



## MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 15-88  
Project Plan No. 920150010  
Elizabeth Square  
Date of Hearing: July 23, 2015

**JUL 28 2015**

### RESOLUTION

WHEREAS, under Section 59-7.7.1.B.1 of the Montgomery County Code, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review project plan applications in progress before October 30, 2014, under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014; and

WHEREAS, on September 25, 2014, Lee Development Group, Inc. and the Housing Opportunities Commission of Montgomery County ("Applicant"), filed an application for approval of a project plan for construction of up to 772,078 square feet of total development, which includes i) 766,046 square feet of residential development with up to 907 dwelling units, including 15% Moderately Priced Dwelling Units ("MPDUs") and 10% Workforce Housing Units ("WFHUs"), or the equivalent of either as approved by the Montgomery County Department of Housing and Community Affairs ("MCDHCA"), and ii) up to 6,032 square feet of non-residential uses; with up to an additional 63,896 square feet of government-operated facilities on 3.123 acres of CBD-1 and CBD-2 zoned-land<sup>1</sup>, located at the northwest quadrant of the intersection of Second Avenue and Apple Avenue ("Subject Property"), in the Silver Spring CBD Policy Area, *Silver Spring CBD and Vicinity Sector* plan ("Master Plan" or "Sector Plan") area; and

WHEREAS, Applicant's project plan application was designated Project Plan No. 920150010, Elizabeth Square ("Application" or "Project Plan"); and

WHEREAS, this Application has been reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014; 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 July 10, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

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<sup>1</sup> As "grandfathered"

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Approved as to  
Legal Sufficiency:

  
M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)



WHEREAS, on July 23, 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 conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board APPROVES Project Plan No. 920150010 for construction of up to construction of up to 772,078 square feet of total development, which includes i) 766,046 square feet of residential development with up to 907 dwelling units, including 15% MPDUs and 10% WFHUs, or the equivalent of either as approved by MCDHCA, and ii) up to 6,032 square feet of non-residential uses, and an additional 63,896 square feet of government-operated facilities on the Subject Property, subject to the following conditions: <sup>2</sup>

1. Development Ceiling

The development is limited to a maximum 772,078 gross floor area consisting of a maximum 6,032 square feet of commercial uses and a maximum 766,046 of residential development. In addition, the development includes 63,896 square feet of government-operated facilities as public use space. Final dwelling unit count to be determined at site plan(s).

2. Moderately Priced Dwelling Units

The Applicant must provide on-site a minimum of 15% of the total number of the constructed units as MPDUs or MCDHCA approved equivalent, consistent with the requirements of Chapter 25A, in accordance with the MCDHCA letter dated May 29, 2015.

3. Workforce Housing

- a. The Applicant must provide a minimum of 10% of the total number of market-rate units as WFHUs, or MCDHCA approved equivalent.
- b. All units that are considered WFHUs or MCDHCA approved equivalent, must comply with the requirements of Chapter 25B of the Montgomery County Code, in accordance with the MCDHCA letter dated May 29, 2015.

4. Building Height, and Mass

- a. The existing Alexander House building, Site Plan No. 819890710, within the Site is limited to a maximum building height of 165 feet as measured from the

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<sup>2</sup> 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.



- applicable building height measurement point to be illustrated on the certified site plan.
- b. The Phase 1, CBD-1 zoned building (Elizabeth House III), is limited to a maximum building height of 143 feet as measured from the applicable building height measurement point to be illustrated on the certified site plan.
  - c. The Phase 2, CBD-2 zoned building (Elizabeth House IV) is limited to a maximum building height of 200 feet as measured from the applicable building height measurement point to be illustrated on the certified site plan.
  - d. At the time of site plan(s), the Planning Board will determine final maximum building heights not to exceed 143 feet in the CBD-1 zone and 200 feet in the CBD-2 zone allowed by Section 59-C-6.235 of the Zoning Ordinance, footnotes 1 and 11, as necessary to accommodate the following:
    - i. WFHUs;
    - ii. Other affordable housing units accepted by MCDHCA as WFHU equivalent; or
    - iii. On-site private amenities that are both available to the WFHUs and in is found by the Planning Board to enhance the quality of building in a manner that justifies the additional building height, for example that they add value to the building that would translate into higher market rate rents to support the added cost of providing the WFHUs.
  - e. Any increase pursuant to Project Plan Condition 4.d. above will not require the Applicant to amend this Project Plan.

5. Architecture

The exterior architectural character, proportion, material, and articulation must be substantially similar to the schematic elevations shown on the submitted architectural drawings, as determined by Staff, unless modified during site plan(s) review.

