

Resolution No. 17-24

RESOLUTION: To approve, with conditions, Project Plan Application PJT2023-00016, an Amendment to the Champion Billiards Planned Development

WHEREAS, under Chapter 25 of the Rockville City Code, the Mayor and Council of Rockville (**“Mayor and Council”**) is authorized to review project plan applications; and

WHEREAS, on October 23, 2006, the Mayor and Council approved Resolution No. 14-06 approving Preliminary Planned Development Application PDP2006-00011 for a 25,863-square-foot parcel of land located at the southeast corner of the intersection of Edmonston Drive and Rockville Pike (MD 355) (the **“Property”**); and

WHEREAS the approval of the Preliminary Planned Development Application permitted a two-story, 12,574-square-foot, freestanding, single-use retail building with 36 at-grade parking spaces in accordance with the Optional Method of Development for the RPC zone; and

WHEREAS, on April 3, 2023, J Danshes, LLC (the **“Applicant”**) filed Project Plan Application PJT2023-00016 (the **“Project Plan Application”** or **“Application”**), pursuant to Section 25.14.07.e of the Zoning Ordinance, proposing to amend the Approved Champion Billiards Planned Development to allow for the development of 4,400 square feet of retail with associated surface parking on the Property as shown on the Project Plan Site Plan (**“Site Plan”**) included with the Application and attached hereto as Exhibit **“A”**; and

WHEREAS, pursuant to Sections 25.07.03 and 25.07.07 of the Zoning Ordinance, the Applicant met all notice requirements and conducted two public area meetings: a pre-application area meeting held on February 7, 2017, and a post-application area meeting held on April 26, 2023; and

WHEREAS, pursuant to Section 25.07.07 of the Zoning Ordinance, the Planning Commission and the Mayor and Council received briefings on the Application on April 26, 2023 and May 8, 2023, respectively; and

WHEREAS, pursuant to Section 25.07.07 of the Zoning Ordinance, the Planning Commission at its meeting on January 10, 2024, reviewed the Application, and after considering the information presented and testimony provided, voted to recommend that the Mayor and

Council approve the Application subject to certain conditions; and

WHEREAS, pursuant to Sections 25.05.03, 25.07.03, and 25.07.07 of the Zoning Ordinance, a duly noticed public hearing on the Application was held by the Mayor and Council on July 8, 2024, at which the Mayor and Council heard testimony and received evidence on the Application; and

WHEREAS, at its July 29, 2024 meeting, the Mayor and Council voted to direct City staff to bring back to the body a resolution approving the Application, based upon the findings and conditions recommended by staff and information presented and testimony provided as contained in the public record.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council approves Project Plan Application PJT2023-00016, to allow a 4,400 square-foot retail building with associated surface parking, subject to the following conditions:

1. The proposed development must be designed in a manner generally consistent with the concept design and associated exhibits of the Project Plan Concept dated November 9, 2023. The permitted square footage is an “up-to” maximum and in no way absolves the Applicant from demonstrating that the specific terms of all applicable City Ordinances can be met at the site plan, except as otherwise outlined within the Project Plan approval resolution.
2. Prior to issuance of any occupancy permit, the Applicant must construct all public improvements within the Property and Rockville Pike right-of-way, including but not limited to street trees, streetlights, streetlight conduit, traffic signs, new seven-foot sidewalk, and eight-foot bicycle path as depicted on Sheet PJ 2.0 of the project plan and in accordance all applicable City standards or the standards of the jurisdiction of the corresponding right-of-way. Public improvements must be located within the right-of-way or within a Public Improvements Easement (PIE) as approved by the Director of Public Works.
3. Prior to any DPW permit, Applicant must obtain all necessary approval and/or permits for closure of the Rockville Pike driveway access point, construction of improvements within SHA right-of-way, and utility connections proposed on the Project Plan from all agencies with jurisdiction, including Maryland State Highway Administration (SHA) and the City of Rockville.
4. Applicant shall comply with the conditions of the Department of Public Works’ (DPW’s) Pre-Application SWM Concept Approval Letter dated August 28, 2023, attached as the “Pre-Application SWM Concept Approval Letter” attachment.

