



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

MCPB No. 19-083
Preliminary Plan No. 12016001A
8101 Glenbrook Road
Date of Hearing: July 18, 2019

JUL 24 2019

RESOLUTION

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

WHEREAS, on January 6, 1982, the Planning Board approved Preliminary Plan No. 1981190, creating 1 lot on 46,909 square feet of land in the CBD-1 zone, located at the northeast quadrant of Glenbrook Road and Rugby Avenue ("Subject Property"), in the Bethesda Policy Area and Sector Plan for the Bethesda Central Business District, 1976 ("Sector Plan") area; and

WHEREAS, on December 10, 2015, the Planning Board approved Preliminary Plan No. 120160010 (MCPB No. 15-146) to create two lots on 1.39 gross acres of CR 3.0 C 1.0 R 2.75 H 90T and CRN 0.5 C 0.5 R 0.25 H 35 zones for a maximum density of 89,780 square feet of assisted living use, consisting of up to 120 assisted living units, up to 28,623 square feet of office uses and up to 3,125 square feet of other nonresidential (retail, restaurant, or service) uses.

WHEREAS, on October 5, 2018, MDR, 8101 Ground Lease, LLC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan for Lot 671 to convert 21,200 square feet of office space to a day care facility for up to 231 children on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12016001A, 8101 Glenbrook Road, ("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 July 8, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

Approved as to
Legal Sufficiency

Christina Scott 7/11/19

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WHEREAS, on July 18, 2019, 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, on July 18, 2019, the Planning Board voted to approve the Application subject to certain conditions, with a vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 12016001A for Lot 671 to convert 21,200 square feet of office space to a day care facility for up to 231 children by adding the following conditions:¹

1. This Preliminary Plan Amendment is limited to 1 lot, Lot 671 only for up to 30,204 square feet of non-residential uses comprised of up to 21,200 square feet of day care facility use (up to 231 students) and up to 9,004 square feet of general office use.
2. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated June 4, 2019 for Lot 671 only, 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 MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
3. The Applicant must install short-term public bicycle parking near the main entrances and secure long-term private bicycle parking within the existing building or garage. The exact number and location of bicycle parking will be determined at the time of Certified Site Plan.
4. Before the release of any above-grade building permit, the Applicant must enter into a Traffic Mitigation Agreement (TMAg) for Lot 671 with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District (TMD) and work toward the Sector Plan goal of 55% Non-Auto Driver Mode Share.
5. The Planning Board accepts the recommendations of the Maryland State Highway Administration ("SHA") in its letter dated June 12, 2019 and 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

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.

may be amended by MDSHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

6. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated June 10, 2019, for Lot 671 only, 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 Amendment approval.
7. 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 May 7, 2019, 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 Amendment approval.
8. The Certified Preliminary Plan Amendment 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.
9. The Adequate Public Facility (“APF”) review for the Preliminary Plan Amendment for Lot 671 only, will remain valid for sixty (60) months from the date of mailing of this Planning Board Resolution.
10. Before approval of the Certified Preliminary Plan Amendment the following revisions must be made and/or information provided subject to Staff review and approval.
 - a. Include the stormwater management concept exemption letter from DPS and the Preliminary Plan Amendment resolution on the approval or cover sheet(s).
 - b. Revise Data Table to show correct required open space requirement and provided open space requirements.
 - c. Revise Preliminary Plan to show removal of on-street parking spaces on Glenbrook Road.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

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 density 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.*

The Planning Board finds the lot size, width, shape and orientation continue to be appropriate at this location for this subdivision amendment when considering the recommendations in the 2017 *Bethesda Downtown Sector Plan* and the type of development and use contemplated. The lot was reviewed and found to be in compliance with dimensional requirements for the CR Zone as specified in the Zoning Ordinance.

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

The Planning Board finds that the Preliminary Plan Amendment Application substantially conforms to the 2017 *Bethesda Downtown Sector Plan*. The Property is located in the area designated as the "Battery Lane District" and is designated as "Site 12" on page 129 of the Sector Plan. Specifically, the Project addresses the following goals as outlined in the Sector Plan:

Battery Lane District

- *Improve pedestrian, and bike connectivity through the district and along the park. P.128*

Bicycle connectivity will be increased by the addition of seven bicycle spaces for both the day care facility and future office users. The final location and details of these bicycle spaces will be determined at time of Certified Site Plan. The existing vehicular access point from Glenbrook Road into the underground parking garage will remain. On-street parking along Glenbrook Road and Rugby Avenue will be removed to facilitate safer pedestrian access into the building's entrances and will provide more space for pedestrian circulation into and around the property.

