



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 17-031
Site Plan No. 820170030
St. Elmo Apartments
Date of Hearing: May 18, 2017

MAY 31 2017

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on January 18, 2017, 4931 Fairmont Avenue, LLC (“Applicant”) filed an application for approval of a site plan for a 16-story, mixed-use building containing up to 263,956 square feet of total development, including up to 256,300 square feet of multi-family residential use, consisting of up to 210 dwelling units, including 15% moderately priced dwelling units (“MPDUs”), and up to 15,488 square feet of nonresidential (retail, restaurant, service, or office) uses on 0.7 gross acres of CR-5.0 C-1.0 R-4.75 H-145T-zoned-land, located on the southeast side of St. Elmo Avenue, 300 feet southwest of Norfolk Avenue (“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 site plan application was designated Site Plan No. 820170030, St. Elmo Apartments (“Site 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 May 5, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on May 18, 2017, the Planning Board held a public hearing at which it heard testimony and received evidence 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 Site Plan No. 820170030 for a 16-story, mixed-use building containing up to 263,956 square feet of total development, including up to 256,300 square feet of multi-family residential

Approved as to
Legal Sufficiency: 

use, consisting of up to 210 dwelling units, including 15% moderately priced dwelling units (“MPDUs”), and up to 15,488 square feet of nonresidential (retail, restaurant, service, or office) uses, on the Subject Property, subject to the following conditions:¹

1. Sketch Plan Conformance

The Applicant must comply with the binding elements and conditions of approval for Sketch Plan No. 320150040.

2. Preliminary Plan Conformance

The Applicant must comply with the conditions of approval for Preliminary Plan No. 120150200.

Other Agencies

3. Stormwater Management

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 February 28, 2017, and hereby incorporates them as conditions of the Site 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 Site Plan approval.

4. Right-of-Way Permitting

The Planning Board accepts the recommendations of the MCDPS – Right-of-Way Permitting Section in its memo dated March 16, 2017, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the memo, which may be amended by MCDPS – Right-of-Way Permitting Section provided that the amendments do not conflict with other conditions of the Site Plan approval.

5. MPDUs

The Planning Board accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (“MCDHCA”) in its letter dated March 23, 2017, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the memo, which may be amended by MCDHCA provided that the amendments do not conflict with other conditions of the Site Plan approval.

¹ 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.

Environment

6. Tree Save

Prior to certification of the Site Plan, the Applicant must submit a revised tree save plan, for review and approval by Staff, which addresses the following:

- a. Show the required offsite mitigation plantings located at 5015 Battery Lane or another location acceptable to Staff;
- b. Provide a minimum two years of maintenance and monitoring and replacement warranty on the offsite mitigation plantings;
- c. Provide final species with correct names;
- d. Include planting notes and details;
- e. Provide clear and legible plan notes;
- f. Include notes and specifications to protect the roots of existing trees at the offsite mitigation planting location; and
- g. The Applicant is not required to place an easement or similar encumbrance on the tree planting site to satisfy this condition.

7. Prior to certification of the Site Plan, the Applicant must revise the Site Plan and Tree Save Plan to consistently and accurately show the existing street trees near the site and include a street tree exhibit. The Applicant must coordinate with Staff, MCDOT, MCDPS, and the Bethesda Urban Partnership for the final selection of street trees, with the goal of achieving conformance with the Streetscape Guidelines.

Public Use Space, Facilities, and Amenities

8. Public Use Space, Facilities, and Amenities

- a. The Applicant must construct Bethesda CBD streetscape standard on St. Elmo and Fairmont Avenues, including but not limited to street trees, street lighting, brick paving, and the undergrounding of utilities, along the Subject Property's frontage, as shown on the Certified Site Plan, except for nonstandard paving and other design elements located outside of the right-of-way, as shown on the Certified Site Plan.
- b. Before the issuance of the final use and occupancy certificate, all public open space areas must be completed.

9. Public Benefits

The Applicant must provide the following public benefits and meet the applicable criteria and requirements of the Zoning Ordinance and the *CR Zone Incentive Density Implementation Guidelines* for each one.

- a. Transit Proximity

The Subject Property is located within ¼ mile of a Metrorail station, which allows the Application to be eligible for Level 1 transit as defined in the Zoning Ordinance.

