



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

MCPB No. 19-039
Site Plan No. 820190050
850 Sligo Avenue
Date of Hearing: March 28, 2019

MAY 02 2019

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 November 8, 2018, Moonlight, Inc. ("Applicant") filed an application for approval of a site plan for a mixed-use building of up to 82,941 square feet of development consisting of up to 76,029 square feet of residential development (up to 85 age-restricted dwelling units), including a minimum of 12.5% MPDUs, and up to 6,912 square feet of non-residential development on 0.63 acres of CR 3.0 C 2.0 R 2.75 H 60T zoned-land, located on southeast quadrant of the intersection of Fenton Street and Sligo Avenue ("Subject Property"), in the Silver Spring CBD Policy Area and 2000 Silver Spring Central Business District Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820190050, 850 Sligo 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 March 15, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 28, 2019, the Planning Board held a public hearing at which it heard testimony and received evidence on the Application; and

WHEREAS, on March 28, 2019, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Cichy, seconded by commissioner Patterson, with a vote of 4-0; Commissioners Anderson, Cichy, Dreyfuss, and Patterson voting in favor, and Commissioner Fani-Gonzalez absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820190050 for a mixed-use building of up to 82,941 square feet of development

Approved as to
Legal Sufficiency:

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M-NCPPC Legal Department
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consisting of up to 76,029 square feet of residential development (up to 85 age-restricted dwelling units), including a minimum of 12.5% MPDUs, and up to 6,912 square 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 up to 82,941 square feet of total development comprised of up to 76,029 square feet of residential uses with up to 85 age-restricted multi-family residential dwelling units, including 12.5% MPDUs, and up to 6,912 square feet of non-residential development.

2. Height

New construction on the Subject Property is limited to a maximum height of 60 feet, as measured from the building height measuring point illustrated on the Certified Site Plan. Existing structures being retained are limited to their existing height.

3. Age Restricted Occupancy Provisions

a) The age of the residents of the project is restricted to persons who are 55 years of age or older, pursuant to Section 59.1.4.2 of the Zoning Ordinance, as amended.

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 February 14, 2019 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 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.

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.

5. Public Open Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 970 square feet of public open space (5% of site area) off-site, as shown on the Certified Site Plan.
- b. Except as specified herein, prior to the final use and occupancy permit, the Applicant must construct streetscape improvements along the property's frontage on Fenton Street, Sligo Avenue, and Gist Avenue, consistent with the Silver Spring CBD Streetscape Standards. The Applicant must underground utilities on the property's Gist Avenue frontage, including the utility pole at the corner of Fenton Street and Gist Avenue, as shown on the Certified Site Plan.
- c. Before the issuance of the final use and occupancy certificates for the residential development, all public open space areas provided off-site must be completed and accepted by the Montgomery County Department of Transportation.
- d. If the Montgomery County Department of Transportation modifies the area of right-of-way used for public open space in a manner inconsistent with the definition of public open space, the Applicant must pay \$154,890 dollars to M-NCPPC in accordance with 59.6.3.6.C. or seek a site plan amendment to reflect an alternative location to construct public open space improvements.

6. Public Benefits

The Applicant must provide the following public benefits and meet the applicable criteria and requirements of the Zoning Ordinance and the *CR Zone Incentive Density Implementation Guidelines* for each one.

- a. Transit Proximity – The Subject Property is located within a ½ mile of the Silver Spring Metrorail station
- b. Connectivity between Uses, Activities, and Mobility Options
 - i. Minimum Parking – The Application must provide no more than 29 parking spaces for the residential use and 0 parking spaces for the ancillary retail use.
- c. Quality Building and Site Design
 - i. Architectural Elevations –The exterior architectural elements must be substantially similar to architectural elevations shown on the Certified Site Plan, as determined by Staff.
 - ii. The Applicant must provide and maintain a mural, architectural feature, or comparable visual amenity that breaks up the mass of the tower element of the existing building (to remain). This visual amenity must be installed prior to the final Use and Occupancy permit and may change over time without amending the Site Plan.
 - iii. Exceptional Design –The Applicant must construct the building in a manner substantially similar to the building shown on the Certified Site Plan, as determined by Staff.