5. Applicant must comply with all requirements of WMATA's Joint Development and Adjacent Construction Manual, Design Criteria, and the provisions of all existing WMATA easements on the Property. Prior to submission of the site plan application, the Applicant must identify all proposed developments within the WMATA Zone of Influence on the Property and provide the City with all correspondence related to compliance with WMATA's requirements. The Applicant must receive written approval of the design and construction methods for all improvements near WMATA's right-of-way prior to the issuance of any DPW permit. Any significant changes to the proposed development necessary to comply with WMATA's Design Criteria may require the Applicant to revise the project plan to comply with all City requirements.
6. If present, the Mayor and Council must authorize the termination of any existing easement that is dedicated to the City of Rockville. Any termination of an easement dedicated to the City must be reviewed and approved in a format acceptable to the Office of the City Attorney and be recorded in the Montgomery County Land Records prior to issuance of any DPW permit. If required by the terms of any existing easement granted to an entity other than the City of Rockville, the Applicant must submit plans for work within the easement to the Grantee for review. If the Grantee's permission for such work is required, the Applicant must secure the Grantee's written permission for any proposed development activity within the easement, or the easement must be extinguished, prior to the submission of an application for any DPW permit.
7. Submission for review and approval by the Office of the City Attorney prior to DPW permit issuance, all necessary deeds, easements, agreements, dedications, and declarations. Drafts of the documents must be included with the initial submission of the engineering plans and must be recorded prior to issuance of DPW permits unless otherwise allowed by DPW.
8. Prior to Site Plan approval, the Applicant must submit a conceptual dry utility plan to be deemed appropriate by both the utility companies and the Department of Public Works. The dry utility plan must demonstrate there is adequate space between the building and the powerlines to minimize the risk of electric shock, fire, power cuts, or damage to the Property or powerlines. The dry utility plan must demonstrate that both the proposed condition and the future condition for the planned BRT infrastructure can be safely constructed.
9. Trash, delivery, and service vehicles accessing the site shall be limited to SU-30 equivalent or smaller except for emergency vehicles.
10. After Site Plan approval and prior to issuance of any Public Works Permit, the Applicant shall dedicate for public use any property along the Property frontage that lies within a minimum of

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93 feet from the existing roadway center, of which approximately 32 feet is located beyond the existing SHA Rockville Pike right-of-way. The right-of-way to be dedicated to the City of Rockville shall be in accordance with the Project Plan and exhibits, including those coordinated with MCDOT to accommodate the future MD 355 Bus Rapid Transitway (BRT), seven-foot pedestrian walkway and eight-foot bicycle path. Any deviation must be approved by the Director of Public Works at the Site Plan phase.

11. Prior to the issuance of any occupancy permit, the Applicant shall construct the required 7-foot-wide sidewalk next to the required and buffered 8-foot-wide cycle track with adequate transitions along the site frontage with MD 355 and as shown on the plan per the City and SHA standards.
12. The Applicant shall submit to DPW for review and approval by the Chief, Traffic and Transportation Division, prior to issuance of any building permit a detailed signing and marking plan including proposed signs that limits no larger than Su-30 commercial vehicles to and from the subject site and prepared in accordance with the latest edition of the Maryland Manual on Uniform Traffic Control Devices (MD-MUTCD).
13. During construction, the Applicant must ensure access to the existing adjacent office building and its parking lot are continuously maintained and provided. All parking for site contractors must be provided on-site.
14. Site Plan application shall comply with Sheet EX 1.0.
15. At the time of site plan submission, the Applicant must show the location of the Fire Department Access Box (Knox Box).
16. The Applicant must apply for a waiver consistent with section 4.d.3(b) of the Landscape, Lighting, and Screening Manual from the Planning Commission for Segment 'A' shown on Sheet L2.01 if necessitated by the final Landscape Plan. The waiver must be approved before or concurrently with Site Plan approval.
17. The Applicant must apply for a waiver consistent with section 4.d.3(c) of the Landscape, Lighting, and Screening Manual for Segment 'B' shown on Sheet L2.01 if necessitated by the final Landscape Plan. The waiver must be approved before or concurrently with Site Plan approval.
18. Before the issuance of any building, forestry, or DPW permits, the Applicant must obtain approval of a Final Forest Conservation Plan (Final FCP).

