



# MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 15-146  
Preliminary Plan No. 120160010  
Brightview Bethesda  
Date of Hearing: December 10, 2015

**DEC 28 2015**

## RESOLUTION

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

WHEREAS, on July 23, 2015, Shelter Development, LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 1.39 gross acres of land in the CR 3.0 C 1.0, R 2.75, H 90 T and CRN 0.5 C 0.5, R 0.25 H 35 zones, located in the northeast quadrant of the intersection of Rugby Avenue and Glenbrook Road ("Subject Property"), in the Bethesda CBD Policy Area and *Woodmont Triangle Amendment to the Bethesda CBD Sector Plan* ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120160010, Brightview Bethesda ("Preliminary Plan" 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 November 25, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 10, 2015, 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 Preliminary Plan No. 120160010 to create two lots on the Subject Property, subject to the following conditions:<sup>1</sup>

<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.

Approved as to  
Legal Sufficiency:

*Christina S. Smith* 12/2/15  
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M-NCPPC Legal Department  
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1. Approval is limited to two lots for a maximum density of 89,780 square feet of assisted living use, consisting of up to 120 assisted living units, up to 28,623 square feet of office uses, and up to 3,125 square feet of other nonresidential (retail, restaurant, or service) uses.
  2. The Applicant must comply with the binding elements and conditions of approval for Sketch Plan No. 320160010, as may be amended.
  3. Prior to approval of any site plan, the Applicant must submit for Staff review and approval a tree save plan addressing impacted trees, with particular focus on the off-site 43-inch tree identified as a red maple on the existing conditions plan sheet, prepared by a Maryland Licensed Tree Care Expert who is also an ISA certified arborist. The tree save plan must address canopy pruning and clearance, stress reduction measures, and any mitigation plantings.
  4. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") – Water Resources Section in its stormwater management concept letter dated November 18, 2015, and hereby 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 provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
  5. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated November 27, 2015, and hereby incorporates them as conditions of the Preliminary Plan approval, except recommendation 1 with respect to right-of-way dedication. The Applicant must comply with each of the recommendations, except recommendation 1 with respect to right-of-way dedication, as set forth in the letter, which may be amended by MCDOT, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
  6. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements which are associated with each plat, as required by MCDOT.
  7. The Applicant must provide public bicycle parking for short-term use along the retail frontage and near public open space. Secure bicycle parking for long-term use must be installed internal to the proposed residential buildings or garage. Exact locations and quantities will be determined at site plan review.
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8. The Applicant must enter into a Traffic Mitigation Agreement (“TMAg”) with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District and must execute the TMAg prior to the release of any above grade building permit for development on the Subject Property, exclusive of any sheeting and shoring permit. The TMAg must include trip mitigation measures recommended by MCDOT.
9. The certified Preliminary Plan must contain the following note:  
Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.
10. The record plat must show necessary easements.
11. No clearing, grading or recording of plats prior to certified site plan approval.
12. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
13. Include the stormwater management concept approval letter, MCDOT recommendation letter, and Preliminary Plan Resolution on the approval or cover sheet(s).
14. The Applicant must construct all road and frontage improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the master plan and/or to the design standards imposed by all applicable road codes.
15. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and 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:

1. *The Preliminary Plan substantially conforms to the Master Plan.*

The Subject Property is within the boundaries of the 2006 *Woodmont Triangle Amendment to the Bethesda CBD Sector Plan*. The primary objective of the Sector Plan is to spur the revitalization of the Woodmont Triangle Study Area as a vibrant urban, mixed-use neighborhood that emphasizes residential, small-scale retail, the arts, and public amenities. More specifically, the Sector Plan recognizes that the transit-oriented location of the Woodmont Triangle makes it a desirable and appropriate location for mixed-use, pedestrian-friendly development. Opportunities to retain existing businesses and expand opportunities for new businesses are encouraged, as are efforts to improve the safety and character of the existing streets.

