



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

MCPB No. 20-024
Preliminary Plan No. 12001077A
Kiddie Academy
Date of Hearing: March 26, 2020

APR 24 2020

RESOLUTION

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

WHEREAS, by Resolution dated February 14, 2002, the Planning Board, approved Preliminary Plan No. 120010770, creating one lot on 0.62 acres¹ of land in the CBD-0.5 zone, located at 811 Sligo Avenue, 100 feet northeast of Fenton Street ("Subject Property"), in the Silver Spring CBD Policy Area and the 2000 Silver Spring CBD Sector Plan ("Sector Plan") area; and

WHEREAS, on June 19, 2019, Woodmont Acquisitions, LLC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan to convert the existing structure from a veterinary hospital to a daycare center for up to 191 children on the Subject Property, zoned CR-1.5 C-1.0 R-1.5 H-60 T; and

WHEREAS, the Applicant's application to amend the preliminary plan was designated Preliminary Plan Amendment No. 12001077A, Kiddie Academy ("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 March 16, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 26, 2020, the Planning Board held a virtual public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on March 26, 2020, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Cichy, seconded by Commissioner Fani-Gonzalez, with a vote of 5-0; Commissioners Anderson, Cichy, Fani-Gonzalez, Paterson and Verma voting in favor.

¹ The acreage was further refined at time of record plat to 0.59 acres.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 12001077A to convert the existing structure from a veterinary hospital to a daycare center for up to 191 children on the Subject Property by the following conditions, which supersede all previous conditions:²

1. This Preliminary Plan is limited to one existing lot measuring approximately 25,500 square feet, for a daycare facility with up to 191 children.
2. Prior to any building permit release, the Applicant must abandon the existing County Board Appeals approval S-2469 for the current veterinary use.
3. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for sixty (60) months from the date of mailing of this Planning Board Resolution.
4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letters dated February 14 & 19, 2020 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. Before recording the revised record plat for the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements except for any potential relocation or removal of an existing utility pole near the site frontage on Sligo Avenue.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS"), Fire Department Access and Water Supply Section in its letter dated August 15, 2019 and 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 changes do not conflict with other conditions of the Preliminary Plan approval.
7. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") – Water Resources Section in its stormwater management concept letter dated March 16, 2020 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply

² 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.

with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

8. The Applicant must provide a payment of \$20,000 to the Silver Spring CBD Amenity Fund prior to the issuance of the final Use and Occupancy Certificate.
9. The Applicant must comply with the following conditions of approval of Forest Conservation Exemption Plan 42020098E, approved as part of this Preliminary Plan amendment.
 - a. The certification of the Tree Save Plan must be approved prior to Certified Preliminary Plan.
 - b. Prior to the issuance of the final Use and Occupancy Certificate, Applicant will contribute \$1,200 or applicable rate, to the Parks Department or a non-profit responsible for park/open space improvements within or near the Silver Spring CBD for the planting of four 3-inch caliper trees to be planted within or near the CBD area. The ultimate planting of the trees will serve as mitigation for the loss of a specimen tree associated with the alley modifications.
 - c. Address any remaining minor plan clarifications/corrections to the satisfaction of M-NCPPC Staff prior to the certification of the Preliminary Plan.
10. Vehicular access to the site is limited to one-way clockwise circulation with all vehicles entering the Site from Fenton Street via the 20-foot Public Alley and all vehicles exiting onto Sligo Avenue.
11. No onsite staff parking is allowed.
12. The Applicant must provide the Silver Spring Streetscape improvements along the site frontage on Sligo Avenue except for any potential relocation or removal of an existing utility pole near the site frontage on Sligo Avenue.
13. Prior to certified Preliminary Plan, the Applicant must enter into a 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 or other form of surety, with the following provisions:
 - a) A cost estimate of the materials and facilities (excluding play features) including exterior lighting, landscape, and fencing/walls, which, upon Staff approval, will establish the surety amount.
 - b) Completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.

- c) The bond or surety for each item shall be clearly described within the Surety & Maintenance Agreement, including all relevant conditions.
- 14. There shall be no issuance of the Use and Occupancy Certificate prior to recordation of the revised plat.
- 15. The record plat must show necessary easements.
- 16. Prior to certification of the Preliminary Plan, a revised landscape, lighting and parking facilities plan must be submitted to, and approved by Staff that addresses elements to help maximize the overall canopy/green coverage, provide screening for the parking lot and minimize any excessive glare from vehicle headlights and the site lighting.
- 17. Before issuance of the final Use and Occupancy Certificate for this Preliminary Plan, all on-site amenities including, but not limited to, landscaping sidewalks/pedestrian pathways and hardscape must be installed.
- 18. The Applicant must include all applicable agency letters and Preliminary Plan Resolutions on the approval or cover sheet(s).
- 19. 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 issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.
- 20. Prior to the submittal of the certified Preliminary Plan the Applicant will coordinate with Staff on minor clarifications, corrections and updates for the plan notes and graphics and update all applicable drawings for consistency across plan sheets.

