



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

MCPB No. 18-112
Site Plan No. 820180100
8787 Georgia Avenue
Date of Hearing: November 1, 2018

NOV 06 2018

RESOLUTION

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

WHEREAS, on March 1, 2018, SC/BA Silver Spring Apartments, LLC ("Applicant") filed an application for approval of a site plan for a mixed-use building of up to 413,821 square feet of development consisting of up to 413,821 square feet of residential development (up to 400 dwelling units), including a minimum of 12.5% MPDUs, and up to 32,000 square feet of non-residential development on 3.19 acres of CR 3.0, C 2.0, R 2.75, H 90T zoned-land, located on the southeast quadrant of the intersection of Georgia Avenue (MD 97) and Spring Street ("Subject Property"), in the 2000 *Silver Spring Central Business District Sector Plan* ("Sector Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820180100, 8787 Georgia Avenue ("Site Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated October 19, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 1, 2018, the Planning Board held a public hearing at which it heard testimony and received evidence on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820180100 for a mixed-use building of up to 413,821 square feet of development consisting of up to 413,821 square feet of residential development (up to 400 dwelling units), including a minimum of 12.5% MPDUs, and up to 32,000 square

Approved as to
Legal Sufficiency:

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feet of non-residential development on the Subject Property, subject to the following conditions:¹

1. Density

The Site Plan is limited to a maximum of 413,821 square feet of total development on the Subject Property, including up to 413,821 square feet of residential uses, for up to 400 dwelling units and up to 32,000 square feet of non-residential uses, within the approved total.

2. Height

The development is limited to a maximum height of 90 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

3. Building Lot Terminations (BLTs)

Before issuance of the any building permit, the Applicant must provide proof of purchase and/or payment of 0.7290 BLTs to the Department of Permitting Services (DPS).

4. Moderately Priced Dwelling Units (MPDUs)

The Planning Board accepts the recommendations of Montgomery County Department of Housing and Community Affairs (DHCA) in its letter dated May 31, 2018 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.

- a. The development must provide 12.5 percent MPDUs or MCDHCA -approved equivalent on-site consistent with the requirements of Chapter 25A and the applicable Master Plan.
- b. Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the MCDHCA must be executed.

5. Public Open Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 18,653 square feet of public open space (13.4% of site area) on-site.
- b. The Applicant must construct the streetscape improvements, including the undergrounding of utilities, along the property's frontage on Georgia Avenue and Spring Street, consistent with the Silver Spring CBD Streetscape Standards.

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

- i. Building Lot Terminations (BLTs) – Before issuance of any building permit, the Applicant must provide proof of purchase and/or payment of 0.7290 BLTs to the MCDPS.
- ii. Cool Roof – The Applicant must provide a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12.

7. Recreation Facilities

Before Certified Site Plan approval, the Applicant must demonstrate substantial conformance with the M-NCPPC Recreation Guidelines.

8. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to the Mews, internal sidewalks, public open space, and streetscape, as shown on the Certified Site Plan.

9. Site Design

- a. The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the Certified Site Plan, as determined by M-NCPPC Staff.
- b. The development is limited to a maximum height of 90 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.
- c. The exterior architectural character, proportion, materials, and articulation of the MPDUs must be substantially similar to the exterior architectural character, proportion, materials, and articulation of the market-rate units.

10. Lighting

- a. Prior to certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All on-site exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b. All on-site down-lights must have full cut-off fixtures.
- c. Deflectors will be installed on all proposed fixtures to prevent excess illumination and glare.
- d. Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at any property line abutting public roads and residentially developed properties.

