



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

MCPB No. 18-123
Site Plan No. 820180160
Ashton Market
Date of Hearing: November 15, 2018

NOV 30 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 April 23, 2018, Nichols Development Company, LLC. ("Applicant") filed an application for approval of a site plan for 20 townhouses, and a multi-use building with 3 multi-family units and 6,800 square feet of commercial and restaurant space, including 12.5 percent MPDUs on 3.04 acres of TF-10 and CRT-0.75, C-0.75, R-0.25, H-35 zone & the Sandy Spring/Ashton Rural Village Overlay Zone zoned-land, consisting of three parcels (P393, P447, P395, Tax Map JT42) and two lots (Lot 2 and Lot 3, Record Plat 1463) located on Porter Road at its intersection with Olney Sandy Spring Road (MD 108), ("Subject Property"), in the Rural East Policy Area and 1998 Sandy Spring/Ashton Master Plan ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820180160, Ashton Market ("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 November 2, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 15, 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. 820180160 for 20 townhouses, and a multi-use building with 3 multi-family

Approved as to
Legal Sufficiency:

Christen Sorrento by MCM

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

units and 6,800 square feet of commercial and restaurant space, including 12.5 percent MPDUs, the Subject Property, subject to the following conditions:¹ Planning Board approval of the Site Plan will vacate a previously approved site plan on a portion of the subject property - site plan No. 820080130, Chevy Chase Bank at Ashton.

Conformance with Previous Approvals & Agreements

1. **Local Map Amendment Conformance**

The Applicant must comply with binding elements of County Council Resolution No. 18-980 approving Local Map Amendment H-119.

2. **Preliminary Plan Conformance**

The Applicant must comply with the conditions of approval for Preliminary Plan No. 120180180.

3. The Applicant must comply with the following conditions of approval for the Final Forest Conservation Plan No. 820180160 ("FFCP"), approved as part of this Site Plan:

- a) The Final Sediment and Erosion Control Plan must be consistent with the limits of disturbance shown on the approved FFCP.
- b) The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the approved FFCP may be required by the M-NCPPC forest conservation inspector.
- c) The Applicant must install permanent conservation easement signage along the perimeter of the Category I Conservation Easement. Signs must be installed a maximum of 100 feet apart with additional signs installed where the easement changes direction, or at the discretion of the M-NCPPC forest conservation inspector. The M-NCPPC forest Conservation inspector is authorized to determine the timing of sign installation.
- d) The Applicant must bond the variance tree mitigation as part of the Site Plan surety bond and must complete the installation of the tree mitigation in conjunction with completing the construction in the areas where the trees are to be located or as directed by the M-NCPPC forest conservation inspector.
- e) The Applicant must obtain the M-NCPPC, Office of the General Counsel approval of a Certificate of Compliance agreement for the offsite forest planting requirement prior to the start of clearing and grading.

4. **Noise Attenuation**

- a) Prior to approval of the Certified Site Plan, the Applicant must provide a noise analysis delineating the 60 dBA Ldn noise contour from Olney-Sandy Spring Road.

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

- b) Before issuance of any building permit, the Applicant must provide certification to Staff from an engineer who specializes in acoustical treatment that the building shell for residential dwelling units is designed to meet the projected 60 dBA Ldn noise contour and is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
- 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 the engineer that specializes in acoustical treatments.

Housing

5. Moderately Priced Dwelling Units (MPDUs)

The Planning Board accepts the recommendations of the Department of Housing and Community Affairs (DHCA) in its letter dated September 11, 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 DHCA may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.

Public Use Space, Facilities and Amenities

6. Public Use Space, Facilities, and Amenities

- a) The Applicant must provide a minimum of 2,000 square feet of Public Open Space (10.6% of net lot area) on the CRT-zoned portion of the Subject Property.
- b) Before the issuance of use and occupancy certificate for the multi-use building, the Public Open Space area on the Subject Property must be completed, including:
 - a) Construction of the hardscape area between the building face and sidewalk.
 - b) Installation of benches and bike rack; and
 - c) Installation of landscaping, with a six-month grace period to allow for seasonal planting restrictions.
- c) The Applicant must provide a minimum of 10,500 square feet of Common Open Space (10.2% of net lot area) on the TF-10-zoned portion of the Subject Property.
- d) The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578.
- e) Prior to final inspection of any townhouse unit on Lots 17 – 20, as shown on the Certified Site Plan, all Common Open Space areas on the Subject Property must be completed, including:

- i. Installation of the multi-age play area, recreation equipment, arbors, and benches;
- ii. Installation of all landscaping shown in the Common Open Space areas, with a six-month grace period to allow for seasonal planting restrictions; and
- iii. Construction of the stairs, fencing, and gates in Common Open Space.

7. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to benches, retaining walls, arbors, recreation equipment, light fixtures, landscaping, fences, gates, stairs and pedestrian foot bridge.

