

# Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-076

Preliminary Plan Amendment No. 12019016A

Grand Park Development

Date of Hearing: July 21, 2022

AUG 10 2022

## RESOLUTION

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

WHEREAS, on January 15, 2019, the Planning Board, by Resolution MCPB No. 19-062, approved Preliminary Plan No. 120190160, creating two (2) lots on 5.9 acres of land in the CR-4.0, C-2.0, R-3.5, H-250 zone, located 1565, 11575 and 11605 Old Georgetown Road and 5995 Executive Boulevard (“Subject Property”), in the *2010 White Flint Sector Plan* (“*Sector Plan*”) area; and

WHEREAS, on December 1, 2021, Investment Partners, II LP as the contract purchaser of Phase 1 of the development, and Silverstone Bethesda Owner, LLC as the Applicant of the Site Plan (“Applicant”) filed an application for approval of an amendment to the previously approved preliminary plan(s) to modify conditions, including: a change of use from multi-family residential to 210 residential care facility units, modify park dedication requirements, and modify the Adequate Public Facilities validity period on the Subject Property; and

WHEREAS, Applicant’s application to amend the preliminary plan was designated Preliminary Plan Amendment No. 12019016A, Grand Park Development (“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 11, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 21, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Vice Chair Verma, seconded by Commissioner Patterson, with a vote of 4-0; Chair Anderson, Commissioners Cichy Patterson and Verma voting in favor with Commissioner Rubin being absent.

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Approved as to

Legal Sufficiency: /s/ Emily Vaias

M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 12019016A to modify conditions, including: a change of use from multi-family residential to 210 residential care facility units, modify park dedication requirements, and modify the Adequate Public Facilities validity period by adding and modifying the following conditions:<sup>1</sup>

### **Modified Conditions**

#### **General Approval**

1. This Preliminary Plan is limited to two (2) lots; Lot No. 1 (approximately 145,712 square feet) and Lot No. 2 (approximately ~~21,490~~ 21,494 square feet), with a proposed development maximum of ~~1,051,012~~ 1,050,028 square feet on the Subject Property, which includes up to ~~940,843~~ 939,859 square feet of residential uses (up to ~~1,000-790~~ multi-family residential and 210 residential care facility units), and up to 110,169 square feet of non-residential uses.

#### **Adequate Public Facilities and Outside Agencies**

2. The Adequate Public Facilities ("APF") review for the Preliminary Plan will remain valid for ~~eighty-four (84) months~~ ten (10) years, not including any automatic legislative extensions, from the date of mailing of ~~this~~ the original Planning Board Resolution MCPB No. 19-062. ~~and is subject to the following phasing schedule:~~

~~Phase 1 the Applicant must obtain building permits for a minimum of 270 of the 1,000 dwelling units and 30,000 square feet of non-residential uses within five (5) years of the resolution mailing date, and a minimum of 13% of the units must be MPDUs or units approved by DHCA; the Applicant must dedicate the 21,490 square-foot park; provide on-street parking on Grand Park Avenue; and build the applicable area for the Promenade.~~

~~Phase 2 Applicant must obtain the remaining 721 building permits of the 1,000 dwelling units and 80,169 square feet of non-residential uses within seven (7) years of the resolution mailing date; a minimum of 13% of the units must be MPDUs or units approved by the Department of Housing and Community Affairs ("DHCA"); and build the applicable area for the Promenade.~~

#### **Outside Agencies**

3. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated April 25, 2019, and as modified by the letter dated May 13, 2022, and

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<sup>1</sup> 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.

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.

7. 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 June 22, 2022 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 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 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 March 4, 2022 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 amendment does not conflict with other conditions of Preliminary Plan approval.
9. 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, 2022, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

**Parks**

~~26. Prior to issuance of the final residential use and occupancy permit for the first residential building, the Applicant must dedicate to the Maryland National Capital Park & Planning Commission ("MNCPPC") the 21,490 square foot portion of the Subject Property identified as Lot No. 2 on the approved Preliminary Plan for use as a public park. The land must be dedicated to the MNCPPC through notation on the plat and by conveyance at the time of record plat in a form of deed approved by the MNCPPC's Office of General Counsel. At the time of the first Site Plan and prior to conveyance, the following must be determined:~~

- ~~a. Design of the park;~~
- ~~b. Size of the retail building;~~

- ~~e. Details of leaseback of retail space;~~
- ~~d. Timing for construction of the park and retail;~~
- ~~e. Maintenance responsibilities; and~~
- ~~f. Programming opportunities.~~

~~In the event the Applicant is to complete improvements on the land to be dedicated, the Applicant must enter into a Recreational Facilities Agreement ("RFA") or a Park Permit with the Montgomery County Department of Parks. Both the deed and the RFA/Park Permit must be in a form approved by the Department of Parks and the Office of General Counsel.~~

