



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

MCPB No. 17-123  
Site Plan No. 820170110  
Westbard Self-Storage  
Date of Hearing: December 14, 2017

**JAN 12 2018**

**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 April 26, 2017, Bethesda Self Storage Partners, LLC, ("Applicant") filed an application for approval of a site plan for construction of a new self-storage facility with a maximum total density of 195,527 square feet of self-storage uses, including 107,030 square feet of Gross Floor Area (GFA) derived from the tract area, and 88,497 square feet of "cellar" area that is excluded from the definition of GFA under Section 59.1.4.2, on 0.98 acres of IM-2.5 H-50-zoned-land, located at 5204 River Road ("Site," "Property", or "Subject Property"), in the Westbard Sector Plan ("Sector Plan") area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820170110, Westbard Self-Storage ("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 December 4, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 14, 2017, the Planning Board held a public hearing at which it heard testimony and received evidence on the Application; and

WHEREAS, on December 14, 2017, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Fani-Gonzalez, with a vote of 4-0; Commissioners Anderson, Dreyfuss, Fani-Gonzalez, and Patterson voting in favor, with Commissioner Cichy being absent.

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Approved as to  
Legal Sufficiency

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NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820170110 for construction of a new self-storage facility with a maximum total density of 195,527 square feet of self-storage uses, including 107,030 square feet of Gross Floor Area (GFA) derived from the tract area, and 88,497 square feet of "cellar" area that is excluded from the definition of GFA under Section 59.1.4.2., the Subject Property, subject to the following conditions:<sup>1</sup>

### **Conformance with Previous Approvals**

1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120170280.

### **Density**

2. Maximum Density

This Site Plan is limited to 195,527 square feet of total development, including up to 107,030 square feet of Gross Floor Area (GFA) allowed under the development standards of the zone, and up to 88,497 square feet of cellar space excluded from the definition of GFA per Section 59.1.4.2.G.

### **Environment**

3. Forest Conservation

The Applicant must obtain Staff certification of the approved Final Forest Conservation Plan (FFCP) from the Planning Department prior to clearing, grading or demolition. The Final Forest Conservation Plan must address the following:

- a. Clarify net tract on the FCP to reflect dedication of Willett Branch parcels. Revise tables, notes, and figures accordingly.
- b. Expand the LOD (on all applicable sheets) to address demolition of existing dilapidated pavement surfaces and dumped materials on Lot 1 (revisions subject to Staff approval).
- c. Prior to clearing, grading and demolition the forest conservation requirements must be addressed by a fee-in-lieu payment to satisfy the required credits as determined in the certified Forest Conservation Plan.
- d. Clarify interim treatment for the area below the existing retaining wall (which is currently paved) and in the Phase 1 LOD for grading and utility work.

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<sup>1</sup> 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.

## **Open Space, Facilities and Amenities**

### **4. 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, and hardscape areas.

## **Transportation & Circulation**

### **5. Subdivision Staging Policy**

Consistent with the Subdivision Staging Policy requirements, the Applicant must make good-faith efforts to secure permission from the abutting property to the north (McDonald's) to provide an ADA-compliant pedestrian curb ramps on the Site frontage, between the on-Site sidewalk and existing sidewalk along New Connector Road (B-2). As determined by Staff, if the Applicant is unable, after good faith efforts, to obtain permission to conduct the work, and the Applicant has provided reasonable evidence of its good faith efforts, within a reasonable time period in advance of the final use and occupancy permit, it will be deemed that the Applicant has otherwise met this Condition.

### **6. Bicycle Parking**

The Applicant must provide 11 long-term bicycle parking spaces in a secured, well-lit area adjacent to the parking area. The specific location of the bicycle parking area must be identified on the Certified Site Plan.

## **Site Plan**

### **7. Building Height**

The building is limited to a maximum height of 50 feet as measured from the building height measurement point illustrated on the Certified Site Plan.

### **8. Architecture**

- a. The Applicant must set the building back along the north façade a minimum of 20 feet, as measured from the base of the confronting off-Site retaining wall for the McDonalds restaurant.
- b. The Applicant must locate the building outside of the stream valley buffer identified on the approved NRI/FSD, as illustrated on the Certified Site Plan.
- c. 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.
- d. Prior to Certified Site Plan, the Applicant must provide for Staff review and approval additional enhancements to the west building façade,

including the transition to the north façade.