Transportation & Circulation

8. The Planning Board accepts the recommendations of the MCDPS – Right-of-Way Section in its letter dated August 15, 2018, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Right-of-Way Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

9. Pedestrian & Bicycle Circulation

All internal sidewalks and pedestrian paths must be a minimum of five feet wide.

10. Site Design

The exterior architectural character, proportion, materials, and articulation of the multi-use building and townhouses must be substantially similar to the schematic elevations shown on the submitted architectural sheets, as determined by Staff. Specifically, the Applicant must provide at a minimum the following building element:

a) Lots 1– 4

- i. Maximum building height of 35 feet as measured from the street grade.
- ii. All front and side facades shall use either masonry, wood or hardy/cement plank board material for siding and trim, or Staff approved equivalent.
- iii. The units shall incorporate details such as horizontal banding to visually break up the front facades.
- iv. Provide a minimum of six windows or alternative architectural features on the side facade.

b) Lot 5 and 11

- i. Provide a minimum of six windows or alternative architectural features on the side wall.
- c) Lots 5-20
 - i. Maximum building height of 40 feet.
- b) Lot 21 (Mixed-Use Building)
 - i. Maximum height of 30 feet.
 - ii. The front and side facades facing MD 108 shall use either masonry, wood or hardy/cement plank board material for siding and trim, or Staff approved equivalent.

11. Landscaping

- a) The Applicant must install the site elements as shown on the landscape plans submitted to M-NCPPC.
- b) The Applicant must install the plantings shown on the landscape plans submitted to M-NCPPC. Any variation in plant species or quantity needs approval of Staff.

12. Lighting

- a) Before issuance of any building permit, the Applicant must provide certification to Staff from a qualified professional that the lighting plans conform to the Illuminating Engineering Society of North America (IESNA) standards for residential and commercial development.
- b) All onsite down-lights must have full cut-off fixtures or industry equivalent.
- c) Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- d) The light pole height including the mounting base must not exceed the height shown on the Certified Site Plan.

13. Site Plan Surety and Maintenance Agreement

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

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to: plant material; on-site lighting; site furniture; bike racks; mailbox pad sites; seating walls; fences; railings; private streets and alleys including curb and gutter; paths; specialty pavement treatments; and any other associated improvements. The surety must be posted before issuance of

any building permit, or sediment control permit, 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 will be followed by inspection and potential reduction of the surety.
- d) The bond or surety shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific Certified Site Plan sheets.

14. 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.

15. 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) The front of each townhouse unit on Lots 5 through 10 must be set back at least seven feet from the Porter Road right-of-way line. This may be accomplished by reducing the footprint of each unit, or by other acceptable means approved by Staff.
- b) The Applicant must show the provision of ADA accessible ramps at all locations where sidewalks end at a street.
- c) Include the stormwater management concept approval letter, and other applicable agency letters, development program, and Site Plan Resolution on the approval or cover sheet(s).
- d) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before any land disturbance."
- e) 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 Maryland State Highway Administration."
- f) Modify data table if necessary to reflect development standards approved by the Planning Board.
- g) Ensure consistency of all details and layout between Site and Landscape plans.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Ashton Market, Site Plan No. 820180160, submitted via ePlans to the M-NCPPC as of the date of the Staff Report are required, except as modified by the above conditions of approval; and

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

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

The Site Plan conforms to all conditions of Preliminary Plan No. 120180180, which is being reviewed concurrently. The Site Plan is consistent with the Floating Zone Plan approved in connection with LMA H-119, including its binding elements, which apply only to the portion of the Subject Property that is zoned TF-10. The proposed layout on the Site Plan is substantially similar to the illustrative layout on the Floating Zone Plan approved with the map amendment, except for the townhouse cluster east of Porter Road where stream valley buffer encroachments have now been greatly reduced. The approved Local Map Amendment did not include a binding element requiring the Applicant to retain the layout shown on the Floating Zone Plan. Therefore, the layout of the development could still be modified as part of the Site Plan review.

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

Not Applicable

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

Not Applicable

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

- a. Use Standards

The Site Plan satisfies the applicable use standards, development standards and general requirements of the Zoning Ordinance as established below. The Subject Property is entirely within the Sandy Spring/Ashton Rural Village Overlay Zone and must meet the standards of the Overlay Zone in addition to the development standards of the CRT and TF-10 zone. Townhouse living is allowed by right in the TF zone which was approved as part of the recent LMA. Restaurants, retail/service

establishments and multi-use living are permitted uses in the CRT zone. The density proposed on the Subject Property is within the allowed density mapped for the CRT zone, is below the maximum commercial density allowed in the Overlay Zone and is consistent with the binding elements of the LMA.

b. Development Standards

The Subject Property includes approximately 3.4 acres zoned CRT 0.75 C-0.75 R-0.25 and TF-10. The following tables, Table 1 & 2, shows the Site Plan satisfies the development standards of the zones including the binding elements of the approved LMA, the development standards of the CRT zone (standard method of development), the development standards of the TF-10 and the applicable parking standards.