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***

The lot size, width, shape and orientation are appropriate for the location of the subdivision considering the recommendations in the Sector Plan and the type of development and use contemplated. The lots comply with the dimensional requirements for the CR-1.5 C-1.0 R-1.5 H-60 T zone as specified in the Zoning Ordinance.

2. *The Preliminary Plan substantially conforms to the Master Plan or Urban Renewal Plan*

The Preliminary Plan Amendment is consistent with, and furthers, the recommendations of the Sector Plan. The Sector Plan does not have site specific recommendations for this Property; however, the project is consistent with the 6 vision themes identified in the Sector Plan.

The Sector Plan's themes articulate the shared goals and vision for the CBD and demonstrate how successful development incorporates multiple themes to "create varied land uses, development patterns, environments, and transportation choices...to create variety, the hallmark of an active downtown.". The development meets these goals and vision by creating a daycare facility that is scaled to the surrounding neighborhood and enhances the pedestrian experience in its vicinity.

Transit-Oriented Downtown - *The Plan's land use and development recommendations strive to balance the needs of commuter and local traffic, of walkers and drivers, and to maximize the investment in Silver Spring's transit infrastructure.*

The Amendment strikes an appropriate balance that will satisfy the needs of local traffic. The Sector Plan states that "each street in the CBD plays a role – local or regional, pedestrian or auto, through-travel or destination.". By allowing vehicular access over the alley and thereby utilizing already existing infrastructure, any potential traffic circulation issues that would result otherwise from the projected influx of peak AM/PM trips are significantly mitigated. As evidenced by the

Applicant's Traffic Study, the proposed circulation pattern will result in no queuing onto Sligo Avenue or Fenton Street. Given the Property's proximity to nearby residences and various modes of public transportation, it is expected that a notable number of parents will walk their children to the daycare center.

Furthermore, the Property is located approximately 1/3 mile from the Silver Spring Metro/MARC train/Transit Center and from a Purple Line station which is under construction. By locating within the walksheds of these transportation choices, the workers and visitors coming to the site increase transit demand and support transit-oriented development.

***Commercial Downtown** - Silver Spring's location, infrastructure, and position in the metropolitan area market will continue its role as an employment center. New retail development will serve the local community with a mix of chain and independent businesses offering convenience and specialty shopping, restaurants, and entertainment.*

This Application will serve a critical need for young families in the local community and will provide employment opportunities. The Sector Plan recommends "a mutually supportive mix" of commercial activity and specifically lists "childcare services" as a desirable option. The daycare center is the type of use the Sector Plan contemplates and is well positioned to complement the surrounding residential and non-residential uses.

Residential Downtown

Although the Project does not include residential uses, it shares a block of Sligo Avenue that includes both single-family homes as well as approved multi-family development. The modest height of the existing building remains compatible with these residential uses on the block.

***Civic Downtown** - This Plan views civic facilities as partners in economic revitalization. New and regenerated facilities will draw people downtown, returning it to the center of community life and creating opportunities for economic and social connections.*

The Applicant will reuse the existing veterinary hospital for a daycare center, which will create opportunities for economic and social connections. The Sector Plan desires programs that "will serve the most people and respond to the community's daily and special needs." The daycare center will provide a needed service to the immediate community and will serve as a facilitator to neighborhood interaction. The Applicant will provide daycare services for up to 191 children, which will undoubtedly create opportunities for new neighborhood interactions and social connections.

Furthermore, the upgraded streetscape, and offsite open space will add to the fabric of the civic spaces of the Sector Plan area.

Green Downtown - *This Plan envisions shaded, tree-lined street and well-placed green parks and plazas, creating a comprehensive system of open spaces that provide economic, environmental, and aesthetic benefits through downtown.*

The Site has considerable pre-existing landscape trees onsite which were established under the previous approval. As conditioned, the planting quantity is maximized to a reasonable extent. Furthermore, the outdoor play areas will consist of green turf and/or sod groundcover (rather than paving) which will generally help offset the proposed loss of portions of the existing lawn/landscape beds.

