

Committee: Directly to Council Committee Review: N/A Staff: Naeem Mia, Legislative Analyst Purpose: To receive testimony/final action - vote expected Keywords: Property Disposition, Parking Lot Districts

SUBJECT

Public Hearing/Action - Resolution to Approve Disposition of County Parking Lot No.41 for Lease Renewal in Excess of two (2) Years, located at 4538 Middleton Lane, Bethesda, Maryland.

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

• Public Hearing and Action.

DESCRIPTION/ISSUE

On or about February 5, 2019 the Department of Transportation (DOT), Division of Parking Management, entered into a Lease Agreement with My King Apparel, LLC, to operate a bulk retail business within the historic Community Hardware building, an interior space consisting of 1,301 square feet located on Public Parking Lot No. 41 (Lot #41). The building was previously donated to the County and relocated to Lot #41 pursuant to agreement with the developer of the Apex building at 7272 Wisconsin Avenue in Bethesda. The Lease Agreement had a term of one (1) year and 360 days.

The Division of Parking Management is now proposing to enter a five (5) year lease with My King Apparel, LLC, at the request of the lessee, to allow it to continue its retail operations within the subject property. A market study was conducted by JLL in February 2019 (at the time of the original lease execution date) and established a value of \$25.00 per square foot (psf). This price per square foot equated to an annual rent of \$32,525.00 or \$2,710.42 per month. Additionally, the lease agreement stipulated a future 3% increase per annum for any potential lease extensions.

As a result, the County and My King Apparel, LLC have both preliminarily agreed to a 5-year extension of the original agreement for the stipulated 3% annual increase, or \$26.52 psf. JLL updated their market study in May of 2020 to comply with County Disposition Regulations. According to their analysis, a rental price ranges from the upper \$20's to mid-\$30's/psf is supported for the property in this location.

In accordance with County Regulation, a preliminary reuse analysis was conducted by the Department of Transportation and the Office of Management and Budget. It was determined that the property is not identified for reuse in an applicable Master Plan or approved Capital Improvement Project (CIP). Following the reuse analysis, notice to all County Departments and Outside Agencies was provided on April 29, 2020 for an opportunity to propose alternate uses of the subject property. No comments were provided within the allotted 30-day period.

DOT stated that it has received no comments or complaints about this tenant, as it is primarily a bulk sales operation with little foot traffic or parking conflicts.

This report contains:

1.	Resolution Approving Disposition	© 1-2
2.	March 3, 2021 Executive Order 017-21 re: Declaration of No Further Need	© 3-10
3.	January 26, 2021 memo re: Material Terms from County Executive	©11-15

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Resolution No:_____ Introduced: <u>March 23, 2021</u> Adopted:_____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: County Council

SUBJECT: <u>Approval of Disposition of County Parking Lot No.41 for Lease Renewal in</u> Excess of two (2) Years, located at 4538 Middleton Lane, Bethesda, Maryland.

Background

- Montgomery County Code §11B-45 requires the Council to approve a Declaration of No Further Need before the Executive can dispose of real property that has more than nominal value. Prior to seeking Council approval of a Declaration of No Further Need, the Executive must:
 - (a) submit all material terms of the proposed disposition and any appraisal the Executive relied on in setting the property's market value to the Council; and
 - (b) publish a declaration in the County Register and post a notice on the County website that the County has no further need for the property.

If the Council, by resolution, approves the Executive's Declaration of No Further Need, the Executive may dispose of the property for fair market value.

- 2. Montgomery County Code §11B-45 defines a disposition as "a sale, a lease or license for a term of 2 years or longer, or a lease or other document which includes an option to buy. If a license or lease for an initial term of less than 2 years is extended or renewed beyond 2 years, that extension or renewal is a disposition."
- 3. On January 26, 2021, the Executive transmitted the material terms of the proposed disposition. The Executive recommended renewing the current lease of space at the historic Community Hardware Building, located on Lot 41, to My King Apparel, LLC for a term of five (5) years at a fair market value.
- 4. My King Apparel, LLC currently operates a bulk retail (sales to other businesses) business since February 2019 and desires to renew its current lease upon termination, on or about March 25, 2021.

