



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

MCPB No. 18-005

Preliminary Plan Amendment No. 11984058A

FEB 22 2018

Edgemont at Bethesda II

Date of Hearing: February 1, 2018

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on May 24, 1984, the Planning Board approved Preliminary Plan No. 119840580, creating one lot on 1.06 acres of land in the TS-R zone, located 100 feet east of Arlington Road on the north side of Edgemoor Lane in the *Bethesda CBD Master Plan* area; and

WHEREAS, on August 28, 2017, Equity Residential (“Applicant”) filed an application for approval of an amendment to the previously approved preliminary plan to combine two existing lots into one, 1.35-acre lot for up to 301,193 total square feet (including 115,193 existing square feet to remain) in the CR 2.25 C 0.5 R 2.5 H90 and CR 2.5 C 0.50 R 2.5 H150 zones located on Edgemoor Lane at the corner of Woodmont Avenue (“Subject Property”) in the 2017 *Bethesda Downtown Sector Plan* (“Sector Plan”) area; and

WHEREAS, Applicant’s application to amend the preliminary plan was designated Preliminary Plan Amendment No. 11984058A, Edgemont at Bethesda II (“Preliminary 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 January 19, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on February 1, 2018, 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

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

Approved as to
Legal Sufficiency:

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 11984058A with the following conditions, which supersede all previous conditions of approval:¹

1. Approval is limited to 1 lot for up to 301,193 total square feet (including 115,193 existing square feet to remain) and an allocation of 138,533 square feet of density from the Bethesda Overlay Zone for up to 282 dwelling units (including 122 existing units to remain).
2. The Applicant must comply with the binding elements and conditions of approval for Sketch Plan No. 320180030 and any subsequent amendments.
3. The Final Forest Conservation Plan must address the following at the time of Site Plan:
 - a. Update LOD to reflect the work associated with the required undergrounding of utilities and streetscape enhancements associated with the project, including (but not limited to) the entire Edgemoor Lane frontage. Update other plan drawings as applicable.
 - b. The variance tree mitigation plantings must be installed onsite in a manner/location that will minimize or avoid removal of existing trees and large shrubs and provide larger caliper size plantings resulting in two mitigation trees measuring 4.5-inch caliper each.
 - c. Coordinate with Staff on any necessary plan corrections or clarifications.
4. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated January 16, 2018 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 Preliminary Plan approval.
5. The Planning Board accepts the recommendations of MCDPS – Water Resources Section in its stormwater management concept letter dated November 13, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval. The MCDPS

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.

Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

6. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in their letters dated December 29, 2017, and hereby incorporate them as conditions of the Preliminary Plan approval and for the Traffic Impact Statement (TIS). The Applicant must comply with each of the recommendations as set forth in both letters, which may be amended by MCDOT, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
7. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements associated with each plat, as required by MCDOT.
8. The Applicant must dedicate all road rights-of-way to the full width mandated by the *Bethesda Downtown Sector Plan* or as otherwise designated on the Certified Preliminary Plan, and show on the record plat(s) the following dedications:
 - a. A dedication of the Woodmont Avenue frontage necessary to provide the Sector Plan-recommended 40-foot-wide right-of-way between the Subject Property line and right-of-way centerline.
 - b. A dedication of the Edgemoor Lane frontage necessary to provide the Sector Plan-recommended 40-foot-wide right-of-way between the Subject Property line and right-of-way centerline.
9. The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the master plan and/or to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By _____" are excluded from this condition.
10. Short-term public bicycle parking must be installed near the main entrance to the new residential building. Secure long term private bicycle parking must be installed within the residential building. The exact number and location of bicycle parking will be determined at the time of Site Plan.
11. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building

restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.

12. The record plat must show necessary easements.
13. Include all applicable agency letters and Preliminary Plan Amendment resolution on the approval or cover sheet(s) of the Certified Preliminary Plan.
14. If a subsequent site plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration or location or right-of-way width or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.
15. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board resolution.

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 layout of the subdivision, including size, width, shape, orientation and diversity of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations including the technical review standards in Section 50.4.3. The Application meets all applicable sections. The size, width, shape and orientation of the lot is appropriate for the location of the subdivision considering the recommendations included in the Sector Plan, and for the type of development or use contemplated. The Application complies with the land use recommendations for the Subject Property as well as the applicable urban design, roadway, and general recommendations outlined in the Sector Plan. This Preliminary Plan Amendment creates one lot that fills the entire block. Within this block, there is adequate room to accommodate two residential high-rise structures (one new and one existing to remain). Transportation access is adequate to serve the development by this Preliminary Plan Amendment. Water and sewer and other utilities are

available to and currently serve the Subject Property. The Application meets the Environmental Guidelines and Forest Conservation Law.