- e. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
- f. On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

11. Forest Conservation & Tree Save

The Applicant must obtain certification of the Final Forest Conservation Plan (FFCP) prior to Certification of the Site Plan. The certified Final Forest Conservation Plan must address the following:

- a. Revise the forest conservation worksheet to match the total disturbance area, as defined by the Limits of Disturbance.
- b. The Final Forest Conservation Plan must include the planting of two (2) 4-6" caliper Willow Oaks (*Quercus phellos*).
- c. The Applicant must plant on-site sixteen (16) 3" caliper canopy trees to mitigate for the loss of five specimen trees, located both on and off the Site.
- d. Prior to certification of the Site Plan, the Applicant must coordinate with M-NCPPC Staff on minor corrections and clarifications as required.
- e. Include tree save measures for all affected neighboring street trees with special protection for street trees 4, 60, and 61.
- f. Root pruning measures must be shown on the FFCP for all significant and specimen trees where impacts occur to their critical root zones.
- g. Prior to any clearing, grading, or demolition within the project area, the Applicant must receive approval from the M-NCPPC Office of the General Counsel for a Certificate of Compliance for an off-site forest mitigation bank, or fee-in-lieu as applicable, to satisfy the equivalent credits of 0.66 acres (or as established with the revised Final Forest Conservation Plan).
- h. Include a note on FFCP stating that tree #62 is offsite and was not identified as a tree to be removed in the Preliminary Forest Conservation Plan that went to the Planning Board on June 5, 2014. Note that the tree is being removed due to the reconfiguration of the site entrance.
- i. The development must comply with the Final Forest Conservation Plan.
- j. All trees credited towards variance mitigation must be at least five (5) feet away from any structures, stormwater management facilities, PIE's, PUE's, ROWs, utility lines, and/or their associated easements, as shown on the certified Final Forest Conservation Plan. In addition, mitigation trees must be planted at least ten (10) feet offset from the overhead wires.
- k. The latest version of the sediment and erosion control plan and stormwater management plan must be submitted with the revised Final Forest Conservation Plan to help ensure consistency with the Limits of Disturbances (LODs) and the associated tree/forest preservation measures.
- l. All tree protection measures shown on the plans must be certified by an International Society of Arboriculture certified arborist who is also a Maryland Licensed Tree Care Expert.

- m. The Applicant shall make a good faith effort to work with MCDOT/MCDPS for the preservation of the existing street trees (#60 and #61) located within the Spring Street median and explore implementation of the following measures:
 - i. No heavy equipment is permitted within the portion of the CRZ in the Spring Street median.
 - ii. All hardscaping occurring within the critical root zones of the Spring Street median must be done by hand.
 - iii. Any tree replacement for the loss of either 60 or 61 due to construction impacts be replaced with a minimum 4" caliper canopy tree(s), subject to approval by MCDOT/MCDPS.

12. Landscaping

- a. Ensure consistency between the landscaping plans (planting beds, open space, etc.) and Forest Conservation Plan.
- b. Replace Crape myrtle with River birch or other appropriate species that can thrive in saturated soils with deep shade.
- c. The Applicant must provide a minimum soil volume of 600 cubic feet for all canopy trees, including those fronting the townhouse-style units along Spring Street.
- d. The two Willow oak (*Quercus phellos*) mitigation trees proposed along the north end of the Mews, near Spring Street, must have a soil volume of no less than 1,000 cubic feet per tree.
- e. Include details and cross sections showing soil volume for planting beds.
- f. The Applicant must install landscaping no later than the next growing season after completion of site work.
- g. Provide specifications and details for soil amendments associated with the landscape and mitigation planting areas.
- h. Replace "Zelkova serrata green" with a Maryland native tree species.

13. Noise Attenuation

- a. Before issuance of any building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatment that the building shell for residential dwelling units affected by exterior noise levels projected above 65 or 55 (based on map in guidelines) dBA Ldn will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
- b. If the plan changes in any manner that affects the validity of the noise analysis for acoustical certifications and noise attenuation features, the Applicant must conduct a new noise analysis to reflect the revised plans, and new noise attenuation features may be required.
- c. Before issuance of any Use and Occupancy Certificate for residents, the Applicant must certify that the noise impacted units have been constructed

in accordance with the certification of an engineer that specializes in acoustical treatments.

14. Transportation

Before the release of any building permit, the Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Silver Spring Transportation Management District (TMD).

15. Pedestrian & Bicycle Circulation

- a. The Applicant must provide 96 long-term and 8 short-term bicycle parking spaces.
- b. The long-term spaces must be in a secured, well-lit bicycle room within the garage, and the short-term spaces must be inverted-U racks (or approved equal) installed along the building's main retail and residential entrances (weather protected preferred). The specific location(s) of the bicycle parking must be identified on the Certified Site Plan.
- c. The Applicant must construct the separated bicycle lanes along the project's Spring Street frontage prior to issuance of the first use and occupancy certificate.