6. Public Use Space, Facilities, and Amenities

- a. With the submittal of the final site plan for the development, the Applicant must demonstrate a minimum of 68% of the net lot area as public use space on-site. The Applicant must complete the on-site public use space improvements associated with each phase prior to issuance of the final Use and Occupancy Certificate for that phase.
- b. The public use space on the Subject Property must, at a minimum, be open to the public from 9 a.m. until 7 p.m. daily, and for scheduled classes and organized events, or if otherwise required by the Planning Director, all except for occasional closures for maintenance and cleaning,. Within the public use space, the Applicant must post one or more prominent signs declaring that the space is open to the public and displaying the hours of operation. The size and locations of the sign or signs must be shown on the certified site plan.



- c. Within the public use space and the amenity areas on the Subject Property, the Applicant may post reasonable rules of conduct that permit public use of the space in a manner that does not unreasonably interfere with others' use and enjoyment of the space and surrounding buildings. Before they are posted, rules of conduct must be reviewed by the M-NCPPC Office of the General Counsel and approved in writing by the Planning Director or the Director's designee, along with the number, size, and locations of all signs displaying rules of conduct. The Applicant may incorporate approved rules of conduct into signage advertising the public's right to use the space and applicable hours of operation. Rules of conduct may be amended from time to time with the written approval of the Planning Director or the Director's designee.
- d. As a public amenity, the Applicant must provide streetscape improvements consistent with the Silver Spring CBD Streetscape Standards, including the undergrounding of public utilities along the Subject Property's frontage. Phasing of the streetscape improvements will be determined at the time of the applicable site plan for each particular portion of the frontage.
- e. All record plats that include public use space must include a note that all public use spaces as illustrated on the certified site plan(s) must be maintained in perpetuity by the property owners and access must be provided to the general public, in accordance with this Condition No. 6.
- f. The Applicant must install the landscaping associated with each phase no later than the next growing season after completion of the building and site work.

7. Environment

- a. The Applicant must obtain approval of a Final Forest Conservation Plan from the Planning Department prior to clearing, grading or demolition. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan and must:
  - i. Show all grading and disturbance contained within the Limits of Disturbance ("LOD").
  - ii. Show the LOD to be shifted outside of the existing planting bed of Tree #3 as identified on the Preliminary Forest Conservation Plan.
  - iii. Shift the locations of trees credited towards variance mitigation as identified on the Preliminary Forest Conservation Plan to avoid conflicts with drain lines or other utilities.
  - iv. Have all tree protection measures certified by an International Society of Arboriculture certified arborist who is also a Maryland Licensed Tree Care Expert.
  - v. Have the forest conservation worksheet and associated tables revised for consistency and clarity.



- b. Prior to any clearing or grading within the project area, the Applicant must submit a fee-in-lieu payment or certificate of compliance which satisfies the 0.50 acre afforestation requirements (or as determined by the Final Forest Conservation Plan) for approval by Staff.
- c. Soil volumes must be a minimum of five (5) feet in depth for trees and tall shrubs and three (3) feet in depth for shrubs, perennials, ornamental grasses, and groundcovers. The soil volume within the courtyard (over the parking structure) must be reviewed at site plan(s) to ensure sufficient depths for tree survivability and any amendment to proposed planting as a result of the required planting volumes must be incorporated into the Final Forest Conservation Plan.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 920150010, Elizabeth Square stamped received by M-NCPPC on April 13, 2015, are required except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that the Planning Board also received a formal request from the Applicant to conduct a mandatory referral review of the public agency component of the Application, in accordance with §20-301 of the Land Use Article, MD ANN Code, the Board approves the mandatory referral associated with this Project Plan; 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 Planning Board hereby adopts and incorporates by reference (except as modified herein), and having considered the entire record, all applicable elements of Section 59-D-2.42, and the relevant provisions of Section 59-D-2.43, the Planning Board FINDS, with the conditions of approval, that:

- (a) *The application complies with all of the intents and requirements of the CBD-1 and CBD-2 zones.*

#### Intents and Purposes of the CBD Zones

The Subject Property is zoned CBD-1 and CBD-2. Section 59-C-6.212 of the Montgomery County Zoning Ordinance outlines the description, intent and general requirements of the CBD zones. The CBD-1 zone is intended for use in areas where higher densities are not appropriate and the CBD-2 zone is intended for land lying generally between the core area and the areas of the lowest density within the central business district.



More specifically, 59-C-6.213(a) establishes that the further intent of the CBD-2 zone is (1) to foster and promote the orderly development of the fringes of the Central Business Districts of the county so that these areas will provide land uses at a density and intensity which will encourage small business enterprises and diverse living accommodations, while complementing the uses in the interior portions of these districts; and (2) to provide a density and intensity of development which will be compatible with adjacent land uses outside the Central Business Districts. Section 59-C-6.213(b) establishes that the further intent of the CBD-2 zone is to foster and promote the orderly development of the Central Business Districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable urban environment.

