

**4901 BATTERY LANE**

**PRELIMINARY PLAN AMENDMENT 12022010A**



Request to extend the Preliminary Plan validity period by an additional two (2) years and amend associated conditions of approval.

COMPLETED: 10/27/2025

PLANNING BOARD HEARING DATE: 11/6/2025

MCPB ITEM NO. 7

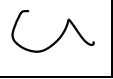
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### LOCATION/ADDRESS

4901 Battery Lane, Bethesda; on the north side of Battery Lane, approximately 450 feet west of Woodmont Avenue

### MASTER PLAN

2017 Bethesda Downtown Sector Plan

### ZONE

CR-1.5, C-0.5, R-1.5, H-120' and  
Bethesda Overlay Zone (BOZ)

### PROPERTY SIZE

2.12 acres

### APPLICANT

WC Smith Development

### ACCEPTANCE DATE

July 9, 2025

### REVIEW BASIS

Chapter 50

### Summary:

- Staff recommends approval with conditions of the Preliminary Plan Amendment.
- The Planning Board approved Sketch Plan 320220040 on February 3, 2022, to allow the development of up to 420,528 square feet of multifamily residential development with 15 percent MPDUs, including up to 281,865 square feet of BOZ density.
- On December 15, 2022, the Planning Board approved Preliminary Plan 120220100 and Site Plan 820220160 to create one lot for 416,367 square feet of residential development, for a maximum of 372 dwelling units, with a minimum of 15% MPDUs, 277,713 square feet of BOZ density, and associated PIP payment.
- Preliminary Plan Amendment 12022010A requests to extend the Preliminary Plan validity period by an additional two (2) years, for a total of five (5) years of validity from the initiation date and amend the associated conditions of approval to reflect the extended validity period.
- No community correspondence has been received for this Application.

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## SECTION 1: RECOMMENDATIONS AND CONDITIONS

### PRELIMINARY PLAN 12022010A

Staff recommends approval with conditions of the Preliminary Plan Amendment to extend the Preliminary Plan validity period by an additional two (2) years, for a total of five (5) years of validity from the original initiation date and amend the associated conditions of approval to reflect the extended validity period. All site development elements shown on the latest electronic version of Preliminary Plan No. 12022010A, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions. The following Condition No. 3 modifies the previous Condition No. 3; all other conditions remain in full force and effect:

#### Modified Condition

3. The Preliminary Plan will remain valid for ~~three (3)~~ five (5) years from its original initiation date (as defined in Montgomery County Code Section 50.4.2.G) which would be until February 4, 2028, and before the expiration date of this validity period, a final record plat for all property delineated on the Preliminary Plan must be recorded in the Montgomery County Land Records or request for an extension filed.

## SECTION 2: SITE DESCRIPTION

### VICINITY

The Property (“Subject Property” or “Property” or “Site”), outlined in Figure 1, is located on the north side of Battery Lane, approximately 450 feet west of its intersection with Woodmont Avenue in Bethesda. It is bounded by the National Institutes of Health campus to the north, Sunrise of Bethesda senior living facility to the west, and four-story garden-style apartments to the east and south. The Battery Lane Urban Park is southwest of the Site. The Bethesda Trolley Trail runs north-south on the west side of the Sunrise of Bethesda property. The Bethesda Metrorail Station is approximately one-half mile south of the Site, and the Medical Center Metrorail Station is approximately one-half mile north. As illustrated in Figure 2, the Site is within the Battery Lane District of the 2017 *Bethesda Downtown Sector Plan* (“Sector Plan”), but not within the Parking Lot District or the Bethesda Urban District.



Figure 1 – Vicinity Map



*Figure 2 – Site Location in the Battery Lane District of Bethesda Downtown Sector Plan Area*

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## PROPERTY DESCRIPTION

The Property consists of Lots 26, 49, and 50 originally created in 1910 by Plat No. 134, “Northwest Park,” located on the north side of Battery Lane between Woodmont Avenue and Old Georgetown Road. The Project has a total tract area of 2.12 acres and is outlined in Figure 3. The Property is currently improved with two garden-style apartment buildings and associated surface parking, accessed by two curb cuts from Battery Lane.





