



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

MCPB No. 15-38
Sketch Plan No. 320150020
Falkland North
Date of Hearing: September 10, 2015

SEP 28 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 December 3, 2014, Falkland Road Residential, LLC ("Applicant") filed an application for approval of a sketch plan for construction of up to a maximum of 1,276,329 square feet of total development, including up to 1,250 dwelling units, including 12.5% moderately priced dwelling units ("MPDUs") and 4.72% other affordable housing units, and up to 120,000 square feet of nonresidential (retail, restaurant, or service) uses on 9.77 acres of CR 3.0: C 0.75, R 3.0, H 145 T zoned-land, located in the northeast quadrant of the intersection of 16th Street and East-West Highway ("Subject Property") in the Silver Spring CBD Policy Area, *Silver Spring Central Business District and Vicinity Sector Plan* ("Sector Plan") area; and

WHEREAS, Applicant's sketch plan application was designated Sketch Plan No. 320150020 Falkland North ("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 August 28, 2015, setting forth its analysis of and recommendation for approval of the Application subject to certain binding elements and conditions ("Staff Report"); and

WHEREAS, on September 10, 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. 320150020 Falkland North, for construction of up to a maximum of

Approved as to
Legal Sufficiency:

1,276,329 square feet of total development, including up to 1,250 dwelling units, including 12.5% MPDUs and 4.72% other affordable housing units, and up to 120,000 square feet of nonresidential (retail, restaurant, or service) uses, on the Subject Property, subject to the following binding elements and conditions:¹

Binding Elements

1. Maximum density and height;
2. Approximate location of lot and public dedications;
3. General location and extent of public open space;
4. General location of vehicular access points; and
5. Public benefit schedule.

All other elements of the Sketch Plan are illustrative.

Conditions of Approval

1. Previous Conditions

All conditions imposed by the approval of Project Plan No. 920070080 in Planning Board Resolution MCPB No. 10-162 dated December 13, 2010, are superseded by the conditions contained herein.

2. Density

The development is limited to a maximum of 1,276,329 square feet of total development, including up to 1,250 dwelling units, including 12.5% MPDUs and 4.72% other affordable housing units, and up to 120,000 square feet of nonresidential (retail, restaurant, or service) uses.

3. Height

The development is limited to the maximum height of 145 feet, as measured from the approved building height measuring point for each building. In accordance with Section 59-4.1.7.C.2 of the Zoning Ordinance, the building height measuring point for Building 1A is the level of the approved curb grade on 16th Street at the middle of the building's 16th Street façade; the building height measuring point for Building 1B is the level of the approved curb grade on East-West Highway at the middle of the building's East-West Highway façade; the building height measuring point for Building 4 is the level of the approved curb grade on East-West Highway at the middle of the building's East-West Highway façade; the building height measuring point for Building 5 is the level of the approved curb

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.

grade on East-West Highway at the middle of the building's East-West Highway façade; the building height measuring point for Building 2 is the level of the average elevation of the finished ground surface along the front of the building.

4. Incentive Density

The development must be constructed with the public benefits listed below, unless modifications are made under Section 59-7.3.3.1. Total points must equal at least 50 and be chosen from at least four categories as required by Section 59-4.5.4.2.a. The requirements of Division 59-4.7 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. Major Public Facilities, achieved through provision of a shared-use path and a bike share station;
- b. Transit Proximity, achieved through proximity to a Metrorail station;
- c. Connectivity and Mobility, achieved through advanced dedication of Purple Line right-of-way, provision of fewer than the maximum parking spaces, transit access improvements, and provision of wayfinding;
- d. Quality of Building and Site Design, achieved through ground floor transparency and structured parking; and
- e. Protection and Enhancement of the Natural Environment, achieved through building lot termination, cool roof, habitat preservation and restoration, vegetated roof, and vegetated wall.

5. Moderately Priced Dwelling Units (MPDUs)

The Planning Board accepts the recommendations of the Montgomery County Department of Housing and Community Affairs ("MCDHCA") in its letter dated August 27, 2015, and hereby incorporates them as conditions of the Sketch Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDHCA may amend if the amendments do not conflict with other conditions of the Sketch Plan approval.

6. Declaration of Restrictive Covenant

- a. Prior to certification of any site plan, the Applicant must execute and record an amended Declaration of Restrictive Covenant with M-NCPPC. The amendments to be made are specified in Attachment C to the Falkland North Staff Report dated August 28, 2015.
- b. The Applicant must comply with the terms of the Declaration of Restrictive Covenant to be executed between the Applicant and M-NCPPC, as amended.