#### Overall Intent

The overall intent of the CBD zones is as follows:

- (a) To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the Site Plan or combined urban renewal Project Plan is approved on review by the Planning Board.
- (b) To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers, and residents.
- (c) To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas.
- (d) To promote the effective use of transit facilities in the central business district and pedestrian access thereto.
- (e) To promote improved pedestrian and vehicular circulation.
- (f) To assist in the development of adequate residential areas for people with a range of different incomes.
- (g) To encourage land assembly and the most desirable use of land in accordance with a sector plan.

The density and amenities achieved through the optional method of development enables the realization of the recommendations of the *Silver Spring CBD Sector Plan*, as described in finding b) below. Currently, the Elizabeth House building on the HOC Property is more than 40 years old. Elizabeth House is home to 194 senior citizens who occupy all 160 dwelling units and who qualify for public



housing. Due to the age of the structure and its need to be modernized to serve its older residents, the Elizabeth House is in need of replacement. The Alexander House is approximately 22 years old and is home to a mixed-income population – 40% of the units are income-restricted. Of these units, half are rented to residents with incomes at or below 60% of Area Median Income (AMI) and half are rented to residents with incomes between 60% and 90% of AMI. The remaining units are market rate. The Fenwick Professional Park structures adjacent to the HOC Property are 60 years old. The assemblage of the LDG Property and the HOC Property into a single record lot will create a unified development.

The Application proposes 15% MPDUs (or approved equivalent by MCDCHA) in the development, which will increase the number of MPDUs available in this location of Silver Spring. This increase will allow for more residents to live within walking distance of a range of amenities, including transit and the Capital Crescent Trail.

#### Height

The maximum building height in the CBD-1 zone is 90 feet and in the CBD-2 zone 143 feet. However, the Zoning Ordinance provides for projects to exceed those limitations as necessary to accommodate WFHUs. This Application provides 907 residential units - 300 units in the Alexander House, 277 in Elizabeth House III, and 330 in Elizabeth House IV – and includes 15% MPDUs and 10% WFHUs (or MCDHCA approved equivalent units).

For CBD-1 properties, Section 59-C-6.2 (footnote 1) allows the Planning Board to approve a height that exceeds 90 feet, but not more than 143 feet, under the optional method of development if the additional height is necessary for the project to accommodate workforce housing under Section 59-A-6.18; however, the additional height must not be more than required for the number of workforce housing units that are constructed.

Similarly, for CBD-2 properties, Section 59-C-6.2 (footnote 11) allows the Planning Board to approve a height that exceeds 143 feet, but not more than 200 feet under the optional method of development process if the additional height is necessary for the project to accommodate workforce housing under Section 59-A-6.18; however, the additional height must not be more than required for the number of workforce housing units that are constructed.

Ninety-one (91) WFHUs are included with this Application (though the distribution could change at site plan): 30 WFHUs in the renovated Alexander House, 28 WFHUS in Elizabeth House III, and 33 WFHUs in Elizabeth House IV.



In April 2013, the Planning Board addressed a similar issue for the 8261 Georgia Avenue project (Project Plan Amendment No. 920100001A and Site Plan Amendment No. 82011006A). The Board approved additional height for the project to accommodate WFHUs, and included in their calculation associated rooftop building amenities including a swimming pool, pool lounging and sitting areas, and an indoor community room. The Planning Board found that these amenities benefited not only the market rate units but also the additional WFHUs included and furthermore added value to the building that would translate into higher market rate rents to support the added cost of providing the WFHUs. (Attachment D)

The Elizabeth Square Project Plan application requests additional height to accommodate WFHUs and associated building amenities, as described below.

The renovated Alexander House includes a maximum building height of 165 feet, an increase of 22 feet that would exceed the 143 foot maximum to accommodate 30 new WFHUs units and rooftop building amenities including a fitness center, rooftop garden, green roof and an indoor community room.

Elizabeth House III includes a maximum building height of 143 feet, an increase of 53 feet that would exceed the 90 foot maximum to accommodate the 28 WFHUs, and rooftop building amenities including a rooftop garden and green roof that will serve the residents of the building.

Elizabeth House IV includes a maximum building height of 200 feet, an increase of 56 feet that would exceed the 143 foot maximum to accommodate the 33 WFHUs units and rooftop building amenities including a swimming pool, green roof and an indoor community meeting room.

In general, the addition of unique amenities will benefit not only the market rate units but the greater number of affordable units included with the Application. However, the level of design detail necessary to determine the extent to which additional floors are needed to accommodate the WHFUs themselves is beyond the information required and reviewed at Project Plan. This finding recognizes the potential to achieve the maximum heights described above. At time of site plan for each of the buildings, the Applicant must provide detailed information on unit sizes and floor configurations to demonstrate how much additional building height will be necessary for each building to accommodate WHFUs and associated private on-site amenities, provided the Board can make a finding that such amenities benefit not only the market rate units but also the additional WFHUs included and furthermore add value to the building that would translate into higher market rate rents to support the added cost of providing the WFHUs.