- iv. **Structured Parking** –The Applicant must provide all required on-site parking spaces within the parking structure.
- d. **Protection and Enhancement of the Natural Environment**
 - i. **Building Lot Terminations (BLTs)** – Before issuance of any building permit, the Applicant must provide proof of purchase and/or payment of 0.1646 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.
- e. **Building Reuse** –The Application will adaptively reuse a minimum of 75% of the vacant existing office building and will utilize an architectural deconstruction company to remove reusable and recyclable materials before any demolition, if applicable.

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: internal walks, public open space, and streetscape, as shown on the Certified Site Plan.

9. **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, or BUG-equivalent, 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 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.

10. Landscaping

- a. Ensure consistency between the landscaping plans (planting beds, open space, etc.) and site plans.
- b. The Applicant must install landscaping no later than the next growing season after completion of site work.

11. Noise Attenuation

- a. Before issuance of the 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 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.

12. Transportation

- a. 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).
- b. The Subject Property's Gist Avenue access point must be constructed to restrict site-generated trips to "left-in/ right-out" maneuvers to direct traffic toward Fenton Street.

13. Pedestrian & Bicycle Circulation

- a. The Applicant must provide 42 long-term and 2 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.

14. 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 January 30, 2019 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.

15. 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 October 9, 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.

16. 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-NCPCC 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, the tower element visual amenity, offsite public open space payment set forth in Site Plan Condition #5.d., indoor and outdoor recreational facilities, site furniture, trash enclosures, retaining walls, railings, private utilities, paths and associated improvements of development, including sidewalks, storm drainage facilities, street trees, and street lights. The surety must be posted before issuance of the any building permit of development and will be tied to the development program.

17. 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.

18. 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 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."
- c. Modify data table to reflect development standards approved by the Planning Board.

19. Construction Management

Prior to Certified Site Plan, the Applicant must develop a construction management plan to minimize construction impacts on adjacent homes, including orienting lighting onto the Subject Property and utilizing fabric wrapped perimeter fencing for dust control.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of 850 Sligo Avenue 820190050, 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 binding elements and conditions of Sketch Plan No. 320180090 and meets the conditions of approval for Preliminary Plan 120190090.

2. *The development 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. *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.*

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

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

i. *Division 4.5. Commercial / Residential Zones*

Development Standards

The Subject Property is approximately 27,647 square feet or 0.63 acres, zoned CR 3.0 C 2.0 R 2.75 H 60T. The following Data Table shows the Application's conformance to the development standards of the zone.

Data Table – Table 1			
Section 59.4	Development Standard	Permitted/ Required	Approved
	Tract Area CR 3.0 C 2.0 R 2.75 H 60T	n/a	27,647 sf (0.63 ac)
	Prior Dedication	n/a	7,714 sf (0.17 Ac)
	Proposed Dedication	n/a	532 SF (0.012 ac)
	Site Area	n/a	19,401 sf (0.45 acres)
	Residential Density (GFA/ FAR) CR 3.0 C 2.0 R 2.75 H 60T	76,029 sf (2.75)	76,029 sf/ (2.75) (up to 85 age-restricted dwelling units)
	Commercial Density (GFA/ FAR) CR 3.0 C 2.0 R 2.75 H 60T	55,294 sf (2.0)	6,912 sf/ (0.25)
	Total GFA/ FAR (including existing building to remain)	82,941 sf (3.0)	82,941 sf/ (3.0)
	MPDUs	12.5%	12.5%
	Building Height	New Building: 60' Ex. Building: 99'	New Building: Up to 60' Ex. Building: 99'
	Public Open Space (min)	5% (970 sf)	5% (970 sf) ¹
	Minimum Setbacks	0	0

¹ Public Open Space provided offsite in accordance with Section 59.6.3.6.C of the Zoning Ordinance

Table 1 (Continued): Parking

Parking	Spaces Required	Spaces Provided
Vehicle Parking		
Residential		
Efficiency (10 market rate units; 1 MPDU)	(11 minimum/ 11 maximum)	--
1 Bedroom (53 market rate units; 8 MPDUs)	(61 minimum/ 77 maximum)	--
2 Bedroom (11 market rate units; 2 MPDUs)	(13 minimum/ 20 maximum)	--
85 Dwelling Units	(85 min./ 108 max.)	29 max.
Commercial		
6,912 SF of Retail	(25 minimum / 42 maximum)	0 ¹
Maximum Total Parking	(110 minimum/ 150 maximum)	29²
Bicycle Parking (Long Term/ Short Term)		
Residential	(41/2) 43	(42/2) 44
Retail	(0/0) 0	(0/0) 0
Loading Spaces³		
Residential	1	1
Retail	1	1

¹ No parking provided for ancillary retail uses in accordance with the Local Area Transportation Review Guidelines.