Data Table 1: CRT zone and Sandy Spring Rural Village Overlay Zone

Development Standard	Required/Permitted	Approved
Density		
Maximum Density	0.75 FAR (21,838 sf)	0.34 FAR (9,900 sf)
Commercial	0.75 FAR (21,838 sf)	0.23 FAR (6,800 sf)
Residential	0.25 FAR (7,279 sf)	0.11 FAR (3,100 sf)
Lot (min) – Multi-Use Building		
- Lot area - Width at front building line - Width at front lot line	n/a	n/a
Lot Coverage (max)	n/a	n/a
Building Height (max)	24 ft. or 30 ft. at site plan	30 ft. (See Site Plan)
Placement		
Minimum Front Setback from Site Boundary	-0-	10 ft.
Minimum Side Setback from Site Boundary	-0-	-0-
Minimum Rear Setback from Site Boundary	-0-	20 ft.

Minimum Front Parking Setback	Must be behind front building line of building in the BTA	All parking is underneath or behind building.
Minimum Side Street Parking Setback	Must be behind side street building line of building in the BTA	All parking is behind side street building line.
Minimum Side Parking Setback	Must accommodate landscaping required under Section 6.2.9	None required.
Minimum Rear Parking Setback	Must accommodate landscaping required under Section 6.2.9	None required.
Build-to Area (BTA)	Maximum front setback including public utility easement 25 ft.	20 ft.
Build-to Area (BTA)	Minimum 70% building façade within front street BTA.	75%
Build-to Area (BTA)	Maximum side street setback 25 ft.	25 ft.
Build-to Area (BTA)	Minimum 35% building façade within side street BTA.	50%
Maximum Height	30 ft (24-foot maximum by right, up to 30 feet approvable at site plan)	30 ft.
Open Space and Parking		
Minimum Open Space	10% Public Open Space, 1,887 SF	2,000 SF
Min. Residential Parking	2 spaces (0.5 per 1-2 BR MPDU)	3 spaces ²
Min. Retail Parking	24 spaces (3.5 per 1,000 SF)	28 spaces
Total Min. Parking	26 spaces	31 spaces plus off-site overflow
Min. Bicycle Parking	2 spaces (0.5 per unit + 1 per 10,000 SF)	2 racks with two spaces each
Form		
Entrance facing street or open space	Required	Entrances face Olney Sandy Spring Road.

² One parking spot in the garage and one parking spot in the driveway; spaces are tandem.

Maximum entrance spacing	75 ft.	>75 ft.
Ground floor minimum transparency, front facade facing street	60%	>60%
Ground floor minimum transparency, side facade facing street	30%	≥30%
Upper story minimum transparency facing street	20%	>20%
Blank wall maximum, front	25 ft.	<25 ft.
Blank wall maximum, side/rear	35 ft.	≤35 ft.

Data Table 2: TF-10 Zone, Sandy Spring Rural Village Overlay Zone and approved Floating Zone Plan (LMA H-119)

Standard	Permitted/Required (TLD or Overlay zone)	Approved LMA H-119	Approved
Site			
Common Open Space	10%, (10,263 sq. ft.)	10%, (10,263 sq. ft.)	10.2%, (10,500 sq. ft.)
Lot and Density			
Lot Area	Determined at Site Plan/Overlay zone	900 sq. ft (Min. per Overlay)	1,700 sq. ft
TF-10 Zone Density Max	LMA	20 market rate du's 3 MPDU apartments (in multi-use building)	20 market rate du's 3 MPDU apartments (in multi-use building)
Placement			
Setback from any public street	LMA	7 ft.	7 ft.

Side Setback:			
- end unit (from site boundary)	LMA	4'	4'
Rear Setback:			
- adjoining lot	LMA	18'	18'
- alley	LMA	4'	4'
- between lot and site boundary	LMA	10'	10'
Principal Building Height (max)			
Along MD 108 (4 units)	LMA	35'	35' max
All lots not fronting on MD 108	LMA	40'	40' max
Open Space and Parking			
Minimum Open Space (5.2.5.D)	10% or 10,263 SF Common Open Space	10% or 10,263 SF Common Open Space	10,500 SF
Minimum Parking (6.2.4.B)	2 spaces per dwelling unit = 40 spaces	2 spaces per dwelling unit/ 40 spaces	40 spaces plus on-site and off-site guest parking and four bicycle spaces

Compliance with the Sandy Spring/Ashton Rural Overlay Zone

Since the Subject Property is within the Sandy Spring/Ashton (SSA) Rural Village Overlay Zone, the Application must be consistent with the purpose of the SSA Overlay Zone and meet the development standards below. The purpose of the SSA Overlay Zone is to (59-4.9.15.A):

A. Purpose

1. Preserve and enhance the rural village character of the Sandy Spring and Ashton village centers by ensuring an attractive and traditional pattern of

houses, commercial establishments, open spaces and their relationship to roadways.