As noted in the Project Plan conditions, the Planning Board will make the final determination on additional height at that time.

Development Standards

The Property is subject to the CBD-1 and CBD2 zoning standards. The CBD-1 zone is intended for use in areas where higher densities are not appropriate and the CBD-2 zone is intended for land lying generally between the core area and the areas of the lowest density within the central business district.

The data table below lists the required development standards approved by the Planning Board and binding on the Applicant. The Planning Board finds, based on the aforementioned data table, and other evidence and testimony of record, that the Application meets all of the applicable requirements of the optional method of development in the CBD-1 and CBD-2 zones.

**DATA TABLE**

Section	Development Standard	Permitted/Required	Approved
<b>59-C.23</b>	<b>Gross Tract Area (Square Feet)</b>		<b>136,032 sf (3.12 acres)</b>
	Prior Dedications (Apple & Second Avenue)		18,032 sf (0.41 acres)
	Proposed Dedication		1,191 sf (0.03 acres)
<b>59-C-6.231</b>	<b>Net Lot Area</b>	18,000 sf (0.41 acres)	<b>116,809 sf (2.68 acres)</b>



Section	Development Standard	Permitted/Required	Approved
<b>59-C-6.233</b>	<b>Minimum Public Use Space</b> Government Operated Facility as Public Use Space <sup>3</sup> On-site Public Use		55% (63,896 sf) 13% (15,255 sf)
	<b>Total Public Use</b>	<b>20% (23,362 sf)</b>	<b>68% (79,151 sf)</b>
	On-Site Outdoor Amenity Space	n/a	29% (33,405 sf)
	Off-site Streetscape Amenity Space	n/a	17% (20,367 sf)
<b>59.C-6.234(b)(iii)</b>	<b>Maximum Density</b> CBD-1 CBD-2	3.0 FAR/140,685 sf 5.0 FAR/445,685 sf	
	<i>Subtotal</i>	<i>586,370 sf</i>	
	Proposed Non-Residential	6,032 sf	
	<i>Subtotal</i>	<i>580,338 sf</i>	
	MPDU Bonus (22%) WFHU Bonus (10%)	127,674 sf 58,034 sf	
	<b>Total Allowable Residential FAR</b>	<b>766,046 sf</b>	<b>766,046 sf</b>
	<b>Total Allowable Non-Residential FAR</b>	<b>6,032 sf</b>	<b>6,032 sf</b>
	<b>Total Project FAR</b>	<b>772,078 sf</b>	<b>772,078 sf</b>
	<b>Proposed Density of Development</b> Alexander House (300 Dwelling Units) Elizabeth House III (277 Dwelling Units) Elizabeth House IV (330 Dwelling Units)		287,303 sf 243,420 sf 772,078 sf
	<b>Total Building Floor Area</b>		<b>835,974 sf</b>

<sup>3</sup> Special standards for optional method of development projects that include a building or land for publicly owned or operated government facility, per Section 59.C6.2357.

- (a) The public facility and amenity requirement and the public use space requirement are satisfied when:
- (1) The Planning Board finds that the project plan application warrants approval with a publicly owned or operated facility satisfying the amenity and the public use space requirements;
  - (2) the applicant conveys in fee simple, to the County or other government body, the identified land or building space, and the County accepts the land or building space for a publicly owned or operated government facility within the same central business district; and
  - (3) the proposed total interior area for all floors of the building space conveyed for a publicly owned or operated government facility or the land dedicated for that purpose is at least 20 percent of the net lot area.
- (b) Once the County or other government body has accepted the fee simple conveyance of the land or building space for the publicly owned or operated government facility:
- (1) the public facility and amenity requirement also is satisfied for any amendment to the original optional method of development project plan that does not increase the floor area of the project;
  - (2) the land area that is conveyed to the County for the publicly owned or operated government facility also is treated as public use space for any amendment to the original project plan that does not increase floor area; and
  - (3) any transfer or lease of the building, land, or any portion thereof, by the County will not affect the approval of the optional method of development project plan or the site plan.
- (c) Standard streetscaping improvements along the frontage of the phase of the project that is intended to accommodate the publicly owned or operated government facility use must be provided during the phase of the project that contains the facility.



