

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DATE MAILED:

MARCH 27, 2026

MCPB No. 26-13
Preliminary Plan Amendment No. 12016005B
8008 Wisconsin Avenue
Date of Hearing: March 5, 2026

RESOLUTION

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

WHEREAS, on September 16, 2016, the Planning Board approved Preliminary Plan No. 120160050, by Resolution MCPB No. 16-083, to create one lot with up to 150,375 square feet of multi-family residential use, consisting of no more than 106 multi-family dwelling units, including 15% MPDUs, and a maximum of 5,793 square feet of non-residential use on 0.32 acres of land in the CR-3.0, C-3.0, R-2.75, H-145 zone, located southwest quadrant of the intersection of Wisconsin Avenue and Cordell Avenue in downtown Bethesda (“Subject Property”), in the Bethesda CBD Policy Area and 2017 *Bethesda Downtown Sector Plan* area; and

WHEREAS, on July 28, 2023, the Planning Board approved, by Resolution MCPB No. 23-081, an amendment to the preliminary plan to extend the plan’s validity period to October 16, 2025; and

WHEREAS, on October 7, 2025, Artena Equities, LLC (“Applicant”) filed an application for approval of an amendment to the preliminary plan to extend the preliminary plan validity period and the validity of the Adequate Public Facilities (“APF”) review; and

WHEREAS, Applicant’s application to amend the preliminary plan was designated Preliminary Plan Amendment No. 12016005B, 8008 Wisconsin Avenue (“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 February 20, 2026 providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on March 5, 2026, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Pedoeem, seconded by Vice Chair Linden, with a vote of 4-0; Chair

Harris, Vice Chair Linden, and Commissioners Hedrick and Pedoeem voting in favor; Commissioner Bartley was necessarily absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 12016005B to extend the validity periods of the Preliminary Plan and Adequate Public Facilities for the Subject Property by replacing prior Conditions No. 18 and 19 with the following:

18. The Adequate Public Facilities review for the Preliminary Plan will remain valid until December 31, 2027.
19. The Preliminary Plan as amended will remain valid until December 31, 2026, and before the expiration date of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

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 as revised by previous amendments, and all findings not specifically addressed remain in effect.

The Amendment extends the validity period of the Preliminary Plan from October 16, 2025, to December 31, 2026, and the Adequate Public Facilities (APF) validity period from October 16, 2025, to December 31, 2027.

Preliminary Plan Validity Period Extension 50.4.2.H

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.

The Applicant requested an extension to the validity period of the Preliminary Plan due to the occurrence of significant, unusual, and unanticipated events, beyond the Applicant's control and not caused by the Applicant, that have substantially impaired their ability to validate to the Plan. As recognized with the first extension (Preliminary Plan Amendment No. 12016005A), much of the Preliminary Plan's original five-year validity period was consumed by a period of significant change and unusual and unanticipated events.

The 2017 Bethesda Downtown Sector Plan was adopted seven months after the Preliminary Plan's approval and recommended a zoning change for the Subject Property. Just as the previous owner, Toll MD X Limited, was completing its due diligence and assessment of the impacts of the 2017 Bethesda Downtown Sector Plan's zoning change, the COVID pandemic began to take shape, bringing with it a significant period of uncertainty, market volatility, inflation, and change to interest rates. Increased construction costs impacted all aspects of the development project. When the Applicant purchased the Property in the fall of 2023, only two years remained to validate the Plan. In approving the first extension, the Board recognized market volatility and inflation as challenges to validating the Plan. The Applicant has a pending record plat application and the lapse of the Plan would cause an exceptional hardship as significant resources were expended towards seeking record plat approval.

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

The Applicant submitted a Statement of Justification as part of the Preliminary Plan Amendment, which explains the grounds in support of the extension as described above.

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.

The Board finds that none of the recent changes to the Subdivision Regulations (Chapter 50) are pertinent to the scope of this Application. No revisions to the previously approved Preliminary Plan are needed to conform to the Regulations.

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.

The Board finds that the Applicant has demonstrated that the project remains viable and is in the final stages of the record plat approval process.

5. Planning Board Action.

- a) After a duly noticed public hearing, the Board must determine whether it should grant a request for an extension. The requirements for noticing and conducting a public hearing must follow the requirements for a preliminary plan.

The Application was submitted in conformance with the noticing requirements of Chapter 50 and the Administrative Procedures for Development Review. This included mailing notices to required parties and property owners and posting the Site with signage. The Planning Board reviewed and approved the Application at a duly noticed public hearing.

- b) If voting to approve an extension, the Board must only grant the minimum time it deems necessary for the applicant to validate the plan.

The Board finds that a one-year extension is the minimum time needed to complete prerequisites for record plat approval.

- c) The Board may only grant an extension to a preliminary plan within the plan's APF validity period, unless a further extension is allowed by law.

The APF validity period ends on October 16, 2026, but will be extended to December 31, 2027 with this Amendment. The Applicant requested an extension of the validity period of the Preliminary Plan from October 16, 2025, to December 31, 2026. The approved Preliminary Plan validity period is within the approved APF validity period, as amended.

- d) An applicant may request, and the Board may approve, more than one extension.

This Amendment is the second request for an extension of the Preliminary Plan validity period.

- e) Once a phasing schedule is approved by the Board as part of a preliminary plan approval, the Board must treat any revision or alteration to the schedule other than an amendment approved under Section 4.3.J.7 as a minor amendment to the preliminary plan. Board approval of a revised phasing schedule is required to extend the total length of the validity period.

