

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

December 5, 2024

MCPB No. 24-103

Site Plan Amendment No. 82022012A

ELP Bethesda at Rock Spring Phase 1B

Date of Hearing: October 24, 2024

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 9, 2022, the Planning Board, by Resolution MCPB No. 22-014, approved Site Plan No. 820220120 for the construction of a 5,700 square-foot marketing building and the development of a 5.37-acre privately owned linear park on 33.64 acres of CRF-1.5, C-0.75, R-1.5, H-150' zoned-land, located at 10400 Fernwood Road, Bethesda ("Subject Property"), in the North Bethesda Policy Area and 2017 *Rock Spring Sector Plan* ("Sector Plan") area; and

WHEREAS, on July 19, 2024, Grandview LLC ("Applicant") filed an application for approval of an amendment to the previously approved site plan to defer construction of the marketing building from Phase 1B to Phase 2 and to add lighting to the asphalt path within the Thomas Branch Linear Open Space on the Subject Property; and

WHEREAS, Applicant's application to amend the site plan was designated Site Plan Amendment No. 82022012A, ELP Bethesda at Rock Spring Phase 1B ("Site 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 October 14, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 24, 2024, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 5-0; Chair Harris, Vice Chair Pedoem, Commissioners Bartley, Hedrick, and Linden voting in favor.

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Approved as to
Legal Sufficiency:

/s/ Allison Myers
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan Amendment No. 82022012A to defer construction of the marketing building from Phase 1B to Phase 2 and to add lighting to the asphalt path within the Thomas Branch Linear Open Space by superseding the conditions of the prior approval and replacing them with the following conditions:¹

1. Public Benefits

The Applicant must provide the following public benefits and meet the applicable criteria and requirements of the Zoning Ordinance and the *Commercial/Residential and Employment Zones Incentive Density Implementation Guidelines (2017)* for each one. This condition includes only the Public Benefit categories that are included as part of Phase 1B.

a) Quality Building and Site Design

Public Open Space –The Applicant must provide a minimum of 5.37 acres (233,917 square feet) of public open space on the Property with Phase 1B. Prior to the final use and occupancy permit for Phase 1B, the public open space must be completed and open to the public. Within one growing season after issuance of the final use and occupancy permit for Phase 1B, all landscaping must be installed.

2. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to sidewalks, walking path, trails, benches and landscaping.

3. Stormwater Management

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Water Resources Section in its stormwater management concept letter dated January 7, 2022 and revised on May 23, 2024 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

4. Lighting

a) Before Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with

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.

the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).

- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c) Deflectors will be installed on all proposed fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by streetlights within the right-of-way.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

5. Site Plan Surety and Maintenance Agreement

Before issuance of any building permit, the Applicant must enter into a Site Plan 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(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, site furniture, retaining walls, fences, railings, private roads and sidewalks, paths and associated improvements of development, including storm drainage facilities, street trees and streetlights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

6. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

7. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, development program, and Site Plan resolution on the approval or cover sheet(s).
- b) Add the following notes:

- i. “M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading.”
- i. “Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services.”
- ii. “The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur before any site development work commencement and before any work that is covered by the site plan surety and maintenance agreement. The Applicant, along with their representatives, must attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times.”
- c) Include approved Fire Department Access Plan.
- d) Modify data table to reflect development standards approved by the Planning Board.
- e) Ensure consistency of all details and layout between Site and Landscape plans.
- f) Update development program to reflect this approval.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of ELP Bethesda at Rock Spring, Site Plan Amendment No. 82022012A, 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 of its Staff as presented at the hearing and/or provided 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:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan, and all findings not specifically addressed remain in effect.

1. *The development satisfies any previous approval that applies to the site.*

The Site Plan Amendment satisfies Local Map Amendment LMA H-135, Sketch Plan No. 320210030, and Preliminary Plan No. 120210040 as listed in the MCPB Resolution No. 21-074 dated July 27, 2021. The Subject Application is not in conflict with the previously approved Site Plan No. 820190190 for development of Phase 1A.

Local Map Amendment LMA H-135 binding element number 2 states “Provide a minimum of 5,000 square feet of retail space.” Site Plan No. 820220120 included the development of 1,900 square feet of retail uses as part of the Marketing Building. The Subject Site Plan Amendment proposes to defer the development of the Marketing

Building to Phase 2. As approved by the Board in the associated Site Plan No. 820240130, Phase 2 will include the development of 1,900 square feet of retail in the Marketing Building, as well as 3,400 square feet of retail located in Building RB2.4, together providing 5,300 square feet of total retail space and satisfying the binding element of LMA H-135.

4. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

a. Development Standards

The Subject Property includes approximately 31.9 acres zoned CRF-1.5, C-0.75, R-1.5, H-150'. The Application satisfies the applicable development standards as shown in the following data table:

