



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

MCPB No. 10-11
Preliminary Plan No. 120070760
4823 Rugby Avenue
Date of Hearing: February 4, 2010

MAR 24 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on February 4, 2010, 4823 Rugby Avenue, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 1 lot on 9,412 square feet of land in the CBD-1 zone, located on the north side of Rugby Avenue at the intersection of Rugby and Del Ray Avenues ("Property" or "Subject Property"), in the 2006 Woodmont Triangle Amendment to the 1994 Sector Plan for the Bethesda CBD master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070760, 4823 Rugby Avenue ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated February 1, 2010, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on February 4, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

WHEREAS, on February 4, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 3-0, Commissioners Hanson, Presley, and Wells-Harley voting in favor, Commissioner Alfandre being absent, and one seat being vacant.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, including Section 50-35, the Planning Board APPROVES Preliminary Plan No. 120070760 to create 1 lot on 9,412 square feet of land in the CBD-1 zone, located on the north side of Rugby Avenue at the intersection of Rugby and Del Ray Avenues ("Property" or "Subject Property"), in the 2006 Woodmont Triangle Amendment to the 1994 Sector Plan for the Bethesda CBD master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 1 lot for a maximum of 17,238 square feet of general office use that may include up to 2,850 square feet of gross leasable area for general retail use.
- 2) The Applicant must enter into a Traffic Mitigation Agreement (TMAg) to:
 - a. Participate in the Bethesda Transportation Management Organization (TMO) to assist in achieving and maintaining its non-driver mode share goal for employees who work in the Bethesda Transportation Management District (TMD).
 - b. Pay all transportation management fees established by the County to support the Bethesda TMO.
 - c. The TMAg must be signed and executed by all parties prior to release of a building permit.
- 3) The Applicant must provide one inverted-U bike rack within 50 feet of the main entrance within 30 days from the issuance of the use and occupancy permit for the building.
- 4) The record plat must provide for dedication of 30 feet of right-of-way from the centerline for Rugby Avenue along the property frontage.
- 5) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated October 7, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 6) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated January 29, 2010. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 7) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat.

- 8) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 9) Other necessary easements must be shown on the record plat.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff 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 Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the master plan.*

The Property lies within the boundaries of the *2006 Woodmont Triangle Amendment to the 1994 Sector Plan for the Bethesda CBD* area. The Woodmont Triangle Plan does not provide clear guidance for this specific site but the application is subject to the Plan's block 15 area recommendations which reconfirm the existing CBD-1 zone. The Plan also limits the FAR on non-residential development to 1. The Planning Board finds the plan will have an FAR of 1.0 and is in substantial conformance with the Woodmont Triangle Amendment to the Bethesda CBD Sector Plan.

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

Roads and Transportation Facilities

Sector-Planned Roadway and Bikeway

In accordance with the *Bethesda CBD Sector Plan*, Rugby Avenue is designated as a business district street with a recommended 60-foot-wide right-of-way in a bike friendly area. In accordance with the *County Functional Master Plan of Bikeways*, a signed shared roadway, SR-12, is designated along Rugby Avenue.

Rugby Avenue has a continuous sidewalk on the north side from Battery Lane Urban Park past the site to Woodmont Avenue. The Applicant will improve the frontage of the site according to Bethesda streetscape standards.

Sector-Planned Transportation Demand Management

As a proposed office that would employ over 25 persons within the Bethesda Transportation Management District (TMD), the Applicant is required to enter into a Traffic Mitigation Agreement to participate in the Bethesda Transportation Management Organization in order to assist in achieving its non-auto-driver mode share goal for employees working in the Bethesda TMD.

Local Area Transportation Review (LATR)

The Planning Board finds a traffic study is not required to satisfy the LATR test because the proposed lot and associated uses do not generate more than 30 total peak-hour trips within the weekday morning and evening peak periods.

Policy Area Mobility Review (PAMR)

The Applicant must satisfy the PAMR test because the preliminary plan was filed when the *FY 2007-2009 Growth Policy* was in effect. As a development located in the overall Bethesda/Chevy Chase Policy Area, the required trip mitigation is 30% of the new peak-hour vehicular trips generated by the proposed land uses within the weekday morning and evening peak periods. As calculated on the second to the last row in Table 1 on the following page, 17 new trips must be mitigated using countywide trip-generation rates. However, all of these 17 new peak-hour trips are mitigated by the location of the site in a Metrorail station policy area that has viable non-auto transportation alternatives.

In conclusion, the Planning Board finds the PAMR test is satisfied simply by the project being located in the Bethesda CBD Metrorail Policy Area.

Other Public Facilities and Services

The Planning Board finds other public facilities and services are available and will be adequate to serve the proposed commercial building. The site will be served by public water and sewer. Pursuant to Section 50-35(a) of the Subdivision Regulations, the application has been reviewed by the Montgomery County Fire and Rescue Service, which has determined that the Property has appropriate access for fire and rescue vehicles. The school cluster in which the Subject Property lies is currently operating above 105% capacity at some levels, but because no residential development is proposed as part of this project, a school facilities payment is not required. Other public facilities and services, such as police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. Electrical and telecommunications services are also available to serve the Property.

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

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Planning Board finds the application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

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

The Commission has determined that the plan qualifies for an exemption from the Forest Conservation Law as a small property of less than 1.5 acres. This Property is not subject to a Tree Save Plan nor is it within a Special Protection Area.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

A stormwater management concept plan proposing on-site water quality control via a green roof and a flow-based stormfilter was approved on October 7, 2009 by the Department of Permitting Services.

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), as amended) 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 among the Land Records of Montgomery County, Maryland 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 MAR 24 2010 (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).

* * * * *

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 Wells-Harley, seconded by Commissioner Dreyfuss, with Commissioners Hanson, Wells-Harley, and Dreyfuss

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voting in favor of the motion, and with Commissioners Alfandre and Presley absent, at its regular meeting held on Thursday, March 11, 2010, in Silver Spring, Maryland.

A handwritten signature in black ink, appearing to read "Royce Hanson", written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board

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Primary Plan No. 120070760

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