



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

MCPB No. 15-31
Sketch Plan No. 320150010
Ripley East
Date of Hearing: March 26, 2015

APR 9 2015

RESOLUTION

WHEREAS, under Section 59-C-15.42 of the Montgomery County Code the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review sketch plan applications; and

WHEREAS, on September 15, 2014, Diamondback Investors, LLC ("Applicant") filed an application for approval of a sketch plan for construction of a mixed-use project with up to 349,847 square feet of residential development and up to 17,300 square feet of non-residential uses on 1.40 acres of CR 5.0: C 4.0, R 4.75, H 200T-zoned land, located at the southwest corner of Georgia Avenue and Bonifant Street ("Subject Property") in the Ripley/South Silver Spring Overlay Zone, Silver Spring CBD Sector Plan area ("Sector Plan") area; and

WHEREAS, Applicant's sketch plan application was designated Sketch Plan No. 320150010, Ripley East ("Sketch 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 December 1, 2014, setting forth its analysis and recommendation for denial of the Application; and

WHEREAS, on December 11, 2014, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the December 11 hearing, the Applicant requested, and the Planning Board granted, a deferral to allow the address the concerns raised in the December 1 staff report; and

WHEREAS, on February 3, 2015, the Applicant submitted revised plans; and

Approved as to
Legal Sufficiency:

WHEREAS, following further review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated March 13, 2015, setting forth its analysis of the revised plans and recommendation for approval of the Application subject to certain binding elements and conditions ("Staff Report"); and

WHEREAS, on March 26, 2015, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain binding elements and conditions, by the vote certified below;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Sketch Plan No. 320150010, Ripley East, for construction of up to 349,847 square feet of residential development and up to 17,300 square feet of non-residential uses on the Subject Property, subject to the following binding elements and conditions:¹

A. Binding Elements. The following site development elements are binding under Section 59-7.3.3.B of the Montgomery County Zoning Ordinance:

1. Maximum density and height;
2. Approximate location of lots and public dedications;
3. General location and extent of public use space;
4. General location of vehicular access points; and
5. Public benefits.

All other elements are illustrative.

B. Conditions. This approval is subject to the following conditions:

1. Density

The Sketch Plan is limited to a maximum total density of 367,147 square feet. The maximum number and distribution of residential dwelling units and amount of non-residential uses will be determined at Site Plan.

2. Height

- a. Under the Sketch Plan, the massing on the Bonifant Street frontage, including the side facing Georgia Avenue is limited to a maximum height of 200 feet, as

¹ For the purpose of these binding elements and conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

measured from the building height measuring point at the middle of the front of the building along Bonifant Street.

- b. The primary massing on the Georgia Avenue frontage is limited to 175 feet, as measured from the building height measuring point at the middle of the front of the building along Bonifant Street.

3. Incentive Density

The development must be constructed with the public benefits listed below, unless modifications are made under Section 59-7.3.3.I at the time of Site Plan. The requirements of Division 59-4.7.1 and the *CR Zone Incentive Density Implementation Guidelines* must be fulfilled for each public benefit proposed. Final points will be established at Site Plan approval.

- a. Transit Proximity, achieved through location within one-quarter mile of the Silver Spring Transit Center;
- b. Connectivity and Mobility, achieved through minimum parking, trip mitigation and way finding;
- c. Diversity of Uses and Activities, achieved through affordable housing;
- d. Quality of Building and Site Design, achieved through structured parking and tower step-back; and
- e. Protection and Enhancement of the Natural Environment achieved through building lot terminations, cool roof, energy conservation and generation, a recycling facility plan, and vegetated area.

4. Building Lot Terminations (BLTs)

Prior to release of any building permit, the Applicant must provide proof of purchase and/or payment for the required BLTs.

5. Moderately Priced Dwelling Units (MPDUs)

The Applicant must provide a minimum of 15% MPDUs. The development must provide MPDUs in accordance with Chapter 25A.