² The Site Plan is within the Silver Spring Parking Lot District (PLD) and therefore able to provide fewer than the minimum number of required parking spaces. The Applicant will participate in the PLD toward the minimum requirement.

³ One (1) loading space will be shared between the residential and retail uses.

ii. *Division 4.7. Optional Method Public Benefits*

In accordance with the Zoning Ordinance, Section 59-4.7.1, the Site Plan proposes the following public benefits to satisfy the requirements: Transit Proximity; Connectivity and Mobility; Quality Building and Site Design; Protection and Enhancement of the Natural Environment; and Building Reuse.

Table 2: Public Benefits Calculations			
Public Benefit	Incentive Density Points		
	Max Allowed	Requested	Approved
59.4.7.3B: Transit Proximity			
¼ to ½ Mile from Transit	50	20	20
59.4.7.3C: Connectivity and Mobility			
Minimum Parking	10	10	10
59.4.7.3E: Quality of Building and Site Design			
Architectural Elevations	20	10	10
Exceptional Design	10	5	5
Structured Parking	20	20	20
59.4.7.3F: Protection and Enhancement of the Natural Environment			
BLTs	30	1.48	1.48
Cool Roof	10	10	10
Building Reuse			
Building Reuse	100	42.8	42.8
TOTAL			119.2

Transit Proximity

The Subject Property is located within ½ mile of the Silver Spring Transit Center and the forthcoming Purple Line station at the Silver Spring Library, which allows the developer to be eligible for Level 1 transit as defined in the Zoning Ordinance. The Planning Board approves 20 points for this category.

Connectivity and Mobility

Minimum Parking: The project is providing fewer parking spaces than the maximum allowed.

$$[(\text{Max. Allowed Parking} - \text{Prop. Parking}) / (\text{Max. Allowed Parking} - \text{Min Parking})] * 10$$

$$[(108 - 29) / (108 - 63)] * 10 = 10 \text{ Public Benefit points}$$

The Planning Board approves 10 points for this category.

Quality of Building and Site Design

Architectural Elevations: The Applicant is 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 Application is bound to the following:

- 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.

The Planning Board approves 10 points for this category.

Exceptional Design: The Applicant requests 5 points for the Exceptional Design category for constructing a building that satisfies at least four of the exceptional design criteria. Each of the four criteria are discussed below:

- *Provides innovative solutions in response to the immediate context*
The Site Plan serves as a transitional site between the more intensive uses of the CBD and residential neighborhood. To achieve this transition, the Site Plan has been carefully designed to step-down in both height and scale as it moves from the existing 99-foot tall tower at the northwest corner to the three-story residential massing at the eastern edge of the Subject Property. The innovative use of scale, materials, and transparency addresses the dynamic context of the site.

The massing of the building is composed of two main elements: the reskinned 99-foot office tower; and the new mid-rise residential building. To add depth and scale to the Fenton Street façade, the new mid-rise building is articulated using balconies and shifting planes beginning at the second story. The use of floor-to-ceiling windows is intended to engage the community and provide for eyes-on-the-street for residents, employees, and guests.

As the building transitions from Fenton Street to the residential neighborhood, the building turns and steps down at the southwest corner, to five stories facing Gist Avenue. As the building moves east along Gist Avenue, the building steps down once more to 3-stories and sets back from the street to address the scale of the abutting single-family properties.

- *Creates a sense of place and serving as a landmark*
The development will serve as a landmark at the southern entry to the Silver Spring CBD, and provide a transition between downtown Silver Spring, across Fenton Street, and the lower-density residential neighborhood to the east. The Site Plan's design and landscaping will create a sense of place that will serve both residents of the Project and the surrounding community.