Section	Development Standard	Permitted/Required	Approved
	NON-FAR Floor Area: Floor Area Deduction (Gov't Operated Facility as Public Use Space <sup>4</sup> ) <b>TOTAL PROJECT GROSS FLOOR AREA</b>		63,896 sf <b>772,078 SF</b>
<b>59-C-6.235(b)</b>	<b>Maximum Building Heights</b> Existing Alexander House <sup>5</sup> CBD-1 (Elizabeth House III) <sup>6</sup> CBD-2 (Elizabeth House IV) <sup>7</sup>	200 feet 143 feet 200 feet	165 feet 143 feet 200 feet
<b>59-C-6.236</b>	<b>Minimum setbacks</b> Existing Alexander House Elizabeth House III Elizabeth House IV		0 feet 0 feet 0 feet
<b>59-E</b>	<b>Parking (vehicular spaces)<sup>8</sup></b> Existing Alexander House Elizabeth House III Elizabeth House IV <b>Total vehicular spaces</b>	298 spaces 228 spaces 408 spaces <b>934 spaces</b>	191 spaces 165 spaces 201 spaces <b>557 spaces</b>
<b>59-E-2.3</b>	<b>Parking (motorcycle spaces)</b> Existing Alexander House Phase I (Elizabeth House III) Phase II (Elizabeth House IV) <b>Total motorcycle spaces</b>	4 spaces 4 spaces 5 spaces <b>10 spaces</b>	0 spaces 4 spaces 12 spaces <b>16 spaces</b>
	<b>Parking (bicycle spaces)</b> Existing Alexander House Phase I (Elizabeth House III) Phase II (Elizabeth House IV) <b>Total bicycle spaces</b>	10 spaces 9 spaces 11 spaces <b>20 spaces</b>	0 spaces 33 spaces 21 spaces <b>54 spaces</b>

<sup>4</sup> The gross floor area of the publicly owned or operated government facility that is provided in satisfaction of the public facility and amenity requirements for the optional method of development under Section [59-C-6.2357](#) must not be counted in the gross floor area of the optional method project.

<sup>5</sup> Under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet, if the additional height is necessary for the project to accommodate workforce housing under Section [59-A-6.18](#); however, the additional height must not be more than required for the number of workforce housing units that are constructed.

<sup>6</sup> For projects using the optional method of development, the Planning Board may approve height over 90 feet, but not more than 143 feet, if the additional height is necessary for the project to accommodate workforce housing under Section [59-A-6.18](#); however, the additional height must not be more than required for the number of workforce housing units that are constructed.

<sup>7</sup> Under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet, if the additional height is necessary for the project to accommodate workforce housing under Section [59-A-6.18](#); however, the additional height must not be more than required for the number of workforce housing units that are constructed.

<sup>8</sup> The Project is within the Parking Lot District and the Applicant is requesting to reduce the number of parking space required, which will be addressed at the time of Site Plan(s) based on the final number of residential units.



Section 59-C-6.2357 contains special standards for optional method of development projects that include a publicly owned or operated government facility, as this project proposes:

***Section 59-C-6.2357 Special standard for optional method of development projects that include a building or land for a publicly owned or operated government facility.***

*(a) The public facility and amenity requirement and the public use space requirement are satisfied when:*

- 1) The Planning Board finds that the project plan application warrants approval with a publicly owned or operated facility satisfying the amenity and the public use space requirements;*
- 2) the applicant conveys in fee simple, to the County or other government body, the identified land or building space, and the County accepts the land or building space for a publicly owned or operated government facility within the same central business district; and*
- 3) the proposed total interior area for all floors of the building space conveyed for a publicly owned or operated government facility or the land dedicated for that purpose is at least 20 percent of the net lot area.*

*(b) Once the County or other government body has accepted the fee simple conveyance of the land or building space for the publicly owned or operated government facility:*

- 1) the public facility and amenity requirement also is satisfied for any amendment to the original optional method of development project plan that does not increase the floor area of the project;*
- 2) the land area that is conveyed to the County for the publicly owned or operated government facility also is treated as public use space for any amendment to the original project plan that does not increase floor area; and*
- 3) any transfer or lease of the building, land, or any portion thereof, by the County will not affect the approval of the optional method of development project plan or the site plan.*



- (c) Standard streetscaping improvements along the frontage of the phase of the project that is intended to accommodate the publicly owned or operated government facility use must be provided during the phase of the project that contains the facility.*

The plaza level one and plaza level two of the Phase I building (Elizabeth House III) are planned to be a government-operated recreation and service facility operated by the Montgomery County Department of Recreation ("MCDR") and is being proposed as the majority of the public use space for the project, under the provisions of Section 59-C-6.2357(a)(3). The Phase I building will be owned by HOC, just as it owns the existing Elizabeth House and Alexander House. HOC operates as a public housing agency, a housing finance agency, and a housing developer to provide affordable housing and supportive services to individuals and families in Montgomery County. The facility is planned to include a pool, fitness center and lockers, meeting/class space, the Wellness Center, and the Bistro Kitchen, all which will be open to the public. The interior space of the plaza level floors is approximately 63,896 square feet, which is greater than the required 20% of the net lot area of the Property for the facility to be treated as public use space under Section 59-C-6.2357(a)(3) of the Zoning Ordinance. Standard streetscaping improvements will be installed for both phases of the Project, in accordance with the Silver Spring Streetscape Guidelines. This finding will be further addressed at the site plan stage for those facilities not appropriate for review at this Project Plan stage.