6. Future Coordination for Preliminary and Site Plan

In addition to any other requirements for preliminary plans under Chapter 50 and site plans under Chapter 59, the following must be addressed when filing a preliminary or site plan:

- a. Fire and Rescue access and facility details;
- b. Streetscape details;
- c. Demonstration of how each public benefit satisfies the Zoning Ordinance and Incentive Density Implementation Guideline requirements;
- d. Implementation of transportation improvements;
- e. Consideration of building-to-street interface to maximize activation and safety;

- f. Focus on energy efficiency in building design features;
- g. Noise analysis;
- h. Dedication along Bonifant Street; and
- i. Traffic Mitigation Agreement.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff as presented at the hearing and set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record and all applicable elements of § 59-7.3.3.E, the Planning Board finds that as conditioned herein the elements of the Sketch Plan shown on the revised plans are appropriate in concept and appropriate for further review at site plan. Specifically, the Planning Board FINDS the Sketch Plan:

1. *meets the objectives, general requirements, and standards of Division 59-4.5;*

The Sketch Plan meets the development standards of Section 59-4.5.4, as shown in the Data Table below:

Project Data Table for the CR5.0 C4.0 R4.75 H200'T Zone		
Development Standard Section 59 – 4.5.4	Permitted/Required	Approved
Gross Tract Area (sf)	n/a	60,812
Maximum Density (CR) Non-residential (C) Residential (R) ²	5.0 FAR (304,060 sf) 4.0 FAR (243,248 sf) 4.75 FAR (288,857 sf)	Up to 6.03 FAR (367,147 sf) ³ Up to 0.28 FAR (17,300 sf) Up to 5.75 FAR (349,847 sf)
Building Height (feet)	200' ⁴	Up to 200' on Bonifant Street Up to 175' on Georgia Avenue

² As noted previously, pursuant to Section 59-4.5.2.C.2 of the Zoning Ordinance, for CR zoned properties designated with a "T", residential density may be increased above the number following the R on the zoning map in proportion to any MPDU density bonus achieved under Chapter 25A of the County Code for providing more than 12.5% of the residential units as MPDUs, and total density may be increased above the number following the zoning classification on the zoning map by an amount equal to the residential bonus density achieved.

³ The Application utilizes the optional method of development to develop the Property with up to the maximum density (6.037 FAR, with up to 5.75 FAR in residential uses and up to 0.28 FAR in non-residential uses (retail and/or restaurant) and the maximum height (200 feet) permitted for the Property under the CR Zone and Ripley District Overlay Zone (including as the result of provision of 15% MPDUs and the accompanying 22% residential density bonus). Final density and final building heights will be determined at the time of Site Plan.

⁴ Section 59-4.9.9 of the Zoning Ordinance contains the provisions applicable to properties located in the Ripley/South Silver Spring Overlay Zone. Section 59-4.9.9.C.1.b provides that the Planning Board may approve a maximum building height of 200 feet in any CR optional method development project that provides ground-floor retail, as this Project does.

Minimum Public Open Space (%)	5% (1,781 sf)	5% (1,781 sf)
Parking (spaces)		
Multi-family	Minimum 1 space/unit; Maximum 1 space/studio, 1.25 space/one bedroom, 1.5/two bedroom	TBD at Site Plan
Restaurant	Minimum 4 space/1,000 sf of patron use; Maximum 12 space/1,000 sf of patron use	TBD at Site Plan
Retail/service establishment	Minimum 3.5 space/1,000 sf GLA; Maximum 6 space/1,000 sf of GLA	TBD at Site Plan

The Application will provide the minimum required number of bicycle parking spaces for residents, visitors, and commuter shower/change facilities within each building at the time of Site Plan. The number of parking spaces will be determined at Site Plan based on the number of residential dwelling units.

The Sketch Plan meets the objectives of Section 59-4.5.1A quoted below; specifically, the development as approved will:

- a. *"Implement the policy recommendations of applicable master plan";*

Land Use and Zoning

The Ripley District is envisioned as a revitalized, mixed-use district with its primary focal point a high-density commercial development. The Sketch Plan provides a mixed-use development with both high-rise residential uses and ground-floor retail or other non-residential uses. The Project provides up to 360 multi-family residential units (with final unit count and unit mix to be determined at Site Plan) with 15% on-site MPDUs and up to 17,300 square feet of non-residential uses.

Although the Sector Plan called for a new interconnected street system, it did not propose any new streets to be constructed through the Property. The Sector Plan also calls for facilitating improvements to the character of Georgia Avenue and the Project will improve upon the existing street frontages of Georgia Avenue and Bonifant Street, providing an enhanced pedestrian environment through setbacks for a wider sidewalk and streetscaping features. All loading and vehicular access will be from the alley on the west side of the Property.