*Figure 3 – Subject Property*

The Subject Property is located within the Lower Rock Creek watershed, which is a Use I<sup>1</sup> watershed. The Site is not associated with any areas of forest, or 100-year flood plains; however, minor areas of steep slopes (greater than or equal to 20%) overlap the Property line along the northwest edge. Additionally, the northwest corner of the Site includes an area of stream valley buffer associated with an offsite stream. Trees are found throughout the Site, although most trees on the Property are less than 24 inches in diameter-at-breast-height (DBH). The Property does contain one significant tree, measuring at least 24 inches but less than 30 inches DBH, as well as two specimen trees, which measure at least 30 inches DBH. Additional specimen trees lie offsite within the stream valley buffer area to the north. The soils associated with the Property are classified generally as urban land and silt loam, neither of which are highly erodible nor otherwise sensitive. There are no known rare, threatened, or endangered species on site. There are no known historic properties on or near the site.

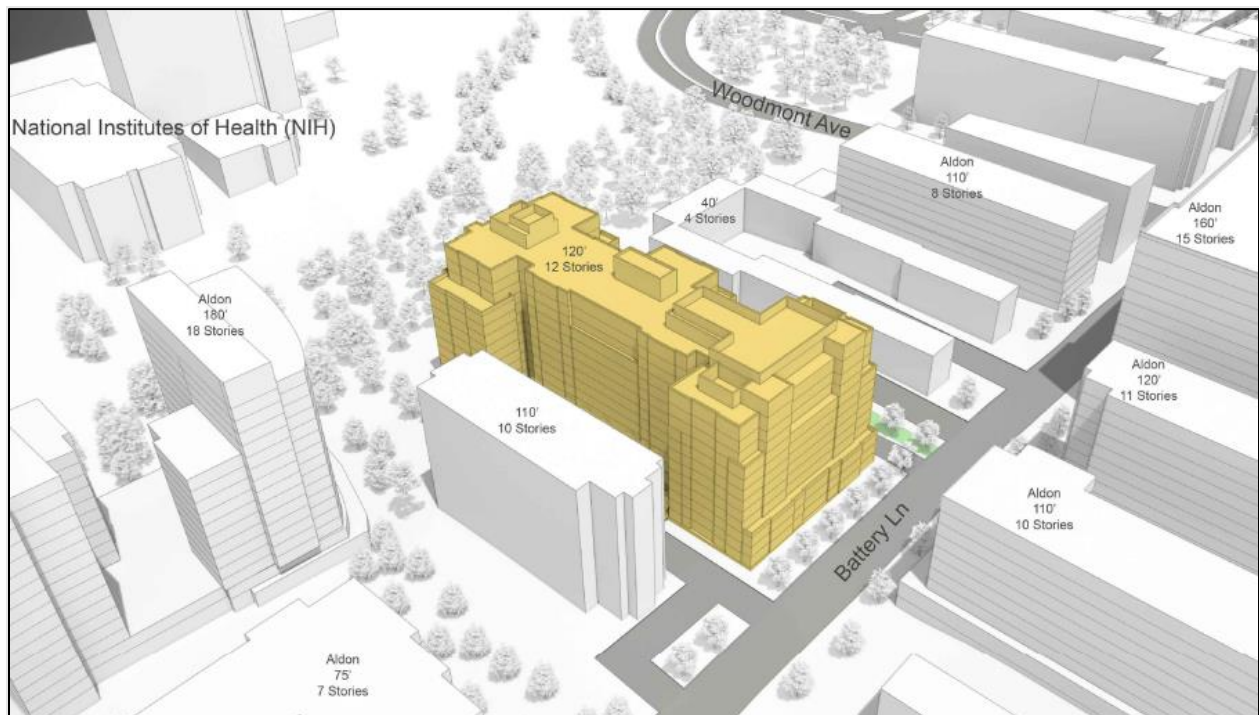
### SECTION 3: PROJECT DESCRIPTION

<sup>1</sup> Use I-P: WATER CONTACT RECREATION & PROTECTION OF AQUATIC LIFE Waters that are suitable for: water contact sports; play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply, and industrial water supply

