolutions, Preliminary Plan resolution and Site Plan resolution on the approval or cover sheet(s).
- b. Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- c. Modify data table to reflect development standards approved by the Planning Board.
- d. Ensure consistency of all details and layout between Site and Landscape Plans.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Ripley East, Site Plan No. 820150130, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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 development satisfies any previous approval that applies to the site;*

The Site Plan conforms to all bindings elements of Sketch Plan No. 320150010 and Sketch Plan Amendment No. 32015001A.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014;*

This section is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

3. *The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

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

4. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

Development Standards

The Subject Property includes approximately 1.4 acres, zoned CR-5.0, C-4.0, R-4.75, H-200T and Ripley/South Silver Spring Overlay Zone. The Application satisfies the applicable development standards as shown in the following data table:

Data Table

Site Plan 820150130 Project Data Table

Section 59-4	Development Standard	Permitted/Required	Approved
	Net Tract Area (sf)	n/a	35,298
	Gross Tract Area (sf)	n/a	60,812
4.5.4.B.2.b	Maximum Density (CR)	5.0 FAR (304,060 sf)	Up to 6.05 FAR (367,606 sf)³
	Non-residential (C)	4.0 FAR (243,248 sf)	Up to 0.25 FAR (15,200 sf)
	Residential (R) ²	4.75 FAR (288,857 sf)	Up to 5.80 FAR (352,406 sf)

² As noted previously, pursuant to Section 59-4.5.2.C.2 of the Zoning Ordinance, for CR zoned properties designated with a "T", residential density may be increased above the number following the R on the zoning map in proportion to any MPDU density bonus achieved under Chapter 25A of the County Code for providing more than 12.5% of the residential units as MPDUs, and total density may be increased above the number following the zoning classification on the zoning map by an amount equal to the residential bonus density achieved.

³ The Application utilizes the optional method of development to develop the Subject Property with up to the maximum density (6.05 FAR, with up to 5.80 FAR in residential uses and up to 0.25 FAR in non-residential uses (retail and/or restaurant) and the maximum height (200 feet) permitted for the Subject

	Dwelling Units	n/a	Up to 360
	MPDUs (% / units)	12.5% / 45 units	15% / 54 units
4.5.4.B.2.b	Building Height (feet)	200 ⁴	Up to 200' on Bonifant Street Up to 175' on Georgia Avenue
4.5.4.B.1	Minimum Public Open Space (%)	5% (1,781 sf)	5% (1,781 sf)
4.5.4.B.3	Min. Building Setbacks		
	East Side	0'	0'
	West Side	0'	0'
	North Side	0'	0'
	South Side	0'	0'
6.2	Parking Spaces, minimum-maximum ⁵		
	Residential	201-441	
	Retail/Service Establishment	53-91	
	TOTAL	254-532	262
	Loading, Accessible Spaces, Motorcycle & Bicycle		
	Loading		2
	ADA spaces		1
	Car Share Spaces		2
	Electric Vehicle Charging Station		3
	Motorcycle/Scooter		6
	Bicycle-Public		4
	Bicycle-Private		112

Section 4.5.4 - Form Standards

The Site Plan conforms to the intent of the form standards, including transparency, blank walls and active entrances. The Application provides significant glass features at the ground-level for transparency as well as activating features on the ground-floor level, including the public plaza, the residential entrance at the corner of Georgia Avenue and Bonifant Street, and retail uses and outdoor seating along both frontages. The western side of the

Property under the CR Zone and Ripley District Overlay Zone (including as the result of provision of 15% MPDUs and the accompanying 22% residential density bonus). Final density and final building heights will be determined at the time of Certified Site Plan.

⁴ Section 59-4.9.11 of the Zoning Ordinance contains the provisions applicable to properties located in the Ripley/South Silver Spring Overlay Zone. Section 59-4.9.11.C.1.b provides that the Planning Board may approve a maximum building height of 200 feet in any CR optional method development project that provides ground-floor retail, as this Project does.

⁵ The parking minimums and maximums are based on 360 multi-family residential units, consisting of 306 market-rate units and 54 MPDUs (Market-rate: 74 studios, 147 one bedroom units, 85 two bedroom units; MPDUs: 13 studios, 26 one bedroom units, 15 two bedroom units). The final number of parking spaces may be adjusted between the minimum and maximum allowed under Section 6.2 of the Zoning Ordinance at the time of building permit based on final unit count and/or bedroom mix and square footage of non-residential uses.