- *Introduces materials, forms, or building methods unique to the immediate vicinity or applied in a unique way*
The Site Plan uses a varied palette of contemporary and traditional materials, such as masonry, fiber cement panels, aluminum extrusions and panels, and large glazed openings. These materials contribute to the Site Plan's compatibility with the surrounding area and give the structure a high degree of transparency at the ground level.
- *Integrates low impact design development methods into the overall design of the site and building, beyond green building or site requirements*
The Site Plan incorporates stormwater management through the use of above-grade micro-bioretenion systems located on the roofs of the first and third floors. The at-grade landscaping utilizes native vegetation and provides a green buffer around the perimeter of the building. Most significantly, the adaptive reuse of the existing 99-foot structure drastically reduces the amount of energy and on-site equipment required for construction.

The Planning Board approves 5 points for this category.

Structured Parking: The Applicant requests 20 points for providing all on-site parking within a parking structure. These points are supported by the following calculation:

$$[(\text{Above-grade spaces} / \text{Total Spaces}) + (\text{Below-grade spaces} / \text{Total Spaces}) * 20] \\ [(0 / 29) + (29 / 29) * 20] = 20 \text{ points.}$$

The Planning Board approves 20 points for this category.

Protection and Enhancement of the Natural Environment

Building Lot Terminations (BLTs): The Applicant requests 1.48 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. These points are supported by the following calculation:

$$(82,941 \text{ sf Opt. Method}) - (13,823.5 \text{ Std. Method}) = 69,117.5 \text{ sf Incentive Density;} \\ 69,117.5 * 0.075 = 5,184 \text{ square feet;} \\ 5,184 / 31,500 = 0.16457 \text{ BLTs;} \\ 0.1646 \text{ BLTs} * 9 \text{ points per BLT} = 1.48 \text{ Public Benefit points}$$

The Planning Board approves 1.48 points for this category.

Cool Roof: The Applicant requests 10 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 10 points for this category.

Building Reuse

Building Reuse: The Site Plan will adaptively reuse the vacant existing office building. A minimum of 75% of the structural system of the building will be retained, and an architectural deconstruction company will be used to remove reusable and recyclable materials before any demolition, if applicable. These points are supported by the following calculation:

$$[(29,600 \text{ sf Retained GFA}) / (69,117.5 \text{ sf Incentive GFA})] * 100 = 42.8 \text{ Public Benefit points}$$

The Planning Board approves 42.8 points for this category.

iii. Division 6.1. Site Access

Vehicular access to the Subject Property is via Gist Avenue and Sligo Avenue, which will operate in the following configuration: loading and service access will occur via the Sligo Avenue access point and residential garage access will be provided via a driveway on Gist Avenue. This configuration orients non-residential traffic toward Sligo Avenue, a business district street, and residential traffic toward Gist Avenue, a residential street. Pedestrians and bicyclists will be able to enter the structure from the lobbies on Fenton Street. The Site Plan 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 Sligo Avenue at the northeast side of the Property to limit non-residential traffic on Gist Avenue.

v. Division 6.3. Open Space and Recreation

The Application will provide an area equivalent to 5% of the site area as open space off-site within the Gist Avenue right-of-way on the southwest side of the Project. Although this area is dedicated as public right-of-way, the area is not necessary for current or anticipated transportation purposes and MCDOT is generally supportive of open space in this location. Final determination of the exact location and provision of open space (e.g. constructing or making a

financial contribution) will be determined prior to certification of the Site Plan in accordance with 59.6.3.6.C.

If the Applicant is unable to improve the Gist Avenue right-of-way, as shown on the Application, or future improvements are modified by MCDOT in a manner inconsistent with the definition of public open space, the Applicant must pay \$154,890 dollars to M-NCPPC in accordance with 59.6.3.6.C.

The Application is in conformance with the *Recreation Guidelines*, as demonstrated in the Recreation Facilities Data table provided with the Application. The Applicant is providing bicycle parking, an indoor fitness room, a rooftop amenity, and public art seating. 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 Fenton Street, Sligo Avenue, and Gist Avenue 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.