The Application will preserve and enhance the rural village character of its immediate area and the larger Sandy Spring/Ashton Village by locating, siting, and designing buildings at a scale that is in keeping and compatible with other buildings nearby. The new multi-use building and townhomes will preserve and enhance the character of the Ashton village center by fronting onto public roads and streets and having minimal front setbacks. As proposed, one stick of townhomes and the multi-use building will front onto MD 108, with direct access to the sidewalk. Two sticks of townhouse frame Porter Road, which along with sidewalk and street trees, provide a transition from the commercial to the residential area. The remaining stick of townhouses front on the Common Open Space, helping to define the area. The Common Open Space and conservation area then provide a second level of transition from the townhouses to the predominately single-family detached area and forested stream valley south of Porter Road. The layout of the commercial, residential, and open space on the Subject Property is similar to the development pattern directly north of MD 108, which transitions from most intense use (commercial) along MD-108 at the village center "main street", to residential (townhouse), followed by open space, single-family detached homes and natural space (fields, streams etc.). As designed, the Application will preserve and enhance the rural village character and continue the traditional pattern of development present in the Ashton village Center.

- 2. Encourage a compatible relationship between new or expanded houses or business and traditional neighboring structures that reflects the best of local village character, particularly in terms of scale, siting, design features, and orientation to the site.*

The buildings are compatible to one another and with existing buildings in the Ashton Village. Four townhouses are oriented to front on Olney-Sandy Spring Road, which is a traditional building orientation common in Sandy Spring and Ashton. Similarly, the mixed-use building is also oriented to the main road (MD 108) with multiple entrances, which helps with pedestrian activation of the sidewalk. Building heights are limited to 35 feet (townhouses) and 30 feet (multi-use building) along MD 108, which is also in keeping with the building heights of the surrounding buildings. In addition, the buildings also have architectural features compatible with the local area such as dormer windows and side porches. Parking is located at the rear of the site so that the front and sides of the building remain primarily pedestrian. The proposed Application is consistent with the purpose of the Overlay Zone.

B. Sewer

Lots developed under the SSA Overlay zone must be connected to a community water and sewerage system, unless it can be demonstrated at the time of subdivision that limited number of lots on a private well and septic facility within the development will provide a more beneficial subdivision design because of environmental or compatibility reasons.

All lots will be served by community (public) water and sewer.

C. Land Uses

Where a lot is either partially or totally in a Commercial/Residential or Employment zone:

1. *Multi-Unit Living, as allowed in the underlying zone, must be in a multi-use building type.*

The Application includes three moderately priced dwelling units in connection to the townhouse development. As approved by DHCA the proposed apartment MPDU's will be located on the second floor of the commercial building, which is zoned CRT and permits multi-unit living.

2. *The following uses are prohibited.*

The Application does not propose any of the uses that are prohibited in the SSA Overlay zone (listed in Section 4.9.15) or any of those uses in the accompanying floating zone binding elements.

D. SSA Overlay - Development Standards

1. *Where a lot is in a Commercial/Residential or Employment zone:*

- a. *The maximum height for all buildings is 24 feet, except that the Planning Board may allow additional height up to 30 feet in the site plan approval process, if the Planning Board finds that the additional height is compatible with the abutting uses and substantially conforms with the intent of the master plan.*

The Applicant requests that the Planning Board allow an increase in height from 24 feet to 30 feet for the multi-use building which is in the CRT zone. The Applicant proposes to construct a 30-foot-tall multi-use building with ground floor retail/services and three Moderately Priced Dwelling Units (rental) on the second floor. The multi-use building will

abut the stick of four townhouse units facing MD 108, which per binding element No.7 of the Floating Zone Plan are limited to a height of 35 feet as measured from street grade. The 35-foot height restriction was added for compatibility with the adjacent and confronting buildings. Approval of the 6-foot height increase provides the flexibility needed to create a building with enough space to vary the style and pitch of the roof across the building. It allows for an optimal building layout, vertically organized with parking on the bottom (out of sight), retail at street level to activate the street/pedestrian realm, and MPDU's above. One of the primary reasons additional height is needed is to incorporate generously proportioned MPDUs above the commercial space, which the Master Plan encourages in the village centers.

The multi-use building will feature architectural elements compatible with the rural village character of the surrounding area, such as porches, peaked roofs and dormer windows. The building design is a blend of the architectural styles found in the Sandy Spring Historic District and other surrounding buildings throughout the Sandy Spring/Ashton area. Furthermore, the multi-use building will sit between an exist gas station (to the east) and a stick of four townhomes on the opposite side of Porter Road with a similar architectural design. Ultimately, the increase in height results in the best architectural and contextual building design unique to Ashton and Sandy Spring.

- b. *The maximum density for commercial uses is 0.75 FAR, and is computed only on the area of the underlying Commercial/Residential or Employment zoned portion of the site.*

The Application proposes 0.23 FAR (6,800 SF) of commercial development and 0.09 FAR (3,100 SF) of residential, which based on the area of the site that is zoned CRT is far below the 0.75 FAR (21,838 SF) maximum that is permitted.