7. Off-Site Stream Restoration

Before issuance of the building permit that includes the 651st dwelling unit, the Applicant must begin work on the habitat preservation and restoration on the South Parcel. The preservation and restoration work must be completed within 18 months after it begins.

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 are appropriate in concept and appropriate for further review at site plan. Specifically, the Planning Board FINDS that the Sketch Plan:

1. *meets the objectives, general requirements, and standards of this Chapter;*

The Sketch Plan meets the development standards of Section 59.4.5.4, as shown in Table 1, Sketch Plan Project Data Table.

Table 1-Sketch Plan Project Data Table			
Section	Development Standard	Permitted/ Required	Approved
59 – 4	Gross Tract Area (sf)	n/a	425,443
4.5.4.B.2.b	Density CR3.0, C0.75, R3.0, H145T Commercial FAR/GFA Residential FAR/GFA TOTAL FAR/GFA	0.75/319,082 3.0/1,276,329 3.0/1,276,329	0.28/120,000 2.72/1,156,329 3.0/1,276,329
4.5.4.B.2.b	Building Height (feet) CR3.0, C0.75, R3.0, H145T	145	145
4.5.4.B.3	Minimum Setback From R.O.W.	0'	0'
4.5.4.B.1	Open Space Public Open Space (%/sq. ft.)	10/30,129	10/30,500
6.2	Parking (spaces) ² Residential and non-residential uses	911-2,380	1,179

The intent of the CR zone is to:

² The final number of parking spaces may be adjusted between the minimum and maximum allowed under Section 6.3 of the Zoning Ordinance at the time of building permit based on final unit count and/or bedroom mix.

a) Implement the recommendations of applicable master plans.

As discussed in Finding 2 below, the Application substantially conforms to the recommendations of the Sector Plan. The Application responds to the Sector Plan's main goals, including revitalizing the Silver Spring CBD and promoting sustainable pedestrian- and transit-oriented development. Specifically, the Application provides a desirable mix of residential and commercial uses, public open space and amenities, as well as significant improvements to the pedestrian environment.

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

The Subject Property is currently improved with low-rise garden apartment buildings that were constructed in the mid-1930s and associated surface parking. The Application will redevelop this single-use property with a modern, mixed-use development with structured below-grade parking. In total, the Application will provide up to 1,250 additional residential dwelling units and 120,000 square feet of commercial uses in close proximity to transit and other essential services.

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 Application provides a mixed-use, transit-oriented development to meet the needs of workers, shoppers, and residents of the CBD. The residential component of the Application was specifically designed to include a broad spectrum of unit types, and to provide diverse housing opportunities. The ground floor commercial space provides opportunities for various businesses to operate within the CBD, including a potential full-service grocery store, which will support residents and workers in the CBD.

The Application will provide new residential units and employment opportunities in close proximity to the Silver Spring Metro station. The location of these uses within 800 feet of the Metro will encourage utilization of mass transit for work trips. Additionally, the streetscape improvements along East-West Highway will promote this important pedestrian connection between the residential uses just outside the CBD and the existing commercial and office uses within the CBD.

No parking will be provided between the buildings and the street.

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

The Application provides a context-sensitive design and will complement the surrounding uses – the taller buildings are located to the rear of the Subject Property, adjacent to the more intense CR-zoned properties, and the mid-rise buildings have been located closer to the intersection of East-West Highway and 16th Street to provide a transition to the lower-density historic garden apartments located on the South and West Parcels.

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

The Application will provide significant housing opportunities and promote economic diversity. The Application will provide up to 157 MPDUs and the Applicant will retain up to 59 other affordable housing units in the existing historic buildings on the South and West Parcels. The residential development will provide additional opportunities for those who work in the CBD to live in close proximity to their place of employment.

The non-residential component of the Application will provide necessary services for the existing and future residents of the Subject Property. The various commercial uses, potentially including a full-service grocery store, will also provide employment opportunities in close proximity to Metro.

- 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.*

As discussed in finding 6.g below, the Application will provide the required public benefits from a minimum of four categories to achieve the desired incentive density above the standard method limit.