Pedestrian-Friendly Downtown - *This Plan encourages the development of active streets and sidewalks, busy with people walking to shop, commute, or for pleasure. They will become downtown's defining feature, and will support activity, creating the setting for community.*

The Amendment substantially conforms to this theme of the Sector Plan. Opening vehicular access to the alley limits vehicular circulation on Sligo Avenue to one way into the Property, thus limiting the amount of traffic interacting with the streetscape and thereby promoting the pedestrian environment. The Applicant's proposed parking will also facilitate a pedestrian- friendly downtown. As conditioned, daycare staff who drive to work will be required to park off-site (the Fenton Street public garage is very close to the Property), thereby increasing pedestrian activity in the southern gateway of the CBD. Furthermore, based on feedback received from the local community, the Applicant expects that a number of families will walk or use public transit to travel to the Property. The LATR pedestrian peak hour trip generation is projected to be 46 pedestrians in the AM and 39 in the PM. As such, the Project promotes the development of active streets and sidewalks.

Additionally, the project is required by DOT to certify and/or provide streetscape frontage per the December 2019, Silver Spring Design Guidelines including sidewalks, lighting and street trees.

a. Land Use

The use is appropriate under the Sector Plan which identifies the site as transitional mixed use while also recommending "expanding childcare facilities in the CBD".

The Preliminary Plan Amendment substantially conforms to the Sector Plan. Approval of this Amendment will enable the Applicant to effectively reuse the existing veterinary hospital for a daycare center, which aligns with themes of the Sector Plan.

As conditioned, the Preliminary Plan Amendment substantially conforms to the recommendations within the Sector Plan.

Environment

The Sector Plan includes numerous recommendations for stormwater management enhancements and identifies stormwater management as the CBD's most important environmental issue. The Sector Plan also provides the related recommendation of minimized impervious surfaces. The existing stormwater management facility will be removed and replaced in a similar location onsite. Furthermore, the outdoor play areas will consist of green turf and/or sod groundcover (rather than paving) which will generally help offset the proposed loss of portions of the existing lawn/landscape beds.

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

Vehicular access to the Property will be from Fenton Street, via a Public Alley, as a one-way clockwise configuration. This circulation pattern will provide adequate on-site queuing and will facilitate efficient circulation.

The alley access as proposed requires joint approval by the Planning Board and Director of Transportation. Section 49-31.(p), states "An alley may be used to provide primary vehicular access if the Planning Board and the Director of Transportation concur that the dimensions and specifications proposed in a ... preliminary subdivision... would provide adequate primary vehicular access." DOT supports the proposed access and has deferred the final approval to the Planning Board.

Transit Connectivity

The immediate area is well served by transit that includes the Red Line Silver Spring Metrorail Station (located approximately ½ mile to the northwest of the Site), Metrobus, RideOn, the VanGo Circulator and future Purple Line.

Master Plan Roadways and Pedestrian/Bikeway Facilities

The 2000 *Silver Spring CBD Sector Plan* and the 2018 *Bicycle Master Plan* recommend the following master plan facilities along property frontage:

1. Sligo Avenue, along the southern site frontage, as an arterial with a minimum right-of-way width of 80'.

Analysis by DOT and Staff determined that adequate right of way dedication was provided under the original approval and no further dedication is necessary.

Adequate Public Facilities

A transportation study, dated May 14, 2019, was submitted to analyze the Project. The proposed development is estimated to generate 108 net new morning peak-hour person trips (53 vehicle trips) and 93 net new evening peak-hour person trips (46 vehicle trips). Because the estimated transportation impact of the Project exceeds 50 net new trips for the vehicular mode, the Project evaluated the adequacy of study area intersections to satisfy the Local Area Transportation Review requirement.

Vehicle Adequacy

As a project that generates less than 250 net new peak hour vehicle trips, the Applicant was required to evaluate one tier of intersections within Downtown Silver Spring, resulting in a total of 8 intersections, including the site access points. In accordance with the 2016-2020 Subdivision Staging Policy, the study locations are shown in the Staff Report and results of the HCM methodology are adequate.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Subject Property is currently 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. School adequacy was not reviewed as this Amendment is not a residential project and does not generate any students. 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. *All Forest Conservation Law, Chapter 22A requirements are satisfied*

a. Environmental Guidelines

The Property contains no forest, streams, wetland, floodplains or associated buffers. Furthermore, there are no rare threatened or endangered species, or known historical or cultural resources on or near the site. However, there is considerable landscaping and trees on the site, most of which were planted as part of the existing approved landscape plan. Additionally, there is a specimen tree which measures over 30" DBH

located along the alley near the Subject Property. There is also a tree stand along the unimproved portion of the alley near the northeast corner of the site; however, the feature does not meet forest definition. The site is located within the Sligo Creek watershed, a Use I watershed.

b. Forest Conservation

This Application is subject to Chapter 22A, Montgomery County Forest Conservation Law, but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-(5)(s)(2). Forest Conservation Exemption 42020098E was confirmed for the Subject Property on January 3, 2020. The project meets the particular requirements of the exemption because the proposed activity occurs on a tract of land less than 1 acre 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.