- 5. On March 3, 2021 Executive Order 017-21 was published in the County Register to give notice of the County's intent to proceed with disposition to My King Apparel, LLC and that there was no further need for public use.
- 6. The Council is scheduled for a virtual public hearing and action on this recommended disposition on April 13, 2021.

<u>Action</u>

The County Council for Montgomery County, Maryland, approves the following action:

The Declaration of No Further Need for the Lease Renewal in Excess of two (2) Years of the Community Hardware Building, located on Lot 41 on 4538 Middleton Lane, Bethesda, Maryland is approved and the property may be disposed of as described in the material terms provided to the Council on January 26, 2021 and in Executive Order 017-21 as published in the County Register on March 3, 2021.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq. Clerk of the Council



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich County Executive

March 9, 2021

TO: Tom Hucker, President, County Council

FROM:

Marc Elrich, County Executive Marc El

Re: Upcoming Request for Council Approval of the County Executive's Declaration of No Further Need for Lot 41

The County has been leasing a structure known as the Community Hardware Building located at 4538 Middleton Lane in Bethesda, Maryland. The current tenant of the Community Hardware Building desires to extend the term of the lease for an additional five-year term. triggering the County disposition process. On January 26, 2021, I transmitted to you the material terms for the extension of the lease under consideration. The extension of the lease with the existing tenant would allow continued retail operations with the existing tenant at fair market value for an additional five years.

On March 3, 2021, I signed Executive Order No. 17-21, having found that there is no further public need for the Community Hardware Building over the five-year extended term. Accordingly, I am providing the Council with advance notice of my intent to seek the Council's Approval of the attached Declaration of No Further Need. Attached, please find Executive Order -No. 17-21, together with a Fiscal Impact Statement prepared by the Office of Management and Budget, and an Economic Impact Statement prepared by the Department of Finance.

Following the passage of at least fifteen (15) days from the transmittal of this letter, I will be seeking the Council's formal approval of the Declaration of No Further Need that is contained in the attached Executive Order. If you have any questions about this letter, please do not hesitate to contact me.

cc: Jerome Fletcher, Assistant Chief Administrative Officer Christopher Conklin, Director, Department of Transportation David Dise, Director, Department of General Services

Jose Thommana, Division Chief, MCDOT Division of Parking Management Eric Willis, Section Chief, Property Acquisition, MCDOT

Attachments: Executive Order No. 17-21 Economic Impact Statement Fiscal Impact Statement



MONTGOMERY COUNTY EXECUTIVE ORDER

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Disposition of building located on County Parking Lot	Executive Order No.	. Subject Suffix	
No. 41, Bethesda Parking Lot District	017-21		
Department of Transportation	Department No. PA 10-20	Effective Date 3/3/2021	

DECLARATION OF NO FURTHER NEED

RECITALS

WHEREAS, Montgomery County, Maryland (the "County") is the owner of the land and improvements located at 4538 Middleton Lane, Bethesda, MD; and

WHEREAS, the property is located within the Bethesda Parking Lot District ("PLD"), and upon the property, the Montgomery County Department of Transportation ("MCDOT") Division of Parking Management operates and maintains a public parking lot known as Lot #41; and

WHEREAS, also located on the property is a finished structure known as the Historic Community Hardware Building, which has an interior space consisting of 1,301 square feet; and

WHEREAS, Montgomery County entered into a lease agreement, on or about February 5, 2019 with My King Apparel, LLC, to operate a retail business within the Historic Community Hardware Building for a term of one (1) year and 360 days that commenced on April 1, 2019 (the "Lease Agreement"); and

