



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

MCPB No. 16-062
 Site Plan No. 820160090
 8015 Old Georgetown Road
 Date of Hearing: November 3, 2016

DEC 12 2016

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, under Section 59-7.7.1.B.1, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on March 9, 2016, Bush at 8015 Old Georgetown Road Associates, LLLP ("Applicant") filed an application for approval of a site plan for a total of up to 198,863 square feet of development, including up to 145,863 square feet of multi-family residential uses, consisting of no more than 107 multi-family dwelling units including a minimum of 15% MPDUs on-site, and a maximum of 53,000 square feet for a church and community center, and a parking waiver from the parking standards pursuant to Section 59-E-4.5 of the zoning ordinance in effect on October 29, 2014, on 2.0 acres of PD-44 zoned-land, located at the north corner of Old Georgetown Road and Glenbrook Road ("Subject Property"), in the Bethesda-Chevy Chase Policy Area and *Woodmont Triangle Amendment to the Bethesda CBD Sector Plan* ("Sector Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820160090, 8015 Old Georgetown Road ("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 October 21, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 3, 2016, 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

Approved as to
 Legal Sufficiency: 

WHEREAS, on November 3, 2016, the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Wells-Harley, seconded by Commissioner Dreyfuss, with a vote of 5-0; Commissioners Anderson, Cichy, Dreyfuss, Fani-Gonzalez, and Wells-Harley voting in favor

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820160090 for a total of up to 198,863 square feet of development, including up to 145,863 square feet of multi-family residential uses, consisting of no more than 107 multi-family dwelling units including a minimum of 15% MPDUs on-site, and a maximum of 53,000 square feet for a church and community center, and a parking waiver from the parking standards pursuant to Section 59-E-4.5 of the zoning ordinance in effect on October 29, 2014, the Subject Property, subject to the following conditions:¹

Conformance with Prior Approvals

1. Development Plan Conformance

The proposed development must comply with the binding elements of the Development Plan G-864.

2. Preliminary Plan Conformance

The proposed development must comply with Preliminary Plan 120160220.

Environment

3. Forest Conservation

The Applicant must comply with the following conditions of the Final Forest Conservation Plan:

- a. Prior to record plat, the Applicant must execute and record in the Montgomery County Land Records a covenant with the Planning Board for the perpetual maintenance and replacement, if necessary, of the afforestation trees, in accordance with the Forest Conservation Plan. The covenant must be in a form approved by the M-NCPPC Office of the General Counsel and must be noted on the record plat.
- b. All credited plantings shall be clearly specified to meet the latest version of the American Standard for Nursery Stock specifications (ANSI Z60.1).
- c. All of the plantings beds and tree locations must be designed/detailed to readily accommodate the root balls of the required plantings without severing or deforming the root balls or encroaching in to neighboring residential property.

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

- d. The credited plantings must consist of only native trees and their associated credit as listed in pages 86-88 of the 1992 Trees Technical Manual. Alternates in the manual may also be specified provided that the overall credit meets or exceeds the required amounts.
 - a. The soil volume within the courtyard in areas associated with credited trees over structure (over the parking structure, subject to Staff approval), to be shown on the Certified Site Plan, to ensure proper tree survivability and any revisions to proposed planting as a result of the required planting volumes must be incorporated into the Final Forest Conservation Plan. Soil volumes must be a minimum of five (5) feet in depth.
4. Noise Attenuation
- a. Prior to issuance of a building permit, the Applicant must provide Staff with certification from an engineer specializing in acoustics that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
 - b. The Applicant must provide a signed commitment to construct the units in accord with these design specifications, with any changes that may affect acoustical performance approved by the engineer and Staff in advance of installation.
 - c. After construction is complete, and prior to issuance of final residential occupancy permits, the Applicant must provide staff with a certification from an engineer specializing in acoustics confirming that the dwelling units were constructed in accord with the approved specifications for noise attenuation.
 - d. If the plan changes in any manner that affects the validity of the noise analysis for acoustical certifications and noise attenuation features, the Applicant must conduct a new noise analysis to reflect the revised plans, and new noise attenuation features may be required.