- c. *In areas recommended in the master plan for mixed use development, development must substantially conform with the recommendations of the master plan. In the residential portions of the mixed-use areas, off street parking for commercial uses is allowed without a requirement for approval of a conditional use.*

Not applicable.

2. *Where a lot is in a Residential zone:*

- a. *The density of development must not exceed the standards for the underlying zone under optional method Cluster Development.*

Optional Method Cluster Development is not allowed in the townhouse zones, and, therefore, is not permitted in the TF zone. The maximum density for the TF zone was determined as part of the LMA and reflected in the binding elements on the FZP.

- b. *The Planning Board may approve lot sizes as small as 900 square feet for a townhouse, 2,000 square feet for a duplex, and 3,000 square feet for any other building type, including a minimum of zero feet for side setbacks on one side, upon a showing that the resulting development will substantially conform with the recommendations of the master plan.*

The townhouse lots would comply with the minimum townhouse lot size of 900 square feet and demonstrates conformance with the recommendations of the Master Plan.

- c. *The maximum height for all buildings is 35 feet; however, if in the site plan approval process the Planning Board finds that additional building height is compatible with the abutting uses and the building height substantially conforms to the intent of the master plan, the maximum building height is 40 feet.*

The Applicant is requesting that the Planning Board allow a maximum building height of 40 feet for the proposed townhouses, with the exception of the 4 units facing MD 108 which will have a maximum height of 35 feet as measured from the road. As part of their statement of justification the Applicant provided the following argument to support their request:

“The Applicant requests approval of a maximum height of 40 feet for the remaining townhouses to permit rear-loaded garages. Depending on exact site locations and topography, some of these townhouses may not reach the 40-foot height.

1. **Compatibility with Abutting Uses**

The 40-foot townhouses will be compatible with abutting uses due to the sloping topography of the Subject Property, which will

make these townhouses appear shorter, as well as the nature of the abutting uses and proposed buffering.

To the west, two residential lots will abut 40-foot townhouses, either in whole or in part. In both cases, a side or rear yard abuts the Subject Property. The two lots use a shared driveway that runs between the houses and the Subject Property. These two homes will be buffered by the width of their shared driveway, a six-foot, opaque fence to be installed by the Applicant, a landscaped area inside the fence, and the alley providing access to the townhouse driveways. With this buffering and the sloping topography that reduces their height relative to neighboring properties, the townhouses will be fully compatible with the abutting houses.

To the east, the 40-foot townhouses will abut the parking lots of an office building and a church. They will be screened by landscaping and considerable distance, creating a compatible relationship with these commercial and institutional uses.

To the south on the west side of Porter Road, the forest conservation area on the Subject Property abuts a public right-of-way. The 40-foot townhouses are considerable distance from the nearest home on the other side of that right-of-way. To the south on the east side of Porter Road, the 40-foot townhouses are separated from the property line by common open space and landscaping, and the abutting property is undeveloped.

For all of the above reasons, the requested 40-foot height is consistent with the 1998 Master Plan and compatible with abutting land uses.”

With regard to Master Plan conformance, the Applicant provided the following: “The 1998 Master Plan does not provide specific height guidance for residential development in the Ashton Village Center, although it generally recommends heights compatible with the Sandy Spring Historic District for the Sandy Spring and Ashton Village Centers. See Plan at 29-31. The Overlay Zone that was adopted in conjunction with the 1998 Master Plan imposed a height limit for residential property of 35 feet; in early 2017 the County Council amended the Overlay Zone to allow up to 40 feet if approved at site plan, per the language quoted above. This reflects the Council’s judgment (supported by a

recommendation of approval from the Planning Board) that a maximum height limit of 40 feet is reasonable, with appropriate scrutiny at site plan, to allow the height necessary for built-in rear-serving garages.”

The Planning Board agrees with the Applicant’s justification regarding compatibility and Master Plan conformance. Therefore, the Planning Board supports the Applicant’s request for 40-foot-tall townhouses.

E. Site Plan

1. *In addition to the site plan findings under Section 7.3.4.E, the Planning Board must find that all retail uses proposed in new or renovated buildings are directly accessible from a sidewalk, plaza, or other public space.*

As shown on the Site Plan, the retail (multi-use) building fronts on MD 108 and is directly accessible from the Public Open Space and sidewalk between the building and road.