However, there is one specimen tree located offsite that will be removed by the work to modify the alley as required by this Application. The removal of this specimen tree, T-33 which is a 36-inch American Elm, triggers the tree save plan provision of the Forest Conservation Law under 22A-6(b), which states an activity or development that would be exempt under Section 22A-5, except that the proposed activity involves clearing of a specimen or champion tree, requires the approval of a tree save plan, which may require tree preservation or mitigation for loss of individual trees. The Planning Board requires mitigation for the loss of T-33 be provided via the payment for the planting of four (4) three-inch caliper native canopy trees as stated in condition of approval no. 9.b. of this Preliminary Plan Amendment.

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

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS water resources division on March 16, 2020. The stormwater management concept proposes to meet required stormwater management goals via ESD to the MEP. Due to the soils, minimal infiltration, and existing site conditions only stormwater management treatment equivalent to $P_e=0.45$ " is provided. A stormwater management waiver of partial quality and full quantity is granted.

At time of plan submittal, the Applicant is required to reexamine the potential use of porous pavement on the flattest part of the driveway.

6. *Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.*

This application is not within the vicinity of a burial site.

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

- a. *The Preliminary Plan provides for required public sites and adequate open areas.*

The original Preliminary Plan provided onsite Public Open space fronting the site. The open space met the Local Recreation Section under 50.4.3.D.2 which is intended to serve the present and future inhabitants of the subdivision. However, under the proposed use, the recreational requirements of the subdivision inhabitants (mostly children) will be met by the considerable play spaces proposed throughout the Property. Given that the current open space appears to provide limited existing use/benefit and will have even less benefit towards the proposed use, the open space requirements will now be met by an alternative method of compliance.

Section 59.6.8.1 allows the Planning Board to approve an alternative method of compliance ("Alternative Compliance") with any requirement of Division 6.1 and Division 6.3 through Division 6.6 if it determines that there is a unique site, a use characteristic, or a development constraint, such as grade, visibility, an existing building or structure, an easement, or a utility line. As a Standard Method development with a tract area greater than 10,000 square feet, the Applicant is required to provide 10 percent of the site area as Public Open Space, in this case approximately 2,565 square feet. On a constrained site where the Applicant is repurposing an existing building to remain – with no new building construction – for a much-needed daycare use, the Applicant is not able to both provide the required child play area for licensure and the required Public Open Space. The Applicant is proposing to instead provide the Public Open Space off-site as allowed under Section 59.6.3.6.C. However, as calculated per that section, the required payment would total approximately \$183,485. This is not a cost feasibly accommodated by the Applicant for this use in this location, particularly, given the modest scope of redevelopment, and the Applicant has requested Alternative Compliance to determine a different payment amount of \$20,000 to satisfy the off-site provision of Public Open Space.

In order to approve this alternative payment amount, the Planning Board determines that the retrofit of the existing site with the repurposed building to remain, and the unique licensure requirements pertaining to play area for the

daycare use, prevent the Applicant from providing the Public Open Space on-site and that the significant cost of the required payment precludes efficient development of this much-needed use. The Board further determines that the alternative payment amount of \$20,000 will:

i. satisfy the intent of the applicable Division;

Section 6.3.1 states the intent of the Open Space and Recreation Division, that "Open space can provide adequate light, air, circulation, and recreation and encourage preservation and enhancement of natural resources, including improvement of water and air quality." Any payment amount for off-site provision of Public Open Space would be made to the Silver Spring CBD "Amenity Fund" and will be used to provide open space improvements that will meet the intent of the Division.

ii. modify the applicable functional results or performance standards the minimal amount necessary to accommodate the constraints;