The Sector Plan also called for addressing obstacles to development that include small parcels not suitable for a combination of building floor area and required open space, and the reduction of available building area due

to dedication of the Metropolitan Branch Trail. The Applicant has assembled the Property by acquiring a number of small parcels in the Ripley District. While the Project is not located adjacent to the Metropolitan Branch Trail, the Applicant anticipates the significant number of residents who will take advantage of the nearby bicycle facilities and trails, and will provide a bicycle-only access into the Property from the alley on the west side of the building.

Although the 2000 Sector Plan calls to retain the CBD-2 Zone on parcels currently zoned CBD-2 and rezone all CBD-R2 properties in the Ripley District to CBD-2, the Property was rezoned through the Zoning Ordinance rewrite to CR-5.0, C-4.0, R-4.75, H-200T and Ripley Overlay Zone, effective October 31, 2014. The intent of the CBD-2 zoning was to encourage redevelopment near the Transit Center by allowing more commercial density in response to the current market (in 2000), but also provide the flexibility for both commercial or residential high-rises, or mixed use projects. The Project will be a mixed-use, high-rise residential development with ground-floor non-residential uses under the optional method of development, which satisfies the intent of the CBD-2 Zone, the Ripley/South Silver Spring Overlay Zone and the current CR Zone.

The Application conforms to the Sector Plan recommendations for Land Use and Zoning.

Urban Design

The Sector Plan also provides urban design goals and guidelines for future development in the Ripley District:

- *Make connections to the proposed Transit Center, the Capital Crescent Metropolitan Branch Trail, and other CBD facilities and neighborhoods.*

The Property is located approximately 1,000 feet east of the Silver Spring Transit Center, and within two blocks of the Metropolitan Branch Trail. The Project facilitates pedestrian access to and from these and other CBD facilities with its wider sidewalks along the Georgia Avenue and Bonifant Street frontages, to be improved to the Silver Spring streetscape standard. In addition, the Project includes access for bicyclists either residing at or visiting the Property, with a designated bicycle access point on the west side of the Property off the public alley. With easy access to two Purple Line stations (the SSTC and the proposed Library Station), residents and visitors to the site will

have improved connection to these CBD facilities and neighborhoods that surround them.

- *Incorporate one or more recreational facilities sized and programmed to meet community interests, and that make use of their urban location.*

The Project's public plaza at the corner of Georgia Avenue and Bonifant Street provides the opportunity for a sitting and gathering space. In addition, the Project will provide recreational facilities and amenities for its residents such as a rooftop pool and fitness center.

- *Create open spaces designed to form a new image for this neighborhood, and contribute to an improved visual quality along Georgia Avenue.*

The Applicant will improve the Georgia Avenue streetscape through a significant setback of the building from the curb and with the Silver Spring standard streetscape improvement along the length of the Property. Outdoor seating options for the ground-floor retail or restaurant uses could activate this frontage. In addition, the public plaza at the corner of Georgia Avenue and Bonifant Street would improve the visual quality of Georgia Avenue as vehicles and pedestrians pass by.

- *Building heights along Georgia Avenue should contribute to an attractive and coherent street.*
 - *At the building line, limit height to 90 feet, consistent with height limits on the east side of Georgia Avenue.*
 - *The building may step back and its height may be increased up to 143 feet, provided that the building is contained within a 2:1 slope.*

The Project will hold the street edges of Georgia Avenue and Bonifant Street to create an L-shaped building, which is comprised of two major masses at varying heights set atop a base level that meet at the Georgia Avenue and Bonifant Street corner.

To contribute to an attractive and coherent street, the building design modulates its massing to break down the overall scale of the building. The massing along Georgia Avenue is lower and set back to transition towards Fenton Village and the surrounding neighborhoods on the east side of Georgia Avenue. At the retail base of the building, a low two- to three-story volume of approximately 35 feet in height brings the building forward to the property line along Georgia Avenue to create a

more pedestrian scale and relate to the surrounding retail buildings. Above this, the primary mass of the building steps back approximately 12 feet, de-emphasizing the overall building height and enhancing compatibility with the buildings across Georgia Avenue. At 145 feet, the building steps back again along both Georgia Avenue and the southern facade facing Pyramid Atlantic and Ripley Street. These step-backs further break down the massing along Georgia Avenue, particularly as viewed from the south. The Project also provides an offset roofline, with the Bonifant Street side rising to approximately 200 feet and along the Georgia Avenue frontage stepping down to approximately 175 feet.

