



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

MCPB No. 17-079
Site Plan No. 82016012A
Brightview Bethesda
Date of Hearing: September 7, 2017

SEP 13 2017

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 22, 2016, the Planning Board, by Resolution MCPB No. 16-058 (corrected by the Planning Board on September 16, 2016 and again on March 22, 2017), approved Site Plan No. 820160120, for an assisted living facility consisting of up to 89,780 Square feet of assisted living use, consisting of up to 120 assisted living units, and up to 3,125 square feet of nonresidential (retail restaurant, or service) uses on 0.59 acres of CR-3.0 C-1.0 R-2.75 H-90T zoned-land, located in the northeast quadrant of the intersection of Rugby Avenue and Glenbrook Road ("Subject Property"), in the Bethesda CBD Policy Area and *Bethesda Downtown Sector Plan* ("Sector Plan") area; and

WHEREAS, on July 21, 2017, Shelter Development, LLC ("Applicant") filed an application for approval of an amendment to the previously approved site plan to delete the small business opportunity public benefit subcategory and associated public benefit points; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 82016012A, Brightview Bethesda ("Site Plan," "Amendment," 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 August 25, 2017, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 7, 2017, 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

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WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82016012A to delete the small business opportunity public benefit subcategory and associated public benefit points by modifying the condition 5 of the original site plan, as follows:¹

5. Public Benefits

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

c. Diversity of Uses and Activities

i. Enhanced Accessibility for the Disabled

The Applicant must provide 25% of the assisted living units as units that satisfy the ANSI A117.1 Residential Type A Standards for accessibility, or an equivalent County standard.

~~ii. Small Business Opportunities~~

~~The Applicant must allocate all of the commercial space in the building to small businesses. Each retail space may not exceed 5,000 square feet in floor area. The retail spaces must be restricted for at least six years. Prior to submission of a building permit application, the Applicant must record a covenant in the County land records that reflects these restrictions.~~

BE IT FURTHER RESOLVED that all other Site Plan conditions of approval for this project remain valid, unchanged and in full force and effect; and

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Brightview Bethesda, 82016012A, 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 set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference (except as modified

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.

herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan, and all findings not specifically addressed remain in effect.*

In its resolution of July 22, 2016 (revised March 22, 2017), approving Site Plan 820160120, the Planning Board found that the original site plan satisfied any previous approvals that applied to the site; was not subject to binding elements of any development plan; was not subject to a zoning classification that was the result of a local map amendment, satisfied the applicable use standards, development standards, and general requirements under the Zoning Ordinance; satisfied the applicable requirements of Chapters 19 and 22A of the Montgomery County Code; provided safe, well-integrated parking, circulation patterns, building massing, open spaces, and site amenities; substantially conformed to the recommendations of the *Woodmont Triangle Amendment to the Bethesda CBD Sector Plan*; will be served by adequate public facilities; and was compatible with existing and approved or pending adjacent development.

One of the approved subcategories, in which the Application was awarded 10 points, was for the provision of small business opportunities. The Applicant had intended to lease the building's retail space to two small, neighborhood-oriented businesses – a coffee shop and a hair salon. However, as the Applicant began to prepare the necessary restrictive covenants and examine how a small business is defined, it was determined that the proposed tenants would not qualify for this designation. For this reason, and because the Applicant still intends to lease the spaces to the same tenants that were previously identified, the Applicant seeks to amend the sketch and site plans to remove the small business opportunity subcategory and reduce the number of benefit points accordingly. This Application reduces the total number of public benefit points from 176.7 to 166.7, which continues to exceed the required 150 points.

When the previous application was approved, it was subject to the *Woodmont Triangle Amendment to the Bethesda CBD Sector Plan*. After approval of the previous application, the recently-adopted *Bethesda Downtown Sector Plan* became effective. The current Application to modify the public benefit subcategories and points is very minor in nature and does not affect the previous finding of substantial conformance, and is in substantial conformance with the *Bethesda Downtown Sector Plan*.

2. The public benefits are modified as shown below:

Site Plan Public Benefits Calculations			
Public Benefit	Incentive Density Points		
	Approved in Concept Under Sketch Plan	Requested	Approved
4.7.3.B: Transit Proximity	20	20	20
4.7.3.C: Connectivity and Mobility			
Minimum Parking	10	10	10
Transit Access Improvement	10	10	10
Wayfinding	5	5	5
4.7.3.D: Diversity of Uses and Activities			
Small Business Opportunity	10	10	10 0
Enhanced Accessibility for the Disabled	20	20	20
4.7.3.E: Quality of Building and Site Design			
Structured Parking	20	20	20
Public Art	15	15	15
Exceptional Design	5	5	5
Architectural Elevations	10	20	20
4.7.3.F: Protection and Enhancement of the Natural Environment			
Building Lot Termination (BLT)	2.6	1.7	1.7
Energy Conservation and Generation	5	5	5
Vegetated Wall	10	10	10
Vegetated Roof	15	15	15
Cool Roof	10	10	10
Recycling Facility Plan	5	5	0
TOTAL	172.6	181.7	176.7 166.7

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 § 59-7.3.4.H; 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 SEP 13 2017 (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 Cichy, seconded by Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, September 7, 2017, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board