In addition to meeting the intents of the CR zone, the Sketch Plan meets the standards of approval for retail establishments greater than 50,000 square feet:

Retail/service establishments over 50,000 square feet are permitted as a limited use in the CR Zone. The potential future grocery store will be up to 62,000 square feet and will satisfy the additional standards for approval, as required in Section 3.5.11.B.2.a.iv. The potential grocery store will be located on the 2nd floor of building 1A, with ground-floor retail below and residential above. Parking for the proposed grocery store will be accommodated in an at-grade and partial below-grade parking garage. The exterior façade has been designed to incorporate the

grocery store, such that, if a grocery store does not occupy the 2nd floor space the 2nd floor could seamlessly be converted into residential dwelling units. Access to the potential grocery store will be via an at grade entrance on Market Street³ or East West Highway, and access to the ground-floor retail will be provided from Market Street and East West Highway. For all of these reasons, Sections 3.5.11.B.2.a.iv(a) – (f) are satisfied.

The Sketch Plan meets the general requirements of the Chapter 59 as follows:

i. Section 4.1.7.C.2 Building Height Measurement

Under Section 4.1.7.C.2, the building height of each street-fronting building must be measured from the approved curb grade opposite the middle of the front of each building. Because Building 2 is set back more than 35 feet from the street, its height must be measured instead from the average elevation of the finished ground surface. The Applicant's proposal to measure the building heights for all of the buildings from a single reference point at the northwest corner of the Subject Property did not comply with Section 4.1.7.C.2. Condition No. 3 requires the buildings to be measured in compliance with Section 4.1.7.C.2.

ii. Division 6.1. Site Access

A network of private drives for the two Phase 1 buildings provides well-integrated vehicular access from East West Highway and 16th Street to entrances to the underground parking garage. "Market Street" will be constructed with the Phase 1 development and will appropriately function for vehicular access for the buildings.

iii. Division 6.2. Parking, Queuing, and Loading

The Application's two Phase 1 mixed-use buildings will share an underground parking garage for adequate off-street parking.

iv. Division 6.3. Open Space and Recreation

The Sketch Plan has a 10 percent public open space requirement, which yields a requirement of 30,129 square feet of open space. The Application proposes to provide 30,500 square feet of public open space, of which 18,240 square feet will be provided in Phase 1.

³ Although not officially a street, the internal driveway that enters the property from East West Highway has been named "Market Street" by the Applicant for their promotional purposes.

The Phase 1 development meets the active and passive recreation space required by the zone. The development will provide the following on-site recreation facilities: Indoor community space, swimming pool, indoor fitness facility, picnic/sitting areas, a bike system, and a pedestrian system.

The development meets the required supply of recreation facilities based on the calculation methods in the M-NCPPC Recreation Guidelines. The Phase 1 development will provide adequate, safe, and efficient recreation facilities to allow residents to lead an active and healthy life.

v. *Division 6.4. 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 and visitors. The Application provides streetscape along the new private drive ("Market Street") and will transform existing streetscape along the frontage on 16th Street and East West Highway, with new street trees, improved sidewalks, and street lighting. Site furnishings will be integrated within the site to create a unique and interesting place and ensure accessibility and comfort.

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

The Subject Property is within the boundaries of the *Silver Spring Central Business District and Vicinity Sector Plan*. The Sector Plan contains six themes that guide the vision for the Silver Spring CBD: (1) a transit-oriented downtown, (2) a commercial downtown, (3) a residential downtown, (4) a civic downtown, (5) a green downtown, and (6) a pedestrian friendly downtown.

1. TRANSIT-ORIENTED DOWNTOWN. The Sector Plan's land use and development recommendations strive to balance the needs of commuter and local traffic, of walkers and drivers, and to maximize the investment in Silver Spring's transit infrastructure.

The Subject Property, by virtue of its location within the CBD, is convenient to various public transportation resources including the Silver Spring Metro and MARC station and various bus lines and the future Silver Spring Purple Line station. The Application also provides streetscape improvements, a new shared use path along East West Highway and is in close proximity to the Capital Crescent Trail as a benefit to walkers and bicyclists. The private internal drives provide safe and efficient on-site circulation for both pedestrian and vehicles. Given the nature of the development and the location of the Subject Property, it is reasonable to anticipate that residents and visitors will

make use of multiple modes of transportation when accessing the Subject Property.

2. **COMMERCIAL DOWNTOWN.** Silver Spring's location, infrastructure, and position in the metropolitan area market will continue its role as an employment center. New retail development will serve the local community with a mix of chain and independent businesses offering convenience and specialty shopping, restaurants, and entertainment.