The lot was reviewed for compliance with the dimensional requirements for the CR 2.25 C 0.5 R 2.5 H90 and CR 2.5 C 0.50 R 2.5 H150 zones as specified in the Zoning Ordinance. The lot will meet all the dimensional requirements for area, frontage, width, and setbacks in those zones. The application has been reviewed by other applicable county agencies, all of which have recommended approval of the Preliminary Plan Amendment.

2. *The Preliminary Plan substantially conforms to the Master Plan*

As described in more detail in the Staff Report, the Preliminary Plan Amendment substantially conforms with the recommendations of the Sector Plan. In particular, the Application conforms to the following categories of Sector Plan recommendations.

a. Land Use

The Application will provide 282 residential units, an increase of 160 more than those existing on the Subject Property today, including 15% MPDUs on-site.

b. Environment

As conditioned, the Application meets the Sector Plan recommendations, the Environmental Guidelines and Forest Conservation Law. The Forest Conservation Plan, with the conditions cited in this Staff Report, is acceptable, as described in more detail below.

3. Transportation

The Application is consistent with the above recommendations in the Sector Plan and will provide the necessary right-of-way dedications and streetscape improvements. The 2017 *Bethesda Downtown Sector Plan* recommends the following along the Subject Property's frontages:

- i. Woodmont Avenue, along the eastern site frontage, as an arterial roadway with a minimum right-of-way width of 80 feet and separated bicycle lanes (CT-4);
- ii. Edgemoor Lane along the southern site frontage, as a Business District Street with a minimum right-of-way width of 80 feet and separated bicycle lanes (LB-8).

d. Sector-Planned Transportation Demand Management

The Sector Plan encourages a Non-Auto Driver Mode Share (NADMS) of 55%, averaged between employees and residents of downtown Bethesda. To meet this goal, downtown Bethesda is organized into a Transportation

Demand Management District (TMD) that strives to promote travel by means other than single occupancy vehicles. Because the Application envisions a residential project of more than 100 dwelling units within the Bethesda TMD, the Applicant is required to enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and Montgomery County Department of Transportation (MCDOT) to participate in the Bethesda TMD.

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

a. Roads and Other Transportation Facilities

Transportation access is adequate to serve the development by this Preliminary Plan Amendment.

i. *Existing Facilities*

Vehicular access to the Subject Property will remain unchanged by this Application – vehicular access to both the existing and new residential buildings will be provided from Edgemoor Lane, via the existing driveway along the western most property boundary of Lot 15. Loading will be accommodated via the existing loading dock located between the two buildings on Edgemoor Lane. Further, the drop-off/pick-up lane serving the residential lobby on Edgemoor Lane would also remain to serve both the existing and new buildings.

The immediate area is well served by transit that includes the Red Line Bethesda Metrorail Station (located within ¼ mile of the site), Metrobus, RideOn, the Bethesda Circulator and future Purple Line.

ii. *Proposed public transportation infrastructure*

Pedestrian access to the Subject Property will be from the established sidewalk network and will be enhanced by streetscape improvements along each of the Subject Property frontages, consistent with the Bethesda Streetscape Standards.

b. Local Area Transportation Review (LATR)

Adequate Public Facilities

A transportation study, dated June 30, 2017, was submitted because the development is estimated to generate 83 new morning peak-hour person trips (42 vehicle trips) and 106 new evening peak-hour person trips (54 vehicle trips). Because the estimated transportation impact of the Application exceeds 50 net new person trips, the Applicant was required to evaluate vehicular (intersection) capacity for one tier of intersections to

satisfy the Local Area Transportation Review requirement. None of the other travel modes are forecasted to generate 50 or more trips, and therefore adequacy tests for those modes were not required.

In accordance with the 2016-2020 Subdivision Staging Policy, the study intersections were evaluated pursuant to the Highway Capacity Manual (HCM) methodology. The transportation impact study concluded that all study intersections will continue to operate within acceptable limits of congestion after considering the Subject Application and the potential future lane reduction on Arlington Road, as envisioned in the Sector Plan.

c. Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the development. The Subject Property will be served by public water and sewer systems. The application has been reviewed by MCFRS, and emergency vehicle access has been deemed adequate. Electrical and telecommunications services are also available to serve the Subject Property. Local health clinics, police stations and fire stations are all operating within acceptable levels as established by the Subdivision Staging Policy.

