



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

MCPB No. 19-086
Site Plan No. 820190110
Metro Tower
Date of Hearing: July 18, 2019

OCT 01 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 April 2, 2019, 7316 Wisconsin LLC. ("Applicant") filed an application for approval of a site plan for construction of a mixed-use project of up to 400,000 total square feet, including up to 389,000 square feet of residential development, and up to 11,000 square feet of commercial retail on 1.08 acres of CR-5.0 C-5.0 R-4.75 H-250 zoned-land, located at the northwest quadrant of the intersection of Wisconsin Avenue and Elm Street in Bethesda ("Subject Property"), within the 2017 Bethesda Downtown Sector Plan ("Sector Plan") area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820190110, Metro Tower ("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 July 8, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 18, 2019, the Planning Board held a public hearing at which it heard testimony and received evidence on the Application; and

WHEREAS, on July 18, 2019 the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Paterson, seconded by Commissioner Cichy, with a vote of 3-0; Chair Anderson and Commissioners Cichy and Paterson voting in favor. Commissioners Dreyfuss and Fani-Gonzales being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820190110 for construction of a mixed-use project of up to 400,000 total square feet, including up to 389,000 square feet of residential development, and up to 11,000

Approved as to
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square feet of commercial retail on the Subject Property, subject to the following conditions:¹

Conformance with Previous Approvals & Agreements

1. Sketch Plan Conformance

The development must comply with the binding elements and conditions of approval for Sketch Plan No. 320190050 as listed in the MCPB Resolution No. 19-027 dated May 6, 2019 and any subsequent amendments.

2. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120190190 and any subsequent amendments.

Density, Height & Housing

3. Density

The Site Plan is limited to a maximum of 400,000 square feet of total development on the Subject Property, including up to 389,000 square feet of residential uses, for up to 366 multi-family dwelling units, and up to 11,000 square feet of non-residential uses. The total development includes up to 188,506 square feet of Bethesda Overlay Zone density.

4. Height

The development is limited to a maximum height of 250 feet, as measured from the building height measuring point illustrated on the Certified Site Plan.

5. Bethesda Overlay Zone Density

- a. Per Section 59.4.9.2.D.4 of the Zoning Ordinance, the Applicant must have a building permit application accepted by MCDPS that includes the core and shell of the principal building within two years of the date of this Resolution. Within two years of MCDPS accepting the building permit application, the Applicant must obtain the building permit. The deadlines may not be extended. If the Applicant fails to comply with any of the deadlines in this condition, the entire Site Plan approval is revoked.
- b. The Applicant must pay to the M-NCPPC a Park Impact Payment of \$1,301,560 prior to release of the first above-grade building permit for the allocation of 188,506 square feet of Bethesda Overlay Zone Density. The total MPDU square footage of 58,350 square feet is excluded from the PIP calculation, resulting in 130,156 square feet of BOZ density attributed toward

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.

the PIP calculation and payment. In the event the final allocation of density from the BOZ is less than the approved amount, the Applicant may apply to reduce the allocation of density from the BOZ and PIP through a minor amendment.

6. Affordable Housing

- a. The development must provide a minimum of 15 percent Moderately Priced Dwelling Units (MPDUs) consistent with the requirements of Chapter 25A and the applicable Sector Plan.
- b. Prior to the issuance of any building permit for any residential unit, the MPDU agreement to build between the Applicant and the DHCA must be executed.
- c. The Planning Board accepts the recommendations of DHCA in its letter, dated June 14, 2019, and does hereby incorporate 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 DHCA provided that the amendments do not conflict with other conditions of the Site Plan approval.

Open Space, Facilities and Amenities

7. Public Open Space, Facilities, and Amenities

- a. Prior to issuance of the final Use and Occupancy Certificate for the Subject Property, the Applicant must construct streetscape improvements, including the undergrounding of utilities, along the Subject Property's frontage on Hampden Lane, Elm Street, and Wisconsin Avenue, consistent with the Bethesda Streetscape Standards, and as illustrated in the Certified Site Plan.
- b. Prior to issuance of final Use and Occupancy Certificate for the residential units, all on-site amenities and amenities for the offsite open space plaza, including, but not limited to: lights, sidewalks/ pedestrian pathways, hardscape, artwork, water feature, benches, trash receptacles, bicycle facilities, recreation amenities, and rooftop amenities must be installed.
- c. Subject to further coordination with DPS Site Plan Enforcement Staff, the water feature in the plaza space shall operate at a minimum from April 15th through October 15th each year. However, the fountain may be turned off after-hours. The Applicant must provide a routine preventative maintenance schedule for the water feature, as shown on the Certified Site Plan. The maintenance schedule shall include provisions for hours of operation, basic cleaning and debris removal, water treatment and general maintenance. The associated notes should include provisions for Staff to approve changes in the schedule, without the need for a Site Plan amendment.
- d. The Applicant must install landscaping no later than the next growing season after completion of site work.