WHEREAS, MCDOT and My King Apparel, LLC both desire to extend the Lease Agreement for an additional five (5) years in order to allow for the continuation of retail operations within the Historic Community Hardware Building (the "Extended Term"); and

WHEREAS, the Extended Term may not be consummated without going through the property disposition process as required by Section 11B-45 of the County Code and applicable Code of Montgomery County Regulations; and

WHEREAS, Executive Branch departments performed a Preliminary Reuse Review and a Reuse Analysis for the Historic Community Hardware Building as required by law, and the Executive determined that the Historic Community Hardware Building is no longer needed for public use during the proposed Extended Term and is appropriate for Disposition through a lease to My King Apparel, LLC for the duration of the proposed Extended Term; and

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MONTGOMERY COUNTY EXECUTIVE ORDER

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Disposition of building located on County Parking Lot No. 41, Bethesda Parking Lot District	Executive Order No.	Subject Suffix	
NO. 41, Demesua Parking Lot District	017-21		
Department of Transportation	Department No. PA 10-20	Effective Date 3/3/2021	

WHEREAS, the Executive has sent to the County Council the material terms of the proposed disposition of the Historic Community Hardware Building to My King Apparel, LLC for the proposed Extended Term at fair market value as confirmed by a market study performed by an independent firm; and

WHEREAS, as required by Section 11B-45 of the Montgomery County Code and applicable Code of Montgomery County Regulations, the County Executive must publish a declaration in the County Register and post a notice on the County website that the County has no further need for the Historic Community Hardware Building located on Lot #41 for the duration of the proposed Extended Term of the underlying Lease Agreement.

ACTION

In consideration of the above recitals, the County Executive hereby declares that the Historic Community Hardware Building located on Lot #41 in the Bethesda PLD in Bethesda, Maryland is no longer needed for public use by the County for the duration of the proposed Extended Term of the underlying Lease Agreement.

Approved as to Form and Legality: Office and the content of Attorney Robert Birenbaun Key, 2014 col 500-720742011 undo \$20006000

By: Date: 12/07/2020 APPROVED:

Marri I.

Marc Elrich County Executive Date: _____03/03/2021____

Distribution:

Department of Transportation Department of General Services Office of County Attorney County Council

Fiscal Impact Statement Disposition of County Parking Lot No. 41 for Lease Renewal in Excess of Two (2) Years

1. Summary

Pursuant to County Code section 11B-45, the Department of Transportation (DOT) is administering the proposed disposition (lease) of the County-owned Community Hardware Building located on public parking lot #41 in Bethesda.

On or about February 5, 2019, the Department of Transportation, Division of Parking Management, entered into a License Agreement with My King Apparel, LLC, to operate a retail business within the historic Community Hardware building, an interior space consisting of 1,301 square feet, located on Parking Lot No. 41. The building was previously donated to the County and relocated to Lot #41 pursuant to agreement with the developer of the Apex building at 7272 Wisconsin Avenue, Bethesda, MD. The Division of Parking Management is now proposing to enter into a five (5) year lease with My King Apparel, LLC, at the request of the lessee, to allow it to continue its retail operations within the subject property.

The Office of Management and Budget (OMB) previously determined in February 2020 that this site is not intended for County Development in a Master Plan, is not suitable for approved CIP projects, and is not appropriate for future County use. As per County regulations, DOT has requested that a fiscal impact statement be prepared by OMB to accompany its recommendation concerning the proposed disposition.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The current two-year lease on this property commenced in April 2019 at \$32,525 per year, with an increase of 3 percent per year. It is assumed that the lease will be renewed on similar terms, meaning no significant change in revenues. The lease extension will have no impact on County expenditures.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Assuming a continuance of the current lease terms, estimated County revenues from this lease will be approximately \$34,500 per fiscal year, with a 3 percent escalation per year through five years. Revenue beyond the fifth year will depend upon further extension of the lease.

4. An actuarial analysis through the entire amortization period for each issue that would affect retiree pension or group insurance costs. Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the renewal authorizes future spending.

