



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

MCPB No. 19-127
Preliminary Plan No. 120190200
Kolius Property
Date of Hearing: November 14, 2019

NOV 19 2019

RESOLUTION

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

WHEREAS, on July 31, 2019, William Kolius ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 0.24 acres of land in the CRT 2.25 C 1.5 R 0.75 H 35 zone and the Bethesda Overlay Zone, located at the intersection of Cordell Avenue and Wilson Lane ("Subject Property"), in the Bethesda CBD Policy Area and the 2017 *Bethesda Downtown Sector Plan* ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120190200, Kolius Property ("Preliminary 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 November 4, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 14, 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, 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 Preliminary Plan No. 120190200 to create two lots on the Subject Property, subject to the following conditions:¹

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.

Approved as to

Legal Sufficiency: *Matt Mills/cs 11/7/19*
George Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

1. Approval is limited to two lots: one lot for an existing two-story building and one lot for an existing one-story building.
2. Prior to recordation of any plat associated with the Subject Application, the Applicant must record revised density transfer agreements and the book and page of the recorded agreements must be noted on the plat.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter, dated September 20, 2019, except for Comment 4 in the letter, 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 excluding Comment 4, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
4. In accordance with the MCDOT letter, the Applicant must participate in a pro-rata share basis for the Wilson Lane sidepath. Prior to approval of a certified preliminary plan, the Applicant must provide an engineer's cost estimate for the sidepath for review and approval by MCDOT. The payment must be made prior to recordation of any plat associated with the Subject Application.
5. The Applicant must dedicate all road rights-of-way to the full width recommended by the *Bethesda Downtown Sector Plan*, and show on the record plat(s) the following:
 - a. A dedication of the Wilson Lane frontage necessary to provide the Sector Plan recommended 80-foot right-of-way between the Subject Property line and right-of-way centerline, as illustrated on the Certified Preliminary Plan, and
 - b. A dedication of the Cordell Avenue frontage necessary to provide the Sector Plan recommended 50-foot right-of-way between the Subject Property line and right-of-way centerline, as illustrated on the Certified Preliminary Plan.
6. Prior to approval of the Certified Preliminary Plan, the Applicant must make the following changes:
 - a. Show resolutions and approval letters on the certified plan.
 - b. Modify data table to reflect standards approved by the Planning Board.
 - c. Demonstrate that a 10-foot wide sidepath can be accommodated on the north side of Wilson Lane within the dedicated right-of-way.
 - d. Add a note stating any future redevelopment is subject to the green cover requirements of the 2017 *Bethesda Downtown Sector Plan*.

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.

a. The block design is appropriate for the development or use contemplated

The length, width, and shape of the block are consistent with Section 50.4.3.B of the Subdivision Code. The existing block contains several small non-residential uses and a shared pedestrian alley. All parking and deliveries are accommodated on Cordell Avenue and Wilson Lane.

b. The lot design is appropriate for the development or use contemplated

The lot design, including size, width, shape, and orientation is consistent with Section 50.4.3.C of the Subdivision Code. The proposed lots accommodate the existing uses and conform to the standards set forth in Section 59.4.4.7 of the Zoning Ordinance. There is no development proposed as part of this Application. The existing buildings are proposed to remain, and the lots have been designed to ensure no existing buildings cross lot lines.

c. The Preliminary Plan provides for required public sites and adequate open areas

The Site was reviewed for compliance with Section 50.4.3.D, "Public Sites and Adequate Public Facilities," of the Subdivision Code. There are no Sector Plan recommendations for public facilities or local recreation requirements for the Subject Property.

d. The Lot(s) and uses comply with the basic requirements of Chapter 59

The lots were reviewed for compliance with the dimensional requirements for the CRT 2.25 C 1.5 R 0.75 H 35 zone as specified in the Zoning Ordinance. The lots meet all the dimensional requirements for minimum lot area, frontage, width, and setbacks in the CRT zone and the existing buildings and uses comply with these requirements. A summary of this review is included in Table 2.

Table 2: Preliminary Plan Data Table CRT Zone

PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	
		Lot A	Lot B
Minimum Lot Area	n/a	3,015 sf	496 sf
Lot Width at front lot line	n/a	69.97 ft Cordell Ave 61.63 ft Wilson Lane	20.14 ft
Setbacks			
Front	0'	Must meet minimum ¹	
Side	0'	Must meet minimum ¹	
Rear	0'	Must meet minimum ¹	

¹ As determined by MCDPS at the time of building permit.