F. Parking

Nineteen parking spaces will be provided in a parking garage below the retail building which will be accessed from the rear off of the shared private alley and Porter Road. An additional 12 parking spaces will be provided in a surface parking lot situated behind the multi-use building. Each townhouse has a rear loaded two car garage and driveway capable of accommodating two additional vehicles. In addition to the on-site parking, the Applicant plans to offer off-site parking opportunities for overflow commercial and residential parking on an adjacent property, which is also owned by the Applicant and contains an office/professional building known as the Alloway Building (17830 New Hampshire). Offsite parking arrangements are outside the scope of the Applications since all parking requirements are being met onsite. As proposed, the on-site parking meets the standards of the SSA Overlay by providing only rear loaded townhouses, tucking all parking under or behind the mixed-use building (out of site), and consolidating vehicular access to the mixed-use building, surface parking lot and Lots 11-20.

c. General Requirements

i. *Site Access*

Vehicle and pedestrian access to the Site is provided via Porter Road, off of Olney-Sandy Spring Road. The access to the Site is adequate with suggested conditions recommended by MDSHA for 20 one-family attached dwellings and the multi-use building that shares the access. All of the townhouse units are rear loaded and accessed off shared private alleys, instead of having multiple single driveways with direct access to Porter Road which conflicts with pedestrian movement on the sidewalk.

The Application also proposes a pedestrian connection from the Subject Property to the neighboring commercial property to the east at 17830 New Hampshire Avenue, which will also provide overflow parking for the project. Driveways for the individual units provide access to an internal network of private alleys and streets rather than directly to public streets.

Per Staff's direction, the Applicant also explored a new pedestrian connection extending from Porter Road through an existing right-of-way along the southern edge of the Subject Property between the Subject Property and heading southwest to Hidden Garden Lane to provide additional connections as recommended in the *Sandy Spring/Ashton Master Plan*. The connection would require an easement along a small section of private property between the available right-of-way and Hidden Garden Lane to make the final connection. The Applicant made a good faith effort to oblige staff's recommendation by contacting this property owner, whose rear yard abuts Porter Road and side yard abuts Hidden Garden Lane. However, the property owner did not grant an easement to accommodate the connection. Construction of any pathway in this area would have to terminate abruptly at this neighbor's private property boundary and would encourage trespass.

ii. *Parking, Queuing, and Loading*

The Site Plan provides adequate parking to serve the development. Vehicle parking in the TLD zone outside of a reduced parking area has a minimum of 2 spaces per single-family dwelling unit, which will be provided by way of two car garage for each unit. Since each townhouse has an 18-foot-long driveway, an additional two vehicles will be able to park on each lot. The Applicant's statement of justification states that the central parking lot will be shared, and available to the townhouse residents for visitor parking as well as visitors of the retail component.

Porter Road provides approximately 100 feet of queueing space for vehicles turning onto Olney-Sandy Spring Road, which will provide space for about five vehicles to queue. With proposed traffic generated by this project and the single-family homes to the south, this should be sufficient queueing space.

Loading for the multi-use building is accommodated behind the building in the alley. The loading is tucked behind the building and does not obstruct other vehicular movements.

iii. *Open Space and Recreation*

The Application includes both Common Open Space and Public Open Space. The CRT zone requires 10% Public Open Space for a multi-use building type. Pursuant to the TF-10 zone standards, open space is required under the equivalent Euclidean zone, the TLD zone, which is 10% Common Open Space for townhouse building type. The Site Plan proposes 2,000 square feet or approximately 10.6% of Public Open Space on the CRT zoned portion of the Property and 10,500 square feet of 10.2% of Common Open Space on the TF-10 zoned portion of the Property.

Public Open Space is identified as the approximately 15-foot-wide by 130-foot-long area between the front of the multi-use building and MD 108. The Public Open Space consists primarily of a hardscape area that directly abuts the proposed 5-foot-wide sidewalk, which will be constructed along the MD 108 frontage. The hardscaped area creates an adequate and safe transition between the public realm, the multi-use building and the surrounding development via the existing and proposed sidewalk system. Because the building is only setback a short distance from the sidewalk the hardscape ties the building to the broader public realm, a traditional feeling that is common in rural communities and towns. The face of the building will be softened by rows of shrubs, which when combined with the seating and bike rack efficiently activate the sidewalk and adequately contribute to pedestrian scale. The street trees lining the edge of the roadway will efficiently shade the sidewalk and adequately serve as a buffer between vehicles and the public realm.

Common Open Space is primarily intended to serve the townhouse development, providing an area for active recreation, and is located to take advantage of existing natural features. The linear space,

which runs the length of the southeast property line, connects the forested stream valley buffer area west of Porter Road to the stream valley buffer on eastern half of the Subject Property. The linear area also provides an adequate open space transition between the townhouses and single-family lots to the south. The Common Open Space is accessible from the sidewalk on Porter Road and the alley between Lot 16 and 17, which are connected to the sidewalk leading to the off-site parking on the adjoining property. Much of the space is unprogrammed lawn that can be used in a variety of ways by the residents. The Common Open Space also contains a micro-bio stormwater facility, a timber-edged multi-age play area and a seating area. The seating area features two benches facing one another which are shaded by individual arbors and trees. The seating area is adequately located in proximity to the multi-age play area. A pair of bike racks are also located by the seating area adjacent to the stairs leading to the neighboring property.