16. Department of Permitting Services-Right-of-Way

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated August 28, 2018 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

17. Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated September 27, 2018, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.

18. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of

surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b. The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, indoor and outdoor recreational facilities, site furniture, trash enclosures, retaining walls, railings, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees, street lights, the mews, and private drives. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c. The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

19. Development Program

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

20. Certified Site Plan

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

- a. Include the stormwater management concept approval letter, development program, Sketch Plan resolution, Preliminary Plan resolution, and Site Plan resolution on the approval or cover sheet(s).
- b. Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c. Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- d. Modify data table to reflect development standards approved by the Planning Board.
- e. Ensure consistency of all details and layout between Site and Landscape plans.
- f. Applicant must complete pedestrian adequacy ADA survey and enter into an agreement with MCDOT to fix or fund deficiencies within 500-feet of the Subject Property, as defined in the MCDOT supplemental guidance memo, dated April 3, 2018.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of 8787 Georgia Avenue 820180100, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that the Site Plan:

1. *satisfies any previous approval that applies to the site;*

The Site Plan conforms to all binding elements of Sketch Plan No. 320170060.

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

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

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

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

4. *satisfies applicable use standards, development standards, and general requirements under Chapter 59;*

- i. *Division 4.5. Commercial / Residential Zones*

Development Standards

The Subject Property is approximately 4.93 acres, zoned CR 3.0, C 2.0, R 2.75, H 90T. The following data table shows the Application's conformance to the development standards of the zone.

Data Table			
Section 59.4	Development Standard	Permitted/ Required	Approved
	Tract Area CR 3.0, C 2.0, R 2.75, H 90T	n/a	214,921 sf (4.93 ac)
	Prior Dedication Abandonment Area Proposed Dedication Site Area	n/a n/a n/a n/a	73,809 sf (1.69) 1,743 sf (0.04 ac) 3,861 (0.08 ac) 138,994 sf (3.19 ac)
	Residential Density (GFA/ FAR) CR 3.0, C 2.0, R 2.75, H 90T	591,032 (2.75)	413,821 sf/ (1.93) ¹
	Commercial Density (GFA/ FAR) CR 3.0, C 2.0, R 2.75, H 90T	429,842 (2.0)	32,000/ (0.15) ¹
	Total GFA/ FAR	644,763 (3.0)	413,821 sf/ (1.93)
	MPDUs	12.5%	12.5%
	Building Height	90 feet	Up to 90 feet
	Public Open Space (min)	10% (13,900 sf)	13.4% (18,653 sf)
	Minimum Setbacks	0	0

¹ Final residential and non-residential density to be determined at the time of building permit. Densities stated in the data table are maximums with the total site density limited to a maximum of 413,821 square feet.

Table 8 (Continued): Parking

Parking ²	Spaces Required	Spaces Provided
Vehicle Parking		
Residential		
Efficiency (48 market rate units)	(48 minimum/ 48 maximum)	--
1 Bedroom (214 market rate units)	(214 minimum/ 268 maximum)	--
2 Bedroom (123 market rate units)	(123 minimum/ 185 maximum)	--
3 Bedroom (15 market rate units)	(15 minimum/ 30 maximum)	--
400 Dwelling Units	(400 minimum/ 530 maximum)	--
Commercial		
32,000 SF of Retail	(112 minimum/ 192 maximum)	--
Maximum Total Parking	512/722	426
Bicycle Parking (Long Term/ Short Term)		
Residential	(95/5) 100	(95/5) 100
Retail	(1/3) 4	(1/3) 4
Loading Spaces		
Residential	1	1
Retail	1	1

ii. *Division 4.7. Optional Method Public Benefits*

In accordance with the Zoning Ordinance, Section 59-4.7.1, the Site Plan includes the following public benefits to satisfy the optional method public benefit requirements: Major Public Facilities; Transit Proximity; Connectivity and Mobility; Quality Building and Site Design; and Protection and Enhancement of the Natural Environment.