The Project is also compatible with building heights of the recently constructed Solaire Silver Spring and Eleven55 Ripley projects directly to the west and the recently approved Ripley II Sketch Plan, all three projects located in the Ripley District. Both the Solaire Silver Spring and Eleven55 Ripley projects were designed and constructed in ways that addressed the intent of the Sector Plan, but did not adhere strictly to the step-back language of the Sector Plan. In February 2015, the Planning Board found that the Ripley II Sketch Plan project addressed the intent of the Sector Plan, but did not adhere strictly to the step-back language of the Sector Plan.

While the design does not strictly adhere to this last urban design guideline, the Applicant has strived to meet the intent of Sector Plan design guidelines through articulation of the massing, vertical and horizontal step-backs, and varying heights. The modulated building massing will provide open space and relate to the surrounding uses and character of the neighborhood. The building step-backs along Georgia Avenue will enhance access to light and air, preventing a "canyon effect" along the Georgia Avenue corridor. The Applicant has provided a significant setback of the building along Georgia Avenue to provide a wider sidewalk, more pleasant pedestrian experience, and opportunities for outdoor seating for retail or restaurant uses. Given the Applicant's efforts to achieve compatible relationships with adjoining development and neighborhoods, to maximize housing opportunities in the Ripley District, to create open spaces designed to form a new image for this neighborhood, and to contribute to an improved visual quality along Georgia Avenue, the Project achieves the intent of the Sector Plan's urban design recommendations.

Housing

The housing objective of the Sector Plan is to develop new residential projects to provide housing and encourage maintenance of existing housing, creating Silver Spring as an even more desirable residential market. The Sector Plan identified the Subject Property as a housing site. The Application provides a new mixed-use project with up to 360 multi-family residential units with 15% on-site MPDUs, offering housing opportunities proximate to the numerous transit options of downtown Silver Spring. The Application meets the Sector Plan housing objective.

Historic Resources

The Sector Plan did not recommend designation of the Subject Property as historic. However, the Application includes development of the former Silver Spring National Bank located at 8252 Georgia Avenue, which does not have a historic designation.

- b. *"Target opportunities for redevelopment of single-use commercial areas and surface parking lots with a mix of uses."*

The Property is currently comprised of vacant lots and existing aging buildings. The Project will redevelop the lots and existing single-use buildings on the site with a higher-density mixed-use development with underground parking to maximize residential development within a quarter mile from the Silver Spring Metro and the planned Purple Line. The Project includes ground-floor non-residential uses, upper level residential units, public open space and residential amenity space. The Project meets the objective of this finding.

- c. *"Encourage development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities, where parking is prohibited between the building and the street."*

The Project encourages such development by proposing market-rate residential units in a variety of unit types (studios, one- and two-bedrooms) as well as 15% MPDUs, offering housing opportunities for a range of incomes proximate to the numerous transit options of downtown Silver Spring. The non-residential uses (retail and/or restaurant) on the ground floor provide commercial services for the residents and surrounding neighborhood. The Project facilitates all modes of transit – pedestrian, bicycle, and vehicular, proximate to the Purple Line and the SSTC. It will provide wide sidewalks along Georgia Avenue and Bonifant Street for pedestrian passage and comfort as well as a large public plaza at the corner of Georgia Avenue and Bonifant Street. The Project provides a

separate access point for bicycles and will provide vehicular parking and loading access to meet market demands. The Project does not propose any parking between the building and the street frontages.

- d. *"Allows a flexible mix of uses, densities, and building heights appropriate to various settings to ensure compatible relationships with adjoining neighborhood."*

The Project will provide a mix of uses on-site, including a significant amount of new residential development and ground floor retail with a building height of up to 175 feet on Georgia Avenue and up to 200 feet on Bonifant Street, as allowed in the CR-5.0, C-4.0, R-4.75, H-200T zone. Adjacent building heights and uses in the Ripley District, west of the Property, include the recently completed Eleven55 Ripley and Solaire Silver Spring to the west and southwest, with heights up to 200 feet and the recently approved Ripley II Sketch Plan with a height of up to 200 feet. Directly on the east side of Georgia Avenue, are existing one-two story retail/commercial buildings and two projects that have just begun or are soon to begin construction: Bonifant at Silver Spring and Studio Plaza, both with a height limit of 110 feet.