8. 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. Connectivity and Mobility

- i. Minimum Parking – The Applicant must not provide more than 160 parking spaces, all of which must be unbundled from the sale or lease of the proposed dwelling units.
- ii. Through-Block Connection – The Applicant must provide the enhanced pedestrian connection between Hampden Lane and Elm street within the open space plaza containing a water feature, raised planter(s) with seat wall, lighting and artwork(s). The pedestrian connection/plaza amenities must be shown on the Certified Site Plan.

b. Diversity of Uses and Activities

Small Business Opportunities – Prior to the issuance of any building permit, the Applicant must record a covenant among the County Land Records that reflects all commercial square feet specifically reserved for small, neighborhood-oriented businesses. The six-year time period is binding upon future owners and successors in title. Prior to issuance of any Use and Occupancy Certificate for the commercial portion of the project, the Applicant must provide as-built floor plans to M-NCPPC and a copy of the approved layout to Department of Permitting Services Zoning & Site Plan Enforcement. These restrictions must remain in effect for a minimum of six years after the issuance of the initial Use and Occupancy Certificates.

c. Quality Building and Site Design

- i. Exceptional Design – The Applicant must construct the building in a manner consistent with the architectural elevations included in the Certified Site Plan, as determined by Staff.
- ii. Structured Parking – The Applicant must provide all parking spaces within the below-grade structure on the Subject Property.
- iii. Tower step-back – With the exception of the Wisconsin Avenue façade and the Elm Street and Hampden Lane building corners, the Applicant must step back the building's upper floors, at a height no greater than 72 feet, to achieve the approximate average step back of 10 feet for the building as shown on the architectural plans submitted with this application, and as presented to MNCPPC Staff, the Design Advisory Panel, and the Planning Board. The Certified Site Plan must also show this approximate average step-back.

d. Protection and Enhancement of the Natural Environment

- i. Building Lot Terminations (BLTs) – Prior to the issuance of any building permit, the Applicant must provide proof of purchase and/or payment equivalent to 0.8964 BLTs to MCDPS.

- ii. **Energy Conservation and Generation** – The Applicant must construct the building to exceed energy efficiency standards for the building type by 17.5%, as determined by MCDPS. Prior to issuance of the Final Use and Occupancy Permit a model demonstrating compliance with the Energy Conservation and Generation must be provided to MNCPPC.

9. **Recreation Facilities**

- a. Prior to Certified Site Plan approval, the Applicant must demonstrate substantial conformance with the M-NCPPC Recreation Guidelines.
- b. The Applicant must provide the minimum required recreation facilities as shown on the Certified Site Plan.

10. **Maintenance of Public Amenities**

The Applicant must maintain all publicly accessible amenities including, but not limited to public open space and amenity areas located on the Subject Property and in the offsite portions of the open space plaza, such as lighting, paving, public art, plantings and water feature.

11. **Public Art**

- a. The Applicant must decommission the existing artworks on the site consistent with the Montgomery County Public Art Guidelines.
- b. The Applicant must install new public art onsite consistent with the recommendations of the Art Review Panel.
- c. The Planning Board accepts the recommendations of the Art Review Panel as described in their letter dated July 1, 2019.
- d. The final design is subject to MNCPPC Staff approval and must be illustrated in the Certified Site Plan.
- e. Significant changes to the concept may require a Site Plan Amendment.

Environment

12. **Green Cover**

- a. The Applicant must provide on-site a minimum of 32.5% of site area with intensive green roof/planter boxes, as illustrated on the Certified Site Plan.
- b. Any intensive green roof installed pursuant to this condition must have a minimum soil depth of six inches.