² Final number of vehicle and bicycle parking spaces to be determined at building permit based on final number of dwelling units.

Public Benefits Calculations			
Public Benefit	Incentive Density Points		
	Max Allowed	Requested	Approved
59.4.7.3A: Major Public Facilities			
Bicycle Improvements	70	23	23
59.4.7.3B: Transit Proximity			
¼ to ½ Mile from Transit	30	30	30
59.4.7.3C: Connectivity and Mobility			
Through-Block Connection	20	20	20
59.4.7.3E: Quality of Building and Site Design			
Public Open Space	20	5	3.4
Exceptional Design	10	10	10
Structured Parking	20	10	10
Tower Step-Back	10	10	10
Architectural Elevations	20	15	15
59.4.7.3F: Protection and Enhancement of the Natural Environment			
Building Lot Terminations (BLTs)	30	6.6	6.56
Cool Roof	10	5	5
TOTAL			132

Major Public Facilities

Bicycle Improvements: The Applicant requests 23 points for upgrading the Spring Street separated bicycle lanes and associated Spring Street crossing at Woodland Drive to enhance bicycle access within the immediate vicinity of the Subject Property. This improvement includes separation from the vehicular travel way in the form of a 2.5' wide curb as well as a directly aligned crosswalk that conveys pedestrians and bicyclists between Woodland Drive and "Fenton Street Extended" connection through the Subject Property. This facility is a master planned pedestrian/ bicycle connection and constitutes a portion of the Council-endorsed Silver Spring Separated Bicycle Network. Based on the calculation provided in the Staff Report, the Board approves the Applicant's request.

Transit Proximity

The Subject Property is located within one ½ mile of the Silver Spring Metro Station, which allows the development to be eligible for Level 1 transit as defined in the Zoning Ordinance. The Board approves 30 points as suggested in the CR Guidelines.

Connectivity and Mobility

Through-Block Connection: The Applicant requests 20 points for providing a through-block pedestrian connection of at approximately 48-feet in width along the alignment of Fenton Street extended, between Planning Place and Spring Street. This facility is a master planned pedestrian/ bicycle connection and constitutes a portion of the Council-endorsed Silver Spring Separated Bicycle Network. At least 35% of the ground floor façade facing the interior pedestrian space will have clear, unobstructed windows and both residential and retail entries will open directly onto the Mews. The Board approves granting 20 points for this category.

Quality of Building and Site Design

Public Open Space: The Applicant requests 5 points for providing 13.4%, an additional 3.4% beyond the minimum Zoning Ordinance requirement, of the net lot area as Public Open Space. As a result, the Application will provide an additional 4,753 square feet of Public Open Space, or a total of 18,653 square feet (13.4% of the Site). Based on the calculation provided in the Staff Report, the Board approves 3.4 points after reducing the amount of additional open space to exclude “back of house” space.

Exceptional Design: The Applicant requests 10 points for building or site design that enhances the character of a setting. Per the CR Guidelines, 10 incentive density points are appropriate for a development that meets all guideline criteria. The Application meets the applicable criteria as described below:

- *Provides innovative solutions in response to the immediate context*
The Subject Property serves as a transition between the Silver Spring CBD and residential neighborhoods located just outside of the CBD boundary. In response to the role this site plays in mediating its surrounding context, the Application’s massing breaks up the proposed building into two distinct blocks and minimizes the perceived mass, as viewed from the north, by orienting one of the courtyards toward the residential neighborhood. Additionally, the Site Plan serves as the master plan envisioned “gateway” into the Silver Spring downtown by providing a dramatic roofline along the Georgia Avenue façade and through the use of interesting materials that give prominence as a gateway into the downtown area.
- *Creates a sense of place and serving as a landmark*
The Application will create a sense of place by providing the central Mews between Planning Place and Spring Street. This will be a unique space within downtown Silver Spring that will serve as both a destination and pedestrian/ bicycle connection between the residential neighborhoods to the north and downtown to the south. The Mews is approximately 250 feet in

length and 48 feet in width, opening up to more than 100' at both ends with chamfered public plazas and residential lobby spaces.