19. At the time of site plan submission (or before), the Applicant must submit a final forest conservation plan (FFCP) that meets the minimum requirements approved with the preliminary forest conservation plan (PFCP) for the proposed limits of the site plan.
20. The Applicant must adhere to and meet all requirements of the PFCP approval letter in preparation for the submittal and approval of their FFCP.
21. The Applicant must comply with the City's Publicly Accessible Art in Private Development Ordinance. Applicant must provide a concept plan for approval prior to issuance of a building permit.

BE IT FURTHER RESOLVED THAT, for the purposes of this Resolution, the approved Project Plan means this Resolution and the exhibits to this Resolution listed below and attached hereto, including notations, references, descriptions, and writings on the Exhibits, except as modified by the above conditions of approval:

1. Exhibit A: Project Plan Site Plan dated November 9, 2023;
2. Exhibit B: Champion Billiards Planned Development, Resolution No. 14-06;
3. Exhibit C: Preliminary Forest Conservation Approval Letter;
4. Exhibit D: Preapplication Stormwater Management Concept Letter.

BE IT FURTHER RESOLVED THAT, having considered the recommendations and findings of its Staff as presented at the public hearings on this Application and as set forth in the Staff Report on the Application presented to the Mayor and Council at its July 8, 2024 meeting, which the Mayor and Council hereby adopts and incorporates by reference, except as modified herein, and upon consideration of the entire administrative record, the Mayor and Council, pursuant to Section 25.07.01.b.2 of the Zoning Ordinance, finds and determines, with the above conditions of approval, that:

1. **The Application will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed project.**

The development of the Property with a commercial building as proposed by the Application will not be detrimental to the health and safety of persons working or living in this area, which is intended for commercial development. The proposed development includes improvements to the pedestrian, bicycle, and transit infrastructure in this area, which will improve connectivity and safety.

The proposed retail use of the Property is a permitted use in the MXCD zone. Retail uses include a variety of sales uses but do not include restaurants or eating establishments. The site design incorporates improvements to the Rockville Pike frontage to safely accommodate pedestrians and bicycles and will not adversely affect the health or safety of persons residing or working in the neighborhood of the Property. In fact, these improvements will improve the safety of pedestrians and bicyclists in the area and customers visiting the site using those modes.

Although the Property is a corner lot, direct vehicular access from Edmonston Drive has been closed and direct vehicular access from Rockville Pike is not recommended by SHA due to its location in a turn lane. As noted in Finding 2 below, the Pike Plan calls for the retention of existing public access easements in this section of the Pike Plan area, and the proposed development provides access from an existing public access easement in conformance with the Pike Plan.

This vehicular access will not adversely affect the health or safety of persons residing or working near the Property. While representatives of the owner of the property immediately to the south (the “**Edmonston Property**”) argued that the vehicular access proposed by the Application would negatively impact the use and development potential of the Edmonston Property, the Mayor and Council finds otherwise. The Edmonston Property is already burdened by and responsible for the maintenance of an existing service drive constructed within a public access easement intended to facilitate public vehicular access to both the subject Property and the Edmonston Property.

The Project Plan does not require the taking of any of the Edmonston Property for public use, nor does it require the Mayor and Council to adjudicate a dispute between the Applicant and the owner of the Edmonston Property over whether the public right of way at the northernmost curb cut on the Edmonston Property connects to the public access easement. Based on exhibits provided by the Applicant and analyzed by City staff, all three access points from MD 355 to the Edmonston Property provide safe access to the service drive within the public access easement, and it is undisputed that two of these access points connect directly with the public access easement. Based on the evidence provided by the Applicant and analyzed by City staff, the service drive is operating at an acceptable level of service and will continue to do so with the traffic that would be generated by the proposed development on the Property, particularly with the restriction on the size of trucks accessing the Property as conditioned above.

