



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

JUL 27 2021

MCPB No. 21-078
Site Plan No. 82020013A
8015 Old Georgetown Road
Date of Hearing: July 22, 2021

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 June 25, 2020, the Planning Board, by Resolution MCPB No. 20-053, approved Site Plan No. 820200130, for construction of a multi-family residential building of up to 316,500 square feet for a maximum of 297 units with 15% MPDUs, including up to 124,536 square feet of BOZ Density with a Park Impact Payment on 2.52 acres of CR 2.5 C 0.75 R 1.75 H-120 and the Bethesda Overlay Zone land, located at the north corner of Old Georgetown Road and Glenbrook Road ("Subject Property"), in the Bethesda CBD Policy Area and 2017 *Bethesda Downtown Sector Plan* ("Sector Plan"), area; and

WHEREAS, on June 1, 2021 JLB Realty, LLC ("Applicant") filed an application for approval of an amendment to the previously approved site plan to allow within the previously approved maximum density of 316,500 square feet an increase in commercial density up to 82,270 square feet, including for up to 76,270 square feet for 73 live/work units and up to 6,000 square feet of shared commercial working space, and a reduction in residential density from 316,500 to 234,230 square feet, including 224 residential units, with 15% MPDUs, and a decrease in allocation of BOZ density from 124,536 to 42,266 square feet and related PIP payment on the Subject Property; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 82020013A, 8015 Old Georgetown Road ("Site Plan," "Amendment," or "Application"); and

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Approved as to
Legal Sufficiency: /s/ Matthew T. Mills
M-NCPPC Legal Department

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 9, 2021**, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 22, 2021, 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 Site Plan No. 82020013A to allow within the previously approved maximum density of 316,500 square feet an increase in commercial density up to 82,270 square feet, including for up to 76,270 square feet for 73 live/work units and up to 6,000 square feet of shared commercial working space, and a reduction in residential density from 316,500 to 234,230 square feet, including 224 residential units, with 15% MPDUs, and a decrease in allocation of BOZ density from 124,536 to 42,266 square feet and related PIP payment by modifying Conditions 1, 3, 5, 6, 7, 8, 10 and adding Condition 23 as follows:¹

Modified Conditions:

1. Sketch Plan Conformance

The development must comply with the binding elements and conditions of approval for Sketch Plan No. 320190100 as listed in MCPB Resolution No. 19-108, and any subsequent amendments.

3. Density

The Site Plan Amendment is limited to a maximum of 316,500 square feet of mixed-use density including up to 82,270 square feet of commercial development for up to 73 live work units, and up to 234,230 square feet of residential development for up to 224 dwelling units including a minimum of 15% MPDUs.

5. Bethesda Overlay Zone Density

- a. The Planning Board approves 42,266 square feet of Bethesda Overlay Zone (BOZ) density for this Application.

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.

- b. Per Section 59.4.9.2.D.4 of the Zoning Ordinance, the Applicant must have a building permit application accepted by MCDPS that includes the core and shell of the principal building within two years of the mailing date of the Planning Board's Resolution for this Site Plan Amendment. Within two years of MCDPS accepting the building permit application, the Applicant must obtain the building permit. The deadlines may not be extended. If the Applicant fails to comply with any of the deadlines in this condition, the entire Site Plan approval is revoked.
- c. In the event the final allocation of density from the BOZ is less than the approved amount, the Applicant may apply to reduce the allocation of density from the BOZ through a minor amendment.

6. Park Impact Payment

The Applicant must pay to the M-NCPPC a Park Impact Payment of \$62,701.72, prior to release of the first above-grade building permit, or as may be adjusted through a minor amendment as set forth in Condition 5.c above.

7. Moderately Priced Dwelling Units (MPDUs)

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (DHCA) in its letter dated May 12, 2020 and confirmed on June 29, 2021 and incorporates them as conditions of the Site Plan Amendment approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan Amendment approval.

8. Public Benefits

d. Protection and Enhancement of the Natural Environment

- i. Building Lot Terminations (BLTs) – Before issuance of any building permit, the Applicant must provide proof of purchase and/or payment of 0.6229 BLTs to MCDPS and M-NCPPC staff.
- ii. Cool Roof - The Applicant must install a cool roof, having a minimum solar reflectance index of 75, covering a minimum of 30,000 square feet of roof area, as shown on the Certified Site Plan Amendment.

10. Public Open Space, Facilities, and Amenities

- a. The Applicant must install the standard Bethesda Streetscape improvements, including the undergrounding of utilities, along the Property's frontage on Old Georgetown Road and Glenbrook Road.
- b. The Applicant must provide a minimum of 8,775 square feet of public open space, as illustrated on the Certified Site Plan Amendment.
- c. Before the issuance of the final residential Use and Occupancy Certificate, all public open space areas on the Subject Property must be completed.

New Condition:

23. Occupancy Provisions

- a. The 73 units designated as live/work on the Certified Site Plan Amendment must each be restricted to commercial and residential uses.
- b. The 73 live/work units cannot include any MPDUs that count toward the 15% MPDU requirement.
- c. Commercial usage of the live/work units must be included in lease agreements. A copy of the live/work lease agreement must be provided to staff prior to final Use and Occupancy permit for the residential units.
- d. No on-site parking will be reserved for clients, customers, or colleagues of the 73 units designated as live/work.
- e. Live/work tenants will be informed that clients, customers, and colleagues should not visit such that they would be traveling during morning and evening peak hours (6:30 AM - 9:30 AM, 4:00 PM - 7:00 PM) by the management company.
- f. Prior to Certified Site Plan Amendment:
 - i. The Applicant must record a covenant among the Land Records of Montgomery County reflecting the applicable commercial use restriction in a form approved by the M-NCPPC Office of General Counsel;
 - ii. The Book/Page reference must be included on the Certified Site Plan Amendment.