Section 59.6.3.6.C sets out a calculation method for alternative payments that is meant to capture for public use the economic value gained by an Applicant not providing Public Open Space on-site, so that it might be provided elsewhere. In practice, this provision is seldom used, and almost exclusively by significantly larger Optional Method of Development projects better able to afford the associated cost. Under the Optional Method, in fact, this project is small enough that it would not have a Public Open Space requirement. The sole reason for this Preliminary Plan Amendment is the change in use from veterinary care to daycare. No Site Plan is required. As stated above, the full payment does not promote the efficient development of this much-needed use on this uniquely constrained site. The Planning Board acknowledges the unique circumstances of this redevelopment and determines the Applicant's payment of \$20,000 to sufficiently reflect the constraints of the project.

iii. provide necessary mitigation alleviating any adverse impacts; and

Three unique conditions significantly minimize the adverse impacts of not providing Public Open Space on the site. First, the existing building to remain is approximately 55 feet from the curb and the light and air identified in the intent statement for the provision of open space will remain without permanent structures. Second, under an Optional Method Site Plan this project would require no Public Open Space given its size and frontages. Third, the area of the existing site configuration currently used to meet the requirement for open space will be used for child play area required for licensure. Therefore, the Board determines that commensurate with the minimal adverse impact of providing open space off-site the \$20,000 payment is appropriate to alleviate those impacts.

iv. be in the public interest.

Promoting the efficient implementation of this use by approving the alternative payment amount is in the public interest. Many elements of the application are

significantly in the public interest. The daycare use is much needed in many parts of the county, but in urban areas in particular. This site is surrounded by the multi-family residences and businesses of the Silver Spring Central Business District, the East Silver Spring residential neighborhood, and the North Takoma Park neighborhood. The use will provide an essential service near where many people live and work. The Applicant is reusing an existing structure that is compatible in scale with the surrounding uses, a sustainable development approach that allows the project to provide its service in the very near term, instead of the multi-year timeline of new construction. The alternative payment amount will contribute to open space improvements within the CBD, which will be in the public interest.

- b. The Preliminary Plan meets the requirements for alternative compliance for landscaping and parking screening.

The onsite parking is subject to landscape requirements under Section 59.6.2.9. however, a waiver for the parking lot landscaping requirements has been requested under 59.6.2.10. Section 59.6.2.9. of the Zoning Ordinance regarding *Parking Lot Landscaping and Outdoor Lighting* applies to (among other things) any surface parking lot with 10 or more spaces. The landscape requirements under this scenario includes perimeter planting requirements with the following standards:

- i. be a minimum of 6 feet wide;
- ii. contain a hedge or low wall a minimum of 3 feet high; and
- iii. have a canopy tree planted every 30 feet on center

The waiver for the parking lot landscaping requirements can be granted under 59.6.2.10 if the deciding body determines the alternative design complies with 59.6.2.1, of which the intent is to ensure that the adequate parking is provided in safe and efficient manner. As conditioned, the parking is safe and efficient. Furthermore, as conditioned the perimeter landscaping and screening will be enhanced over the current design but not to the level which would preclude the need for the waiver.

Similarly, to the above discussion on parking lot screening, there are also landscaping screening requirements under section 59.6.5.3 of the Zoning Ordinance. The intent of the requirements is to ensure appropriate screening between different building types and uses. Alternative compliance for the screening requirements can be approved under 59.6.8.1. and the Applicant has made a request accordingly. The Alternative Compliance is requested mainly due to site constraints and the landscape screen already approved (but not yet installed) along the boundary shared with the Sligo Artspace that will generally achieve the desired effect.

The Planning Board may approve an alternative method of compliance with the requirement of 59.6.5 (among others) if it determines that there is a unique site, a use characteristic, or a development constraint, such as grade, visibility, an existing building or structure, an easement, or a utility line. The applicable deciding body must also determine that the unique site, use characteristic, or development constraint precludes safe or efficient development under the requirements of the applicable Division, and the alternative design will:

- A. satisfy the intent of the applicable Division;
- B. modify the applicable functional results or performance standards the minimal amount necessary to accommodate the constraints;
- C. provide necessary mitigation alleviating any adverse impacts; and
- D. be in the public interest.

As conditioned, the Planning Board approves the Applicants' request for alternative compliance and the intent is satisfied and mitigated. The Planning Board notes that full compliance with the standard would eliminate five of the onsite parking spaces (which are used for short term drop off and pick up of children) and would adversely affect the safety and efficiency of the site circulation. Furthermore, elimination of the five parking spaces may adversely affect the adjacent roadways. Therefore, the alternative compliance is also in the public interest.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is APR 24 2020 (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 Verma, with Chair Anderson and Commissioners Cichy, Patterson, and Verma voting in favor, and Vice Chair Fani-González absent at its regular meeting held on Thursday, April 9, 2020, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board