- *Enhances the public realm in a distinct and original manner*
The Site Plan will activate the street by orienting activating uses and a highly articulated base along frontage sidewalks and the central Mews. Ground floor retail is strategically located along Georgia Avenue and the western side of the Mews while residential entries line Spring Street along the eastern portion of the Subject Property and the eastern side of the Mews. This design places building activity directly on the street and brings the building elements to a human scale along the sidewalk.
- *Introduces materials, forms, or building methods unique to the immediate vicinity or applied in a unique way*
The Application uses traditional building materials, such as masonry, cement, metal, glass, and wood, to blend architectural styles from both the residential community and downtown. Additionally, the Application uses building geometry, material patterns, and scale of building elements to present a fresh, contemporary, and contextual design.
- *Achieves compact, infill development so living, working, and shopping environments are more pleasurable and desirable on a problematic site*
The Site Plan redevelops an existing low-density office building and associated surface parking lot with a mixed-use residential project. The Application contributes to a truly sustainable downtown by including up to 32,000 square feet of ground-floor retail uses and additional housing options in close proximity to transit and existing commercial uses within the Silver Spring downtown area.
- *Integrates low impact design development methods into the overall design of the site and building, beyond green building or site requirements*
The Application incorporates stormwater management through the use of micro-bioretenion facilities in the form of multiple planter boxes and a green buffer around the perimeter of the building. These elements will include ornamental plantings and will substantially minimize stormwater runoff impact of the Project.

The Planning Board approves the Applicant's request for 10 exceptional design points.

Structured Parking: The Applicant requests 10 points for providing all on-site parking within a parking structure. The exposed façades of the garage will be treated to improve the aesthetic appearance of the building. Based on the

calculation provided in the Staff Report, the Board approves the Applicant's request.

Tower Step-Back: The Applicant requests 10 points for providing a 25-foot deep tower step-back above the three-story multi-family dwelling units along Spring Street as a means of breaking-up the building façade as it is viewed from Spring Street. As proposed, the building exceeds the minimum requirements for 10 points and the Board approves the Applicant's request.

Architectural Elevations: The Applicant requests 15 points for providing a design that is bound by architectural elevations as part of a certified site plan showing elements of the façade. In order to achieve 10 points, the Site Plan will be bound to:

- Minimum amount of transparency on the first floor,
- Minimal spacing between operable doors, and
- Design priorities of the applicable master plan or implementing design guidelines.

An additional five points is awarded to the project in recognition of steps taken to respond to community design concerns and the Subject Property's role as a transition between the Silver Spring downtown and adjacent residential neighborhoods.

The architectural elevations are intricately connected and respond to a very articulated building massing. The building architecture emphasizes the distinct character of the west and east building components as well as the Mews. Brick, metal, and glass will articulate the base and middle portions, while lighter rain-screen materials will articulate the building tops. The corners will be treated as three dimensional objects, emphasizing its vertical potential to anchor the buildings and create visual identity. The buildings base will notch in and out from the building footprint, generating visual porosity and architectural contrast. The three-dimensional massing shapes and steps will be emphasized through the architecture. The Board approves the Applicant's request.

Protection and Enhancement of the Natural Environment

Building Lot Terminations (BLTs): The Applicant requests 6.6 points for the purchase of BLT easements or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5% incentive density floor area. Points are granted by the calculation of BLTs as provided in Section 59.4.7.3.F of the Zoning Ordinance. Based on the calculation in the Staff Report, the Board approves 6.56 points for this benefit.

Cool Roof: The Applicant requests 5 points for providing a cool roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum of SRI of 25 for slopes above 2:12, the Planning Board approves the Applicant's request.

iii. Division 6.1. Site Access

Vehicular access and loading will occur via consolidated access points on Planning Place and the associated private extension, via Georgia Avenue and Spring Street. Pedestrians and bicyclists will be able to enter the development from the lobbies on either Georgia Avenue, Spring Street, or the through-block Mews. Short-term bicycle parking will be provided along the public sidewalks and within the Mews, the exact location of which will be shown on the Certified Site Plan. The Application provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading.

iv. Division 6.2. Parking, Queuing, and Loading

Parking for the residential building will be provided in a structured parking facility. Vehicular and loading access will occur on Planning Place along the south side of the Subject Property via Georgia Avenue and Spring Street to limit new driveways on either of the two higher volume public roadways.

v. Division 6.3. Open Space and Recreation

The Application will exceed its 10% open space requirement on-site by providing 13.4% open space. A portion of the open space will be provided in the Site Plan's through-block connection, the Mews.