## PREVIOUS APPROVALS

### SKETCH PLAN

The Planning Board previously approved Sketch Plan No. 320220040, MCPB No. 22-004 dated February 3, 2022, to allow up to 420,528 square feet of residential density for a multi-family development with 15 percent MPDUs, including up to 281,865 square feet of BOZ density. This development concept is illustrated in Figure 3.



*Figure 4 – Sketch Plan 320220040*

### PRELIMINARY PLAN & SITE PLAN

The Planning Board previously approved the original Preliminary Plan (No. 120220100) and Site Plan (No. 820220160) on December 15, 2022, by Planning Board Resolution MCPB No. 22-115, dated January 5, 2023 and Resolution No. 22-116. These plans approved the creation of one lot for up to 372 dwelling units, up to 416,367 sf of residential use, with a minimum of 15% MPDUs, including up to 277,713 square feet of BOZ density and an associated Park Impact Payment (PIP). An associated Final Forest Conservation Plan No. 820220160 was also approved at this time.





*Figure 5 – Illustrative Building Design*



*Figure 6 – Illustrative Site Plan*

### *Approved Validity Periods*

The 2022 Preliminary Plan approval contained a standard 3-year plan validity period with a requirement to record a plat by February 4, 2026. The current application for an extension of this validity period was submitted in a timely manner on July 9, 2025, well before the expiration dates as noted above.

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## PROPOSAL

The Applicant requests a two-year extension of the Preliminary Plan validity period, which would result in an expiration date of February 4, 2028. As detailed in the findings below, the Applicant has completed and obtained certification of the plans, advanced the engineering for the forthcoming record plat, commenced final engineering in anticipation of permit applications, and produced and analyzed multiple construction budgets in the face of changing construction costs and uncertainty in the finance markets, with an eye on the deadline for timely submission of a building permit application per the requirements of the Bethesda Overlay zone.

The proposed Amendment will allow the Applicant additional time to move their entitlement and permitting efforts forward as they continue to navigate a volatile construction and development market, which has exhibited remarkable and challenging shifts in recent years.

## SECTION 4: COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements, and a pre-submittal public meeting was not required for this amendment Application. A written notice of the Application was mailed to applicable parties on July 14, 2025. As of the date of this Staff Report, no correspondence has been received.

## SECTION 5: PRELIMINARY PLAN 12022010A FINDINGS AND ANALYSIS

The Planning Board approved Preliminary Plan No. 120220100, MCPB No. 22-115, to create one lot on 2.12 acres of land in the CR-1.5, C-0.5, R-1.5, H-120' and Bethesda Overlay Zone on the Subject Property with conditions.

Preliminary Plan Amendment No. 12022010A requests to extend the Preliminary Plan validity period by an additional two (2) years and amend the associated conditions of approval. The proposed Preliminary Plan Amendment does not alter the intent of the previous findings, which remain applicable, except as modified below.

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

### Preliminary Plan Validity Period Extension

The current Preliminary Plan validity period is set to expire on February 4, 2026, whereas the Applicant made a timely request for extension prior to this date.