As shown in the Development Standards table, the Site Plan meets all general requirements and development standards of Section 4.5 of the Zoning Ordinance, the optional method public benefits provisions of Division 4.7 of the Zoning Ordinance, and the general development requirements of Article 59-6 of the Zoning Ordinance.

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

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services (MCDPS) on February 11, 2019. The Site Plan proposes to meet stormwater management requirements through the use of a green roof and micro-bioretenion. MCDPS granted the project a partial waiver for quality requirements and a full waiver for quantity requirements based on site constraints.

This Application is subject to the Chapter 22A, Montgomery County Forest Conservation Law, but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(2) because the proposed activity

occurs on a tract of land less than 1.5 acres with no existing forest, or existing specimen or champion tree, and the afforestation requirements would not exceed 10,000 square feet. This exemption was confirmed through Exemption 42018103E approved on December 29, 2017.

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

The Site Plan provides adequate, safe, and efficient parking and circulation patterns and provides entrances to activate the development along the site frontages. The Site Plan provides a safe and well-integrated building, off-site open space and site amenities. The Site Plan presents as a highly articulated building along each of its frontages, providing a gateway feature on Fenton Street at the Sligo Avenue and Gist Avenue intersections. The building steps-back above the third floor adjacent to the existing single-family home on Gist Avenue to reduce the perceived height of the building and provide compatibility with the adjacent residential zone. The Site Plan provides amenities for the residents of the project internal to the building, along the tower element, and on the elevated courtyards.

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 Subject Property is within the Fenton Village Overlay Zone (FVO) portion of the Silver Spring CBD. While there is flexibility in the type of development permitted in this area, the FVO is in place to ensure that new development is compatible with nearby uses. More specifically, the FVO encourages a mix of housing and commercial uses but limits building heights to ensure compatibility with adjacent residential neighborhoods. Open space can be transferred off-site in the same district.

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 60T, 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 development will be 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 Fenton Village Overlay Zone as well as the following specific recommendations:

- *Examine the potential for housing in Fenton Village Overlay zone (FVO), particularly in the transition area between the commercial and residential areas.*

This Application satisfies the recommendation of adding housing within the FVO and provides a transition between the higher heights and densities of the Silver Spring CBD and adjacent residential neighborhood.

- *Upgrade the physical appearance of Fenton Street through streetscaping, landscaped parking lots, infill development that helps define the street.*

The Site Plan will revitalize an existing vacant office building and surface parking lot into a vibrant mixed-use, predominantly residential, project. The new building will be located directly along the street edge at Fenton Street, Gist Avenue, and Sligo Avenue and will improve the sidewalk and streetscape improvements, including undergrounding utilities along the site's Gist Avenue frontage, including the utility pole on the corner of Gist Avenue and Fenton Street, in accordance with the Sector Plan recommendations.

- *Limit building height on the east side of Fenton Street to 60 feet for buildings with residential uses. Projects proposed along the east side of Fenton Street should make a transition between the commercial district and the adjacent single-family homes, creating compatibility through height changes, siting, and green, landscaped buffers.*

The new building will step down the maximum height, from Fenton Street toward the existing single-family homes, and will add a landscaped buffer along the eastern side of the Subject Property to further improve the transition to the single-family neighborhood. The existing building to be reused is grandfathered at its current height.

General Recommendations

The Sector Plan envisions Silver Spring as a place that invites revitalization. The Sector Plan outlines six themes under which that vision can be achieved: transit-oriented downtown, commercial downtown, residential downtown, green downtown, civic downtown and

pedestrian-friendly downtown. Each of these themes is intended to guide new development within the Silver Spring CBD and is discussed specifically below:

Transit-Oriented Downtown

The Subject Property is located on the east side of Fenton Street between Sligo Avenue and Gist Avenue and is a gateway into the CBD from points south and east. The Sector Plan's transit-oriented downtown theme strives to balance the needs of both commuter and local traffic and of walkers and drivers to maximize the investment in Silver Spring's transit infrastructure through both transportation improvements and land use efforts. The Plan further states that transportation options should link transit and non-motorized forms of transportation. The Subject Property is ½ mile from the Silver Spring Transit Center and the future Purple Line station at the Silver Spring Library and is currently served by Metrobus, RideOn, the VanGo Circulator, and Capital Bikeshare. The Site Plan will contribute to the transit-oriented downtown by providing a highly articulated façade activated by windows and building entry points.