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

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of 82020013A, 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 set forth in the Staff Report, which the Planning 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 this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan and that all findings not specifically addressed remain in effect, except as modified below:

2. *To approve a Site Plan, the Planning Board must find that the proposed development:*

d. satisfies applicable use standards, development standards, and general requirements under this Chapter;

i. Division 4.5. Commercial/Residential Zones

Development Standards

The Tract is approximately 2.52 tract acres or 109,771 square feet, zoned CR 2.5, C 0.75, R 1.75, H-120', and is within the Bethesda Overlay Zone. The following Data Table shows the Application's conformance to the development standards of the zone.

Table 1: Project Data Table (Section 59.4)			
Development Standard	Permitted/ Required	Approved w/ 820200130	Approved w/ 82020013A
Tract Area (Square Feet/ Acres) CR 2.5, C 0.75, R 1.75, H-120 Total Tract Area	n/a	109,694 sf (2.52)	109,694 sf (2.52)
Site Area (Square Feet/ Acres) Prior Dedication Proposed Dedication Site Area	n/a	22,562 sf (0.52) 7,330 sf (0.17) 79,802 sf (1.83)	22,562 sf (0.52) 7,330 sf (0.17) 79,802 sf (1.83)
Residential Density (GFA/ FAR)	191,964 sf (1.75)	191,964 sf (1.75)	191,964 sf (1.75)
Commercial Density (GFA/ FAR)	82,270 sf (0.75)	0 sf (0)	82,270 sf (0.75)
Total Mapped Density (GFA/FAR)	Residential 191,964 sf (1.75) Commercial 82,270 sf (0.75) Total 274,235 sf (2.5)	191,964 sf (1.75) 0 sf (0) 191,964 sf (1.75)	191,964 sf (1.75) 82,270 sf (0.75) 274,235 sf (2.5)
MPDU Density (GFA/FAR)	15%	15% (45 units) 36,607 sf (0.33)	15% (45 units) ³ 36,607 sf (0.33)
Bethesda Overlay Zone Density (GFA/ FAR)	n/a	124,536 sf (1.14)	42,266 sf (0.39)
Total GFA/ FAR	n/a	316,500 (2.89)	316,500 (2.89)
Building Height	120 feet	90 feet	90 feet
Public Open Space (min)	10%	11% (8,775 sf)	11% (8,775 sf)
Green Cover	35%	Tree Cover 14,905 sf Green Roof 7,572 sf Solar Array 5,500 sf Total 35% (27,977 sf)	Tree Cover 14,905 sf Green Roof 7,572 sf Solar Array 5,500 sf Total 35% (27,977 sf)
Minimum Setbacks	Front: n/a Side: n/a Rear ² : 30'	Front: 0 Side: 22' (western) 0' (eastern) Rear ² : 30'	Front: 0 Side: 22' (western) 0' (eastern) Rear ² : 30'

¹ Sketch Plan 320190100 approved the use of a solar array as a 1 to 1 substitute for Green Cover per Bethesda Downtown Sector Plan recommendations to allow projects proposing onsite energy generation to alter the 35% green cover recommendation.

² Residential Compatibility Standards per Section 59.4.8.1.A apply. Rear setback is based on 1.5 times the minimum rear setback for the abutting residential zone (R60).

³ 15% MPDUs are based off total units (224 residential units + 73 live work units = 297 units), resulting in 45 units, however, per DHCA live work units cannot be counted as MPDUs.

The parking remains unchanged from the original approval as the live/work unit parking rate remains the same as the residential unit

ii. *Division 4.7. Optional Method Public Benefits*

Site Plan 820200130 approved a total of 108.84 public benefit points from four categories. With this Amendment, the Applicant is revising the calculation for Building Lot Termination within the Protection of Natural Environment category; as it was previously determined the original calculation utilized an incorrect methodology.

Table 3: Public Benefits Calculations			
Public Benefit	Incentive Density Points		
	Max Allowed	Approved w/ 820200130	Approved w/ 82020013A
59.4.7.3C: Connectivity and Mobility			
Minimum Parking ¹	20	3.56	3.56
Through-Block Connections ¹	30	20	20
59.4.7.3D: Diversity of Uses and Activities			
Enhanced Accessibility	10	5	5
59.4.7.3E: Quality of Building and Site Design			
Exceptional Design ¹	30	15	15
Architectural Elevations ¹	30	30	30
Structured Parking	20	20	20
59.4.7.3F: Protection and Enhancement of the Natural Environment			
BLTs	30	4.82	5.61
Cool Roof	15	10.46	10.46
TOTAL		110.56	109.63

¹Denotes Sector Plan priority

Protection and Enhancement of the Natural Environment

Building Lot Termination (BLT): The Applicant requests 5.16 points for the purchase of 0.6229 BLT easements or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5% incentive density floor area, exclusive of any density allocated for MPDUs. Based on the calculation set forth in Section 59.4.7.3.F of the Zoning Ordinance, the Planning Board approves 5.61 points for this category.

$$(((\text{Incentive Density} - \text{Standard Method Density}) * 7.5\%) / 31,500) * 9 =$$

$$(((316,500 \text{ sf}) - (54,847 \text{ sf})) * 7.5\%) / 31,500) * 9 = 5.61 \text{ points}$$

- e. substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;*

As amended, the Project remains in conformance with the 2017 *Bethesda Downtown Sector Plan* recommendations for the Property. The inclusion of commercial density for live/work units will enhance the area and provide flexibility for change in the working environment.

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 JUL 27 2021 (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 Cichy, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy and Verma voting in favor of the motion, and Commissioner Patterson absent at its regular meeting held on Thursday, July 22, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board