2. The Application will not be in conflict with the Plan.

The Property is located within Planning Area 9 (Rockville Pike) of the City of Rockville's Comprehensive Plan, Rockville 2040 (the "**2040 Plan**"). The 2040 Plan includes goals, policies, and actions that are compatible with this development proposal. These compatibilities are:

- Providing adequate space to construct the MD-355 Bus Rapid Transit (BRT) and bicycle and pedestrian facilities called for by the 2017 Bikeway Master Plan will advance the City's goal of reconstructing Rockville Pike/MD-355 as a multi-modal boulevard.
- The intersection of Edmonston Drive and Rockville Pike has been identified as a BRT station. Thus, it is desirable given the general transit-oriented land use goals of the Comprehensive Plan to cluster destinations and improve bicycle and pedestrian infrastructure around planned station areas, rather than the existing use, which is vacant.
- "Support a robust commercial base." (Page 44). The proposed development will increase commercial activity along Rockville Pike.
- Planning Area 9 policies direct the City to work with property owners to improve the function and aesthetics of Rockville Pike, as outlined in the 2016 Rockville Pike Neighborhood Plan. The proposed reconstruction of the Rockville Pike frontage to include bicycle and pedestrian facilities and accommodate the future BRT alignment directly supports this policy.

Transportation Policies

The Application is not in conflict with the transportation policies of the plan. Chapter 4 of the Pike Plan calls for the development of Rockville Pike as a multi-modal boulevard, including a system of parallel access roads to allow vehicles, bicycles, and pedestrians to travel from business to business without entering Rockville Pike. Per the Pike Plan (Page 1-6):

"The access roads recommended by this plan provide access to private property that is not directly connected to the main thoroughfare. They are also intended to reduce the number of curb cuts and driveways along the portion of the Pike designed for through traffic, thereby improving flow in those main lanes. Access roads can link multiple adjoining properties to enable a "park once and walk" environment. Their design is for slower speeds, reducing the vehicle conflicts among faster-moving vehicles, slower-moving vehicles, bicyclists, and pedestrians that currently occur on the Pike."

The Pike Plan describes exceptions to the access road requirements for properties within the Middle/North Pike East Plan area. Within this area, the Pike Plan calls for some modifications of the access road concept (Page 4-7):

- “Implementation of the boulevard vision for properties in these locations may include modifications to support the auto-reliant nature of this portion of the corridor and preserve the viability of businesses, as long as inter-site vehicular and bicycle movement, a continuous public sidewalk, and pedestrian, bicycle and vehicular safety are assured.” The Project Plan proposes the reconstruction of the existing sidewalk along Rockville Pike, which will continue to connect to the existing sidewalk to the south and to the sidewalk along the Edmonston Drive frontage of the Property. A pedestrian walkway and bicycle path will be constructed with the project and will eventually connect with a network of pedestrian walkways and bicycle paths as properties to the south and north redevelop.
- “It is important to retain existing easements and to continue to obtain easements along the Pike to allow inter-site vehicular movement, and to require that all sites in this area provide for inter-site movement when they redevelop.” The Project Plan includes access from an existing access easement to allow inter-site vehicular movement.
- “Reducing the number of curb cuts from the main travel lanes should be a priority in this area, as it is in the entire corridor, to improve traffic flow in the main lanes while maintaining access to all properties.” The Project Plan envisions closure of the remaining site curb cut from Rockville Pike in accordance with Maryland SHA requirements.