The development will be constructed in a single phase. This Application will not revise the previous approval.

Adequate Public Facilities Extension 50.4.3.J.7 & Waiver of Section 50.4.3.J.7.d.i

7. Extensions

a. Application. Only the Board may extend the validity period for a determination of adequate public facilities; however, a request to amend any validity period phasing schedule may be approved by the Director if the length of the total validity period is not extended.

- i. The applicant must file an application for extension of an adequate public facilities determination or amendment of a phasing schedule before the applicable validity period or validity period phase expires.

The Applicant submitted an application for extension of an APF determination on October 7, 2025, which was prior to the October 16, 2025 expiration date.

- ii. The applicant must submit a new development schedule or phasing plan for completion of the project for approval.

This provision is not applicable, as this development approved in the Preliminary Plan will be completed in a single phase.

- iii. For each extension of an adequate public facilities determination:

- a) the applicant must not propose any additional development above the amount approved in the original determination;

No additional development is approved.

- b) the Board must not require any additional public improvements or other conditions beyond those required for the original preliminary plan;

No additional public improvements are conditioned with this approval.

- c) the Board may require the applicant to submit a traffic study to demonstrate how the extension would not be adverse to the public interest;

The Applicant is exempt from Local Area Transportation Review (LATR) because the proposed use generates fewer than 30 net new peak-hour weekday vehicle trips. Further, this Application does not alter any of the findings or requirements of the approved Preliminary Plan No. 120160050, as amended.

- d) an application may be made to extend an adequate public facilities period for a lot within a subdivision covered by a previous adequate public facilities determination if the applicant provides sufficient evidence for the Board to determine the amount of previously approved development attributed to the lot; and

This provision is not applicable as the Property does not yet have a record plat.

- e) if the remaining unbuilt units would generate more than 10 students at any school serving the development, the Board must make a new adequate public facilities determination for school adequacy for the remaining unbuilt units under the school test in effect at the time of Board review.

A new APF determination for school adequacy is not required since the project will not generate more than 10 students in any schools that will serve the development. The Subject Property is located within the Bethesda CBD Policy Area, which is categorized as an Infill Impact Area by the 2024-2028 Growth and Infrastructure Policy.

The FY2026-2027 student generation rates for multi-family high rise developments are: .039 for elementary school students, .016 for middle school and .020 for high school. Accordingly, based on the Project's 106 dwelling units, the enrollment impact of the approved units during an average year throughout the life of this project is estimated to be 4 elementary school students, 1 middle school students, and 2 high school students.

- b. The Board may approve an amendment to the new development schedule approved under Section 4.3.J.7.a.ii if the applicant shows that financing has been secured for either:

- i. completion of at least one new building in the next stage of the amended development schedule; or
- ii. completion of infrastructure required to serve the next stage of the amended development schedule.

This approval is for a single phase project, therefore a new development schedule is not required.

- c. Exclusively residential subdivisions. The Board may extend a determination of adequate public facilities for an exclusively residential subdivision beyond the otherwise applicable validity period if the Department of Permitting Services has issued building permits for at least 50 percent of the entire subdivision before the application for extension is filed. The Board may approve one or more extensions if the aggregate length of all extensions for the development does not exceed:
 - i. 2.5 years for a subdivision with an original validity period of 7 years or less; or
 - ii. 6 years for a subdivision with an original validity period longer than 7 years.

This finding is not applicable since the Project is a mixed-use development rather than an exclusively residential subdivision.

- d. Nonresidential or mixed-use subdivisions.
 - i. The Board may extend a determination of adequate public facilities for a preliminary plan for nonresidential or mixed-use development beyond the otherwise applicable validity period if:
 - (a) the Department of Permitting Services issued building permits for structures that comprise at least 40% of the total approved gross floor area for the project;
 - (b) all of the infrastructure required by the conditions of the original preliminary plan approval has been constructed, or payments for its construction have been made; and
 - (c) the Department of Permitting Services either issued occupancy permits or completed a final building permit inspection for:

- (1) structures that comprise at least 10 percent of the total gross floor area approved for the project within the 4 years before an extension request is filed; or
- (2) structures that comprise at least 5 percent of the total gross floor area approved for the project within the 4 years before an extension request

The Applicant does not meet the requirements of these provisions and therefore requested a waiver. In accordance with Division 50.9 of the Subdivision Ordinance, the Planning Board may grant a waiver from requirements of Chapter 50 subject to the following findings:

A. To grant a waiver, the Board must find that:

1. Due to practical difficulty or unusual circumstances of a plan, the application of a specific requirement of the Chapter is not needed to ensure the public health, safety, and general welfare;
2. The intent of the requirement is still met; and
3. The waiver is:
 - a. the minimum necessary to provide relief from the requirements; and
 - b. consistent with the purposes and objectives of the General Plan.

The requirements create practical difficulties for the Applicant, as the Project is a single building that will be constructed in one phase. Accordingly, obtaining permits for at least 40% of the development is not feasible as it would be for a multiple phase project that could obtain permits for different phases of the project as it is implemented. The issuance of any permits for this project may only occur after plat recordation; however, the contract purchase process delayed recordation of the plat meaning no permits have been issued for the development. The Applicant intends to complete the record plat process within the approved APF Validity period, and the corresponding record plat application is under review. The requested 26-month APF extension is the minimum necessary length of time to provide relief for the Applicant to acquire building permits.

The waiver is consistent with the County's General Plan, Thrive Montgomery 2050, which recommends facilitating "the development of a variety of housing types in every part of the county, but especially in areas near transit,