As described above, a contiguous Common Open Space area is being provided on the southeast portion of the Subject Property. This area, which includes multi-age play equipment and open grass area, provides a space for active and passive recreation at all ages. While not specifically included in the Recreation Guidelines report, other elements are being provided in the Common Open Space that create an adequate space, such as a landscaped perimeter, bike rack and pergola with seating. The proposed sidewalk network provides a pedestrian link to the units in the multi-use building and the townhouses on both sides of Porter Road. It also ties into the existing sidewalks along the Property frontage along MD 108 providing a safe connection to the amenities in the surrounding area that connects the townhomes on both sides of Porter Road to the recreation area and the surrounding. As proposed, the recreation facilities and amenities are safe, adequate and efficient to meet the recreational needs of the residents.

iv. *General Landscaping and Outdoor Lighting*

The Site Plan meets the standards for the provision of landscaping and outdoor lighting as required by Division 6.4. The Application includes a variety of new landscaping and lighting throughout the Property. Street trees are provided along MD 108 to enhance the pedestrian environment, provide shade, and create an aesthetically pleasing presence on road.

The Applicant will be planting a variety of native shade trees such as yellowwoods, sweet gums, and oaks. These shade trees will be planted around the perimeter of the parking lot. The trees will shade 64% or 2,805 square feet of the 4,938 square foot surface parking lot (Parcel A) which exceed the minimum 25 % shading requirement and create depth in the landscape. Shrubs and ground cover will also be planted along the perimeter of the parking area, between driveways, and along the front each townhouse unit. A 6-foot fence and landscaping will be provided around the small surface parking lot south of the multi-use building. The fence and landscaping will adequately block vehicle headlight glare on the adjacent properties.

Lighting on-site consists of 8 freestanding light emitting diode (LED) street lights and 5 matching pedestrian LED light poles. The light poles will be installed throughout the site to illuminate the pedestrian and vehicular circulation environment. The street lights are decorative full cutoff fixtures mounted on a 16 feet tall pole with an architectural. The pedestrian level lights will be the same style but mounted on a 10-foot tall pole. The fixtures will provide illumination as well as be visually appealing. The photometric plan submitted by the Applicant shows that the proposed lighting package will adequately illuminate the site creating a safe environment, without creating light spillage or excessive glare on adjacent properties or the rights-of-way. All site lighting provides adequate, safe and efficient illumination.

v. *Screening*

The Site Plan includes townhomes in the TF-10 zone and a multi-use building in the CRT zone. The Applicant is not required to provide screening for the townhouses because none of the townhouse lots directly abut a property in the Agricultural, Rural Residential, or Residential zone that is vacant or improved with a residential use. All of the proposed lots east of Porter Road are separated from the abutting properties by Common Open Space with includes substantial plantings around its perimeter. However, binding element No. 6 of the approved Floating Zone Plan states that, "Appropriate fencing or landscape screening will be provided at the northwest corner of the site, along the border between the subject property and neighboring homes".

The Applicant is complying with the binding element by installing a 6-foot tall wood board-on-board fence, closest to the Property line follow-by a variety of shade trees, evergreen trees, evergreen shrubs and flowering shrubs the frame a linear planted micro-bioretenention facility.

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

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

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on September 28, 2018. The plan will meet stormwater management goals using five micro-bioretenention facilities distributed throughout the Subject Property.

b. Chapter 22A, Forest Conservation

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

The Site Plan is subject to the Chapter 22A, Montgomery County Forest Conservation Law. The Site Plan includes the Final Forest Conservation Plan No. 820180160. The Application proposes to retain 0.54 acres and remove 0.48 acres of forest. The retained forest will be protected in a Category I conservation easement. The forest clearing generates a reforestation requirement of 0.25 acres and there is an additional 0.10-acre afforestation requirement for a total of 0.35 acres of forest planting required. The Applicant is satisfying the planting requirement by purchasing credits from an M-NCPFC approved forest bank. The Application includes a tree variance that was approved with the Preliminary Forest Conservation Plan for impacts to, and removal of trees that are greater than or equal to 30 inches in diameter at breast height.

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

Parking and Circulation

The Site Plan provides for safe circulation patterns with well-integrated parking on the Property. The development will have one point of access on Olney-Sandy

Spring Road via Porter Road that exists now and will be improved as part of this Application. Porter Road will be upgraded to Tertiary Residential Street standards including sidewalks along both sides of Porter Road along the developed section down to the proposed open space. Access to all of the residential units and the multi-use building will be through private alleys and streets, built to approved alley standards, and the Application provides for adequate emergency vehicle access and turn-around locations. An existing sidewalk along the Property frontage of Olney-Sandy Spring Road will be reconstructed to be five-feet wide. Each of the dwelling units will have an integral two car garage, plus room for additional parking on the individual driveways. The multi-use building will have adequate vehicular parking in a garage below street level and a nearby surface parking lot, and adequate bicycle parking will be provided for the building.

Building Massing

The Site Plan provides safe and well-integrated building massing, open space locations and site amenities. The 20 townhomes are being developed in four separate rows (sticks), with 10 units on either side of Porter Road. The multi-use building will be located on the east side of Porter Road, facing MD 108.