Site Plan contains the parking, loading and bicycle access, and the southern side of the Site Plan abuts the lot located on the corner of Georgia Avenue and Ripley Street. All public and highly visible frontages will feature significant glass features and activating uses. As conditioned, the exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the architectural drawings included in the Certified Site Plan, as determined by Staff.

Division 4.7 Optional Method Public Benefits

In accordance with the Zoning Ordinance, Section 59-4.7.1, the Site Plan provides the following public benefits to satisfy the requirements: Transit Proximity; Connectivity and Mobility; Diversity of Uses and Activities; Quality Building and Site Design; and Protection and Enhancement of the Natural Environment.

Transit Proximity

The Subject Property is located within one-quarter mile of the Silver Spring Metro Station. The Planning Board approves the Applicant's request for 40 points as suggested in the *2012 Commercial/Residential Zones Incentive Density Implementation Guidelines*.

Connectivity and Mobility

Minimum Parking: The Application provides 262 parking spaces, fewer than the maximum number of parking spaces permitted under the Zoning Ordinance. The Applicant requests 9 points. The layout of the parking garage is depicted in the architectural plans and will be included in the Certified Site Plan. The Planning Board approves the Applicant's request.

Trip Mitigation: The Applicant will enter into a binding Traffic Mitigation Agreement to reduce the number of weekday morning and evening peak hour trips to the site in excess of any other regulatory requirement and the agreement must result in a reduction of at least 50% for trips attributable to the site. The Planning Board approves the Applicant's request of 10 points.

Diversity of Uses and Activities

Affordable Housing: Section 59-4.7.3.D.6.a.i of the Zoning Ordinance permits 12 public benefit points for every 1% of MPDUs greater than 12.5%, with any fraction of 1% increase in MPDUs entitling an applicant to an equal fraction of 12 points. The Applicant requests 30 points for providing 15% of the multi-family units as MPDUs. The incentive density points for MPDUs are calculated as a percentage of the total number of dwelling units (360 multi-family units). The Applicant will provide 54 MPDUs, which yields 30 points. The Planning Board approves the Applicant's request.

Quality of Building and Site Design

Structured Parking: The Applicant requests 20 points for structured parking for the parking that will be below grade. The Application provides all parking spaces to be provided in a below-ground parking garage and the layout of the parking garage is depicted in the architectural plans and will be included in the Certified Site Plan. The Planning Board approves 20 points for this benefit.

Tower step-back: Up to 10 points can be granted for stepping back a building's upper floors by a minimum of six feet behind the first floor façade and must begin at a height no greater than 72 feet. A two-story volume, up to approximately 35 feet in height at the retail base, brings the building forward to the property line along Georgia Avenue and Bonifant Street to create a more pedestrian scale and relate to the surrounding retail buildings. The building steps back approximately 10 feet above the second floor and a second step-back on the Georgia Avenue façade is provided at approximately the 150-foot level. The step backs are depicted in the architectural plans and will be included in the Certified Site Plan. The Applicant is requesting 5 points for the tower step-back. The Planning Board approves 5 points for this benefit.

Protection and Enhancement of the Natural Environment

BLTs: Up to 30 points can be granted for the purchase of Building Lot Termination (BLT) easements or payment to the Agricultural Land Preservation Fund (ALPF). The Applicant will purchase BLT easements for 7.2 public benefit points. The Planning Board approves this request.

Cool Roof: The Site Plan includes a cool 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 of SRI of 25 for slopes above 2:12, thus achieving 5 points in this public benefit category. The layout and details of the cool roof are included with the Site Plan application and will be shown on the Certified Site Plan. The Planning Board approves 5 points for this benefit.

Energy Conservation and Generation: Up to 15 points can be granted for constructing buildings that exceed the energy-efficiency standards for the building type by 17.5% for new building. The project is designed to exceed the energy efficiency standards for its building type by 17.5%, through such features as a centralized mechanical system for water source heat pumps and central water heating with heat recovery, energy efficient LED lighting, and low-flow plumbing fixtures. The Applicant has provided an energy/use generation model with comparisons to the average use/generation for the building type based on the Department of Energy Standards. The Applicant requests 10