- b. **Connectivity and Mobility**
 - i. **Minimum Parking**

The Applicant must not provide more than 230 parking spaces on the Subject Property, as shown on the Certified Site Plan.
 - ii. **Through-Block Connection**

The Applicant must widen and improve the through-block connection between Fairmont Avenue and St. Elmo Avenue, as shown on the Certified Site Plan.
- c. **Diversity of Uses and Activities**
 - i. **Affordable Housing**

The Applicant must provide 15% of the dwelling units as MPDUs on the Subject Property.
 - ii. **Small Business Opportunities**

The Applicant must provide on-site retail space in the building for small, neighborhood-oriented businesses. Each retail space may not exceed 5,000 square feet in floor area. The retail spaces must be restricted for at least six years. Prior to submission of a building permit application, the Applicant must record a covenant in the County land records that reflects these restrictions.
- d. **Quality of Building and Site Design**
 - i. **Exceptional Design**

The Applicant must construct the building in a manner consistent with the architectural elevations included in the Certified Site Plan.
 - ii. **Public Open Space**

The Applicant must provide at least 5,336 square feet of public open space on the Subject Property, as illustrated on the Certified Site Plan. The public open space must be directly accessible to a street; open to the public; contain seating, trash receptacles, landscaping, and other amenities; be at least 35 feet wide; and designed so that walls of any non-residential floor area facing the open space have windows on at least 60 percent of the façade between three and eight feet.
 - iii. **Public Art**

The Applicant must provide an art piece on the Subject Property, in accordance with Condition 10, as shown on the Certified Site Plan.
 - iv. **Structured Parking**

The Applicant must provide all parking spaces within the below grade structure on the Subject Property.
- e. **Protection and Enhancement of the Environment**
 - i. **Building Lot Terminations (“BLT”)**

The Applicant must purchase BLT easements in an amount equal to 7.5% of the incentive density floor area. One BLT must be purchased for each 31,500 square feet of gross floor area. The Applicant must purchase 0.66 BLTs. Prior to issuance of any building permit, the Applicant must provide to Staff documentation of the purchase.

ii. Cool Roof

The Applicant must install a cool roof, having a minimum solar reflectance index of 75, covering all roof areas not covered by green roof or mechanical equipment, as shown on the Certified Site Plan.

iii. Vegetated Roof

The Applicant must install a vegetated roof with a soil depth of a minimum of eight inches covering a minimum of 33% of the building's roof, excluding space for mechanical equipment and cool roof, as shown on the Certified Site Plan.

10. Public Art

- a. The Applicant must provide public art on the Subject Property, commensurate with the design concept and representative artwork that was presented to the Art Review Panel on March 21, 2017.
- b. Prior to certification of the Site Plan, the Applicant must present the final public art concept to the Art Review Panel for review and to Staff for review and approval.
- c. The Certified Site Plan must state the name of the art piece and the name of the artist designing the art work, as presented to the Art Review Panel.
- d. The Certified Site Plan must contain site details that clearly indicate the overall dimensions, prescribed materials, necessary lighting fixtures, footers, and fasteners of the art piece.
- e. Prior to issuance of the final use and occupancy certificate, the Applicant must install the art piece on the Subject Property, as shown on the Certified Site Plan.
- f. Prior to Issuance of the final use and occupancy certificate, the Applicant must install signage near the art piece that identifies the title of the work, the artist's name, materials, completion date, and overall dimensions of the art piece.
- g. Prior to issuance of the final use and occupancy certificate, the Applicant must submit to the Public Art Coordinator with the Maryland – National Capital Park and Planning Commission (M-NCPPC) at least three images of the artwork installed on-site and information regarding the associated project number, title of the piece, date of completion, description of materials used, and address.

11. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, pedestrian pathways, landscaping, hardscape, and public open space and appurtenances.

Transportation and Circulation

12. Pedestrian and Bicycle Circulation

- a. The Applicant must provide on the Subject Property a minimum of 96 bicycle parking spaces for private long-term use and seven bicycle parking spaces for public short-term use.
- b. The private bicycle parking spaces must be installed internal to the residential building. The public bicycle spaces must be inverted-U racks or similar approved by Staff prior to certification of the Site Plan and installed in a location convenient and accessible. The specific locations of the public bicycle racks must be identified on the Certified Site Plan and must be consistent across all drawings.
- c. The Applicant must provide minimum 5-foot wide sidewalks along the Subject Property frontage on St. Elmo Avenue and Fairmont Avenue, as illustrated on the Certified Site Plan.