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

The Preliminary Plan substantially conforms with the recommendations of the Sector Plan.

a. Land Use

The Sector Plan calls for mixed use development within this area of the Woodmont Triangle District. The Application does not propose any development; however, the existing buildings have been and will continue to be used for mixed, non-residential uses.

b. Environment

Green Cover

This Application cannot accommodate Sector Plan recommendations of onsite green cover. The Subject Property, which consists of two modest buildings constructed in 1923 with limited roof space, lacks proper structural support for an intensive green roof system. These existing buildings will remain undisturbed. However, the Planning Board approved a condition requiring a note to be added to the Certified Preliminary Plan stating that any future redevelopment is subject to the green cover requirements of the 2017 *Bethesda Downtown Sector Plan*.

c. Circulation Systems Recommendations

The Sector Plan recommends “complete streets” improvements to the roadway network that increase the connectivity, safety and quality for all modes of transportation (Page 34). This vision was recently updated by the 2018 *Bicycle Master Plan*, which recommends a separated bike network within the Bethesda Downtown. The Project incorporates the master plan recommended 10-foot sidepath on Wilson Lane by dedicating adequate right-of-way for its future implementation. The Applicant will be required to

coordinate with MCDOT to make a financial contribution towards the design and implementation of the planned sidepath.

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

Pedestrian and bicycle access to the Property is proposed directly from existing sidewalks along Wilson Lane and Cordell Avenue. Bicycle access will be enhanced on Wilson Lane upon completion of the MCDOT sidepath project, discussed below.

Vehicular access to the Property is provided along a private alleyway accessed from Cordell Avenue. Pedestrians can access the property from existing sidewalks along Cordell Avenue and Wilson Lane. Dedication for the planned 10-foot sidepath along the northern side of Wilson Lane is required as shown on the Preliminary Plan.

Master Plan Roadways and Pedestrian/Bikeway Facilities

The 2017 *Bethesda Downtown Sector Plan*, the 2013 *Countywide Transit Corridors Functional Master Plan*, the 2018 *Bicycle Master Plan* and 2018 *Master Plan of Highways and Transitways* recommend the following master plan facilities along Property frontage:

1. Wilson Lane, along the southern frontage, as an arterial with a minimum right-of-way width of 80' (40' from the center line); a 10-foot sidepath.
2. Cordell Avenue, along the western frontage, as a business district street with a minimum right-of-way width of 50' (25' from centerline).

MCDOT recommends in their letter, dated September 20, 2019, that the Applicant provide the necessary dedication along Wilson Lane per the Master Plan and dedication should be up to the building (Comment #4). The Applicant is proposing adequate dedication along both Cordell Avenue and Wilson Lane as recommended in the Sector Plan, however the Planning Board is not in support of requiring further dedication up to the existing building because such dedication would be in excess of Sector Plan recommendations and is not necessary to accommodate pedestrian or vehicular circulation. Therefore, as reflected in Condition 3, the Planning Board accepts the MCDOT letter and associated comments with the exclusion of Comment #4.

Adequate Public Facilities

A transportation exemption statement, dated April 29, 2019, satisfied the Local Area Transportation Review (LATR) for the Subject Application because the Project generates fewer than 50 net new peak hour person trips. There is no proposed construction and no increase in square footage, which results in zero net new trips.

a. Other Public Facilities and Services

Public facilities will be adequate to serve the Site. Since the Project does not add any new residential units, there will be no impact on the public school system. Both the Maryland State Highway Administration and Department of Permitting Services Fire Code Enforcement Section recommend approval of the Subject Application without conditions because there is no land disturbance associated with the Project.

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

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. A Forest Conservation Exemption (42019137E) for the Subject Property was confirmed by Montgomery County Planning Department Staff on March 14, 2019. This Application is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(2) because the proposed activity occurs on a tract of land less than 1 acre and will not result in the clearing of more than a total of 20,000 square feet of existing forest, or any existing specimen tree or champion tree, and reforestation requirements would not exceed 10,000 square feet. The project's tract area is approximately 0.11 acres and no forest, specimen trees or champion trees exist on the Property.

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

This finding is based upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards. This Application was been granted a waiver from submitting a Stormwater Management Concept from the Montgomery County Department of Permitting Services (MCPDS) on March 22, 2019. Under this application, there will be no land disturbance or change in drainage runoff. Peak 10-year design discharge from the site is 0.66 cubic feet per second (cfs), which meets the waiver criteria of 3 cfs or less. All subject streets are fully developed and improved, and there will be no additional storm drainage impacts as the site drains to the gutter and does not require direct connection to any Montgomery County storm drain system.

6. *Any other applicable provision specific to the property and necessary for approval of the subdivision is satisfied*

There are no other applicable provisions specific to this Property necessary for approval of the subdivision.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is NOV 19 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 Vice Chair Fani-González, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, November 14, 2019, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board