To further enhance the pedestrian experience and soften the height of the building, the Project incorporates low two- to three-story volumes along both the Georgia Avenue and Bonifant Street frontages at the retail base, providing setbacks at the street level. This feature brings the building to a more pedestrian scale at the street level and better relates to the surrounding retail buildings. In addition, a second step-back on the Georgia Avenue facade occurs at approximately the 145-foot level, with an additional step-back on the south facade at the 145-foot level. These step-backs further break down the massing of the building along Georgia Avenue. In addition, the Project will provide an offset roofline, with the roofline of the Bonifant Street facade rising to approximately 200 feet and the roofline of the Georgia Avenue frontage stepping down to approximately 175 feet to transition toward Fenton Village and the surrounding neighborhoods on the east side of Georgia Avenue.

The Project's building heights are appropriate at this location, ensure compatible relationships with adjoining neighborhoods, and therefore meets the finding.

- e. *"Integrate an appropriate balance of employment and housing opportunities."*

The Project will help to meet the need for additional housing options in the Ripley District. The mixed-use development will provide more residents to patronize local businesses, and strengthen the Ripley District as a revitalized, mixed-use district. Additionally, providing more housing stock in the CBD provides greater opportunities for employment, a fundamental ingredient for the "smart growth" promoted by the previous CBD zones. The Project provides a variety of housing options through provision of both market-rate units and MPDUs in an array of unit sizes. In addition, the Project provides non-residential uses such as retail and/or restaurant.

- f. *"Standardize optional method development by establishing minimum requirements for the provision of public benefits that will support and accommodate density above the standard method limit."*

The Project will provide the required public benefits from a minimum of four categories to achieve the desired incentive density above the standard method limit.

2. *substantially conform with the recommendations of the applicable master plan;*

The Project provides the diversity of housing, connectivity improvements, and will create an open space that will contribute to an improved visual quality along Georgia Avenue. In addition, the Applicant will design the Georgia Avenue façade with articulation in building massing, step-backs, and heights, which achieves many of the same objectives accomplished by building step-back. The Project conforms to the intent and recommendations of the Sector Plan.

3. *satisfy any development plan or schematic development plan in effect on October 29, 2014;*

The Sketch Plan is not subject to a development plan or schematic development plan.

4. *achieve compatible internal and external relationships between existing and pending nearby development;*

The building is compatible in height and scale with the recent development in the Ripley District. The Project will provide a 200-foot building height on Bonifant Street with the building stepping down in height to 175 feet on Georgia Avenue. The massing of the building will provide ample open space and setbacks to relate to the surrounding uses and character and the building step-backs along Georgia Avenue will ensure adequate light and air and preventing a "canyon effect" along the Georgia Avenue corridor. The Project is also compatible with building

heights of the recently constructed Solaire Silver Spring and Eleven55 Ripley projects directly to the west and the recently approved Ripley II Sketch Plan, all three projects located in the Ripley District. The building provides an appropriate transition to adjoining neighborhoods as recommended with the urban design goals and guidelines in the Sector Plan. The Project achieves compatible internal and external relationships between existing and pending nearby development.

5. *provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading;*

The Project provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading. The Project appropriately locates activating pedestrian uses along the Georgia Avenue and Bonifant Street frontages, including the residential entrance, the public plaza, and wide streetscapes with the Silver Spring standard streetscaping. The public alley on the west side of the Property appropriately functions for vehicular access (cars and bicycles will each have their own designated access point) and loading.