Public Use Space, Facilities, and Amenities

5. Public Use Space, Facilities, and Amenities
- a. The Applicant must provide a minimum of 47,200 square feet of Green Area on the Subject Property, as illustrated on the Certified Site Plan.
 - b. The Applicant must construct the Bethesda CBD standard streetscape, including, but not limited to, street trees, street lighting, brick paving, and undergrounding of utilities, along the Subject Property's frontage on Old Georgetown Road and Glenbrook Avenue, as shown on the Certified Site Plan, except as modified by design exceptions approved by MCDPS.
 - c. Prior to issuance of the final Use and Occupancy Certificate for each building, all Green Area spaces associated with each building must be completed, as illustrated on the Certified Site Plan.

6. Recreation Facilities

- a. At Certified Site Plan, the Applicant must demonstrate compliance with the M-NCPPC Recreation Guidelines.
- b. The Applicant must provide at a minimum the following recreation facilities: picnic/sitting areas, a multipurpose court, pedestrian system, a swimming pool and an indoor fitness facility.

7. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, pedestrian pathways, landscaping, hardscape, and Green Area.

Transportation and Circulation

8. Bicycle Parking

- a. The Applicant must provide 11 bicycle parking spaces for long-term private use and 4 bicycle parking spaces for short-term public use.
- b. Short-term public bicycle parking must be installed near the main residential entrance to the multifamily building and Green Area.
- c. Long-term bicycle parking must be installed internal to the proposed high-rise residential buildings or garage, for resident use.
- d. Bike parking must be inverted-U racks or approved alternative installed in a location convenient to the main entrance (weather protected preferred) and the Green Area.
- e. The specific locations of the public and private bicycle parking must be identified on the Certified Site Plan.

9. Traffic Mitigation

Prior to issuance of any building permit, the Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and the Montgomery County Department of Transportation (MCDOT) to participate in the Bethesda Transportation Management District. The TMAg must be executed prior to the release of any above-grade building permit for development on the Subject Property exclusive of any sheeting-and-shoring permit. The TMAg must include trip mitigation measures recommended by MCDOT.

10. Department of Permitting Services

The Planning Board accepts the recommendations of MCDPS – Right-of-Way Section in its memorandum dated July 1, 2016, and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the memorandum, which may be amended by MCDPS – Right-of-Way Section provided that the amendments do not conflict with other conditions of the Site Plan approval.

11. Glenbrook Road

Prior to Certified Site Plan, the Applicant must reconfigure the Glenbrook Road access point to be oriented southwest toward Old Georgetown Road to limit non-residential site-generated traffic on Glenbrook Road northeast of the Site.

12. Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Fire Code Enforcement Section in its letter dated September 8, 2016, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

Density and Housing

13. Moderately Priced Dwelling Units (MPDUs)

- a. The Planning Board accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (MCDHCA) in its letter dated July 29, 2016, and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDHCA may amend if the amendments do not conflict with other conditions of the Site Plan approval.
- b. The Applicant must provide a minimum of 15% MPDUs on the Subject Property.
- c. The Applicant must reserve 11 residential parking spaces to offer for sale to the initial MPDU purchasers at the time of purchase of a condominium, but in any event, no later than the date of settlement on the purchased MPDUs. The Applicant may proportionately reduce the number of residential parking spaces offered for sale to MPDU purchasers as the MPDU units are settled. In the event any of the parking spaces reserved for purchasers of MPDUs are not sold as of the date the final MPDU is settled the spaces may be offered to market-rate residents and thereafter there will be no restriction on the sale of parking spaces
- d. Prior to the release of any building permit, exclusive of the sheeting and shoring permit, the Applicant must execute the MPDU Agreement to Build.

Site Plan

14. Building Height

- a. The maximum height of the residential building is limited to 94 feet, as measured from the approved building height measuring point shown on the Certified Site Plan.

- b. The maximum height of the church/community center is limited to 76 feet, as measured from the approved building height measuring point shown on the Certified Site Plan.