Table 1: Development Standards

Development Standard	Permitted/ Required for Overall Project	Approved for Overall Project	Previously Approved for Phase 1B	Approved for Phase 1B Amendment
Tract Area	n/a	36.02 acres/ 1,568,824 SF	36.02 acres/ 1,568,824 SF	36.02 acres/ 1,568,824 SF
Prior Dedication	n/a	2.37 acres/ 103,320 SF	2.37 acres/ 103,320 SF	2.37 acres/ 103,320 SF
Park Dedication	n/a	1.75 acres/ 76,230 SF	1.75 acres/ 76,230 SF	1.75 acres/ 76,230 SF
Site Area	n/a	31.90 acres/ 1,389,564 SF	31.90 acres/ 1,389,564 SF	31.90 acres/ 1,389,564 SF
Residential Density	1.5 FAR/ 2,353,236 SF	1.497 FAR/ 2,347,936 SF	0.002 FAR/ 3,800 SF	0
Independent Living Units	n/a	1,300	0	0
Assisted Living Units	n/a	160-210	0	0
Skilled Nursing Units	n/a	30-50	0	0
Commercial Density	0.75 FAR/ 1,176,618 SF	0.003 FAR/ 5,300 SF	0.001 FAR/ 1,900 SF	0
Total Density	1.5 FAR/ 2,353,236 SF	1.5 FAR/ 2,353,236 SF	0.003 FAR/ 5,700 SF	0
MPDU requirement (independent living units)	15%	15%	N/A	N/A
Building Height, max	150 ft	150 ft	N/A	N/A
Public Open Space, min	10% / 3.36 acres	33% / 11 acres (including 1.75-acre park dedication)	16% / 5.37 acres (including 1.75-acre park dedication)	16% / 5.37 acres (including 1.75-acre park dedication)

Public Benefits

In the CRF Zone, the Applicant is required to provide 100 Public Benefit points in four categories. The Planning Board approved 105.78 benefit points in four categories for Phase 1A and 73.26 points in four categories in Phase 2. With this Amendment, the Applicant proposed, and the Board approved 1.52 point in two categories for Phase 1B, as shown below.

Table 2: Public Benefits

Public Benefit Category	Points Possible	Approved Overall Project	Approved Phase 1B Amendment
Major Public Facility	70		
Urban Park - 1.75 acres		10.97	
Extension of Bike Path		8.53	
Learn Grow Lead		25	
Transit Proximity	50	30	
Diversity of Uses			
Enhanced Accessibility for Seniors or the Disabled	20	20	
Quality Building and Site Design			
Architectural Elevations	10	5	
Exceptional Design	10	5	
Public Open Space	20	20	6.52
Structured Parking	20	14.08*	
Protection and Enhancement of the Natural Environment			
Building Lot Termination	30	30	0
Cool Roof	10	5	-5**
Vegetated Area	10	10	
TOTAL		183.58	1.52

*Exact parking numbers have been updated since the time of Sketch Plan, resulting in an increase in points awarded for structured parking by 0.75 points for the overall plan. Phase 1A points have already been awarded, so the remainder of the overall points will be awarded as part of Phase 2.

** During Site Plan review of Phase 1A, the Applicant planned to provide cool roofs on buildings in all phases, and all ten possible points for cool roofs were awarded at that time. The Applicant has since informed Staff that only the Phase 1A residential buildings will have cool roofs, so five of the previously awarded points for cool roofs were

removed with Site Plan No. 820220120 and carried forward with this Amendment to reflect this change.

Quality Building and Site Design

- **Public Open Space:** As part of Phase 1B the Project devotes approximately 5.37 acres of open space to public use in accordance with the Sector Plan's recommendation to incorporate additional public open green space in the Sector Plan area. The Applicant was previously awarded 13.48 points for the inclusion of open space as part of Phase 1A. The maximum number of points a project may achieve in the Public Open Space category is 20. Therefore, the Planning Board awards the remaining 6.52 points, which brings the total points awarded in the Public Open Space category for the sketch plan area to the maximum of 20.

Protection and Enhancement of the Natural Environment

- **Building Lot Terminations:** The Site Plan Amendment defers the construction of the Marketing Building, containing 5,700 square feet of total density, from Phase 1B to Phase 2. As a result of this change, there is no longer any density included in Phase 1B, covered by the Site Plan Amendment. Furthermore, with no density included in Phase 1B, no Public Benefit points in the Building Lot Terminations category are awarded for the Site Plan Amendment. The concurrent Site Plan No. 820240130 awards 24.64 points for the purchasing of 2.738 building lot termination easements, and Phase 1A covered by Site Plan 820210190 was awarded 3.09 points for purchasing 0.3438 building lot termination easements. Sketch Plan No. 320210030 established that 30 Public Benefit points would be provided for the entire project. The Project will be required to provide an additional 2.27 Public Benefit points in the Building Lot Terminations category in future Phase 3 to achieve the full 30 points established with the Sketch Plan.

b. General Requirements

i. General Landscaping and Outdoor Lighting

The Site Plan Amendment adds lighting along the paved path that runs east-west through the Thomas Branch Linear Open Space. The lighting will add safety and functionality to this area and to the open space at large.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

i. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on May 23, 2024. The plan will meet stormwater management requirements through the use of micro-bioretenment.

ii. Chapter 22A, Forest Conservation Law

Concurrently with this Amendment, the Board approved Forest Conservation Plan No. F20240740, which amends the previously approved Final Forest Conservation Plans and encompasses the entire Property subject to Phases 1A, 1B, 2, and 3. As further discussed in the resolution approving Forest Conservation Plan No. F20240740, the Board finds that the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A, are satisfied.

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

December 5, 2024

(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 consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

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 Hedrick, seconded by Vice Chair Pedoeem, with a vote of 4-0; Chair Harris, Vice Chair Pedoeem, and Commissioners Hedrick, and Linden, voting in favor of the motion, Commissioner Bartley was necessarily absent, at its regular meeting held on Thursday, November 21, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board