The Application is in conformance with the *Recreation Guidelines*, as demonstrated in the Recreation Facilities Data table provided with the Application (Scenario ID 6972). The Applicant is providing bicycle amenities; interior courtyards, an urban plaza, through-block connection, lounge pool, and picnic/ seating areas. Final locations and quantities of each of these amenities will be shown on the Certified Site Plan.

vi. 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 Site Plan will transform existing streetscape along the Georgia Avenue, Spring Street, and Planning Place frontages with new street trees, improved, wider sidewalks, street

lighting, and street furniture. The on-site lighting will limit the necessary light levels to streets and sidewalks.

5. *satisfies the applicable requirements of:*

1. *Chapter 19, Erosion, Sediment Control, and Stormwater Management; and*

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services (MCDPS) on October 17, 2018. Application will meet stormwater management requirements through the use of micro-bioretenment planter boxes.

2. *Chapter 22A, Forest Conservation.*

Forest Conservation Tree Variance

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. The law requires no impact to trees that: measure 30 inches or greater, DBH; are part of an historic site or designated with an historic structure; are designated as national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species ("Protected Trees"). Any impact to a Protected Tree, including removal or disturbance within the Tree's critical root zone ("CRZ") requires a variance. An application for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law.

Variance Request - The Applicant submitted a revised variance request in a letter dated October 17, 2018, for the impacts/removal of trees. This variance is a revision to the previously approved variance and highlights only those trees with additional impacts. The Applicant proposes to impact three trees and remove one tree identified in the Staff Report (Protected Trees) that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

Unwarranted Hardship Basis - Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the Protected Trees in an undisturbed state would result in an unwarranted hardship, denying an applicant reasonable and significant use of a property.

The requested tree variance is necessary for implementation of this

redevelopment project consistent with the existing Sketch Plan approval for it and overall planning principles for the Subject Property. There is no forest on the Subject Property nor are there any environmental buffers. The conditions related to this request are the unavoidable consequence of the development process under the zoning. Not granting the variance is an unwarranted hardship. The four subject trees are impacted by proposed sidewalk, bikeways, pedestrian facilities and necessary location of buildings to meet planning objectives. Accordingly, there would be an unwarranted hardship if a variance were not considered.

Variance Findings - Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. The Board finds that the requested variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the disturbance to the Protected Trees is due to the reasonable development of the Subject Property. The Subject Property is located in a highly developed urban downtown and, as such, must provide high quality pedestrian and bicycle infrastructure to promote the safe and efficient transportation system. Increased impacts to tree 4, and the ultimate removal of tree 7, are directly related to improved sidewalks. Impacts to trees 60 and 61 are directly related to a new bicycle connection across Spring Street, connecting the Fenton Street corridor, to the south, and residential neighborhoods, to the north. These impacts would be expected with any potential development on the Subject Property.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The need for the variance is not based on conditions or circumstances which are the result of actions by the Applicant. The variance is based on development plans that are consistent with the zoning approved through the County planning process, and the previously approved Sketch Plan. Strict protection of the variance trees would deprive the applicant from making significant changes to the site and complying with planning objectives. The removal of tree 7 and the impacts to trees 60 and 61 are required to implement the separated bike lane specified by the proposed Bicycle Master Plan.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The need for the variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Subject Property is located in a dense urban area that was developed before modern stormwater management regulations were enacted and no stormwater management is currently provided on the Site in the existing condition. The stormwater management plan incorporates environmental site design. The specimen trees being impacted are not in a stream valley buffer, wetland or special protection area. Therefore, granting the variance will not result in any violation of state water quality standards or degradation of water quality.