15. Site Design

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

16. Landscaping

- a. The Applicant must provide evergreen landscaped buffering along the north and northeast property lines adjacent to any one-family detached dwelling unit, in addition to the deciduous trees provided.
- b. The Applicant must increase the planter bed areas around the four American Yellowwood trees located near the play lot (between the play lot and the bio-planter) and decrease the hardscape area around these four trees to readily accommodate the root balls of the required plantings and provide additional green area.
- c. Prior to issuance of final Use and Occupancy Certificate of the first building constructed on the Property, on-site amenities including streetlights, sidewalks/pedestrian pathways, streetscape and related improvements, and public use space amenities must be installed, as illustrated on the Certified Site Plan.
- d. Prior to issuance of the final Use and Occupancy Certificate or similar final inspection for each building, all on-site amenities including, but not limited to, hardscape, bicycle facilities, and Green Area spaces must be installed, as illustrated on the Certified Site Plan.
- e. The Applicant must install the landscaping no later than the next growing season after completion of construction and site work.

17. Lighting

- a. Prior to approval of the Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the Illuminating Engineering Society of North America (IESNA) recommendations in effect on the date of this resolution for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations in effect on the date of this resolution.
- b. Deflectors must be installed on all 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. All lighting fixtures abutting the adjacent residential properties must have full cut-off shades to minimize potential glare or excess illumination and illumination levels for any light fixtures adjacent the one-family detached dwelling unit located along the north and northeast property lines must not exceed 0.1 footcandles at the shared property line, as illustrated on the Certified Site Plan.

18. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit or sediment and erosion control 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 in accordance with Section 59-D-3.5(d) 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 materials, on-site lighting, recreational facilities, site furniture, retaining walls, fences, railings, curbs, gutters, sidewalks, paths and associated improvements; and
- c. The bond or surety must be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety will be followed by inspection and release of the surety.

19. Development Program

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

20. 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 stormwater management concept approval letter, development program, 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.

- e. Include a note documenting compliance with Binding Element 10 of Development Plan for Local Map Amendment G-864.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of 8015 Old Georgetown Road, Site Plan No. 820160090, 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 Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

The Site Plan is subject to the approved Development Plan G-864. The Site Plan conforms to all of the textual binding elements of the approved Development Plan as shown in the following Table. The uses, densities, heights and setbacks conform to those contained on the Development Plan.

Required	Approved
1. The density of the site will be limited to that permitted in the PD-44 zone, including the MPDU density bonus.	The density of 107 dwelling units, including 15% MPDUs, for which a density bonus is allowed and taken, will not exceed the 44 units per acre, with density bonus, allowed by the zone.
2. Primary access points will be from Old Georgetown Road and Glenbrook Road	As shown on the Site Plan, primary access points are from Old Georgetown Road and Glenbrook Road.
3. Within the 60' setback, measured from the face of curb of the existing Old Georgetown Road, the new buildings will not exceed 50' in height as measured from the terrace grade.	This requirement is met, as shown on the Site Plan and building elevations included with the Application.
4. The maximum height of the residential building will not exceed 94 feet.	The residential building height will be a maximum of 94 feet, as shown on the Site Plan.
5. The maximum height of the church/community center	The church/community center

will not exceed 78 feet.	height will be a maximum of 76 feet, as shown on the Site Plan.
6. The maximum number of dwelling units will be 107, including the 15% MPDUs.	As shown on the Site Plan, the maximum allowed number of total dwelling units is 107, including 15% MPDUs (17 units) on-site. The area of the residential building has decreased, however, from the 175,000 square feet approved in the Development Plan to the 145,863 square feet in the Site Plan.
7. The green space will meet or exceed 50% of the gross lot area.	As shown on the Site Plan, 54% of the gross lot area is to be green space.
8. All green areas (including active/passive recreation rooftop green area) will be accessible to all residents or occupants of the buildings.	All green areas, with the exception of the daycare playground, access to which must be restricted for regulatory compliance purposes, will be accessible to the residents of the residential building, and open areas along the street frontages will be available to users of the church building.
9. Except for emergency vehicles, no direct access from Rugby Road is permitted.	Vehicular access from Rugby Avenue through the Subject Property is limited to emergency vehicles.
10. The pedestrian path from Rugby Road to Glenbrook Road is to be opened to the public.	As shown on the Site Plan, a pedestrian pathway is provided from Rugby Avenue to Glenbrook Road and this pathway will be open to the public.
11. The location and footprint of the buildings, including the minimum setbacks, as shown on the Development Plan, are intended to set the location of the buildings. However, minor adjustments to the buildings' location will be permitted at site plan review to satisfy environmental site design and stormwater management requirements.	The locations and footprints of the buildings are consistent with those shown on the Development Plan, with the exception of a new 20-foot separation between the residential and church/community center buildings. This separation was necessitated by the need to provide stormwater management facilities in accordance with current code requirements on the site. As shown on the Site Plan and related documents, including the concept