Not applicable; the renewal does not authorize future spending.

- 7. An estimate of the staff time needed to implement the lease renewal. Staff time needed for implementation is negligible.
- 8. An explanation of how the addition of new staff responsibilities would affect other duties.

This lease renewal will not create new staff responsibilities.

- **9.** An estimate of costs when an additional appropriation is needed. Not applicable.
- 10. A description of any variable that could affect revenue and cost estimates. The only variable that could affect revenue estimates is the tenant's ability to make rent payments.
- **11. Ranges of revenue or expenditures that are uncertain or difficult to project.** Not applicable.
- **12. If the agreement is likely to have no fiscal impact, why that is the case.** Not applicable.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis (enter name and dept.)

Gary Nalven, Office of Management and Budget Eric Willis, DOT, Division of Parking Management, Joshua Tracy, DOT, Division of Parking Management

Gerniger Brigg

11/23/20 Date

Jennifer Bryant, Acting Director Office of Management and Budget

Economic Impact Statement Disposition of County Parking Lot No. 41 for Lease Renewal in Excess of Two (2) Years

Background:

Pursuant to County Code section 11B-45, the Montgomery County Department of Transportation (MCDOT) is administering the proposed disposition (lease) of the County-owned Community Hardware Building located on County Parking Lot No. 41 in Bethesda. On or about February 5, 2019, MCDOT's Division of Parking Management (DPM) entered into a Lease Agreement with My King Apparel, LLC, to operate a retail business within the historic Community Hardware building. DPM is proposing to enter into a five (5) year lease agreement with My King LLC at the request of the lessee to allow it to continue its retail operations within the subject property.

The building was placed on a portion of Lot No. 41 owned by the County in the Bethesda Parking Lot District with ten (10) public parking spaces in the lot behind the building. The lease started in April 1, 2019, and the amount of lease is approximately \$2,710 per month with a three percent (3%) escalator after the first year.

My King LLC operates as a business-to-business operation. There are no retail sales to individuals but "bulk sales" to organizations such as companies and educational institutions. It currently employs four with an individual salary range of between \$70,000 to \$100,000.

1. The sources of information, assumptions, and methodologies used.

The sources of information used in this economic impact statement (EIS) are from DPM and staff at My King LLC. There are no assumptions or methodologies used in the preparation of the EIS.

2. A description of any variable that could affect the economic impact estimates.

The variable that could affect the economic impact estimates are the number of employees at My King LLC and the amount of lease payments paid by My King LLC to the County.

3. The Memorandum's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.

The memorandum's extension of the lease would have a positive effect on employment. With the extension, My King LLC would be able retain the current number of employees and would have a positive personal income effect on the employees.

4. If a Memorandum is likely to have no economic impact, why is that the case?

The lease renewal to My King LLC would have a positive impact on the company but a very modest impact on the County's economy.

Economic Impact Statement Disposition of County Parking Lot No. 41 for Lease Renewal in Excess of Two (2) Years

5. The following contributed to and concurred with this analysis: David Platt, Department of Finance Eric Willis, Division of Transportation Engineering, MCDOT Joshua Tracy, Division of Transportation Engineering, MCDOT Jose V. Thommana, Division of Parking Management, MCDOT

michael Goveyon

Michael C. Coveyou, Director Department of Finance

/1/9/2020 Date



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich County Executive

MEMORANDUM

January 26, 2021

TO:	Tom Hucker, President
	Montgomery County Council

FROM:

Marc Elrich, County Executive Man

SUBJECT: Material Terms- Disposition of County Parking Lot No.41 for Lease Renewal in Excess of two (2) Years.

With this Memorandum, the Department of Transportation (DOT) is transmitting the material terms for the disposition (lease) of County-owned property located at 4538 Middleton Lane, Bethesda, MD.