The Application provides for the development of up to 120,000 square feet of retail use that will provide opportunities for various types of commercial uses. The ground-floor retail and restaurant uses provided for, in combination with a possible large grocery store, will create a diverse offering that will serve the surrounding residential uses, as well as the existing and future residents of the Subject Property.

3. **RESIDENTIAL DOWNTOWN.** The Sector Plan seeks to create a mix of housing choices, including low-rise high-density apartments and townhouses, supported by parks, shopping, cultural, civic, and employment uses with transit and Beltway access to make a convenient and thriving community.

The Application will provide greater housing opportunities in the Silver Spring CBD and will allow residents to live near their work. The Application provides for the development of up to 1,250 new residential units in the CBD, within walking distance of the Silver Spring Metro Station and several bus routes. These new residences will help support the existing commercial and office uses in the CBD, as well as the non-residential component of the Application.

The Application contains diverse housing opportunities by including a variety of market rate unit sizes and layouts to facilitate the availability of new housing in a range of types and rents within walking distance of the Metrorail and Metro Bus stops. The Application provides both mid-rise and high-rise multi-family residential development. This, in combination with the adjacent garden style apartments, creates a mix of housing choices. Because the Application includes a significant number of MPDUs and other affordable housing units, it will facilitate economic diversity located near transit and important services.

4. **CIVIC DOWNTOWN.** The Sector Plan views civic facilities as partners in economic revitalization. New and regenerated facilities will draw people downtown, returning it to the center of community life and creating opportunities for economic and social connections.

The on-site public open space and amenities respond to the need for community facilities, including civic spaces, within the CBD. The Application facilitates a variety of opportunities for people to gather and socialize, including outdoor café seating areas, pedestrian walkways, benches and private courtyards. The design of the public open space and amenities, including the streetscape improvements and Market Street, will appeal to a diverse population seeking varied experiences.

5. GREEN DOWNTOWN. The Sector Plan envisions shaded, tree-lined streets and well-placed green parks and plazas, creating a comprehensive system of open spaces that provide economic, environmental, and aesthetic benefits through downtown.

A minimum of 10% public open space will be provided on-site after completion of all phases of development. The Application will provide diverse public open spaces that collectively create a vibrant and active pedestrian environment. In connection with phase two of the development, the Applicant will also restore the stream on the South Parcel. This stream restoration and beautification will provide an important amenity for residents and for the Silver Spring CBD.

6. PEDESTRIAN FRIENDLY DOWNTOWN. The Sector Plan encourages the development of active streets and sidewalks, busy with people walking to shop, commute, or for pleasure. They will become a defining feature downtown, and will support activity, creating the setting for community.

The combination of residential and ground-floor commercial uses on the Subject Property will serve to activate the streets. The Application has been designed to create a space that allows for internal vehicular circulation but favors the pedestrian experience. As such, streetscape improvements, in accordance with the Silver Spring Streetscape Plan, will be implemented to create a more attractive pedestrian environment. Market Street will be lined with trees and on-street parking to promote safe and efficient internal circulation of vehicles, pedestrians and bicyclists.

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 Application will provide diverse housing opportunities, which will bring the new residents that are necessary to achieve a "critical mass" of activity in this section of the CBD, and significant commercial and retail development on the Subject Property. The Application has been sensitively designed to ensure that it is physically compatible with, and not detrimental to, existing and future development surrounding the Subject Property. The Application has been designed at an appropriate scale for the surrounding area, with mid-rise buildings located closer to the historic garden apartments of the Falkland Chase South Parcel and West Parcel, and higher buildings located closer to the more intense CR-zoned properties.

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

The Application will significantly improve the pedestrian and bicyclist access and circulation within the CBD. Streetscape improvements along the Subject Property's frontage on 16th Street and East-West Highway and the private internal drives will provide for a safer and more efficient pedestrian environment. In addition, the 16th street frontage will include an off-street shared-use path, which will improve bicycle circulation.

The Application will also improve vehicular circulation by minimizing curb cuts along East West Highway. Adequate parking will be provided on-site to accommodate all users of the Subject Property, and access to parking and loading has been located to minimize pedestrian-vehicular conflicts.