- (b) The application conforms to the 2000 Silver Spring CBD Sector Plan.*

#### Site-Specific Recommendations

The site lies within the "Other Areas of the CBD" section identified in the 2000 *Silver Spring CBD Sector Plan*. The Sector Plan reconfirmed the zoning applied to all parcels in the remaining areas of the CBD outside the Revitalization Areas defined in the Plan and contained no other specific recommendation.

This development in the "Other Areas" portion of the CBD will expand the availability of diverse living opportunities in the CBD by providing market rate dwelling units, MPDUs, and WFHUs within easy walking distance to public transportation. The ground level interior public use space in Phase I: the pool, the Wellness Center, and the Bistro Kitchen, may provide some employment and economic opportunities for residents in the CBD, as well as provide needed services. Through the on-site partnerships, HOC may be able to create employment opportunities for its residents both on and off-site.

#### Urban Design Recommendations



The Sector Plan provides general urban design recommendations for redevelopment projects in the Silver Spring CBD. The guidelines most applicable to the application site are listed below with analysis immediately following.

- *Create an attractive pedestrian environment by creating a system of short blocks, and defining streets with buildings, open spaces, and streetscaping at a human scale created by street-front retail, frequent doors and windows, architectural detail, and appropriately scaled building heights (Page 73)*

The development will create an attractive pedestrian environment defined by well-designed buildings providing pedestrian residential, retail, and service entrances, open space connections, and other visual interest. A central landscaped plaza will be accessible from the three surrounding streets, and the Metropolitan Branch Trail (future CCT) will pass behind the building. The building heights are maximized along the train tracks and step down towards Fenwick Avenue. The site continues the transition from the single-family and mid-rise residential buildings to the north and the taller commercial and mixed-use buildings in the core.

- *Through urban design treatments, establish streetscapes that emphasize the hierarchy of the circulation system*

Although streetscape specifications will be finalized at the site plan(s) stage, the Applicant has shown on the Project Plan appropriate streetscape. On-site and off-site streetscape improvements, such as brick paving, seating, bicycle racks, trash receptacles, and lighting, will enhance the pedestrian experience, and are consistent with the Silver Spring Streetscape Guidelines.

The project's streetscape plan reinforces the identity of the community by providing a unified streetscape around the Subject Property and well-located vehicular drop-off points at two locations in the project.

- *Create formal and informal civic spaces—buildings and open spaces—that add to property values, provide amenity, and improve downtown's aesthetic appearance*

The Applicant envisions the public use spaces as an opportunity to upgrade the indoor and outdoor areas of the project with a variety of public uses, and as a means for the project to reach out to the broader community.

The project includes several areas of public use space. The indoor public use space will be the government operated recreation and service facility,



proposed to be managed and operated by MCDR. The indoor public use space includes the pool, fitness center and lockers, meeting/class space, the Wellness Center, and the Bistro Kitchen. The facilities will be open to the public. Part of the existing outdoor public use space from the Alexander House, located along the Second Avenue and Apple Avenue faces of the building, is also included as part of the public use space. This area is currently landscaped and contains paving at the entry from Second Avenue and Apple Avenue. These areas will remain and will be incorporated into the project.

The outdoor public amenity space for the Project will have several components that include: a main central plaza area framed by existing residences and the Phase I building; the streetscape and entry court along the south side of Fenwick Lane between the Phase I and Phase II buildings; the entry court at the terminus of Apple Avenue; pedestrian connections to the Metropolitan Branch Trail; and the distance-measured walking circuits on the Property and in the public right-of-way.

The project will provide public use spaces, public amenity spaces, and other features that will enhance the community, enliven the area, and connect to other downtown area uses.

#### General Recommendations

For the general goals of the Sector Plan, its vision for Silver Spring's future is "to create a development environment that invites revitalization". The Sector Plan outlines six themes: transit-oriented downtown, residential downtown, commercial downtown, green downtown, civic downtown and pedestrian friendly downtown that guide the vision for the Silver Spring CBD, all which apply to the project.

The Subject Property is within a short walking distance to the Silver Spring Transit Center, 2 ½ blocks away, that includes Metro, the MARC Line, Metrobus, Ride-on Bus, and the future Purple Line. The project will provide 907 residential units, an increase of 436 more than those existing on the Subject Property today, as well as 63,896 square feet of community recreational center use, and up to 6,032 square feet of non-residential uses. The project will help to activate the streets of Second Avenue, Fenwick Lane, and Apple Avenue. Along Second Avenue, the project proposes a retail café. The café will be accessible from the plaza and street level on Second Avenue. The public use space will be strategically located on the ground level of the Phase I building, accessible to residents and open to the public. The indoor public use space will be the government operated recreation and service facility, and includes the pool, fitness center and lockers, meeting/class space, the Wellness Center, and the



Bistro Kitchen. The streetscape along Second Avenue, Fenwick Lane, and Apple Avenue will be upgraded as necessary with street trees, paving, and lighting to improve the pedestrian experience, to interact with their neighbors, and to frequent the retail establishments in the project and near the Subject Property. The public amenity spaces in the central plaza and along the streetscape will enhance the experience of residents and the public when walking along the streets or enjoying the plaza space. The Application is consistent with the six themes.