6. *propose an outline of public benefits that supports the requested incentive density and is appropriate for the specific community;*

The Application includes public benefits that address the general incentive and density considerations required by Section 59-4.7.1.B. The public benefits:

- a. Take into consideration "the recommendations of the applicable master plan" by providing the diversity of housing, structured parking, general sustainability measures, and connectivity improvements;
- b. Meet "the CR Zone Incentive Density Implementation Guidelines" by providing the proper calculations and criteria for each public benefit;
- c. Meet "any design guidelines adopted for the applicable master plan area" by providing connectivity improvements, and articulation in building massing, heights and step-backs which achieves the objectives of the design guidelines;
- d. Are appropriate for "the size and configuration of the site" by improving the existing configuration of surface parking lots and replacing them with structured parking close to transit;
- e. Adequately address "the relationship of the site to adjacent properties" by designing the building at an appropriate scale that complements and enhances the existing character of the area;
- f. Consider "the presence or lack of similar public benefits nearby" through the provision of affordable housing, environmental benefits, and upgraded pedestrian connections, all of which are currently needed in this area; and

- g. Provide "enhancements beyond the elements listed in an individual public benefit that increase public access to, or enjoyment of, the benefit" which will be developed and assessed during Preliminary and Site Plan reviews.

Public Benefits Calculations			
Public Benefit	Incentive Density Points		
	Max Allowed	Requested	Recommended
59-4.7.3B: Transit Proximity	40	40	40
59-4.7.3C: Connectivity and Mobility			
Minimum Parking	10	9	9
Trip Mitigation	20	10	10
Way-finding	10	5	5
59-4.7.3D: Diversity of Uses and Activities			
Affordable Housing (MPDUs)	No limit	30	30
59-4.7.3E: Quality of Building and Site Design			
Structured Parking	20	20	20
Tower Step-back	10	5	5
59-59-4.7.3F: Protection and Enhancement of the Natural Environment			
Building Lot Terminations	30	9	9
Cool Roof	10	5	5
Energy Conservation and Generation	15	10	10
Recycling Facility Plan	10	5	5
Vegetated Roof	10	7.5	7.5
TOTAL	205	155.5	155.5

Transit Proximity

The Property is located within one-quarter mile of the Silver Spring Transit Center (and Metro Station). The Planning Board supports the Applicant's request for 40 points as suggested in the *2012 Commercial/Residential Zones Incentive Density Implementation Guidelines* (CR Guidelines).

Connectivity and Mobility

Minimum Parking: The Applicant will provide fewer than the maximum number of parking spaces permitted under the Zoning Ordinance, and at this time anticipates achieving 9 points. The Planning Board supports the Applicant's request.

Trip Mitigation: The Applicant will enter into a binding Traffic Mitigation Agreement to reduce the number of weekday morning and evening peak hour trips to the site in excess of any other regulatory requirement and the agreement must result in a reduction of at least 50% for trips attributable to the site. The Planning Board supports the Applicant's request of 10 points.

Way-finding: The Applicant requests 5 points for providing a way-finding system that orients pedestrians and cyclists to transit facilities, the nearby Metropolitan Branch Trail, and public use and open spaces. Further details and refinement are to be provided at the time of Site Plan. The Planning Board supports the Applicant's request.

Diversity of Uses and Activities

Affordable Housing: The Applicant requests 30 points 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 (assuming 360 multi-family units). The Applicant's initial estimate of providing 54 MPDUs yields 30 points. Final number of MPDU units to be determined at Site Plan. The Planning Board supports the Applicant's request.

Quality of Building and Site Design

Structured Parking: The Applicant requests 20 points for structured parking for the parking that will be below grade. The Application provides all parking spaces in a below-ground parking garage with final parking counts to be determined at Site Plan. The Planning Board supports 20 points for this benefit.

Tower step-back: Up to 10 points can be granted for stepping back a building's upper floors by a minimum of six feet behind the first floor façade and must begin at a height no greater than 72 feet. A low two- to three-story volume, up to approximately 35 feet in height at the retail base, brings the building forward to the Property line along Georgia Avenue and Bonifant Street to create a more pedestrian scale and relate to the surrounding retail buildings. At the top of the two- to three-story volume, the building steps back approximately 12 feet. The Applicant is requesting 5 points for the tower-step back. The Planning Board supports 5 points for this benefit.

Protection and Enhancement of the Natural Environment

BLTs: Up to 30 points can be granted for the purchase of Building Lot Termination (BLT) easements or payment to the Agricultural Land Preservation Fund (ALPF). The Applicant proposes the purchase of BLT easements for the requisite 9 public benefit points. The Planning Board supports this request.

Cool Roof: The Application will provide a cool roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum of SRI of 25 for slopes above 2:12, thus achieving 5 points in this public benefit category. The final layout is determined at the time of Site Plan and the Planning Board supports 5 points for this benefit.