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 a project that is transit-oriented, includes commercial and residential development, includes civic gathering spaces, includes environmental enhancements, and is pedestrian friendly;
- b. Meet the *2012 Commercial/Residential Zones Incentive Density Implementation Guidelines (CR 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 an attractive pedestrian environment with short blocks and defined streets with building edges, public open space, and safe pedestrian-friendly connections;

- 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 to allow for public use and public open spaces close to transit;
- e. Adequately address “the relationship of the site to adjacent properties” by designing the buildings at an appropriate scale for the surroundings with heights and areas of open space that complement 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, public open space, and 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 plan and site plan reviews.

For the development the zoning code requires 100 points in four categories. Although at time of Sketch Plan, only the categories need be approved, Table 2 shows both the categories and points for the public benefits recommended at Sketch Plan to demonstrate the Application’s ability to meet the requirement to provide sufficient benefit points.

Table 2- Sketch Plan Public Benefits Calculations			
Public Benefit	Incentive Density Points		
	Total Points Possible	Requested	Recommended
4.7.3.A: Major Public Facilities	70	3.7	3.7
4.7.3.B: Transit Proximity	40	40	40
4.7.3.C: Connectivity and Mobility			
Advanced Dedication	30	8	8
Minimum Parking	10	7.73	7.73
Transit Access Improvement	20	10	10
Wayfinding	10	5	5
4.7.3.E: Quality of Building and Site Design			
Architectural Elevations	20	10	10
Exceptional Design	10	5	0 -5
Structured Parking	20	15.3	15.3
4.7.3.F: Protection and Enhancement of the Natural Environment			
Building Lot Termination (BLT)	30	9	9
Cool Roof	10	10	10
Habitat Preservation and Restoration	20	12.2	12.2
Vegetated Roof	15	5	5
Vegetated Wall	10	10	10
TOTAL	100	150.9	145.9 – 150.9

Major Public Facilities

In accordance with the Sector Plan, the Application will construct an off-road shared use path along the East West Highway frontage of the Subject Property. In addition, the Application will provide a bike share station at the entrance to the Subject Property on Market Street.

Transit Proximity

The Subject Property is located within ¼ mile of the entrance to the Silver Spring Metro 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

Advanced Dedication: The Application proposes to place in reservation 24,517 square feet for future dedication to the Purple Line.

Minimum Parking: The Application proposes fewer than the maximum number of allowed parking spaces. The maximum number of allowed spaces is 2,380, but the Application will provide 1,179 spaces.

Transit Access Improvement: The Application will improve sidewalks and accessibility ramps at the northwest, southwest, and southeast corners of the intersection of 16th street and East-West Highway. These improvements are located within ½ of the Subject Property and are not otherwise required improvements along the Subject Property's frontage.

Wayfinding: In conjunction with the shared use path on East West Highway and other public spaces on the Subject Property, wayfinding signs will be installed to direct pedestrians and bicyclists to the Metrorail station and other points of interest.

Quality of Building and Site Design

Architectural Elevations: The buildings are designed to provide ground-floor transparency. The ground-floor façade is primarily glass, readily allowing views into and out of the building. Numerous doors provide access into the retail spaces from East West Highway and Market Street. The certified site plan will document these and other design elements and substantial conformance with the building design will be required of the Applicant.

Exceptional Design: Addressing "Quality Building and Site Design", Section 59.4.7.3.E of the Zoning Ordinance states:

High quality design is especially important in urban, integrated-use settings to ensure that buildings and uses are visually compatible with each other and adjacent communities and to provide a harmonious pattern of development. Due to increased density in these settings, buildings tend to be highly visible and high quality design helps attract residents, patrons and businesses to these areas. *Location, height, massing, facade treatments and ornamentation of buildings all affect sense of place, orientation and the perception of comfort and convenience.* The quality of the built environment affects light, shadow, wind and noise, as well as the functional and economic value of property. [emphasis added]

For the exceptional design public benefit, the Zoning Ordinance allows up to 10 points for “building or site design whose visual and functional impacts exceptionally enhance the character of a setting” per the paragraph above. To achieve points for this benefit, the *Implementation Guidelines* set criteria which the project must meet (p.39):

Incentive density of 5 points is appropriate for development that meets at least four [emphasis added] of the following criteria and 10 points for development that meets all of them. Building or site design that:

- 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 on a problematic site
- integrates low-impact development methods into the overall design of the site and building, beyond green building or site requirements.

The Application arguably “uses design solutions to make compact, infill development living, working, and shopping environments more pleasurable and desirable on a problematic site” and, in contrast to the single-use automobile-oriented development surrounding the Subject Property, will provide a mixed-use node that will create a sense of place and serve as a landmark.