#### Circulation Systems Recommendations

The Sector Plan recommends creating a system of trails and bike routes, implementing streetscape to create a safe and pleasant pedestrian environment to assess, and where appropriate, reuse public parking facilities, and to make circulation improvements to local roads.

The Applicant will construct the portion of the Metropolitan Branch Trail (future Capital Crescent Trail) adjacent to the Subject Property; the final trail design and section to be determined at site plan. The project will upgrade the physical environment and pedestrian access to and from the trail and other CBD facilities with upgraded sidewalks along all frontages, to be improved to the Silver Spring streetscape standard. The Application conforms to the Sector Plan recommendations for Circulation Systems.

#### Housing Recommendations

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 recommendations include:

- provide housing choice and market-feasible development options, including apartments and townhouses;
- rezone CBD properties to encourage residential development; and
- convert selected public sector surface parking lots to housing.

The Sector Plan identified the Subject Property as an existing housing site and potential housing site. The Application provides a new mixed-use project with up to 907 residential units with 15% on-site MPDUs, with the existing Alexander House to remain with 300 residential units, that will offer housing opportunities proximate to the numerous transit options of downtown Silver Spring. The Application meets the Sector Plan's housing objective.

*(c) Because of its location size, intensity, design, operational characteristics and staging, the application is compatible with and not detrimental to existing or potential development in the general neighborhood.*



The location, size, intensity, design, and operational characteristics of this project are compatible with the existing and potential development in the general neighborhood. The heights, massing and orientation of the two new buildings responds to the surroundings. The scale of the project is compatible to the existing development in the area as it will be lower in height along the western side of the Subject Property, including along Apple Avenue and along the westernmost portion of Fenwick Lane. Subject to review and approval at site plan, Elizabeth House III, the Phase I building on the CBD-1 zoned portion of the Subject Property, may be up to 143 feet in height to accommodate the inclusion of WFHUs, other affordable housing units accepted by MCDHCA as WFHU equivalent, and on-site private amenities available to the WFHUs, in addition to the stepping of the building to allow sunlight to reach the internal central plaza. The lower massing of the Phase I building along Apple Avenue will allow greater sun exposure into the central plaza that is an integral part of the outdoor public amenity space for the project. Subject to review and approval at site plan, Elizabeth House IV, the Phase II building on the CBD-2 zoned portion of the Subject Property may be up to 200 feet in height to accommodate the inclusion of WFHUs, other affordable housing units accepted by MCDHCA as WFHU equivalent, and on-site private amenities available to the WFHUs. The Phase II building (Elizabeth House IV) will have a large four-story breezeway along Second Avenue, created by making an opening in the mass of the building that will act as a link between Second Street and the central plaza.

The ground floor retail spaces will have entry and exit points from the roadways and public use areas of the Subject Property, where visibility and pedestrian activity will be greatest. The garage entry and loading dock entry points are appropriately located off Fenwick Lane and Apple Avenue.

Staging of construction will occur in such a way that the necessary public use spaces adjacent to each building will be completed prior to use and occupancy of each building.

- (d) *The application does not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, Article II, is subject to a traffic mitigation agreement that meets the requirements of that article.*

The project's development program will not overburden existing public facilities and services nor those programmed for availability. The Application for the residential and commercial development satisfies the transportation requirements of the Adequate Public Facilities ("APF") review. The Subject Property is located



within a transportation management district; therefore, the Applicant is required to enter into a Traffic Mitigation Agreement ("TMAg") with the Planning Board and Montgomery County Department of Transportation. Public facilities, including traffic, police, fire and rescue, water, and sewer, are adequate. The Property is located in the Albert Einstein High School Cluster, which is currently operating between 105-120% of capacity at the high school level, and a school facilities payment is required.

- (e) *The application is more efficient and desirable than could be accomplished by the use of the standard method of development.*

The Subject Property is being developed using the optional method of development, which is more efficient and desirable than the standard method of development. The optional method allows greater densities an area that has extensive public transit opportunities in exchange for greater public amenities and facilities.

Construction of a standard method project would yield overall development constructed to a maximum 2.0 FAR with maximum building heights of 60 feet in the CBD-1 zone and a maximum 3.0 FAR with maximum building heights of 60 feet in the CBD-2 zone. If developed under the standard method of development, the Subject Property's maximum potential would not be fully realized, and the buildings would be shorter and smaller than with the optional method, providing fewer residential units, thereby the providing fewer affordable housing units. The number of affordable housing units exceeds what could be achieved under the standard method.