13. **Noise Attenuation**

- a. Prior to the issuance of a building permit for any residential dwelling unit(s) to be constructed within the projected 65 dBA Ldn noise contour, the Applicant must provide Staff with certification from an engineer specializing in acoustics that the building shell has been designed to attenuate 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. Prior to the issuance of Use and Occupancy certificate for the noise impacted residential units, the Applicant must obtain certification that the noise-impacted units have been constructed in accordance with the recommendations of an engineer that specializes in acoustical treatments. The certification must be based on the testing of at least five representative residential units.

14. Street Trees

- a. The Applicant must install all street trees illustrated on the Certified Site Plan.
- b. Subject to MNCPPC Staff review and approval, if the Applicant is unable to install a street tree due to conflicts with utility work, the Applicant must provide a payment to the Bethesda Urban Partnership fund for planting trees within the Bethesda Central Business District. Any payment, if applicable must be made prior to release of the final Use and Occupancy permit.

Site Plan

15. Building & Site Design

- a. The Planning Board accepts the recommendations of the Design Advisory Panel as described in its letters, dated November 28, 2018, and, April 24, 2019.
- b. Any significant changes to the design, as determined by MNCPPC Staff, must be presented to the Design Advisory Panel and approved by MNCPPC Staff prior to certification of the Site Plan, and certain changes to the design, as determined by MNCPPC Staff, may require a Site Plan Amendment.

16. Lighting

- a. Prior to Certified Site Plan, the Applicant must provide certification to MNCPPC Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All on-site exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b. All on-site down-lights must have full cut-off fixtures or BUG equivalent.
- c. Deflectors must be installed on all proposed upright fixtures to prevent excess illumination and glare.

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

17. Landscape/Street Trees

- a. The onsite landscaping and offsite plaza space shall utilize a planting list which maximizes native plant materials per the Sector Plan. However, the planting species associated with the stormwater management features (such as the green roof) are subject to DPS approval.
- b. The Certified Site Plan shall provide for a minimum soil volume of 600 cubic feet for each of two trees located at the south side of the open space plaza, or as approved by Staff.

18. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, excluding demolition of existing buildings, sheeting and shoring, or sediment 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 MNCPPC Staff approval, will establish the surety amount.
- b. The cost estimate must include applicable Site Plan elements, including, but not limited to any plant material, on-site lighting, indoor and outdoor recreational facilities, site furniture, trash enclosures, retaining walls, railings, private utilities, and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and street lights. The surety must be posted prior to the issuance of any building permit of development and will be tied to the development program.
- c. A separate cost estimate and bond must be completed for any off-site improvements associated with the off-site public open space requirements.
- d. The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.
- e. 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 depicting the limits of development.

19. Development Program

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

20. Transportation

- a. In accordance with the Local Area Transportation Review Guidelines standards on ancillary retail, no parking may be provided for the commercial use.
- b. The Applicant must provide a minimum of 102 bicycle parking spaces to include 96 long-term and six (6) short-term bicycle parking spaces.
- c. The long-term spaces must be in a secured, well-lit bicycle room in the garage, and the short-term spaces must be inverted-U racks (or approved alternative) installed in a location convenient to the main entrance (weather protected preferred). The specific location(s) of the public bicycle rack(s) must be identified on the Certified Site Plan.

21. 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 June 4, 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.

22. Certified Site Plan

Prior to 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 and other applicable agency letters, 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.
- d. Ensure consistency of all details and layout between Site, Landscape and Architectural plans.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Metro Tower 820190110, 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. 320190050.

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 as 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*

- a. Development Standards

The Subject Property includes approximately 1.08 acres zoned CR 5.0 C 5.0 R 4.75 H 250. The Application satisfies the applicable development standards as shown in the following data table:

Project Data Table			
Section 59.4	Development Standard	Permitted/ Required	Approved
	Tract Area		47,009 sf (1.08 ac)
	Prior Dedication	n/a	21,780 sf (0.50 ac)
	Proposed Dedication	n/a	609 sf (0.01 ac)
	Site Area	n/a	24,620 sf (0.57 ac)
	Residential Density (GFA/FAR)	223,292 sf (4.75)	
	<i>Previously Transferred Density</i> ²	21,847 sf (0.46)	
	Residential Density Total	201,445 sf (4.29)	200,494 sf (4.27)
	Commercial Density, max. (GFA/FAR)	235,045 (5.0)	
	<i>Previously Transferred Density</i> ¹	23,551 (0.5)	
	Commercial Density Total	211,494 sf (4.5)	11,000 sf (0.23)
	Total Maximum Mapped Density ³	211,494 sf (4.5)	211,494 sf (4.5)
	Bethesda Overlay Zone Density	n/a	188,506 sf (4.0)
	Total Maximum CR Density (GFA/FAR)	n/a	400,000 sf (8.51)
	MPDUs, min. (percent)	15%	15%
	MPDU Density exempt from PIP (GFA)		58,350
	Maximum Building Height	250 feet	250 feet
	Public Open Space, min.	5%	8.2%
Section 59.6	Parking	Spaces Required	Spaces Provided
	Vehicle Parking Residential ⁴		
	Studio- 37 market rate units; 7 MPDUs	40.5 min/40.5 max	
	1 Bedroom-161 market rate units; 28 MPDUs	175 min/218.75 max	
	2 Bedroom-108 market rate units; 19 MPDUs	117.5 min/176.25 max	
	3 Bedroom-5 market rate units; 1 MPDUs	5.5 min/11 max	
	311 market rate units; 55 MPDUs	338.5 min/446.5 max	
	Retail/Service establishment (11,000 sf)	44 min/132 max	
	<i>Total Base Parking</i>	<i>383 min/578 max</i> ⁵	
	Total Parking with BOZ Reduction	307 min/463 max	160 (unbundled) ⁶
	Bicycle Parking (Long Term/ Short Term)		
	Residential (366 units)	95/5	95/5
	Retail/Service establishment	1/1	1/1
	TOTAL	96/6	96/6
	Loading Spaces	1	1

² Density previously transferred and cannot be counted towards the current Project.

³ Total Mapped Density is 211,494 square feet or 4.5 FAR due to the previous density transfers which do not allow for the full 5.0 FAR.

⁴ Final number of vehicle and bicycle parking spaces to be determined at building permit based on final number of dwelling units.

⁵ Parking reduction at 80% per Section 59.4.9.2.C.6.

⁶ Per Section 59.6.2.3.H.1.a of the Zoning Ordinance, in a Parking Lot District, an applicant may provide fewer parking spaces that required, after all adjustments are made. The Project is located within the Bethesda Parking Lot District and will be subject to the parking district tax regulations in lieu of providing the full minimum parking, per compliance with Section 6.2.10 of the Zoning Ordinance.

The BOZ was adopted July 18, 2017, specifically to implement the recommendations of the Bethesda Downtown Sector Plan as it relates to density, building heights, affordable housing, parks, and design. The BOZ set a cap of overall development (32.4 million square feet) whereby the zoning approved for most properties retains the base density but increases the heights on respective sites. An Applicant can request an allocation of density over the base density to build to the maximum height permitted by the Zone, as needed. An allocation of density from the BOZ requires a park impact payment of \$10/square foot based upon the density requested and facilitates acquisition of parkland in the downtown Bethesda area. This Application is requesting an allocation of up to 188,506 square feet from the BOZ resulting in a Park Impact Payment of \$1,301,560 to be paid at the time of building permit. Up to 58,350 square feet of MPDU density is exempt from PIP calculation. The amount of density allocated from the BOZ for Application is deducted from the 32.4 million cap.

i.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: Connectivity and Mobility; Diversity of Uses and Activities; Quality Building and Site Design; and Protection and Enhancement of the Natural Environment.

Public Benefits Calculations			
Public Benefit	Incentive Density Points		
	Max Allowed	Requested	Approved
59.4.7.3C: Connectivity and Mobility			
Minimum Parking ¹	20	19	17.7
Through Block Connections	20	15	15
59.4.7.3D: Diversity of Uses and Activities			
Small Business Opportunities	20	10	10
59.4.7.3E: Quality of Building and Site Design			
Exceptional Design ¹	30	30	30
Structured Parking	20	20	20
Tower Step-Back	20	5	5
59.4.7.3F: Protection and Enhancement of the Natural Environment			
Building Lot Termination (BLT)	30	8	8
Energy conservation and generation ¹	25	15	15
TOTAL		122	120.7

¹Denotes Sector Plan priority

b. General Requirements

Connectivity and Mobility

Minimum Parking: The Applicant requests 19 points for providing fewer than the maximum allowed number of parking spaces. Points for this incentive are granted on a sliding scale from no points for providing maximum allowable number of on-site spaces to 20 points for providing no more than the minimum numbers of spaces on-site. The Planning Board approves 17.7 points for this category based on the Bethesda Downtown Implementation Guidelines.

$$[(\text{Maximum Allowed} - \text{Proposed}) / (\text{Maximum Allowed} - \text{Minimum Required})] * 10 \\ [(463 - 160) / (463 - 307)] * 10 = 17.7 \text{ points}$$

Through Block Connection:

The Applicant requests 15 points for providing a through block connection. Points for this incentive are based on design criteria such as open-air access, width, connections to transit, parks, or public buildings, retail access, and wall glazing adjacent to the connection. Although there is an existing through block connection, the proposed changes will significantly expand and enhance the pedestrian connection, function and experience. The Planning Board approves the request.