However, in Downtown Silver Spring, the creation of a street and block system with buildings that are oriented to clearly define a pedestrian mixed-use place, while most desirable, is not an innovative solution in response to the immediate context, nor does it do so in a unique or especially distinct and original manner. Though the

proposed architecture represented in the concurrent site plan application includes references to the surrounding context, the "location, height, massing, facade treatments and ornamentation of buildings" do not present an innovative solution in response to the immediate context.

As noted above, the Zoning Ordinance recognizes that "high quality design is especially important in urban, integrated-use settings to ensure that buildings and uses are visually compatible with each other and adjacent communities and to provide a harmonious pattern of development." This development has the "good bones" of streets and blocks and a pedestrian-oriented site design and mix of uses. As the Applicant prepares future site plan applications for the phased development of the Subject Property, those plans should strive to include exceptional design that meets the requirements of the *Implementation Guidelines*.

Structured Parking: The Applicant requests 15.3 points for structured parking consisting of 527 above-grade spaces and 639 below-grade spaces. This incentive is granted on a sliding scale based on the percentage of spaces provided above and below grade.

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 2.53 BLTs.

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.

Habitat Preservation and Restoration: The off-site stream area located on the Falkland South Parcel will be improved and restored as part of the Application. Based the size of the area to be restored (40,000 square feet), the Applicant is request 12.2 points.

Vegetated Roof: The Applicant requests 5 points for providing vegetated roofs with a soil depth of at least 4 inches and covering at least 33% of the total roof excluding space for mechanical equipment.

Vegetated Wall: A vegetated wall, visible from 16th Street, will be placed on the west side of Building 1A, covering an area of 696 square feet. The green screen is located on a blank wall, which has an area of 999 square feet. The green screen will cover 70% of the blank wall. The green screen will be comprised of a three-dimensional welded wire trellis system that will be attached to the building face. Two different species of vine will be planted on the green screen with varying bloom

times. American wisteria is a deciduous vine with purple blooms that emerge during early summer. Crossvine is an evergreen climbing vine with red and yellow blooms that emerge in early spring.

7. *establish 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 development may be built in three phases. Phase 1 consists of two mixed use buildings, Building 1A and Building 1B, which will be connected by an underground parking garage. The private driveway dubbed "Market Street" will be constructed between the two buildings. The development in Phase 1 consists of 368 dwelling units and 96,000 square feet of retail and commercial uses. Phase 2 will consist of Building 2, which will contain up to 403 dwelling units and up to 8,000 square feet of retail and commercial uses. Phase 3 will consist of buildings 4 and 5, which will contain up to 479 dwelling units and up to 16,000 square feet of retail and commercial uses. Phase 3 includes construction of the new site entrance at the eastern-most point of the property's East West Highway frontage, which will be a new signalized intersection.

Table 3 shows the public benefits by each phase of development:

Table 3- Phased Public Benefits

	Total Sketch Plan Points	Phases	
		Phase 1	Phases 2 and 3
Major Public Facilities	3.7	1.9	1.8
Transit Proximity	40	20	20
Connectivity and Mobility			
Advanced Dedication	8	4	4
Minimum Parking	7.73	3.35	4.38
Transit Access Improvement	10	10	0
Wayfinding	5	2.5	2.5
Quality of Building and Site Design			
Architectural Elevations	10	5	5
Exceptional Design	0 – 5	0	0 – 5
Structured Parking	15.3	9.35	5.95
Protection and Enhancement of the Natural Environment			
Building Lot Termination	9	3	6
Cool Roof	10	5	5
Habitat Preservation & Restoration	12.2	0	12.2
Vegetated Roof	5	2.5	2.5
Vegetated Wall	10	10	0
TOTAL POINTS	145.9 – 150.9	76.6	69.3 – 74.3

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, Section 59.7.3.4, and the 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, Section 59.7.3.4, or the 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 and 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, 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 59.7.3.3, 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, it necessarily follows that the Board may find, based on detailed review of a site plan, that any element of a sketch plan does not meet the requirements of the zone, master plan, or other requirements for site plan approval. The Board does not have 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. As a practical matter it would be unwise for it to do so, due to the limited detail contained in a sketch plan and the sketch plan's unlimited validity period. 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. 320150020 Falkland North, stamped received by M-NCPPC on May 27, 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 **SEP 28 2015** (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor at its regular meeting held on Thursday, September 10, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board