Noise

The Applicant requested to have the exterior noise guidelines waived, under Section 2.2.2 of the 1983 Noise Guidelines, due to the nature of the urban downtown. The Project proposes outdoor amenity space separated from transportation noise on Georgia Avenue and buffered by the surrounding building, however, some noise will be inevitable. Construction methods and materials on the proposed building will be subject to conditions designed to attenuate noise in interior spaces. Staff recommends approval of the waiver.

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

The Application provides adequate, safe, and efficient parking and circulation patterns. The Site Plan consolidates the garage and loading entrances on Planning Place to limit impacts to the pedestrian environment and improves public streetscape along its frontages. The building provides entrances and stoops to activate the Subject Property along the Spring Street façade.

The Application provides a safe and well-integrated building, open spaces and site amenities. The Site Plan presents as a highly articulated building along each of its frontages, providing a gateway feature at the corner of Georgia Avenue and Spring Street, and stepping-back above the third floor along Spring

Street to reduce the perceived height of the building opposite Fairview Urban Park. The Application provides amenities for the residents of the development internal to the building, along the eastern façade, and on the elevated courtyards.

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

The Subject Property is within the portion of the Silver Spring CBD described as "Other Areas of the CBD" and is adjacent to the Georgia Avenue Corridor/Gateway. Although the Sector Plan did not anticipate redevelopment of the entire M-NCPPC office building site, Map 28 of the Sector Plan showed potential housing on the Subject Property and identified the mid-block connections included as part of the Application. The Site Plan provides a mixed-use, mid-rise residential development with ground floor retail or other non-residential uses consistent with the Sector Plan recommendations. The Application provides up to 413,821 square feet of total development, comprised of up to 413,821 square feet of residential uses with 12.5% on-site MPDUs and up to 32,000 square feet of non-residential uses.

The Site Plan will improve upon the Subject Property's street frontage on Georgia Avenue, Spring Street, and Planning Place to provide an enhanced pedestrian environment. Loading and vehicular access points will be located on Planning Place, which will be extended to connect with Spring Street as a private driveway opposite Fairview Urban Park.

Although the Sector Plan calls to retain the CBD-1 Zone, the Subject Property was rezoned through the Zoning Ordinance rewrite to CR 3.0, C 2.0, R 2.75, H 90T, effective October 31, 2014. The intent of the CBD-1 zoning was to encourage redevelopment within the CBD by allowing more commercial density in response to the current market (in 2000), but also provide the flexibility for both commercial or residential high-rises, or mixed-use projects. The Site Plan will create a mixed-use, mid-rise residential development with ground-floor non-residential uses under the optional method of development, which satisfies the intent of the CBD-1 Zone and the current CR Zone.

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 are analyzed below.

- *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 buildings.*

The Site Plan will create an attractive pedestrian environment defined by well-designed buildings that provide pedestrian entrances to residential, retail, and service uses, accessible open space, and building elements to stimulate visual interest. A central landscaped Mews will bisect the Subject Property and will provide a portion of the Silver Spring Separated Bicycle Network. The building height will be stepped-down to a three-story townhouse-style base along Spring Street to break-down the mass of the building and provide a transition from the single-family residential neighborhood 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.*

The Application provides safe and efficient site access and circulation by placing all vehicular access on Planning Place and the associated private driveway. The Site Plan includes appropriate streetscape elements, including the undergrounding of overhead utility lines.

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

The Application fosters an improved relationship with Fairview Urban Park by providing a building that activates and contributes to the parkland through the use of architectural elements and pedestrian connections. The Site Plan will provide a high quality public open space, in the form of the through-block Mews, that will also facilitate connection to the broader community. The Site Plan’s public use spaces will enhance the community, enliven the area, and connect to other downtown area uses.

General Recommendations

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

Transit-Oriented Downtown

The Subject Property is situated at the corner of Georgia Avenue and Spring Street: the northern gateway to the CBD. The Sector Plan's transit-oriented downtown theme strives to balance the needs of commuter and local traffic, of walkers and drivers and to maximize the investment in Silver Spring's transit infrastructure. "Creating a transit-oriented community is not only a transportation effort, but also a land use effort." The Sector Plan further states that transportation choices go beyond the car to link local and regional buses, trains, bikes and foot travel. The Subject Property is one ½ mile of the Silver Spring Metro Station and is served well by transit that includes Metro, Metrobus, RideOn, the VanGo Circulator and future Purple Line.