The Application will be the first senior assisted living facility established in the CBD and will provide an important opportunity to integrate – rather than isolate – assisted living services into an urban setting. The location of the Subject Property will provide seniors in need of assisted living care with opportunities to enjoy and experience the amenities of an urban community. The location will also be a convenient option for family members already located in Bethesda who may desire to obtain care for their relatives closer to home.

The Application includes a ground-floor retail component that will serve residents and visitors of the facility while providing opportunities for small-scale businesses in the Woodmont Triangle.

The Application will provide streetscape improvements along the frontage of the Subject Property consistent with current Bethesda streetscape standards. Such streetscaping does not presently exist at this location, and will be a significant transformation over existing conditions. The improvements will directly contribute to the goal of promoting an active and safe pedestrian environment in the Woodmont Triangle. The opportunity to upgrade the streetscape at the Subject Property, near the new through-block connection to Del Ray Avenue that has been established with the Woodmont Central project (Site Plan 820110020, as amended), will allow a more comprehensive pedestrian network to emerge.

New public art is proposed, which the Sector Plan identifies as a priority public amenity. Although the specific details of the public art component will be refined through the site plan process, an initial concept has been suggested. The art will convey the theme of Bethesda as a crossroads community with connections to the outlying areas of the region throughout its history. The south-facing façade and canopy are two likely areas for placement of the art on the Subject Property.

The Sector Plan also provides specific recommendations for building heights, with which the Application fully complies. Lot 2 and the front portion of Lot 1 are identified as part of Block 15. For these portions of the Subject Property, the

Sector Plan specifically recommends heights up to 90 feet and supports the use of density transfers, if needed, to achieve these maximum heights. The specific heights approved with the Application comply with the recommendations of the Sector Plan, as well as with the mapped heights of the Commercial/Residential and Commercial/Residential Neighborhood Zones approved with DMA G-956. Maximum building heights in the Application will be 90 feet.

2. *Public facilities will be adequate to support and service the area of the approved subdivision.*

A traffic statement (dated June 5, 2015) was submitted for the Application per the *Local Area Transportation Review ("LATR")/Transportation Policy Area Review ("TPAR") Guidelines* since the development was estimated to generate less than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. A site trip generation summary for the development, provided in the Staff Report, shows that the Application will generate five net new peak-hour trips during the weekday morning peak period and 20 net new peak-hour trips during the weekday evening peak period. The Application satisfies APF requirements through the traffic statement and does not require further traffic analysis.

#### TPAR Review

Since the development is within the Bethesda CBD Policy Area, the Application is exempt from both the roadway and transit tests set forth in the 2012-2016 Subdivision Staging Policy. As a result, the Applicant is not required to pay the transportation impact tax to satisfy the TPAR requirement.

#### Other Public Facilities

Public facilities and services are available and will be adequate to serve the development. The Subject Property is proposed to be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the Subject Property. Electrical, telecommunications, and gas services are also available to serve the Subject Property.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The size, width, shape, and orientation of the lots are appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated. As discussed above, the Application substantially conforms to the Sector Plan. The Application complies with the land use recommendations for the Subject Property as well as the applicable urban design, roadway, and general recommendations outlined in the Sector Plan. As evidenced by the Preliminary Plan, the Subject Property is sufficiently large to efficiently accommodate the mix of uses.

Under Section 4.5.4 of the Zoning Ordinance, the dimensional standards for the lots will be determined with approval of the subsequent site plans.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

Forest Conservation Exemption #42015029E was confirmed for the Subject Property on August 8, 2014. The Application qualifies for a small property exemption under Section 22A-5(s)(1) of the Montgomery County Forest Conservation Law, since the Subject Property is a tract of land less than 1.5 acres in area with no forest or existing specimen trees or champion trees present, and the afforestation requirements would not exceed 10,000 square feet.

5. *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The MCDPS Stormwater Management Section approved the stormwater management concept on November 18, 2015. According to the approval letter, the stormwater management concept meets stormwater management requirements via environmental site design to the maximum extent practicable through the use of micro-bioretenement planters and green roof.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration 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 must be filed; 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 DEC 28 2015 (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 Presley, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor at its regular meeting held on Thursday, December 17, 2015, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board