Human Services

- *Encourage child care facilities in key locations throughout Downtown Bethesda area. p.88*

The Property's location in Downtown Bethesda is within close proximity to existing residential and office uses and is served by various transit options, such as the Bethesda Metrorail, Metrobus, Ride-On, Bethesda Circulator and the future Purple Line. The location for this project coupled with the concentration of residences and office buildings will provide a needed service throughout downtown Bethesda that will serve the surrounding community. The use fulfills a Sector Plan goal.

Transportation

- *Improve the use of non-auto driver travel. P.35*

The Amendment will require the Applicant to enter into a Traffic Mitigation Agreement (TMAG) for Lot 671 with the Planning Board and MCDOT and to participate in the Bethesda Transportation Management District (TMD) to achieve the Plan's goal of 55% for Non-Auto Drive mode share. By undertaking the TMAG, the Applicant will be meeting the Sector Plan's goal for reduced non-auto driver travel.

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

Access and Circulation

Pedestrian and bicycle access to the site are provided from the perimeter sidewalks along both Rugby Avenue and Glenbrook Road. The primary pedestrian entrance to the building is along the Site's Glenbrook Road frontage. Seven bicycle parking spaces for employees of both the office and daycare uses will be provided under this Project. The final location of these spaces and details will be identified on the Certified Site Plan. The vehicular entrance to the building's structured underground garage and daycare drop-off is at the rear of the building, accessed via Glenbrook Road. Loading operations will be limited to the Site's existing loading dock on Rugby Avenue. Ingress and egress along Glenbrook road will be improved as a result of this project, with the removal of the existing on-street parking spaces on Glenbrook Road.

All parking and daycare drop-off operations will occur within the existing garage. The garage will include 29 vehicular parking spaces, 27 of which will be dedicated to the daycare use with the remaining vehicular parking spaces available for the Site's office uses.

Transit Connectivity

The immediate area is well served by transit that includes the Red Line Bethesda Metrorail Station (located approximately ½ mile south of the site), Metrobus, Ride-On, the Bethesda Circulator and the future Purple Line.

Master Plan Roadways and Pedestrian/Bikeway Facilities

The 2017 *Bethesda Downtown Sector Plan* recommends the following along property frontages:

1. Glenbrook Road, along the western site frontage, as a Business District Street; no minimum right-of-way width specified;
2. Rugby Avenue, along the southern site frontage, as a business district roadway with a minimum right-of-way width of 50 feet.

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. In order, 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. This development is required to enter into a Traffic Mitigation Agreement (TMAg) for Lot 671 with the Planning Board and Montgomery County Department of Transportation (MCDOT) to participate in the Bethesda TMD.

Adequate Public Facilities

A transportation study, dated April 4, 2019, was submitted to analyze this Project. The Project is estimated to generate 149 net new morning peak-hour person trips (71 vehicle trips) and 180 net new evening peak-hour person trips (85 vehicle trips). Because the estimated transportation impact of the Project exceeds 50 net new vehicular trips, the Project evaluated the adequacy of the roadway network to satisfy the Local Area Transportation Review requirement.

Vehicle Adequacy

This Project generates between 50 and 149 net new peak hour vehicle trips. The Applicant was required to evaluate one tier of intersections within Downtown Bethesda, resulting in a total of four intersections. In accordance with the 2016-2020 *Subdivision Staging Policy*, the results of the HCM methodology are within normal standards.

School Capacity

This Amendment is solely for a change in the amount and type of commercial square footage and no residential dwelling units will be constructed. Therefore, a school capacity test is not required.

Other public facilities

Public facilities and services are available and will be adequate to serve the development. The Subject Property will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as electrical, telecommunications, gas, police stations, firehouses, and health services are operating according to the *Subdivision Staging Policy* resolution currently in effect and will be adequate to serve the Property.

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

A Forest Conservation Exemption Request No. 42018199E for the subject property was confirmed on September 11, 2018. Chapter 22A-59(s)(2) of the Forest Conservation Law permits exemptions for activity on a tract of land less than 1 acre and that will not result in the clearing of more than a total of 20,000 square feet of existing forest or any existing specimen or champion tree, and reforestation requirements would not exceed 10,000 square feet. The tract area and limits of disturbance are less than 0.60 acres. This Project does not trigger afforestation requirements and there are no existing forest or champion trees within the tract area, Therefore, this property is exempt from Forest Conservation Plan (FCP) requirements.

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

The Board finds that the Property is exempt from submitting a stormwater management concept plan because less than 5,000 square feet of land will be disturbed under both amendment applications. An exemption letter was received from the Montgomery County Department of Permitting Services (MCDPS) dated June 10, 2019.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 24 2019 (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 Cichy, seconded by Commissioner Patterson, with Chair Anderson and Commissioners Cichy and Paterson voting in favor of the motion, and Vice Chair Dreyfuss and Commissioner Fani-González absent, at its regular meeting held on Thursday, July 18, 2019, in Silver Spring, Maryland.



Casey Anderson, Chairman
Montgomery County Planning Board