13. Traffic Mitigation

The Applicant must enter into a Traffic Mitigation Agreement (“TMAg”) with the Planning Board and the Montgomery County Department of Transportation (“MCDOT”) to participate in the Bethesda Transportation Management District (“TMD”). The Applicant must execute the TMAg before the release of any above grade building permit for the development.

Housing

14. Moderately Priced Dwelling Units (MPDUs)

- a. The Applicant must provide a minimum of 15% MPDUs within the project on the Subject Property in accordance with the letter from MCDHCA dated March 23, 2017.
- b. Prior to the release of any building permit, exclusive of the sheeting and shoring permit, the Applicant must execute the MPDU agreement to build.

Site Plan

15. Building Height

- a. The development is limited to the maximum height of 174 feet, as measured from the approved building height measuring point shown on the Certified Site Plan.

- b. In the event that a future amendment to the Application proposes to increase the building height based on the 2017 Bethesda Downton Sector Plan, the entire site and building design must substantially conform to the updated Sector Plan's design guidelines for building stepbacks, articulation, and tower separation.

16. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the Certified Site Plan, as determined by Staff.

17. Landscaping

- a. Before issuance of the final use and occupancy certificate for this Site Plan, all on-site amenities including, but not limited to, streetlights, sidewalks/pedestrian pathways, streetscape and related improvements, hardscape, bicycle facilities, and public open space amenities must be installed.
- b. The Applicant must install the landscaping no later than the first growing season after completion of construction and site work.

18. Lighting

- a. Before approval of the Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the Illuminating Engineering Society of North America (IESNA) recommendations in effect on the date of this resolution for a development of this type.
- b. All down-lighting fixtures must be full cutoff.
- c. Deflectors must be installed on all up-lighting fixtures to prevent excess illumination and glare.
- d. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

19. Site Plan Surety and Maintenance Agreement

Before issuance of any building permit or sediment and erosion control permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.k.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount;
- b. The cost estimate must include applicable Site Plan elements including, but not limited to, plant materials, on-site lighting, benches, bicycle racks, trash

- receptacles, art pieces, vegetated walls, retaining walls, railings, curbs, gutters, sidewalks, and associated improvements; and
- c. The bond or surety must be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety will be followed by inspection and release of the surety.

20. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

21. Certified Site Plan

Before approval of the Certified Site Plan, the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the forest conservation exemption letter, stormwater management concept approval letter, development program, and Sketch Plan resolution, Preliminary Plan resolution, and Site Plan resolution on the approval or cover sheet(s).
- b. Add a note stating that “Minor modifications to the limits of disturbance shown on the Site Plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services.”
- c. Modify the data table to reflect development standards approved by the Planning Board.
- d. Ensure consistency of all details and layout between Site and Landscape plans.
- e. Remove the curb bump-out that extends into the loading space driveway, subject to approval by MCDOT.
- f. Modify the bicycle parking table to meet the Zoning Ordinance Requirements and to show the same capacities and types of parking as shown on the Site Plan drawings.
- g. Illustrate, as applicable, conformance with all public benefits.
- h. The Applicant may obtain a demolition permit prior to the approval of the Certified Site Plan and recordation of the plat, subject to approval by MCDOT and MCDPS.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of St. Elmo Apartments Site Plan No. 820170030, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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 development satisfies any previous approval that applies to the site.*

The Planning Board approved Sketch Plan 320150040 on February 19, 2015, and Preliminary Plan 120150200 on December 10, 2015. The Application is consistent with the development approved under the previous sketch plan and preliminary plan applications.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

This finding is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

3. *The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

This finding is not applicable as the Subject Property's zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

4. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

- a. Development Standards

The Subject Property includes approximately 0.7 gross acres zoned CR-5.0 C-1.0 R-4.75 H-145T. The Application satisfies the applicable development standards as shown in the following data table:

Data Table

Table 1 - Site Plan Project Data Table				
Section	Development Standard	Permitted/ Required	Approved in Sketch Plan and Preliminary Plan	Approved in Site Plan
59 – 4	Gross Tract Area (sf)	n/a	30,625	30,625
	Dedications	n/a	5,000	5,000
	Net Lot Area	n/a	25,625	25,625
4.5.4.B.2. b	Density CR-5.0 C-1.0 R-4.75, H-145T			
	Commercial FAR/GFA	1.0/30,625	0.51/15,488	0.51/15,488
	Residential FAR/GFA	4.75/145,469	8.37/256,300	8.37/256,300 ²
	TOTAL FAR/GFA	5.0/153,125	8.62/263,956	8.62/263,956
4.5.4.B.2. b	Building Height (feet) CR-5.0 C-1.0, R-4.75, H-145T	174 ³	174	174
	4.5.4.B.3 Minimum Setback (feet)			
4.5.4.B.3	From R.O.W.	0	0	0
	Rear	0	0	0
	Side	0	0	0
4.5.4.B.1	Open Space			
	Public Open Space (%/sq. ft.)	0/0	20/5,150	20.8/5,336
6.2	Parking spaces, minimum-maximum	166-358	230	230

b. Form Standards

The Site Plan conforms to the intent of the form standards, including transparency, blank walls and active entrances. The Application provides significant glass features at the ground-level for transparency as well as activating features on the ground-floor level, including the through-block connection and along the Fairmont Avenue and St. Elmo Avenue facades.

² The residential density (and, consequently, total density) exceeds the permitted amount because 79,750 square feet of residential density was transferred to the Subject Property through FAR averaging with approval of the Sketch Plan 320150040 and Preliminary Plan 120150200 and because the Application receives a 22% density bonus for provision of 15% MPDUs.

³ Height allowed by Sector Plan if the project provides at least 15% MPDUs. The project meets the height requirements contained in Section 4.5.2.C of the Zoning Ordinance for properties zoned CR with a height designation of "T." The "T" designation permits even greater heights on the Subject Property, but the height is limited to 174 feet per the Sector Plan.

From the 12th floor to the 15th floor, each level of the building steps back along the Old Georgetown Road exposure more than the level immediately below for a tiered approach. This is enhanced by the projections and setbacks on the St. Elmo Avenue façade. A vertical accent fin will provide additional articulation and visual interest.

ii. Division 4.7 Optional Method Public Benefits

In accordance with the Zoning Ordinance, Section 59-4.7.1, the Application provides the following public benefits categories to satisfy the requirements: Transit Proximity, Connectivity and Mobility, Diversity of Uses and Activities, Quality of Building and Site Design, and Protection and Enhancement of the Natural Environment.

Table 2 - Site Plan Public Benefits Calculations			
Public Benefit	Incentive Density Points		
	Approved in Concept Under Sketch Plan	Requested	Approved
4.7.3.B: Transit Proximity	40	40	40
4.7.3.C: Connectivity and Mobility			
Minimum Parking	7	7	7
Through Block Connection	10	10	10
4.7.3.D: Diversity of Uses and Activities			
Affordable Housing	30	30	30
Small Business Opportunity	10	10	10
4.7.3.E: Quality of Building and Site Design			
Exceptional Design	5	5	5
Public Open Space	20	20	20
Public Art	12	12	12
Structured Parking	20	20	20
4.7.3.F: Protection and Enhancement of the Natural Environment			
Building Lot Termination (BLT)	6	6	6
Cool Roof	10	10	10
Vegetated Roof	10	10	10
TOTAL	180	180	180

Transit Proximity

The Subject Property is located within ¼ mile of the entrance to the Bethesda Metrorail Station, which allows the development to be eligible for

Level 1 transit as defined in the Zoning Ordinance. The full 40 points are awarded as provided in the Zoning Ordinance for CR-zoned properties that are within ¼ mile of a Metrorail station.

Connectivity and Mobility

Minimum Parking: The Application provides fewer than the maximum number of allowed parking spaces. The maximum number of allowed spaces is 358, but the Application will provide 230 spaces.

The points are calculated as follows:

$$[(358/230)/(358/166)]*10 = 7.2$$

Through Block Connection: Ten points are awarded for providing a safe and attractive pedestrian connection between streets. Per the CR Guidelines, 10 points are appropriate for connections that are open-air, at least 15 feet wide, and open to the public at least between 8:00 a.m. and 9:00 p.m.