26. The Applicant shall dedicate to the Maryland-National Capital Park & Planning Commission ("Commission") approximately 21,494 square feet of parkland ("Future Parkland") as identified on the Grand Park Development Phase 1 Site Plan No. 820220040 Interim Park exhibit.
- a) Prior to Record Plat that includes the Future Parkland, the Applicant must provide to Parks staff, an executed deed for the Future Parkland to be dedicated to the Commission, in a form approved by the Commission's Office of General Counsel. The Commission will hold the deed in escrow until all construction of the Interim Park Improvements on the Future Parkland is complete and all conditions of the Park Construction Permit(s) have been completed and accepted by the Commission, at which time the deed will be recorded in the Land Records to transfer title of the Future Parkland to the Commission.
  - b) The Record Plat that includes the Future Parkland must be recorded prior to issuance of the first residential use and occupancy permit for the first residential building.
  - c) The Applicant shall provide an Interim Park Improvements on the Future Parkland. The scope and Applicant obligations for the Interim Park Improvements will be determined during review of the Phase 1 Site Plan.
  - d) During the Phase 2 Site Plan or a Phase 1 Site Plan Amendment involving a significant change in the scope of Phase 1 (e.g. a change of use; an increase in the density greater than 10%; etc.) the scope of the Permanent Park Improvements and the Applicant's obligation for the Permanent Park Improvements will be determined in conjunction with the Department of Parks and will require a Park permit for construction.

#### **New Condition**

29. Phase 1- no later than 5 years from the initiation date of June 28, 2019, not including any automatic legislative extensions, the Applicant must obtain building permits for Building 3 (Site Plan 820220040 ) and up to 16,000 square feet of non-residential uses and a minimum of 13% of the units must be MPDUs

or equivalent square footage approved by the Department of Housing and Community Affairs ("DHCA"); the Applicant must dedicate the 21,490 square foot park;; and build the applicable area for the Promenade.

30. Phase 2- no later than ten years from the initiation date of June 28, 2019, not including any automatic legislative extensions, the Applicant must obtain building permits for the remainder of the 1,000 dwelling units and 94,169 square feet of non-residential uses, and a minimum of 13% of the units must be MPDUs or equivalent square footage approved by DHCA; provide on-street parking on Grand Park Avenue; and build the applicable area for the Promenade.
31. Plat must reference the recorded TMAg and that there may be a covenant related to the residential care facility use pursuant to Preliminary Plan No. 12019016A and Site Plan No. 820220040, as amended.

#### **Abandonment**

32. Prior to First Use and Occupancy Certificate, the Applicant must obtain the County's approval for the abandonment of approximately 170 square feet of the Old Georgetown Road right-of-way to accommodate the steps at the northwest corner of the building or amend the plans to eliminate the need for the abandonment.

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 of its Staff as presented at the hearing and/or 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:

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

*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 two lots' size, width, shape and orientation are appropriate for the location of the subdivision considering the recommendations in the *White Flint Sector Plan* and the type of development and use contemplated. The lots are appropriately sized and located

considering the amount of density and height and the urban development envisioned by the Sector Plan. The lots comply with all applicable dimensional requirements of the CR zone as specified in the Zoning Ordinance and shown in the Table below.

Table - Preliminary Plan Data Table			
Section 59	Development Standard CR-4.0, C-2.0, R-3.5, H-250	Permitted/ Required	
	Gross Tract Area (sf)	n/a	258,203 sf
	Previous Dedications		36,904 sf
	Land ceded to Gables White Flint Dedications	n/a	2,593 sf
	<b>Total Net Area</b>	n/a	<b>51,504 sf</b>
	<i>total net area includes Park dedication</i>		<i>167,202 sf</i>
<b>4.5.4.B.2.b</b>	<b>Density</b>		
	Combined FAR	<b>4.0 FAR</b>	<del>1,051,012</del> <b>1,050,028 sf</b>
	Non-Residential	<b>2.0 FAR</b>	<b>110,169 sf</b>
	Residential	<b>3.5 FAR</b>	<del>940,843</del> <b>939,859 sf</b>
	4% MPDU Bonus Density	<b>12.50%</b>	<b>13.00%</b>
<b>4.5.4.B.1</b>	<b>Minimum Public Open Space (%)</b>	10%	21.8 %(36,529 SF)
	Park dedication		Park dedication 21,494 sf
<b>6.2.4.B</b>	<b>Minimum Parking</b>		TBD Site Plan
	<b>Units</b> – Final number will be determined at Site Plan		1,000

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

**Adequate Public Facilities (APF) and Plan Validity**

The Planning Board previously approved a seven (7)-year (84-month) APF Validity Period. The Planning Board now approves the request to modify the prior approval of the seven (7)-year (84-month) APF Validity Period, changing it to ten (10) years, with conditions, based on (i) a development schedule or phasing plan for completion of the project that shows the minimum percentage of the Project that the Applicant expects to complete in the first five years; and (ii) finding that given the size and complexity of the proposal, and the potential to provide 1,000 dwelling units between three (3) buildings

on two lots, the extended validity period is warranted and will not be adverse to the public interest. In addition, the smaller building 3 being developed first has fewer units than the original planned phasing sequence.

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

MCDPS determined that the Stormwater Management Concept Plan meets applicable standards. The Applicant received a stormwater concept approval from MCDPS-Water Resources Section on April 5, 2019, and as modified with a letter dated June 22, 2022. The Application meets stormwater management goals through a variety of techniques including environmental site design (ESD) to the maximum extent practicable (MEP) with the use of green roof and micro bioretention planter boxes.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 10 2022 (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 Vice Chair Verma, seconded by Commissioner Cichy, with a vote of 4-0-1; Chair Anderson, Vice Chair Verma, and Commissioners Cichy, and Patterson, voting in favor of the motion, Commissioner Rubin abstaining, at its regular meeting held on Thursday, July 28, 2022, in Wheaton, Maryland and via video conference.

  
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Casey Anderson, Chair  
Montgomery County Planning Board