Land Use Policies

In addition to transportation policies, the Pike Plan establishes urban design policies for new development along Rockville Pike:

- Parking should be located, whenever possible, “in structures behind or under buildings, thereby minimizing inactive zones and reducing the visually unappealing effect of large surface lots in front of buildings” (Pages 4-40). However, the Pike Plan recognizes that properties within the Middle/North Pike East Plan area may require surface parking due to site constraints. Due to the constraints of the lot size, the Project Plan is not inconsistent with the Pike Plan because the lot is small, and the parking is located to the side rather than in front of the building.
- A “build-to line” along Rockville Pike is established to create a consistent street wall

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while accommodating anticipated pedestrian, bicycle, and BRT infrastructure. A minimum setback (or reduced build-to line) of 85 feet from the Rockville Pike centerline was approved by PDP2006-00011 and is the minimum build-to line permitted. As shown in Sheet PJ 2.0, the currently proposed building setback is 93 feet from the Rockville Pike centerline, an increase of 8 feet from the approved build-to line. The building abuts the public pedestrian walkway and 100% of the façade is located at the setback line. This request would place the building further than 85 feet from the Pike centerline but will continue to meet the intent of the Pike Plan by providing enclosure and transparency along the pedestrian realm. This standard is addressed more thoroughly in Finding 4.

3. The Application will not overburden existing and programmed public facilities as set forth in article 20 of the Zoning Ordinance and as provided in the adopted adequate public facilities standards.

The Project Plan will not overburden existing and programmed public facilities as set forth in Article 20 of the Zoning Ordinance and as provided in the adopted Adequate Public Facilities Standards (APFS).

Schools

No residential uses are planned, and therefore, the proposed development is not subject to the school's test in the APFS.

Water and Sewer

The Applicant is not required to obtain a Water and Sewer Authorization Letter. The proposed amendment represents a reduction in the water and sewer demand from the previously approved Planned Development/Project Plan for the Property.

Roadway Network Analysis

A limited-scope On-Site Transportation Report was prepared in accordance with the City's Comprehensive Transportation Review (CTR) requirements since the proposed development with consideration of all vested AM and PM peak trips for approved uses is projected to generate less than 30 peak-hour trips. The submitted on-site Transportation Report focused on the site access, on-site circulation, transit, pedestrian, and bicycle accessibility and accommodations and to ensure adequate transportation facilities exist during and after a development project is complete as required by the CTR. On March 25, 2024, the Applicant submitted an additional and updated traffic analysis that evaluated the adequacy of the existing service drive and its immediate access driveways to MD 355 for the existing and total traffic conditions which is the sum of existing traffic

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and the projected traffic of the proposed development.

Both reports were reviewed by the Department of Public Works (DPW) Traffic & Transportation staff. Based on this review Mayor and Council finds:

(1) The proposed development of 4,400 square feet of retail use represents a reduction in the previously approved development and will not generate thirty (30) or more new peak hour vehicle trips, as shown in the table below.

(2) The development will not substantively alter or change vehicular traffic flow movements in and around the Property.

(3) The existing service drive and its access driveways to MD 355 are and will continue to operate adequately with the additional vehicular traffic generated by the proposed development.

4. The Application will not constitute a violation of any provision of the Zoning Code or other applicable law.

Based on the staff report and other evidence of record, the Application is consistent with the requirements of the Zoning Ordinance. All development standards to include landscaping, open area and public use space requirements have been met during this Project Plan stage of the development project.

The proposed retail land use is compatible with the uses identified in the land use table in the Zoning Ordinance for the MXCD Zone and is also consistent with the Comprehensive Plan as detailed above. The requirements under Sections 25.13.06 (Additional design guidelines) and 25.13.07.b (Special design regulations for individual mixed-use zones – MXCD) will ensure the thoughtful and sensitive design is utilized in this project. Compliance with these sections will be confirmed during the site plan review. The Proposal also complies with other MXCD Zone development standards including height requirements and setbacks.

The Zoning Ordinance requires 15% open space and 15% public use space, and the Applicant has reserved enough land area to comply with this requirement in a prominent, publicly accessible location, including the pedestrian walkway and bicycle path along the Property frontage.