Background:

On or about February 5, 2019 the Department of Transportation, Division of Parking Management, entered into a Lease Agreement with My King Apparel, LLC, to operate a retail business within the historic Community Hardware building, an interior space consisting of 1,301 square feet, located on Public Parking Lot No. 41 (Lot #41). The building was previously donated to the County and relocated to Lot #41 pursuant to agreement with the developer of the Apex building at 7272 Wisconsin Avenue in Bethesda. The Lease Agreement had a term of one (1) year and 360 days. The Division of Parking Management is now proposing to enter into a five (5) year lease with My King Apparel, LLC, at the request of the lessee, to allow it to continue its retail operations within the subject property. Because the proposed lease has a term more than 2 years, the lease is subject to the County's Property Disposition law (County Code Section 11B-45).

In accordance with County Regulation, a preliminary reuse analysis was conducted by the Department of Transportation and the Office of Management and Budget. It was determined that the property is not identified for reuse in an applicable Master Plan or approved Capital Improvement Project (CIP). Following the reuse analysis, notice to all County Departments and Outside Agencies was provided on April 29, 2020 for an opportunity to

Tom Hucker, Council President January 26, 2021 Page 2

propose alternate uses of the subject property. No comments were provided within the allotted 30-day period.

Material Terms:

JLL, a real estate firm which provides on-call appraisal services to the County, originally completed a market study of the subject property prior to the execution of the original lease agreement in February of 2019 at a value of \$25.00 per square foot (psf). This price per square foot equated to an annual rent of \$32,525.00 or \$2,710.42 per month. Additionally, the lease agreement stipulated a future 3% increase per annum for any potential lease extensions. Consequently, the County and My King Apparel, LLC have both preliminarily agreed to a 5-year extension of the original agreement for the stipulated 3% annual increase, or \$26.52 psf. JLL updated their market study in May of 2020 to comply with County Disposition Regulations. According to their analysis, a rental price ranges from the upper \$20's to mid-\$30's/psf is supported for the property. They also noted that the base rent paid by My King Apparel, LLC does not include utilities or cleaning, and therefore the "All In" rent that the tenant pays would be closer to a value \$29.00 psf.

Attached, please find a market study which details 1st floor office/retail space in the downtown Bethesda market, as well as a one-page synopsis of the characteristics of the subject property.

My King Apparel, LLC desires to extend their current lease of the Community Hardware building on Lot #41 from County, and the County is willing to extend said lease to My King Apparel, LLC at fair market value based on market studies provided from JLL. The total price paid by the tenant shall be \$34,502.52 annually (\$26.52 x 1,301 sf), or \$2,875.21 per month, to be increased automatically by 3% per annum. This new lease agreement will commence upon the execution of the proposed lease renewal agreement and the expiration of the existing lease agreement on March 25, 2021.

If you require additional information, please contact me directly at 240.777.7198 or <u>Christopher.Conklin@montgomerycountymd.gov</u>

cc: Adriana Hochberg, Assistant Chief Administrative Officer Christopher Conklin, Director, Department of Transportation David Dise, Director, Department of General Services Jose Thommana, Division Chief, MCDOT Division of Parking Management Eric Willis, Section Chief, Property Acquisition, MCDOT

Attachments: Exhibit A: Market Study

4538 Middleton Lane Bethesda, MD





Bethesda Market Class B rent concepts

- Class 'B' rents range from the upper \$20's to mid \$30/psf range based upon building improvements and proximity to metro and amenities.
- Middleton is a boutique opportunity, which can be attractive to either an office or retail user, however, because it is not located at the corner of main and main, the rent will be closer to the lower end of the Class 'B' spectrum of rental rates and can be compared with the buildings listed in the exhibit.
- Parking can be a bit challenged as it is not reserved, however, this location will likely be attractive opportunity, especially for tenants who have a desire to be located in downtown Bethesda, but looking to separate themselves from the crowds.
- The trend of Tenants relocating out of downtown Bethesda CBD has just started to take shape and will truly take off with the arrival of Marriott. New supply to the market and constrained parking will result in Tenant's moving more towards North Bethesda or the outskirts of Bethesda CBD.
- Middleton is unique in the sense that the location is set apart from downtown Bethesda while still being walking distance to amenities such as restaurants and the Metro.