The development will create an attractive pedestrian environment defined by well-designed buildings that provide pedestrian entrances to residential, retail, and service uses, accessible open space, and building elements to stimulate visual interest. A central landscaped Mews will bisect the Subject Property and will provide a portion of the Silver Spring Separated Bicycle Network.

Commercial Downtown

The Sector Plan states "Commercial activity-a mutually supportive mix of office, stores, and other business enterprises-is the defining feature of a successful downtown." The potential for a non-residential component (retail and/or restaurant) on the ground floor at the Georgia Avenue/ Spring Street intersection may provide commercial services for the residents and surrounding neighborhood.

Residential Downtown

The Sector Plan's residential downtown theme seeks to create a mix of housing choices supported by parks, shopping, cultural, civic and employment uses with transit. "A green and pedestrian friendly downtown will create parks, plazas, and streets of a desirable residential community." The Site Plan will provide up to 413,821 square feet of residential uses with 12.5% on-site MPDUs and up to 32,000 square feet of non-residential uses.

Green Downtown

The green downtown theme of 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 throughout downtown. The Sector Plan states, “Landscaped plazas are incorporated into building and site design to create visual and physical respite, to create formal and informal gathering places, and to complement street and building design.”

The streetscape along Georgia Avenue and Spring Street will be upgraded as necessary with street trees, paving, and lighting to improve the pedestrian experience and to interact with their neighbors. The Site Plan transitions the higher-density CBD to the lower-density residential neighborhoods by providing a two-to-three story base before stepping back to mid-rise multi-family dwelling units; function as a gateway into the CBD by providing a focal point at the intersection of Georgia Avenue and Spring Street; and provide a public open space in the form of a mid-block pedestrian/ bicycle connection, the “Mews.”

Civic Downtown

The civic downtown theme envisions formal or informal, large or small, public or private civic spaces, where people meet, cross paths and gather. The Site Plan will provide a high quality public open space, in the form of the through-block Mews, providing a unique civic space.

Pedestrian-Friendly Downtown

The pedestrian-friendly downtown theme of the Sector Plan encourages the development of active streets and sidewalks, busy with people walking to shop, commute, or for pleasure. The theme encourages sidewalks and streets scaled to walkers and street crossings should promote safety and access for pedestrians. As included in the Site Plan, improvements to the streetscape and through-block Mews will improve the pedestrian experience by creating a safe and attractive pedestrian space.

Circulation Systems Recommendations

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

The Site Plan includes a central pedestrian Mews through the Subject Property as a projection of Fenton Street, which will include separated bicycle lanes that will improve pedestrian and bicycle access between the CBD and lower density neighborhoods to the north. In addition to the separated bicycle lanes, the

Application includes a private driveway extension of Planning Place to connect the existing terminus with Spring Street. This street extension will help consolidate access points for the Subject Property and improve internal circulation. The Site Plan will provide streetscape improvements along Georgia Avenue, Spring Street, and Planning Place, which will create an inviting pedestrian environment that will activate the street and support the ground-floor retail included as part of the development. 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 a potential housing site. The Application provides a new mixed-use project with up to 413,821 square feet of residential uses with 12.5% on-site MPDUs, offering housing opportunities proximate to the numerous transit options of downtown Silver Spring. The Application meets the Sector Plan housing objective.

The Preliminary Plan Application substantially conforms to the Sector Plan. The Preliminary Plan Application complies with the specific density recommendations for the Subject Property as well as the applicable urban design, roadway, and general recommendations outlined in the Sector Plan. The Site is not subject to an Urban Renewal Plan.

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

As discussed in the Preliminary Plan No. 120180100 findings, the development will be served by adequate public facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.

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

The Site Plan is compatible with other uses and other site plans, as well with existing and proposed adjacent development. The Project's design and scale is compatible with adjacent buildings in the both downtown Silver Spring and Woodside Park residential neighborhood.

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

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

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is ~~NOV 06 2018~~ (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 Vice Chair Dreyfuss, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Cichy and Patterson voting in favor, and Commissioner Fani-González absent at its regular meeting held on Thursday, November 1, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board