9. Landscaping

- a. Prior to issuance of the final Use and Occupancy Certificate, all on-Site amenities shown on the Certified Site Plan including, but not limited to, streetlights, sidewalks/pedestrian pathways, hardscape, benches, trash receptacles, bicycle facilities, and recreation amenities must be installed.
- b. The Applicant must install landscaping no later than the next growing season after completion of Site work.
- c. The Applicant must revise and expand the plant list to specify more native canopy trees.
- d. The Applicant must provide more shade-tolerant species for the area between the existing retaining wall and north side of the proposed building.
- e. The Applicant must provide a rill or other similar aesthetically pleasing surface drainage method to convey the water flows which regularly emanate from the existing retaining wall near the north side of the Property, as illustrated on the Certified Site Plan. If, within a reasonable time period in advance of the final use and occupancy permit, as determined by Staff, the Applicant is unable, after good faith efforts, to obtain permission to conduct the work or record the necessary easements from the owner of the off-Site portion of the path, the Applicant must provide only the on-Site portion.

10. Lighting

- a. Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting for this connection and for the rest of the Site conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b. All onsite down-lights must have full cut-off fixtures.
- c. Deflectors will be installed on all fixtures to prevent excess illumination and glare.

11. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Permit, exclusive of permits for demolition, sheeting and shoring, and associated sediment control, 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 59.7.3.4.K.4 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, indoor and outdoor recreational facilities, Site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads and sidewalks, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and street lights, and Phase 1 and Phase 2 of the Outlet Road shared-use path. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a Site Plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.
- d) The bond or surety shall 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.

#### 12. 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. Add a note stating that "Minor modifications to the limits of disturbance shown on the Certified 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."
- b. Ensure consistency of all details and layout between Site and Landscape Plans.
- c. Applicant must revise Site Plan such that the western end of the Outlet Road corridor curves southwards, so that the north edge of the Outlet Road pathway corridor lines up with the existing row of bollards on Parcel P240.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Westbard Self-Storage, Site Plan No. 820170110, 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.*

As conditioned, the Site Plan conforms to the concurrent Preliminary Plan 120170280.

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

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.*

- a. Development Standards

The Subject Property includes approximately 0.98 acres zoned IM-2.5 H-50. The Application includes a maximum total density of 195,527 square feet of self-storage uses. This includes 107,030 square feet of Gross Floor Area (GFA) derived from the tract area, and 88,497 square feet of "cellar" area, defined in Zoning Ordinance Section 59.1.4.2 as "the portion of a building below the first floor joists of which at least half of the clear ceiling height is below the average elevation of the finished grade along the perimeter of the building."

The Planning Board received testimony questioning the appropriateness of the Application's inclusion of a substantial amount of "cellar" area that is not part of the project's GFA. However, as described in the Staff Report and discussed at the public hearing, a "cellar" is expressly excluded from the definition of GFA under Zoning Ordinance Section 59.1.4.2. During building permit review, the Montgomery County Department of Permitting Services (MCDPS) will evaluate the Applicant's construction documents and ensure

that the Applicant is permitted to build only the GFA and cellar area that meets the Zoning Ordinance definition up to the maximum approved by the Planning Board.

The Application satisfies the applicable development standards as shown in the following data table:

**Data Table**

<b>Section 59.4</b>	<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Approved and Binding on the Applicant</b>
	<b>Tract Area (Square Feet)</b>	n/a	<b>42,812 (0.98 acres)</b>
	<b>ROW Dedication (min.)</b>	n/a	<b>579</b>
	<b>Site Area (max.)</b>	n/a	<b>42,233 (0.969 acres)</b>
<b>4.8.2.A.1</b>	<b>Maximum Density (FAR/SF)</b> IM-2.5 H-50	2.5/107,030	2.5/107,030
	Cellar area exempt from Gross Floor Area per 59.1.4.2.G		88,497
	<b>Total</b>		<b>195,527</b>
<b>4.8.2.A.1</b>	<b>Building Height (feet)</b> IM-2.5 H-50	50 feet	50 feet
<b>4.8.3.A.1</b>	<b>Amenity Open Space (minimum)</b> Public Open Space (% of Site/sf.)	10/4,223	40.2/16,974
<b>4.8.3.A.3</b>	<b>Minimum setbacks</b>		
	Front	10 feet	33 feet
	Rear	10 feet	19 feet
	North Side	10 feet	10 feet
	South Side	0 feet	11.5 feet
<b>6.2.4.B</b>	<b>Parking spaces, minimum</b>		
	Vehicular	12	18
	Bicycle	11	11