Diversity of Uses and Activities

Affordable Housing: Thirty points are awarded for providing 15% of the multi-family units as MPDUs. The incentive density points for MPDUs are calculated as a percentage of the total number of dwelling units. The Application is approved for a range of total units. The maximum number of total dwelling units is 210, which would result in 32 MPDUs. The points are calculated as follows:

$$(15*12.5)*12+0*2+0*5 = 30$$

Small Business Opportunities: Ten points are awarded for providing retail bays that are less than 5,000 square feet. Ten points are appropriate for developments that provide retail bays for on-site space for small, neighborhood-oriented businesses of no more than 5,000 square feet.

Quality of Building and Site Design

Exceptional Design: Five points are awarded for building or site design that enhances the character of a setting. Per the CR Guidelines, incentive density of 5 points is appropriate for development that meets at least four of the guideline criteria. The Application provides innovative solutions in response to the immediate context; creates a sense of place and serves as a landmark; enhances the public realm in a distinct and original manner; introduces materials, forms, or building methods unique to the immediate vicinity or applied in a unique way; uses design solutions to make compact

infill development living, working and shopping environments more pleasurable and desirable; and integrates low-impact development methods into the overall design of the site and building, beyond green building or site requirements.

Public Open Space: Twenty points are awarded for providing open space when no open space is required. Points for this incentive are granted on a sliding scale based on the percentage of the net lot area. The Application provides 5,336 square feet of open space for a total of 20 points. The open space will be directly accessible to a street; open to the public; contain seating, trash receptacles, landscaping, and other amenities; be at least 35 feet wide; and designed so that walls of any non-residential floor area facing the open space have windows on at least 60 percent of the façade between three and eight feet.

The points are calculated as follows:

$$(5,336/25,625)*100 = 20$$

Public Art: Rather than commissioning a specific work of art for the Application, the Applicant will select an artwork from one of three artists whose work was presented to the Art Review Panel on April 12, 2017. Twelve points are awarded for installing public art on-site. The artwork will meet at least 7 of the 8 goals outlined in the CR Guidelines.

Structured Parking: Twenty points are awarded for structured parking consisting of 230 below-grade spaces. This incentive is granted on a sliding scale based on the percentage of spaces provided above and below grade.

The points are calculated as follows:

$$[(0/230)*10] + [(230/230)]*20 = 20$$

Protection and Enhancement of the Natural Environment

Building Lot Termination: The Applicant must purchase BLT easements in an amount equal to 7.5% of the incentive density floor area. One BLT must be purchased for each 31,500 square feet of gross floor area. With these parameters, the Applicant must purchase 0.66 BLTs, for six points.

The points are calculated as follows:

$$((279,218*7.5\%)/ 31,500)*9 = 6$$

Cool Roof: All roof areas not covered by green roof or mechanical equipment will be covered by a cool roof having a minimum solar reflectance index of 75. Ten points are awarded.

Vegetated Roof: The Applicant will provide vegetated roofs with a soil depth of at least eight inches and covering at least 33% of the total roof excluding space for mechanical equipment and cool roof. Ten points are awarded.

c. General Requirements

i. *Site Access*

A driveway on the St. Elmo Avenue frontage will provide access to the parking garage, and another driveway will be located on the Fairmont Avenue frontage to provide access to loading. These driveways will provide well-integrated access from St. Elmo Avenue and Fairmont Avenue to the Subject Property.

ii. *Parking, Queuing, and Loading*

The Application's building will use an underground parking garage and loading spaces for adequate off-street parking and loading.

iii. *Open Space and Recreation*

Although the Application is not required to provide public open space, it will provide 5,336 square feet (20.8% of the net lot area) of public open space on the Subject Property. The public open space will be combined and coordinated with the open space on the adjacent property (Bainbridge Bethesda) in order to provide a single cohesive space, which will serve as a pedestrian walkway through the block. Recreational amenities will be provided within the building for residents. The Application meets the Recreation Guidelines.

iv. *General Landscaping and Outdoor Lighting*

Landscaping and lighting, as well as other site amenities, will be provided to ensure that these facilities will be safe, adequate, and efficient for year-round use and enjoyment by residents, employees, and visitors. The Application will transform existing streetscape along the frontages on St. Elmo Avenue and Fairmont Avenue and

the public open space with new trees, improved sidewalk, and lighting.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on February 28, 2017. The Application will meet stormwater management requirements via environmental site design to the maximum extent practicable through the use of micro-bioretenention and green roof, and a partial waiver.

b. Chapter 22A, Forest Conservation

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

Forest Conservation Exemption #42016068E was confirmed for the Subject Property on November 3, 2015. The Application qualifies for a small property exemption under Section 22A-5(s)(2) of the Montgomery County Forest Conservation Law, since the approved activity occurs within a tract of land smaller than one acre with no forest or existing specimen trees or champion trees present, and the afforestation requirements would not exceed 10,000 square feet.