The Project will be served by Bethesda Elementary School, Westland Middle School, and Bethesda-Chevy Chase High School. Pursuant to the Schools Test for FY 2018, the elementary, middle, and high schools serving the Subject Property have adequate capacity, as shown in the Staff Report.

Cluster Adequacy Test

The Subject Property is in the Bethesda Chevy-Chase (B-CC) High School Cluster. Based on the FY18 Annual School Test results, the student enrollment and capacity projections for the B-CC High School cluster are noted in the table in the Staff Report.

Under the cluster adequacy test, a school level is deemed adequate up to 120% utilization (projected enrollment/projected capacity). According to the FY18 Annual School Test, there is sufficient capacity at the elementary, middle and high school levels to accommodate the estimated number of students generated by this project.

Individual School Adequacy Test

The applicable elementary and middle schools for this project are Bethesda ES and Westland MS, respectively.

Under the individual school adequacy test, an elementary school is deemed adequate if utilization is below 120% utilization (projected enrollment/projected capacity) or if the seat deficit is below 110 seats

(projected enrollment minus projected capacity). A middle school is deemed adequate if utilization is below 120% utilization or if the seat deficit is below 180 seats. According to the FY18 Annual School Test, there is sufficient capacity at Bethesda Elementary and Westland Middle School to accommodate the estimated number of students generated by this project.

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

The Application is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code). Although no forest exists onsite, there is an afforestation requirement of approximately 0.25 acres. Given the relatively small size of the Subject Property, the lack of environmentally sensitive areas, and the modest amount of afforestation requirements, the afforestation will be satisfied offsite by either a fee-in-lieu payment or the use of a forest conservation bank. Furthermore, due to the density of the development and the priority to provide onsite mitigation plantings for the variance trees under Section 22A-12b(3), the Subject Property is not an appropriate setting to apply landscape plantings toward forest conservation requirements.

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 one Protected Trees 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. To develop the Subject Property at a density appropriate for its location near a Metro station, the site will need to be cleared for the building itself, along with the staging and construction access areas. Retaining large trees is impossible under these conditions, particularly when the tree of concern is located near the center of the buildable area.

The Board finds that the Variance:

1. *Will not confer on the Applicant a special privilege that would be denied to other Applicants.*

The Protected Tree approved for removal is near the center of the relatively narrow Subject Property which is located near a Metro station where density is encouraged. Preserving the tree would severely limit the redevelopment potential for the Subject Property, which is not otherwise associated with stream buffer or other environmentally sensitive areas that would typically limit development. Furthermore, as conditioned the Applicant will provide appropriate mitigation for the tree removal. Therefore, the variance request would be granted to any Applicant in a similar situation.

2. *Is not based on conditions or circumstances which are the result of actions by the Applicant;*

The requested variance is based on the development allowed under the existing zoning. The variance can be granted under this condition if the impacts are avoided or minimized when possible and that any necessary mitigation is provided. As previously discussed, the removal is unavoidable and appropriate mitigation will be provided.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance not a result of land or building use on a neighboring property.

4. *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 Subject Property is not directly associated with any streams, wetlands or related buffers. Although the DPS approved SWM concept letter grants a partial waiver of the SWM requirements, the plan revisions required by the conditions of approval will help both SWM and Sector Plan goals. Additionally, the mitigation plantings will contribute to the SWM and green coverage goals.

Mitigation for Trees Subject to the Variance

Planting mitigation for the removal should be at a rate that approximates the form and function of the trees removed, at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" caliper. This means that for the 33 diameter inches of tree to be removed, the Applicant must provide mitigation of at least 8.25 inches of caliper replacements. Therefore, the mitigation requirements would typically be addressed by the planting of three 3" caliper trees. Rather than removing sizable trees for the sake of

providing replanting, however; the Planning Board has conditioned approval of this Application on the Applicant providing two mitigation trees that are 4.5-inch caliper each.

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

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on November 13, 2017. The plan will meet stormwater management goals via ESD with the use of green roof and micro-bioretenion. Due to site constraints, full stormwater management treatment cannot be provided, so DPS also granted partial waiver.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 36 months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G, 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 in the Montgomery County Land Records, 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 FEB 22 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).

* * * * *

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 Patterson, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González and Patterson voting in favor, and Commissioner Cichy absent at its regular meeting held on Thursday, February 1, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board