Sec. 25.13.05 establishes a build-to-line for properties within the Rockville Pike Neighborhood Plan area. The build-to line for this Property is 116 feet from the Rockville Pike centerline. For parcels located in an area where the distance between the Rockville Pike right-of-way and the CSX/Wmata right-of-way is less than 300 feet, as it is for this site, a reduced build-to line may be applied per Sec. 25.13.05.a.2.(b).(iii).A. The build-to line must be adjusted by

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establishing it at a point three-quarters of the distance from the CSX/Metro right-of-way to the Rockville Pike right-of-way and can be reduced to 85 feet so long as inter-site vehicular and bicycle movement and a continuous public sidewalk are provided.

For this Property, that calculation would result in a build-to line of 82.5 to 87.75 feet from the Rockville Pike centerline (per public records, the site measures 110 feet from CSX/Metro right-of-way to Rockville Pike right-of-way at the southern end and 117 feet at the northern end). The 85-foot build-to line would take precedence over the lower end of the measurement and was the build-to line approved by the PD. The Applicant proposes to locate the building 93 feet from the Rockville Pike centerline, which exceeds the minimum build-to line as calculated per Sec. 25.13.05.a.2.(b).(iii).A.

This build-to line represents both a minimum and maximum setback, where it applies, and requires that at least 70% of the façade along Rockville Pike (classified as a Major roadway) and 30% along Edmonston Drive (classified as a Primary Residential Class I roadway) be constructed at the build-to line. As proposed, 100% of the façade along Rockville Pike will be constructed at the reduced build-to line and approximately 50% of the façade along Edmonston Drive will be constructed at the build-to line.

Fire access is met subject to the conditions of approval. The Property is not within a historic district and has no potential historic resources on site. Conformance with other requirements, including but not limited to other zoning requirements, city codes, and the building code, will be confirmed through the site plan, permit review, or other applicable process.

5. The Application will not adversely affect the natural resources or environment of the City of surrounding areas.

Stormwater Management

Stormwater Management (SWM) for this project will be provided in compliance with the Pre-Application SWM Concept Letter dated August 28, 2023, and included as the “Pre-Application SWM Concept Letter” attachment. The Pre-Application SWM Concept Letter lists project-specific conditions of approval. On-site SWM will be provided by the Applicant through the construction of one Environmental Site Design (ESD) measure planter box bioretention facility. This Pre-Application SWM Concept Approval does not approve the methods for providing SWM beyond establishing the percent ESD provided. The safe conveyance of storm drainage will be analyzed by

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the Applicant and provided through the mitigation of storm drain capacity deficiencies if necessary.

Forestry

This Application will meet all requirements of Chapter 10.5 of the City's Forest and Tree Preservation Ordinance in addition to any additional City or State requirements. The City approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) on April 17, 2017 (FTP #2017-00013). An updated NRI/FSD was approved on September 15, 2023.

The City approved a Preliminary Forest Conservation Plan (PFCP) on December 6, 2023. The PFCP shows how the project will comply with the Minimum Tree Cover (MTC) requirement of 10% or 2,570 square feet. Currently, the Applicant has shown how 2,600 square feet of MTC, via three shade trees and one ornamental evergreen tree, can be planted on the site. See Sheets L9.01 and L9.02.

Forest Conservation

Per Sec. 10.5-22.(b), the Applicant is not subject to forest conservation via afforestation because the site is less than 40,000 square feet in area.

Significant Trees

The PFCP currently shows the removal of one significant tree on-site, resulting in a replacement requirement of two tree plantings per Chapter 10.5.

Street Trees

Consistent with the requirements of Section 25.21.21, the Applicant is proposing to plant five street trees within the Rockville Pike public right-of-way.

I HEREBY CERTIFY that the foregoing is a true and correct copy
of a Resolution adopted by the Mayor and Council at its meeting of
September 30, 2024.


Sara Taylor-Ferrell

City Clerk/Director of Council Operations