Commercial Downtown

Commercial activity, a mutually supportive mix of office, stores, and other business enterprises, is the defining feature of a successful downtown. The Site Plan may include a ground floor commercial component of up to 6,912 square feet.

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 85 age-restricted multi-family dwelling units with 12.5% MPDUs.

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 Fenton Street, Sligo Avenue, and Gist

Avenue will be upgraded with street trees, paving, and lighting to improve the pedestrian experience and overall appearance of the public realm.

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. As conditioned, the Site Plan will provide a public open space immediately adjacent to the project in the Gist Avenue right-of-way, in the form of a small yet effective gathering space, providing a unique civic space that will add to the variety of open spaces in Silver Spring.

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 Sector Plan states, "An urban area's greatest economic asset, and strongest physical definition comes from its pedestrian environment."

The Application will provide age-restricted housing within walking distance to retail, restaurant, and office uses. This proximity to existing and civic and commercial uses will promote pedestrian activity and street activation. The building placement also enhances the pedestrian environment by locating the buildings directly along the street edge to create a continuous building line and define the pedestrian environment. The main pedestrian entrance to the lobby has been located on Fenton Street to provide additional activation along this prominent frontage. Additionally, the precedent images provided by the Applicant demonstrate the intention of the building design to incorporate appropriate transparency and articulation to activate the street and create a comfortable pedestrian scale.

As conditioned, the Application is consistent with the six themes identified in the 2000 *Silver Spring CBD Sector Plan*.

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. This vision was recently updated through the 2018 Bicycle Master Plan, which recommends a separated bike network within the Silver Spring CBD. The

Application respects the master plan recommended bicycle lanes on Fenton Street by providing adequate right-of-way for their future implementation.

The Site Plan will provide streetscape improvements along Fenton Street Sligo Avenue, and Gist Avenue, which will create an inviting pedestrian environment that will activate the street and support the ground-floor retail included as part of the Application. As conditioned, 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.

Although the Subject Property is not identified in the Sector Plan as a potential housing site, the Application promotes the housing choice goal by providing age-restricted housing. The additional housing provided by the Site Plan will facilitate the availability of new housing in a range of types and rents within walking distance of transit.

In conformance with the objectives of the Sector Plan, the additional residential development will activate the urban environment and contribute to the creation of a “thriving downtown residential community.” Additionally, as discussed above, the building has been designed to promote compatibility with the surrounding single-family residential homes and will create an approachable residential urban scale.

The Application substantially conforms to the 2000 *Silver Spring Sector Plan*. The 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 Subject Property is not subject to an Urban Renewal Plan.

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.*

As discussed in the resolution approving Preliminary Plan No. 120190090, approved concurrently with this Site Plan, 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. *The development is compatible with existing and 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 Site Plan's design and scale is compatible with buildings in the both downtown Silver Spring and adjacent residential neighborhood. The building will serve as a transition between the higher heights and densities of the Silver Spring CBD and lower-scale development of the adjacent residential neighborhood. This transition will be accomplished through the building's height, massing, and the use of contemporary architectural materials, such as masonry and metal panels, that will relate to both the Silver Spring CBD and residential neighborhood.

The building's highest point will be located on the existing 99-foot tall office tower, which is grandfathered to its current height. The next tallest portions of the building will be located on Fenton Street at 60 feet. From Fenton Street, the building steps-down to a height of 35 feet adjacent to the residential zones abutting the eastern portion of the Subject Property. As the building steps down on the eastern side, it also pulls back from the Gist Avenue right-of-way and abutting residential property to ensure an acceptable transition between the two uses.

At the ground level on the eastern side, adjacent to the existing single-family homes, the building will feature "walk-up units" with entries. This feature was added in response to the adjacent property owner's request for more activation along that side of the building. Additionally, the upper floors of the tower element include space for a visual amenity, such as a mural, to break-up the mass of the wall.

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 MAY 02 2019 (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 Cichy, seconded by Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González and Cichy voting in favor, and Commissioner Patterson absent at its regular meeting held on Thursday, April 25, 2019, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board