	<p>stormwater management plan included with the Application, this area will contain microbioretention facilities to assist in stormwater management on the Subject Property. No other changes to building footprint and location are proposed.</p>
<p>12. The upper three floors of the north wing of the residential building facing Rugby Road will be stepped back on a 1:1 ratio reflecting a 10-foot setback on each of the floors.</p>	<p>As shown on the architectural plans included with the Application, the residential building will be stepped back in accordance with this requirement.</p>

2. The Site Plan meets all of the requirements of the zone in which it is located.

Requirements of the PD-44 Zone

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the PD-44 Zone.

Section	Development Standard	Per Approved Development Plan G-864	Approved and Binding
	Gross Tract Area (sf)	87,132	87,132
	Old Georgetown Rd Dedication	4,966	4,966
	Glenbrook Road Rd Dedication	1,990	1,990
	Rugby Road	371	371
	Net Tract Area (sf)	79,805	79,805
59-C-7.14	Maximum Density		
	Gross Floor Area (sf)		
	Residential Building	175,000	145,863
	Church and Community Center	53,000	53,000
	Total Gross Floor Area	228,000	198,863
Dwelling Units (44 du/ac)	90	90	
MPDUs (% / units on-site)	15% / 17 units	15% / 17 units	
Total Number of Dwelling Units	107	107	
	Building Height (feet)		
	Residential Building	94'	94'
	Church and Community Center	76'	76'
59-C-7.16	Minimum Green Area (%)	50% (43,566)	54% (47,200)
	Min. Building Setbacks		
	Old Georgetown Road (from face of curb)	49'	49'
	Glenbrook Road (from face of existing curb)	32'	32'
	West Side Property Line	24.7'	25'
	Rear North Property Line	56.4'	57'
59-E	Parking Spaces, minimum-maximum per Zoning Ordinance		
	Residential (107 units)		
	1 bedroom – market rate	34	
	2-bedroom – market rate	83	
	3-bedroom – market rate	16	
	1-bedroom – MPDU	4	
	2-bedroom – MPDU	9	
	TOTAL RESIDENTIAL	146	11 spaces to be provided for MPDUs
	Church (350 Seats) ²	62	62
	TOTAL	208	180 ³
	Loading, Accessible Spaces, Motorcycle & Bicycle		
	Bicycle Parking	11	11
	Motorcycle Parking	5	5
	Loading	1	1

Section 59-C-7.131- Residential Uses

Section 59-C-7.131 of the Zoning Ordinance provides that all types of residential uses are permitted in the PD-44 Zone, and that a residential development proposing fewer than 200 units, as is provided in this Application, may consist of 100% multi-family units. Here, the Applicant will redevelop the Subject Property with a multi-family residential building consisting solely of 107 multi-family residential units.

Section 59-C-7.133 – Other Uses

With regard to the non-residential portion of the Application, Sections 59-C-7.133(a) and (b) of the Zoning Ordinance, governing “other uses” in the PD-44 Zone, provide that “Noncommercial community recreational facilities which are intended exclusively for the use of the residents of the development and their guests may be permitted,” and that “Any nonresidential noncommercial use may be permitted at the discretion of the district council on a finding that it is compatible with the planned development and satisfies the requirements of Section 59-C-17.15.” In its approval of the rezoning of the Subject Property, the District Council reviewed these requirements and explicitly found that the community center proposed in the development would be used by residents, as well as non-residents, and that the shared parking and use arrangements would facilitate the use of the Subject Property by both residents and the church and community center. In so finding, the District Council approved of the non-residential components of the development as part of its approval of the rezoning of the Property to the PD-44 zone.