b. General Requirements

i. *Site Access*

Vehicular ingress/egress to the Site will be from the County-owned service road and will use an access aisle shared with the Property to the south, utilizing a shared-access easement with the Property. The entry will be approximately 115 feet from River Road and will provide satisfactory general vehicular, pedestrian, and bicyclist access.

ii. *Parking, Queuing, and Loading*

The Application provides satisfactory parking, queuing, and loading. The Site Plan will provide parking and loading bays off this access aisle, and the Applicant is exceeding the number of parking spaces required by the Zoning Ordinance, as shown in the data table above. The main pedestrian entrances to the development will be at the eastern corner of the Property where the main entrance to the building is located.

iii. *Open Space and Recreation*

The Applicant is required to provide 10% open space on-Site. The Application proposes 39.65% (16,974 square feet) on-Site public open space in the form of a pedestrian path between the County-owned service road and the future Willett Branch Greenway. As described in the Staff Report and conditioned in this Resolution and in the concurrently-adopted Resolution approving Preliminary Plan 120170280, this path will provide a safe and attractive public access route between the Greenway and River Road and the Capital Crescent Trail.

iv. *General Landscaping and Outdoor 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 residents and visitors to the Property. Asphalt paving (pedestrian path), planting, and outdoor lighting will be installed and will be shown on the Certified Site Plan.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A stormwater management concept plan was approved by MCDPS on November 9, 2017. The plan will meet stormwater management



requirements through a green roof and micro-bioretenion planter boxes. Full treatment is provided, and no waivers are associated with the Site Plan.

Although several citizens expressed a desire for changes to the stormwater management concept plan to allow for greater groundwater infiltration into Willett Branch, an employee of the MCDPS testified authoritatively at the hearing that, among other factors considered by MCDPS in its review of the stormwater management concept plan, groundwater infiltration would be unlikely on the Subject Property given its highly compacted soil conditions. Because MCDPS is the agency with both the technical expertise and the legal mandate to review and approve the details of stormwater management concept plans, the Board routinely defers to MCDPS on these issues. Further, Condition #8 of the stormwater management concept plan requires revision of the plans to provide some treatment of the paving surfaces, which will further enhance the stormwater management for the Project.

b. Chapter 22A, Forest Conservation

A. Forest Conservation

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

The Site contains substantial areas of environmentally-sensitive resources and high-priority settings associated with stream valley buffers. This Application will result in an enhancement of these settings as the building and associated infrastructure are designed to remain outside of the existing stream valley buffer. Additionally, the impervious areas on Lot 1 will be reduced and a considerable green roof area and stormwater management features will be provided as part of the new building.

The afforestation/reforestation requirements triggered by the Application are approximately 0.20 acres. The afforestation/reforestation requirements will be met offsite by a fee-in-lieu payment.

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.

This Application will require the removal or CRZ impact to a Protected Tree as identified in the Staff Report. In accordance with Section 22A-21(a), 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. An existing gravel parking pad overlaps the CRZ of the tree to be impacted. Any modification or careful demolition of the parking area, even for stream valley buffer enhancement purposes, would cause an impact to the Protected Tree and trigger Variance requirements.