Although the multi-use building is constructed as a single unit, it appears very much like three attached buildings that were built at different times which breaks up the overall mass of the building and provides visual interest. The perception of separate buildings results from the fenestrations (covered seating on both ends), layered facade treatments, variety of materials used, and integration of distinctly different, yet cohesive roof styles (hip, flat, and gable). Twelve units will be divided into two sticks facing each other across Porter Road, with the southernmost units abutting the forested conservation easement area or Common Open Space. The remaining four units will be perpendicular to and share alley access with the six units facing the east side of Porter Road and fronting on the Common Open Space. As previously stated, the Applicant is requesting a maximum height of 40 feet for all townhouses except those fronting on Olney-Sandy Spring Road. The additional building height will allow for the Applicant to integrate rear loaded garages, which will allow the buildings to be pulled closer to Porter Road, as opposed to providing frontloaded units that would need multiple driveway curb cuts on Porter Road, thereby creating a disjointed streetscape and sidewalk. Per binding element No.7 of the Floating Zone Plan the stick of four units facing MD 108 are limited to a height of 35 feet as measured from street grade. This stick of units is perched at the high point along the road, and the 35-foot maximum height was added for compatibility with the adjacent and confronting buildings. Because the Property slopes down away from MD 108, the 40-foot-tall units behind the multi-use building and the

units fronting on MD 108 will appear to be the same height from Olney-Sandy Spring Road.

Height and Setback Compatibility

This finding only applies to the Townhouse Development because is zoned TF-10. In reviewing LMA H-119, the County Council reviewed the compatibility, specifically between the townhouses on the westside of Porter Road and the single-family detached homes on the adjoining property was reviewed as part of the rezoning case and found that with binding elements the townhouses were compatible. Since the location, orientation and layout of the townhouses west of Porter Road has remained the same, the Council's finding of compatibility remains true.

Open Spaces and Amenities

As previously discussed, the Application included Public Open Space and Common Open Space. Both areas provide amenities, such as seating, shade, unprogrammed open areas and attractive landscaping. Each amenity space can be easily accessed by the public and residents from multiple points, via the proposed sidewalk network. Both spaces are visible, providing "eyes on the street" and strategically placed lighting will illuminate the areas when necessary. As proposed, the open spaces shown on Site Plan will be safe, adequate and efficient.

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

The Site Plan is in substantial conformance with the recommendations of the Master Plan. The primary objective of the Master Plan is to preserve the rural character of the Sandy Spring/Ashton Area. The Subject Property is within the "Ashton Village Center" as designated in the Master Plan (pg.38).

The Master Plan confirmed existing land use recommendations as well as the existing zoning pattern. The Master Plan recommended the creation of the Sandy Spring Rural Village Overlay zone and provides development guidelines to be used in connection with development of properties within the Sandy Spring and Ashton Village Centers. The Master Plan does not include any site-specific recommendations, and the only specific guidance related to Porter Road was in reference to Kimball's Market, which once occupied the corner of the Property where the multi-use building is proposed. The 1998 Master Plan described Kimball's Market, which has not existed for some years, as contributing

“significantly to the sense of community and the village’s character.” (pg 38). The Applicant will replace the existing deteriorated building with a new multi-use building, with a comparable amount of commercial space as the existing building, which will also make a renewed contribution to Ashton’s sense of community and character. The design of the mixed-use building is also consistent with Master Plan guidelines for activated streets and a focus on pedestrian activities. Locating parking beneath the building with a rear entrance meets guidelines for parking scale and placement.

The residential portion of the Application modestly increases densities while maintaining the scale and pattern of development in the Ashton Village Center, with most of the townhomes located along Porter Road away from MD 108. Building heights are in keeping with nearby homes and enhance the mixed residential and commercial character of the village. The multi-use building is appropriately located along MD 108 and is consistent with Master Plan’s development guidelines for land uses, building height and location.

Throughout the review process, the Applicant made numerous design modifications that implement the Master Plan’s design guidelines. As recommended by the Master Plan, the proposed building was specifically designed using some of the design elements and characteristics present in Sandy Spring historic district.

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

The Application will be served by Adequate Public Facilities as discussed and approved with the Preliminary Plan.

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

As discussed in the Sandy Spring/Ashton Rural Village Overlay Zone section of this Resolution, the Site Plan is compatible with existing and proposed adjacent development.

10. *The decrease in gross floor area devoted to Retail / Service Establishment uses will not have an adverse impact on the surrounding area.*

On October 29, 2014, Parcel P395 and Lot 2 were zoned C-1. Lot 2 and a sliver of P395 were subsequently rezoned to TF-10 by LMA H-119. According to Maryland State Property records, the existing building contains approximately 6,550 square feet of gross floor area for retail/service establishments. The proposed multi-use building includes 6,800 square feet of gross floor area for retail/service establishments, therefore, the gross floor area is not being decreased and the surrounding area will not be adversely affected.

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 30 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 Commissioner Fani-González, seconded by Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, November 15, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board