	Ploor SP Avail Red 4900 Auburn Ave - Bethesda, I 9,468 SF Retail Storefront Retail/Office	Occupancy Bid Out UseTypa Lassing Company KPI Commercial, LLC			Contact Listed Divisal Vishal Khosla (301) 656-3444 X30		
	P 1st / Suile 100 3,156 \$29 4707-4711 Chase Ave - Bethes		Vacant	Partial Build-Retail/D Out Borger Manag	KPI Commercial, LLC	Vishal Khosla (301) 656-3444 X304 Brittany Ric	4 Mihs N e (202) 898-188
	5,400 SF Retail Freestanding Building			oorger manag		i and i	. (202) 000 100
	P 1st / Suite 4707 1,500 \$30	.00/nnn 5-10 yrs	Vacant	Partial Build-Retail/D Out	Borger Management, Inc.	Matt Borger (202) 898-1880 X3121 Brittany Rice (202) 898-1880	7 Mths N
	4300 Montgomery Ave - Bethe Montgomery Mews Office Con 19,800 SF Class B Medical Building B	dos		AMR Commer	rcial, LLC	Sam Farnum (301) 961-9696 X21
	P 1st / Suite 103 1,286 \$27	.50/+e&c Negotiable	30 Days	Full Build-OuDffice/D	Cushman & Wakefield	Megan S. Williams (301) 634- 8489	3 Mths N
	5110 Ridgefield Rd - Bethesda, Westwood Center 2 - Westbard 47,350 SF Class B (Community Center	I Square	AMR Commercial, LLC			Jack Alexander (301) 961-9696 X2	
	P 1st / Suite 105 2,600 \$28	.00/nnn 5 yrs	Vacant	Retail/D	AMR Commercial, LLC	Jack Alexander (301) 961-9696 X207	92 Mths N
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Floor SF Avail Rent/SF/Yr Term Occupancy Bld Out 6800 Wisconsin Ave - Bethesda, MD 20815 Julian Cornerstone of Bethesda			Julian Joseph	s Company	Contact Listed Division		
corner of Bradley and Wisconsin ave 77,405 SF Retail Convenience Store (Neighborhood Center) Build				988			
P 1st	1,378 \$27.00/nn	n 5-10 yrs	Vacant	Full Build-OuOffice/D	Scheer Partners Inc.	Nathan Crowe (301) 337-4730 Carlyn Kelley (301) 337-4700	4 Mths N
7101 Wisconsin Av 230,904 SF Class A Of			975	Donohoe Real	Estate Services	Matt O'Connell	(202) 333-0880
P LL / Suite LL01	2,833 \$25.00/nn	ın 3-5 yrs	Vacant	Off/Ret/D	Donohoe Real Estate Services	Matt O'Connell (202) 333-0880 Bert F. Donohoe (202) 625-4145	29 Mths N
P 1st / Suite 100	2,143 \$30.00/fs	5-10 yrs	Vacant	Full Build-OuDff/Ret/D	Donohoe Real Estate Services	Matt O'Connell (202) 333-0880 Bert F. Donohoe (202) 625-4145	38 Mths N
7315 Wisconsin Ave - Bethesda, MD 20814 Wisconsin Towers at Bethesda Crossing (West) - Bethesda Crossing 235,352 SF Class A Office Building Renovated in 2014 Built in 1974			Cushman & W	akefield	K.Matthew K. Sullivan	(202) 266-1187	
P 1st / Suite 150	2,275- Withheld 7,149	Negotiable	Vacant	Partial Build-Retail/D Out	Rappaport	Michael Howard (571) 382-1219 Patrick O'Meara (571) 382-1218	13 Mths to 2,2

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