Section 59-C-7.11 – Purpose

The Application complies with the goals, objectives and purposes of the PD-44 Zone as set forth in 59-C-7.11 of the Zoning Ordinance, and is in substantial compliance with the goals, objectives and recommendations of the 2006 *Woodmont Triangle Amendment to the Bethesda CBD Sector Plan*, which encourages the provision of new housing in the Sector Plan area and specifically recommends PD-44 Zoning for the Subject Property, “provided that issues of compatibility with existing single family homes can be addressed.” Compatibility issues were addressed to the satisfaction of the Council in its approval of the Local Map Amendment associated with this development, and a compatibility analysis is included in this Resolution for the Board’s approval of this Application. The heights of the buildings will follow the Sector Plan’s tenting principles and the Sector Plan’s height recommendations for properties along Old Georgetown Road and will achieve the Sector Plan’s goal of improving the safety and character of the existing streets through the streetscape improvements provided by the Site Plan.

² Church parking at 1 space per 4 seats with a 30% reduction for proximity to public parking. Auburn – Del Ray Garage (Parking Garage 36), located at 4910 Auburn Avenue, is within 500 feet of the church.

³ Consistent with a parking waiver granted pursuant to Section 59-E-4.5 of the Zoning Ordinance.

This Application is also consistent with the remaining purposes of the PD-44 Zone to provide for social and community interactions, visual character and mixture of uses. The Application provides for a mixture of residential and institutional uses. The variety of these uses, coupled with the significant amount of open space, will create opportunities for congregation and social and community interaction among not only residents of the multi-family residential building, but also the congregants of the church and members of the neighboring communities. Additionally, the residential aspect of the Application will provide a range of housing types, including MPDUs on-site, that will serve to increase the available stock of housing in the Sector Plan area. The Application will provide a convenient, comprehensive and safe pedestrian circulation network that will allow residents and pedestrians to safely and conveniently access both the Subject Property and adjacent rights-of-way.

The Application meets the PD-44 Zone's goals of minimizing the amount of grading required and taking the greatest possible aesthetic advantage of trees. There will be little grading needed in light of the existing terrace along Old Georgetown Road. Regarding trees, tree variances were granted as part of the associated Forest Conservation Plan to remove five trees and slightly impact a sixth. All trees approved for removal will be replaced with species that are hardier and more appropriate for the setting, and which will create a nice green aesthetic for the Site Plan.

Section 59-C-7.15 – Compatibility

This section requires that the uses in the Application be compatible with each other and with other existing or proposed uses adjacent to or within the proximity of the area of the Application. The layout of the site, articulation of the buildings and incorporation of significant setbacks and open areas into the site design ensure a compatible relationship between the development and adjacent area, as discussed in further detail in findings 3 and 4.

Section 59-C-7.16 – Green Area

Properties classified in the PD-44 must devote at least 50% of their gross lot area to green space. This Application exceeds this requirement by devoting at least 54% (or 47,200 square feet) to green space.

Section 59-C-7.17 – Dedication of Land for Public Use

This section requires that land necessary for public streets, parks, schools and other public uses be dedicated to public use and that such dedications be reflected on the Site Plan. Preliminary Plan No. 120160020, being reviewed concurrently with this Site Plan, identifies the necessary dedications along Old Georgetown Road and Glenbrook Road.

Section 59-C-7.18 – Parking Facilities

This section requires that off-street parking be provided in accordance with the provisions of Section 59-E, governing off-street parking and loading. The Applicant requested a waiver of the required parking standards, and based on the analysis below, the Planning Board grants the requested waiver.

Section 59-E-4.5 Waiver of parking standards

The Application included a request for a waiver from the standard parking requirements of Section 59-E to allow the Applicant to provide 180 parking spaces to serve the development. Under Section 59-E-4.5, the Planning Board is authorized to grant the requested parking waiver where it finds that the requirements to be waived are not necessary to accomplish the objectives in Section 59-E-4.2. Those objectives are:

- (a) The protection of the health, safety and welfare of those who use any adjoining land or public road that abuts a parking facility. Such protection shall include, but shall not be limited to, the reasonable control of noise, glare or reflection from automobiles, automobile lights, parking lot lighting and automobile fumes by use of perimeter landscaping, planting, walls, fences or other natural features or improvements.
- (b) The safety of pedestrians and motorists within a parking facility.
- (c) The optimum safe circulation of traffic within the parking facility and the proper location of entrances and exits to public roads so as to reduce or prevent traffic congestion.
- (d) The provision of appropriate lighting, if the parking is to be used after dark.