The 68% public use space on the site (55% government operated facilities and 13% on-site public use space) will contribute to the vision of the Silver Spring CBD Green Space Guidelines, whereas only 10% public use space would be required for a standard method project, making this achievement more difficult. The project will provide approximately 63,896 square feet of indoor public use space, consisting of a government operated recreation and service facilities such as a swimming pool with a fitness center, the Wellness Center, class/meeting rooms, and the Bistro Kitchen. In addition, the project will provide approximately 29% (33,405 square feet) on-site outdoor amenity areas that invite the public in to enjoy.

For a site located in the Silver Spring CBD, buildings constructed under the standard method would not be required to have significant public amenities or substantial open space, and would be insufficient to reach the critical mass and density envisioned for this property within very close proximity to the Silver Spring metrorail station. Given the recommendations of the Sector Plan and the



project's proximity to transit, employment and services, the optional method of development is much more desirable and efficient for this site.

- (f) *The application includes moderately priced dwelling units in accordance with Chapter 25A of the Montgomery County Code.*

The project will provide 15% of the total number of new units as MPDUs (or approved equivalent by MCDCHA). The Project Plan has been reviewed by DHCA. DHCA recommends approval at this stage with the condition that final MPDU locations, bedroom compositions and layouts be determined at certified site plan(s) with review and approval by DHCA.

- (g) *When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from one lot to another or transfer densities within a lot with two or more CBD zones, the Project Plan may be approved by the Planning Board based on the following findings:*

- 1) The project will preserve a historic site, building, or structure or area as shown on the Locational Atlas and Index of Historic Sites or the Master Plan for Historic Preservation; and/or*
- 2) The project will implement an urban renewal plan adopted pursuant to Chapter 56 of the Montgomery County Code; and/or*
- 3) The project will result in an overall land use configuration that is significantly superior in meeting the goals of the applicable master or sector plan and the zone than what could otherwise be achieved without the proposed transfer.*

Approval of the optional method at this location permits a greater density of development to be provided in an area with extensive public transit opportunities. The Subject Property is in the area of the CBD encompassed by the Silver Spring CBD Sector Plan and is recommended for residential development. The comprehensive redevelopment of the Subject Property could be attained only under the optional method. The redevelopment proposed in the project includes the removal of an inefficient surface-parking lot on the LDG Property and replacement of parking spaces to below grade structures, more in keeping with the urbanization of the Silver Spring CBD and the removal of four existing outdated structures that will be replaced by two new, modern, multi-family residential buildings, one with senior housing and one with housing for individuals and families.

Both buildings will contain MPDUs and WFHUs (or approved equivalent by MCDHCA), as does the existing and remaining Alexander House. Utilization of



the optional method also means the provision of greater public use space than under standard method, consisting primarily of the plaza level one and plaza level two areas of the Phase I building. The indoor public use space will include a swimming pool with fitness center, meeting/class space, the Wellness Center and the Bistro Kitchen. The public amenity space for the project will consist of the large central plaza, the gardens, a water feature, the walking circuits, the artist studios, and the bike path.

Finally, under the standard method, only approximately half of the gross square feet of space as proposed would be provided, compared to the optional method. The standard method does not coincide with the vision of the area as described in the Sector Plan and results in an underutilization of the Subject Property within the CBD.

- (h) *The development satisfies any applicable requirements for forest conservation under Chapter 22A of the Montgomery County Code.*

**This finding is being made at Preliminary Plan No. 120150030 which is being heard simultaneously with this Project Plan and therefore this resolution incorporates the finding for satisfying any applicable requirements for forest conservation under Chapter 22A of the Montgomery County Code into this Project Plan.**

- (i) *The proposed application satisfies any applicable requirements for water quality resources protection under Chapter 19 of the Montgomery County Code.*

The Project Plan complies with Section 50-24(j) of the Montgomery County Code, which requires that stormwater requirements be satisfied as part of preliminary plan review, however, the stormwater management concept must be resubmitted prior to any future site plan approvals so additional details can be reviewed by DPS.

- (j) *Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the 2000 Silver Spring CBD Sector Plan and serves the public interest better than providing the public use space or public facilities and amenities on-site.*

The Application does not propose public use space and amenities to be provided off-site, other than the improvements to the Subject Property frontages within the right-of-way for Fenwick Lane, Apple Avenue and Second Avenue. These improvements are consistent with the goals of the Sector Plan and serve the



public interest by providing a consistent and aesthetically pleasing streetscape within the Silver Spring CBD.

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 Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

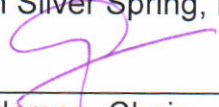
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board and that the date of this Resolution is JUL 28 2015 (which is the date that this Resolution is mailed to all parties of record); and

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 Commissioner Fani-González, with Chair Anderson and Commissioners Dreyfuss, Presley, and Fani-González voting in favor of the motion, and Vice Chair Wells-Harley absent, at its regular meeting held on Thursday, July 23, 2015, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board