However, there is one specimen tree located on the Subject Property that the Application will remove. The removal of the specimen tree triggers the tree save plan provision of the Forest Conservation Law under 22A-6(b). The tree save plan requirements must be based on the size and character of the trees to be cleared. Per condition of approval 6, the mitigation planting of four, three-inch caliper trees must occur onsite or within the Bethesda CBD. The Applicant has tentatively obtained permission for the use of a suitable offsite location that is within the CBD. This Resolution includes several conditions of approval to ensure that the plantings are appropriately installed and maintained for a reasonable period of time.

6. *The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

The Application has been designed to ensure that the locations of all buildings, structures, parking lots, open spaces, landscaping and site amenities will be safe and well-integrated. The Subject Property, located within the Woodmont Triangle Study Area, is within convenient walking distance to various public transit

resources, including the Bethesda and Medical Center Metro Stations, WMATA buses, Ride-on buses, the Bethesda Circulator, and public parking garages. As such, visitors to the building are expected to make use of multiple modes of transit. The driveways will ensure safe access to the Subject Property.

The Application will improve pedestrian circulation on St. Elmo Avenue and Fairmont Avenue and contribute to the emerging pedestrian network in the Woodmont Triangle by providing new streetscape and an improved pedestrian walkway through the block. Both street frontages will be activated by street-level retail.

With respect to resident amenities, the Application creates opportunities for courtyard and patio space on the third floor and on the 16th floor. The 16th floor amenities include a party room, a roof deck, and a swimming pool.

The scale of the building will be appropriate for the location, with heights that establish a proper relationship with surrounding existing and planned buildings, and with the larger-scale buildings in the Woodmont Triangle District. The overall massing is oriented with the tallest portion of the building in a bar that is a near the adjacent Bainbridge Apartments, another high-rise building. The building steps down to the southwest, towards the lower-rise buildings near Old Georgetown Road.

During review of the Application, Staff expressed concern at the narrowness of the separation between the building and the adjacent Bainbridge Bethesda development along the through-block connection, which is illustrated at 23 feet at its narrowest. Staff recommended to the Applicant that the building step back from the through-block connection to ensure sufficient sunlight and views to the sky. The Applicant argued that since the issue was not raised during review of the sketch plan application, upon which they had developed their Site Plan design, it was no longer timely to make that recommendation. In discussions between the Applicant, the Planning Director, and Staff, it was agreed to allow the Site Plan design to remain as originally proposed. However, if the Applicant redesigns the building to accommodate additional height afforded by the pending Sector Plan update, the Resolution includes a condition that requires the entire site and building design to be in substantial conformance with the updated Sector Plan's design guidelines.

- 7. The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Application substantially conforms to the recommendations for the Subject Property included in the *Woodmont Triangle Amendment to the Bethesda CBD Sector Plan*. The Subject Property is designated as Block 44, which is recommended for a FAR of 5.0 (not including the MPDU bonus density) and MPDU bonus height up to 174 feet. The Subject Property is located in the area of the Woodmont Triangle that is closest to the Bethesda Metro Station. It is recognized in the Sector Plan that properties in Block 44 are suitable for higher density because of the proximity to transit. The Subject Property also is within the area designated as a Density Transfer Area. Specifically, the Application furthers the following goals as outlined in the Sector Plan:

- **Housing – Provide opportunities to increase the supply of housing to serve a variety of income levels.**
The Application will provide up to 210 dwelling units, containing diverse housing opportunities by including a variety of market-rate unit sizes and layouts and 15% MPDUs to facilitate the availability of new housing, in a range of types and rents, within walking distance of the Metro.
- **Small-scale Retail – Provide opportunities to retain existing businesses and expand opportunities for new businesses.**
Through the use of density averaging, the sending properties will remain as existing small-scale developments, while simultaneously allowing for the development of a larger mixed-use project on the Subject Property. Additionally, the Application also will provide street activating uses, such as ground-floor retail on both St. Elmo Avenue and Fairmont Avenue. The Application will receive public benefit points in this category.
- **Safe and Attractive Streets – Focus on improving the safety and character of the existing streets.**
The Application will provide streetscape improvements along Fairmont Avenue and St. Elmo Avenue per the current Bethesda Streetscape Standards. The expansion of the mid-block connection will create an active and safe pedestrian environment. The pedestrian mid-block connection will provide a more efficient means of transportation for pedestrians navigating through the Woodmont Triangle area and will provide a pedestrian space that is separate from vehicular traffic.
- **Public Amenities – Increase flexibility in providing the public use space through optional method of development by allowing off-site and on-site fulfillment of this requirement, and by identifying a list of priority public amenities.**
The Sector Plan lists priority public use space and amenities for the Woodmont Triangle area, which include: streetscape improvements; north-south, mid-block pedestrian connections for the blocks located between Old Georgetown Road and

Norfolk Avenue; diverse urban spaces including public use space on-site; and public art. Public spaces in the Woodmont Triangle area are encouraged to support retail and an active pedestrian environment. The Application will provide a north-south public mid-block pedestrian connection to create smaller, more pedestrian-friendly blocks and a generous public use space. The pedestrian pass-through will also provide an inviting pedestrian environment that will activate the street and support the ground-floor retail included as part of the Application.

8. *The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

In approving Preliminary Plan 120150200 on December 10, 2015, the Planning Board found that the development will be served by adequate public facilities, including police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.

9. *The development is compatible with existing and approved or pending adjacent development.*

The Application will provide a mix of uses on-site, including a significant amount of new residential development and ground floor retail for small-scale business opportunities with a building height of 174 feet, as allowed in the CR-5.0, C-1.0, R-4.75, H-145T zone. The Sector Plan encourages the transfer of density to retain the smaller-scale commercial and retail developments, while simultaneously allowing for the development of larger mixed-use projects in the Woodmont Triangle area. Through the use of density averaging, the sending properties will remain as existing small-scale developments, while simultaneously allowing for the development of a larger mixed-use project on the Subject Property. The height and densities approved by the Application are compatible with the desired character of the Woodmont Triangle area.

The scale of the building will be appropriate for the location, with heights that establish a proper relationship with surrounding existing and planned buildings, and with the larger-scale buildings in the Woodmont Triangle District. The overall massing is oriented with the tallest portion of the building in a bar that is a near the adjacent Bainbridge Apartments, another high-rise building. The building steps down to the southwest, towards the lower-rise buildings near Old Georgetown Road.

During review of the Application, Staff expressed concern at the narrowness of the separation between the building and the adjacent Bainbridge Bethesda development along the through-block connection, which is illustrated at 23 feet at

its narrowest. Staff recommended to the Applicant that the building step back from the through-block connection to ensure sufficient sunlight and views to the sky. The Applicant argued that since the issue was not raised during review of the sketch plan application, upon which they had developed their Site Plan design, it was no longer timely to make that recommendation. But in discussions between the Applicant, the Planning Director, and Staff, it was agreed to allow the Site Plan design to remain as originally proposed. The Board disagrees that its approval of the sketch plan in any way places the proposed building design off limits at the time of site plan. In approving a sketch plan, the Board is only finding what was shown on the sketch plan to be appropriate for further review at site plan, at which point there is a significantly more rigorous review of the building location and design. The Board shares the Staff's concerns about the compatibility of this development with the abutting tower. The location of the tower so close to the abutting tower will limit light and air to the abutting building. However, in the absence of any objection from the abutting building, and under the specific circumstances of this case, the Board is willing to accept the building as proposed. If the Applicant redesigns the building to accommodate additional height afforded by the pending Sector Plan update, the Resolution includes a condition that requires the entire site and building design to be in substantial conformance with the updated Sector Plan's design guidelines.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; 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 MAY 31 2017 (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).

* * * * *

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 Dreyfuss, seconded by Commissioner Cichy, with Chair Anderson and Commissioners Dreyfuss, Fani-González, and Cichy voting in favor, and Vice Chair Wells-Harley absent at its regular meeting held on Thursday, May 18, 2017, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board