Energy Conservation and Generation: Up to 15 points can be granted for constructing buildings that exceed the energy-efficiency standards for the

building type by 17.5% for new building. The Project is being designed to exceed the energy efficiency standards for its building type by 17.5%, through such features as a centralized mechanical system, energy efficient lighting, and low-flow plumbing fixtures. The Applicant anticipates achieving 10 points in this public benefit category with further details and refinement to be provided at the time of Site Plan. The Planning Board supports the Applicant's request.

Recycling Facility Plan: Up to 10 points may be granted for providing a recycling facility plan to be approved as part of the site plan and must comply with the Montgomery County Executive Regulation 15-04AM or Montgomery County Executive Regulation 18-04. In addition, per Zoning Ordinance Section 59-4.7.1.B, granting points as a public benefit for any amenity or project feature otherwise required by law is prohibited. The Application will provide a recycling facility plan, which is required by law, but at the time of Site Plan, the Applicant would have to provide justification on how the development exceeds the requirements of Montgomery County Executive Regulation 15-04 AM, to achieve the 5 points proposed in this public benefit category. The Planning Board supports the Applicant's request at this time.

Vegetated Area: The Applicant requests 7.5 points for the installation of plantings in a minimum of 12 inches of soil, covering at least 5,000 square feet. The CR Guidelines recommends 5 points for development that meets the Zoning Ordinance requirements with areas not part of the required public use space or open space used for incentive density. Area within stormwater management easements may not be counted either. The Project will include a courtyard lawn on the second level and the lawn will encompass approximately 9,000 square feet, of which approximately 7,200 square feet, or 80%, will be vegetated with soil depths of at least 12 inches. The Planning Board supports this request.

7. *establishes a feasible and appropriate provisional phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.*

The Project will be built in one phase.

BE IT FURTHER RESOLVED that at the time of site plan the Planning Board may approve changes to this Sketch Plan under certain circumstances. If the Applicant proposes to change a condition of approval or binding element, or agrees to a change proposed by another party, the proposed change must satisfy the requirements for approval of a sketch plan and site plan, including Section 59-4.5.1, Section 59-7.3, and the Silver Spring CBD Sector Plan. If Staff proposes to change a condition of approval or binding element, however, the Board may approve the change if necessary to ensure conformance with Section 59-4.5.1, Section 59-7.3, or the Silver Spring CBD Sector

Plan. In other words, for the Board to approve an Applicant-proposed change of a binding element it must find consistency with applicable standards; for the Board to approve a modification to a Staff-proposed binding element that the Applicant has not agreed to, the Board must find that the proposed change is necessary to meet the site plan approval standards, including conformance with zoning or Silver Spring CBD Sector Plan requirements.

Alternatively, based on detailed review of a site plan, the Board may find that any element of the approved Sketch Plan, including a binding element, does not meet the requirements of the zone, Silver Spring CBD Sector Plan, or other findings necessary to approve a site plan, and deny the site plan application.

The Board's review of sketch plans is governed by Section 59-C-7.3.3, which provides that "in approving a sketch plan" the Board must find that certain elements of the plan are "appropriate in concept and appropriate for further detailed review at site plan." Because the Board's approval of a sketch plan is in concept only and subject to further detailed review at site plan, the Board may find, based on detailed review of a site plan, that an element of a sketch plan does not meet the requirements of the zone, master plan, or other requirements for site plan approval. The Board lacks the authority at the time of sketch plan to predetermine that any element of the Sketch Plan will satisfy all applicable requirements for site plan approval, and it would not make sense for it to do so, due to the limited detail contained in a sketch plan. If the Board were unable to require changes to binding elements at the time of site plan to ensure compliance with all code and master plan requirements, the Board might have decided to approve fewer elements of this Sketch Plan as binding.

Although the Board does not have the authority to provide complete certainty about the conditions of approval or binding elements of a sketch plan, this does not mean that the Board should or will require changes to an approved sketch plan without good reason. To do so would be inefficient and unfair to Applicants and community members whose expectations about the future shape of development will be formed by what the Board approves in a sketch plan; and

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 all elements of the plans for Sketch Plan No. 320150010, Ripley East, stamped received by M-NCPPC on February 3, 2015 are required except as modified herein; 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 APR 9 2015 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

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 Fani-Gonzalez, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-Gonzalez voting in favor at its regular meeting held on Thursday, March 26, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board