Diversity of Uses and Activities

Small Business Opportunities: The Applicant requests 10 points for providing retail space for small businesses. Points for this incentive are granted when the project will be designed for small, neighborhood-oriented businesses and the Applicant records covenants that reflect certain restrictions. The project as includes 11,000 square feet of retail space which consists of three ground floor retail bays of approximately 4,900 square feet, 4,000 square feet and 2,100 square feet. The Planning Board approves the request.

Quality of Building and Site Design

Exceptional Design: The Applicant requests 30 points for building and/or site design that enhances the character of a setting. As a site receiving an allocation of Bethesda Overlay Zone density, the Project is subject to the Design Advisory Panel (DAP) review, which award points based on the quality of the design. During the April 24, 2019, DAP Meeting the panel recommended 30 Exceptional Design Points. The Applicant asserts that the Project fulfills many recommendations of the *Bethesda Downtown Sector Plan* and Design Guidelines. Based on the materials submitted with the Application, and the DAPs recommendation, The Planning Board approves

the Applicant's request for 30 exceptional design points, as discussed below and in the Applicant's Statement of Justification:

Metro Tower's design has been directly formulated in response to two primary factors: location and geometry. With respect to location, the Applicant anticipates that Metro Tower will stand at what will become a future "main and main" pedestrian corner of the Bethesda CBD. The intersection of Wisconsin Avenue and Elm Street will be substantially active, with entrances to the Bethesda Metro Station and the Purple Line Station being constructed immediately to the south on the Apex Building redevelopment site, as well as a new civic plaza and new towers that will be among the tallest buildings in Bethesda. With respect to geometry, Metro Tower will be located on a long and narrow block that is bounded by three streets (i.e., Wisconsin, Elm, and Hampden) and the existing Plaza. As a result, Metro Tower will effectively have four fronts and no rear. These characteristics – location and geometry – provide an opportunity for significant visibility to residents, employees, and visitors from multiple vantage points in the CBD.

In response to these characteristics, the Applicant has designed an Art Deco-inspired building that will sit prominently on Wisconsin Avenue to provide a strong marker for this prominent pedestrian corner, completing the north side of the new transit plaza at the Apex Building redevelopment site and making major contributions to Downtown Bethesda place-making. Significantly, the Metro Tower development will refresh and enlarge the existing plaza to the west of the Properties to provide an important enhanced passage and experience for pedestrians headed to the transit stations and other local destinations. The expanded and revitalized plaza is envisioned as an area where a wide range of activities can occur for all to enjoy. With prominent retail space also provided at the street level, the Applicant anticipates that Metro Tower will become a center of pedestrian activity and an integral part of Downtown Bethesda's urban fabric.

Metro Tower will utilize traditional architecture that will be both enduring and consistent with the massing guidelines of the Sector Plan. As shown in the materials submitted with the applications, the Applicant's architects have preliminarily designed the building to include elements that recall both the recent and the more historic architecture in and around Bethesda, referencing such precedents as Bethesda Naval Hospital, the Watkins Johnson Auto Service, the Robert Llewellyn Wright House, the Bethesda Theatre, and Bethesda Row.

Structured Parking: The Applicant requests 20 points for providing all parking in a below-grade parking structure. The Planning Board approves 20 points for this category.

Tower Step-Back: The Applicant requests 5 points for providing a tower step back on the building's upper floors by a minimum of six feet behind the first-floor façade. The Planning Board approves 5 points for this category.

Protection and Enhancement of the Natural Environment

BLTs: The Applicant requests 8 points for the purchase of 0.8964 BLT easements or equivalent payment made for every 31,500 square feet of gross floor area comprising 7.5% of the 376,496 sf of incentive density floor area. Points are granted by the calculation of BLTs as provided in Section 59.4.7.3.F.1 of the Zoning Ordinance. The Planning Board approves 8 points for this category.