The 180 spaces will be in a below-grade parking facility, beneath the approved structures. As such, the parking associated with the Site Plan will not impact adjoining land or public roads, as the typical impacts from a parking facility, including noise, glare and lighting, will be contained within the underground facility, outside of the view of adjacent properties or roads.

Pedestrian circulation around and through the Subject Property will be largely unaffected by the parking facility which, again, will be below-grade. The parking structure itself has been designed to appropriately direct users through the garage and minimize motorist conflicts, as explained more fully below. The parking garage will be appropriately lit to ensure the safety of users at all times of day and night.

Only two points of access to the garage are approved. Traffic associated with the residential portion of the Site Plan will utilize the service drive connecting to Old Georgetown Road. Daycare drop-off and pick up will enter the garage from the Old Georgetown Road access drive and continue through the site to exit onto Glenbrook Road, eliminating any potential conflicts or congestion associated with drop-off and pick-up occurring at a single access point. Church and community center traffic will be directed to the Glenbrook Road access point, separating such traffic from the residential access and minimizing conflicts.

Parking was discussed extensively at the public hearing on this Application, and an adjacent property owner raised several specific concerns through his attorney, David Brown. Mr. Brown took issue with the fact that the Application had been modified during its review by Staff to include 180 parking spaces, rather than the 220 originally proposed. Mr. Brown also challenged Staff's calculations of the number of parking spaces required by the Zoning Ordinance without the requested waiver.

Based on Staff's testimony, the Planning Board finds that the modification to the proposed number of parking spaces did not violate any rules or regulations applicable to the development review process. Applicants often modify their development applications after submission in response to Staff comments or changed circumstances, and under Planning Department procedures, such changes are not automatically made publicly available online. However, citizens who request the current status of an application are routinely provided that information by Staff. Moreover, under the Planning Board's Rules of Procedure, all interested parties are given notice of a final development application ten days before the Planning Board's public hearing on the item, when the Planning Department posts its staff report on the application on the Board's website. The staff report on this Application was posted in accordance with the Rules of Procedure.

The Board also finds Mr. Brown's claims that Staff did not appropriately calculate the standard parking requirements for this Application unpersuasive in its decision to grant the requested parking waiver. At the public hearing the Board agreed that given the Subject Property's immediate proximity to downtown Bethesda and its Parking Lot District, 180 parking spaces is more than adequate to support all of the uses included in this Application. In making this decision, the Board also took into account the many public transit options available to the Subject Property, the proximity of the public Auburn – Del Ray parking garage to the Subject Property, the availability of 62 church parking spaces for potential shared parking, and the recommendations of the Department of Housing and Community Affairs ("DHCA") regarding the appropriate parking for the MPDUs included in the Application.

Accordingly, the Planning Board finds that the standard parking requirements associated with this Application are not necessary to accomplish the objectives in Section 59-E-4.2, and with the conditions of approval for this Application, the Board approves the Applicant's request for a parking waiver.

Loading Space Design Exception

MCDOT and MCDPS would typically require the Application to provide two loading bays. However, the Applicant is requesting a design exception from this standard to allow only one loading bay. Reducing the number of loading spaces will reduce noise, enhance pedestrian safety, will provide safe circulation of traffic, and will not negatively impact the provision of appropriate lighting. MCDOT has approved a design exception to reduce the number of loading spaces from two to one, which the Planning Board also concludes is appropriate.

3. *The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

- a. Buildings and Structures

The overall site design, building locations, and accompanying setbacks are appropriate and compatible with the surrounding area. The building locations and circulation systems conform to the locations shown on the approved Development Plan. The church/community center and residential components of the development have now been separated by twenty feet into two distinct structures, thereby reducing the massing and scale of the development as viewed from Old Georgetown Road, as well as adjacent residential areas, enhancing the compatibility of the development with the adjacent area. Additionally, as part of the Application, and partly as a by-product of the separation between the components, the residential density has been reduced by approximately 25,000 square feet, resulting in a smaller building footprint than that approved in the Development Plan, which also enhances compatibility.