Section 50-4.2.H of the Subdivision Regulations allows the Planning Board to consider the extension of Preliminary Plan validity. As part of an extension, the Planning Board may only grant an extension to a Preliminary Plan for the minimum amount of time it deems necessary to validate the plan (i.e., record plats), and it must only grant an extension to a Preliminary Plan that has a valid APF, unless further extensions of the APF validity are allowed or pending (50-4.2.H.5). Additionally, per Section 50-4.2.H.3.a. the Planning Board must make the following findings:

#### **3. Grounds for extension.**

##### **a. The Board may only grant a request to extend the validity period of a preliminary plan if the Board finds that:**

- i. delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant; or*
- ii. the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.*

##### **b. The applicant bears the burden of establishing the grounds in support of the requested extension.**

#### **4. Planning Board considerations for extension.**

- a. The Board may condition the grant of an extension on a requirement that the applicant revise the plan to conform with changes to the requirements of this Chapter since the plan was approved.**
- b. The Board may deny the extension request if it finds that the project, as approved and conditioned, is no longer viable. The Board must consider whether the project is capable of being financed, constructed, and marketed within a reasonable time frame. The Applicant must demonstrate the project's viability upon request by the Board or the Director.**

In support of the above findings, the Applicant's statement of justification explains that the Preliminary Plan and Site Plan were approved by the Planning Board in December 2022 at a time when the COVID emergency was in effect. Although the Federal Government declared an end to the emergency in March 2023, the real estate market currently remains in a state of uncertainty. In the wake of the previous approval, the CBRE Construction Cost Index reported that there has been a 14% year-over-year increase in construction costs by the end of 2022; the group optimistically projected construction costs inflation to return to typical levels by mid-2023, supply chain-related disruptions to ease component shortages, and wage pressures to lessen, stabilizing construction costs.

The Applicant notes that while construction cost inflation moderated somewhat in 2023 and 2024 for some construction components, overall construction and labor costs continued to increase. Inflation began to decline in the first quarter of 2025, but construction costs once again became extremely volatile with global tariff uncertainty. These are significant, unusual, and unanticipated events that continue to affect both construction costs and the real estate finance markets and are outside of the Applicant's control.

These factors are expected to substantially impair Applicant's ability to validate the Preliminary Plan by recording a plat in early 2026, given that plat recordation requires bonding for the significant costs of public improvements for road, sidewalk, and streetscape improvements, including the undergrounding of utilities, which is a significant cost, estimated to be just under a million dollars.

In addition, the record plat requires the platting and recording of certain dedications and easements, including public access easements for future mid-block pedestrian paths that align with the footprint of the proposed project, but conflict with existing operating buildings on the property. These newly recorded easements will negatively affect the ability to finance and ensure the existing improvements, at reasonable cost because of the conflict with existing operations.

The Applicant explains that the process for financing of redevelopment is such that the plat is recorded when financing, demolition of existing improvements, and building permits are in place for the prompt start of construction. Further, the required bonds are expected to be outstanding for a limited time and released promptly post-construction. Given the volatile trend of construction costs for both the public improvements and the project, as well uncertainty of when the real estate finance markets will settle, it would be an undue hardship for Applicant to be required to validate its preliminary plan by recording a plat and posting the required bonds within the current timeframe of February 4, 2026, especially when it would be difficult to secure such bonding for an indeterminate period on commercially reasonable terms.

While the Applicant has indicated that they remain dedicated to bringing this project to fruition, the requested additional time will enable the team to proceed in a manner that ensures the anticipated improvements are constructed in full. As noted in the submitted materials, the Applicant is currently

proceeding with engineering for the record plat, updating construction budgeting, and working on utility design and easements in support of reaching a timely completion.

#### *Staff's Recommendation*

Due to the explanation provided in the statement of justification, Staff recommends that the Planning Board support the 2-year Preliminary Plan validity extension as requested by the Applicant, which results in a Preliminary Plan Validity Period through February 4, 2028.

## SECTION 9: CONCLUSION

As conditioned, the Preliminary Plan Amendment satisfies the applicable standards of the Subdivision Regulations, the Zoning Ordinance and Forest Conservation Law, and substantially conforms with the 2017 *Bethesda Downtown Sector Plan*. Therefore, Staff recommends approval of the Preliminary Plan Amendment with the conditions specified at the beginning of this report.

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#### ATTACHMENTS

*Attachment A: Preliminary Plan*

*Attachment B: Statement of Justification*

*Attachment C: Prior Approvals*