Energy Conservation and Generation: The Applicant requests 15 points for incorporating high efficiency building materials and mechanical systems that exceed energy efficient standards for the building type by 17.5%. For Projects located within the High-Performance Area of Downtown Bethesda, this is a required public benefit category for which the Applicant must achieve 15 points. The Planning Board approves 15 points for this category.

ii. *Division 6.1. Site Access*

The Project provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading. Vehicular access to the Property is proposed directly from Elm Street through a garage access near the west center of the site. Resident vehicle parking, accessed at this location, will be within a structured below-grade garage. This configuration precludes vehicular access from Wisconsin Avenue (MD 355) and minimizes interruptions to the pedestrian realm. Pedestrian and bicycle access to the Property will be provided along both Hampden Lane and Elm Street. The bicycle parking room is located in the garage and short-term bicycle parking will be provided along the public sidewalks.

iii. *Division 6.2. Parking, Queuing, and Loading*

Vehicular access to the Property is proposed directly from both Hampden Lane and Elm Street in the following configuration: Loading and trash service will occur via a Hampden Lane at the northwest corner of the Site, and garage access will be provided on Elm Street opposite an existing garage entrance on the south side of the street. In accordance with the Zoning

Ordinance, the Applicant has demonstrated that service vehicles can be accommodated completely within the building without blocking the sidewalk or adjacent roadway. This access configuration is designed to limit heavy vehicles from the more pedestrian-oriented Elm Street and limit vehicular conflict points. As a result, the Project minimizes interruptions to the pedestrian realm and supports the pedestrian and transit-oriented nature of Downtown Bethesda.

iv. Division 6.3. Open Space and Recreation

As conditioned, the Application is in conformance with the *Recreation Guidelines*. The Application is providing bicycle amenities, indoor fitness room and community space, a dog cleaning station, swimming pool, multi-purpose lobby area, and picnic and seating areas. Final locations and quantities of each of these amenities will be shown on the Certified Site Plan.

The project has a minimum open space requirement of 5%; the Applicant is providing 2,020 square feet (8.2%) of public open space on the Metro Tower portion of the site consisting primarily of streetscape along the frontages. Additionally, the Applicant will be making expansions and improvements to the immediately offsite-adjointing open space plaza (on the One Bethesda Center site) that connects Hampden Lane to Elm Street at the western edge of the Property.

As described in more detail in the Open Space section of the Staff Report (pages 14-15) the Applicant is providing an expansion and renovation of the Plaza area immediately west of the Metro Tower site which includes a water feature and other amenities. In the Applicant's Statement of Justification and in a follow-up email letter dated June 24, 2019, the Applicant requested that the Park Impact Payment (PIP) be reduced by the amount of construction costs for implementation of the Plaza renovations. The construction cost estimate provided in the letter is \$1,500,000, which exceeds the currently required amount of the Park Impact Payment of \$1,301,560. (The Application is exempt from the recent rate increase of the PIP which would have increased the PIP from \$1,301,560.00 to \$1,442,128.40).

However, as stated in Section 4.9.2.C.2.ii. - *If a property owner dedicates land designated in the master plan as a recommended open space to the M-NCPPC Parks Department, the Planning Board may reduce the amount of square footage for which a Park Impact Payment must be made. Therefore, the Planning Board does not support the reduction (elimination) of the PIP with regards to the Plaza construction, as the Applicant's request does not meet Section 4.9.2.C.2.ii of the Zoning Ordinance. The Plaza will not be dedicated*

to the Montgomery County Parks Department and does not qualify for the requested reduction. Such a reduction would apply to (for example) the Eastern Greenway areas which were identified by the Sector Plan for park dedication. Furthermore, in response to the Applicant's request, Planning Staff coordinated with Parks Department Staff to determine the level of interest in potentially receiving dedication of this Plaza which could qualify for the reduction if the dedication was accepted. Parks staff has determined that the Parks Department is not interested in this Plaza for park purposes due to its small size, requirements of significant agreements/easements with the two-adjacent property owners, and disconnection from other maintained parks.

v. *Division 6.4. General Landscaping and Outdoor Lighting*

As conditioned, 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 Project will upgrade existing streetscape along the Hampden Lane, Wisconsin Avenue and Elm Street 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. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on June 13, 2019. The Site Plan will meet stormwater management requirements through the use of an extensive (8-inch depth) green roof, micro-bioretenion and a partial waiver of Quality and full waiver of Quantity which are granted based on site constraints. The Stormwater Management Concept approval letter includes a condition for the Applicant to try to provide more green roof area at the time of plan submittal.