- b. Open Spaces

The green area complies with the approved Development Plan and is compatible with surrounding land uses and appropriate to serve the uses included in this Application. The Application has a 50% percent Green Area requirement and includes 54% Green Area, totaling 47,200 square feet. Regarding landscaping and open spaces, as part of the Application, at-grade green space has been increased by approximately 3,000 square feet and, as shown on the Landscape Plan included with the Application, the significant open spaces provided as part of the development will

provide a buffer between the development and single-family residential areas to the east and north. The Subject Property will have significant landscaping both in these areas and throughout the development, including a significant tree canopy that will integrate the development into the neighborhood and provide significant screening of the development from adjacent properties.

c. Landscaping and Lighting

Landscaping and lighting, as well as other site amenities, will be provided to ensure that these facilities will be safe, adequate, and efficient for year-round use and enjoyment by residents and visitors. The Site Plan will transform the existing streetscape along the frontage on Old Georgetown Road and Glenbrook Road by undergrounding utilities and providing new street trees, improved, wider sidewalks, street lighting, and street furniture. The on-site lighting will limit the necessary light levels to streets and sidewalks. The Site Plan also includes landscaping and lighting in the courtyard and on the rooftop to provide an attractive outdoor environment for use by the residents and visitors. Site furnishings will be integrated within the Subject Property to create a unique and interesting place and ensure accessibility and comfort.

d. Recreation Facilities

In addition, the Site Plan meets the active and passive recreation space required by the zone. The development will provide the following on-site recreation facilities: picnic/sitting areas, a multipurpose court, pedestrian system, a swimming pool and an indoor fitness facility. The development meets the required supply of recreation facilities based on the calculation methods in the M-NCPPC Recreation Guidelines. The development will provide adequate, safe, and efficient recreation facilities to allow residents to lead an active and healthy life.

e. Vehicular and Pedestrian Circulation

Vehicular access to the multi-family building parking garage is proposed directly off Old Georgetown Road via a new private driveway adjacent to the Bethesda Rescue Squad Driveway. Vehicular access to the expanded daycare facility and religious use will be from the new private driveway off Old Georgetown Road as well as a new private driveway off Glenbrook Road in the following configuration: daycare users will enter the Subject Property from Old Georgetown Road via the new private driveway and will exit the Subject Property via the access point on Glenbrook Road; the religious use will have access from both the Old Georgetown Road driveway as well as a new driveway on Glenbrook Road. Pedestrian and bicycle circulation will be accommodated by the frontage sidewalk, which

will be improved to business district standards because of the Application, as well as pathways through the open space.

In response to resident concerns about the potential for increased non-residential traffic on Glenbrook Road east of the Subject Property, the Planning Board has required the Applicant to reconfigure the Glenbrook Road access point so that it is oriented west toward Old Georgetown Road. This orientation will limit non-residential traffic on Glenbrook Road east of the Subject Property and is anticipated to mitigate potential negative impacts of non-residential traffic on the single-family homes east of the Subject Property. It should be noted that the adjacent residents also suggested that a traffic signal be required at the intersection of Old Georgetown Road/ Glenbrook Road, which, based on the recommendations of Staff and the Maryland State Highway Administration, the Board concludes is impractical.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The two structures are located along the southwestern edge of the Subject Property. This serves both to maintain the streetwall along Old Georgetown Road, which has an 8-story commercial building on the next block, and to provide a measure of physical separation from the lower-scaled single-family residential buildings along the northeastern edge of the Subject Property. The church structure is oriented parallel to Old Georgetown Road, further accentuating the separation. Additionally, the massing of the multi-family structure steps down from the tallest portion along Old Georgetown towards the nearby residences.

The multi-family residential use compliments the existing rental apartment and condominium development located between Old Georgetown and the National Institutes of Health campus. The existing religious institution use, which is being maintained on the site, remains compatible as a civic use in the community.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

- A. Forest Conservation

As conditioned, the Final Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The application is subject to the Montgomery County Forest Conservation Law and in particular Section 22A-12(f)(2)(D) of the Forest Conservation Law, which requires afforestation requirements to be met onsite.