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.*

The trail connection that results in impacts to the subject tree is specifically recommended in the Sector Plan. Furthermore, the plans and variance request propose only minor impacts to the subject tree rather than removal. Applicants are typically expected to comply with Sector Plan recommendations, and a variance request for a minor impact such as the one proposed in this Application 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 requested Variance is based on implementation of a specific trail connection recommendation the Sector Plan. The Variance can be granted under this condition if, as in this case, the impacts are avoided or minimized and any necessary mitigation is 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 requested Variance is a result of the Sector Plan recommendations for the Subject Property and not because of 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.*

The Site currently has a high level of impervious surfaces and very little or no stormwater management. The overall plans will provide considerable stormwater management features and green space enhancements where none exist today. MCDPS Staff approved the stormwater management concept for the Application on November 9, 2017. The stormwater management concept proposes to meet required stormwater management goals with the use of green roofs and micro-bio retention planter boxes. The full treatment is provided and no stormwater management waivers are associated with the project. Furthermore, demolishing the dilapidated pavement and compacted gravel pad currently existing within the stream valley buffer and replacing with greenspace will significantly enhance the stream valley corridor, further improving the associated water quality. Therefore, the Application, even with the Variance, will enhance water quality and not violate State water quality standards or cause measurable degradation in water quality.

No mitigation is required for Protected Trees impacted but retained.

6. *The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

The Project provides adequate, safe, and efficient parking and circulation patterns, building massing, open spaces and Site amenities. As described in finding four above, there will be one vehicular entrance into the Project located at the eastern end of the Property at the County-owned service road, and the Site Plan provides more than the required number of parking spaces.

The Project provides 39.95% of (16,974 square feet) on-Site public open space along at the pedestrian/bike trail between the county owned service road and the future Willett Branch Greenway. The Application will upgrade the physical environment and pedestrian access to and from the future Willett Branch Greenway with a pedestrian path along the north Property line shared with the McDonalds restaurant to the north. As conditioned, Preliminary Plan 12017028 requires the Applicant to make good faith efforts to work with its neighbor to provide the full, Sector Plan-recommended width of the Outlet Road shared-use path. In the event the Applicant is unable to secure necessary approvals from its neighbor to do so, the Applicant will still make improvements and provide the necessary easement to allow and encourage public access through this portion of the Subject Property. In either case, the shared-use path will present a safe and

inviting route for the public, which, as required by this Resolution, will include adequate lighting.

- 7. The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Property is within the boundaries of the 2016 Westbard Sector Plan. The general goals of the Sector Plan are to provide land use, zoning, and urban design recommendations that will incentivize property owners to make investments and improve the quality of life in Westbard. Among these goals is the retention of light industrial uses, the naturalization of the Willett Branch stream into a major amenity that will become a unifying feature of the community, and a shared use path between Westbard Avenue on the west and River Road and the Capital Crescent Trail on the east.

The Site Plan meets these goals. The Application's self-storage use is permitted in the zone and the development will replace other industrial uses on the Subject Property. The self-storage building will remain outside the stream valley buffer, and its size is consistent with the maximum density allowed by the I-M zone, which was reconfirmed through the Sectional Map Amendment for the Westbard Sector Plan. To ensure that the rear of the building is consistent with the reactivation of the Willett Branch, this approval is conditioned on the Applicant providing for Staff review and approval additional enhancements to the west building façade, including the transition to the north façade.

The Site Plan will further contribute to the naturalization of the Willett Branch and realization of the Greenway Park by accommodating the recommended Outlet Road shared-use path connecting the Capital Crescent Trail to the Greenway along the northern edge of the Site. The shared-use path will be designed with appropriate lighting and other features to encourage public access as envisioned by the Sector Plan.

The Sector Plan also has a several recommendations regarding the use of green roofs, meeting stormwater management onsite, and avoiding the use of stormwater management waivers. The Project readily meets the Sector Plan recommendation on green roofs/and stormwater management volume treatment, as discussed in finding five.

8. *The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

As discussed in the Staff Report and the Resolution approving Preliminary Plan No. 120170280, the development envisioned by the Site Plan will be served by adequate public facilities.

9. *The development is compatible with existing and approved or pending adjacent development.*

The Site Plan is compatible with existing and proposed adjacent development. The Property is located within the South River District of the Sector Plan and redevelopment has not occurred on this block in many years. The industrial use and the conveyance of land to the Maryland-National Capital Park and Planning Commission for the future Willett Branch Greenway is in conformance with the goals of Sector Plan. The Site Plan will also provide part of a recommended safe and inviting pedestrian route across Willett Branch for people who wish to walk from Westbard Avenue to River Road.

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 JAN 12 2018 (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 Fani-González, seconded by Commissioner Cichy, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, January 11, 2018, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board