The latest version of the Forest Conservation Plan was submitted through ePlans on July 26, 2016. Although no forest exists onsite, the Application is subject to an afforestation requirement of 0.33 acres. As originally shown in the Preliminary Forest Conservation Plan considered by the Planning Board as part of the Local Map Amendment No. G-864 ("2009 PFCP"), the Forest Conservation requirements will be satisfied with onsite credited landscape plantings consisting of native trees, some of which will be located over underground parking.

It is important to note that the Planning Board allows forest conservation credit for plantings over structures in only very limited cases. To ensure the long-term viability of such plantings in this case, this approval is conditioned on the Applicant recording a covenant for the perpetual maintenance and replacement, if necessary, of the afforestation trees in accordance with the Forest Conservation Plan.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

During its review of Local Map Amendment No. G-864, the Planning Board reviewed and approved an initial variance request for this development through its approval of the 2009 PFCP. The 2009 PFCP showed the removal of five Protected Trees. The Applicant's current Forest Conservation Plan shows removal of the same five Protected Trees, and a slight increase to the projected impacts to one additional tree. As part of its review of the FFCP, the Planning Board has considered the proposed impacts/removals to all six Protected Trees.

In accordance with Section 22A-21(a) of the Forest Conservation Law, the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

This Application minimizes impacts to Protected Trees to the greatest extent possible while still permitting the Applicant to develop its property in a manner consistent with applicable regulatory requirements. Granting the Variance is also consistent with the Planning Board's previous decision to grant the 2009 PFCP, except for a *de minimis* additional impact to a sixth Protected Tree. Therefore, the variance request would be granted to any Applicant in a similar situation.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The need for the variance is based on the proposal to develop the Subject Property as allowed under the existing zoning and as necessary to achieve adequate site access. Impacts have been minimized to the extent practicable, and necessary mitigation will be provided.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The need for the variance is based on the proposal to develop the Subject Property and all improvements within the net tract area in accordance with applicable regulatory requirements, not land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality. The Department of Permitting Services staff approved the stormwater management ("SWM") concept for the project on March 7, 2016. The SWM concept proposes to meet required stormwater management goals using micro-bioretenion planter boxes, with the remaining volume to be treated using an underground filter. Additionally, the Subject Property is not directly associated with any streams, wetlands

or related buffers, and the Applicant is required to mitigate for all Protected Trees approved for removal.

Mitigation for Trees Subject to the Variance

Planting mitigation for the five Protected Trees approved for removal must be at a rate that approximates the form and function of the trees removed, at a ratio of approximately 1" diameter at breast height ("DBH") for every 4" DBH removed, using trees that are a minimum of 3" caliper. This means that for the 188 diameter inches of tree to be removed, the Applicant must provide replacement trees totaling at least 47 inches DBH. Therefore, the mitigation requirements will be more than satisfied by the Applicant's planting supplement of 50 caliper inches of onsite trees. The Applicant will accomplish this mitigation by planting larger-caliper trees on the Subject Property than would otherwise be required. This practice is appropriate given the unique history of this case and the fact that on other projects with limited space and planting opportunities, the Board has allowed applicants to upsize their mitigation plantings and provide fewer but larger trees.

The Planning Board does not recommend mitigation plantings for variance trees that are retained and not overly impacted.

C. Stormwater Management

The MCDPS Stormwater Management Section approved the stormwater management concept on March 7, 2016. According to the approval letter, the stormwater management concept meets stormwater management requirements via environmental site design to the maximum extent practicable through the use of micro-bioretenion boxes, with the remaining volume to be treated using an underground filter.

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 this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

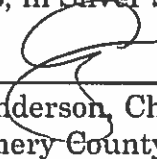
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is DEC 12 2016 (which is the date that this resolution is mailed to all parties of record); and

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 Vice Chair Wells-Harley, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Fani-González and Cichy voting in favor, and Commissioner Dreyfuss absent at its regular meeting held on Thursday, December 8, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board