b. Chapter 22A, Forest Conservation

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

This Application is subject to the Chapter 22A, Montgomery County Forest Conservation Law. Staff approved a Forest Conservation Exemption for the Metro Tower site on June 20, 2018, through Section 22A-5(s)(1) of the Forest Conservation Law under application # 42018248E. The project qualifies for the small property exemption because the net tract area is less than 1.5 acres (0.48) with no existing forest or existing specimen or champion trees, and the afforestation requirements would not exceed 10,000 square feet.

For the One Bethesda Center Condominium property, Staff approved exemption 42019169E under Chapter 22A-5(s)(1) on April 5, 2019.

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

The Project provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities. The Project's massing is internally and externally compatible with existing and pending development in the vicinity. The Subject Property is located near the future Bethesda Metro Station entrance, the Purple Line station entrance, and the upgraded CCT in addition to the existing Bethesda Metro Station and WMATA and Ride-On bus stops. All of the parking for the Application will be located underground. To ensure compatibility between pedestrians and vehicles coming to the site and maximize the continuity of the streetscape along Wisconsin Avenue, vehicular access to Metro Tower's underground parking garage will be provided from a single access point on Elm Street. The Site Plan has efficient and safe circulation.

The Applicant will provide streetscaping along the frontages of the Properties to improve the public realm and an upgraded through-block connection between Hampden Lane and Elm Street. The Applicant plans to activate the Plaza with a uses that could include informal dining, informal and organized events, strolling, gathering, and shopping. All of this will add to the open space and amenities.

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 substantially conforms to the recommendations for the Subject Property included in the 2017 *Bethesda Downtown Sector Plan*. Specifically, this Sector Plan builds on the past successes of Downtown Bethesda to create a truly sustainable downtown by focusing on components that will bolster the elements most in need of enhancement. The recommendations increase:

1. **Parks and open spaces**, including new civic greens at Veteran's Park, Bethesda Farm Women's Cooperative Market, Capital Crescent Trail and new urban parks, pathways and gateways.
2. **Affordable housing**, including the preservation of existing market-rate affordable housing, providing a mix of housing options and the provision of Moderately Priced Dwelling Units in exchange for development incentives.
3. **Environmental innovation**, including more energy-efficient buildings, better stormwater management, improved sidewalks and bicycle routes, and other measures to enhance community health and quality of life.
4. **Economic competitiveness**, based on new development, public amenities and proximity to public transit to attract businesses and visitors from throughout the region, and foster entrepreneurship and innovation.

The Metro Tower site is designated as Site 104 on page 101 of the 2017 Sector Plan. The Subject Property is in the "Wisconsin Avenue Corridor District." The Wisconsin Avenue Corridor is the main artery through the center of Downtown Bethesda. With the existing Bethesda Metrorail Station, future Purple Line and bus rapid transit (BRT) options, Wisconsin Avenue is a critical focus area for improved access, mobility and pedestrian safety. The corridor is envisioned as a symbolic downtown center that reflects the character of adjacent neighborhoods and overall identity of Bethesda through innovative building designs and active public spaces. Specifically, the Application addresses the following goals as outlined in the Overarching Goals and Wisconsin Avenue Corridor sections of the Sector Plan:

- *Encourage infill and reinvestment on underutilized commercial sites and private surface parking lots.*

The Application provides an opportunity for infill development of an underdeveloped commercial site within a block of the Metro station, as

recommended by the Sector Plan, by converting a five-story and two-story commercial building into a mixed-use Project with up to 389,000 square feet of multi-family residential uses and up to 11,000 square feet of retail.

- *Encourage mixed-income/affordable housing near transit stations.*

The Application will provide residential dwelling units across the street from the new Purple Line station and the new southern entrance to the Bethesda Metro station. The project provides much needed affordable housing in the form of additional MPDUs. The 15 percent MPDUs will result in up to 55 additional MPDUs in Downtown Bethesda. This proposed influx of MPDUs will help to further one of the primary goals of the Sector Plan and Bethesda Overlay Zone thereby ensuring that affordable housing opportunities exist in transit-oriented locations.

- *Develop compact nodes that place the highest intensity in those centers, provide distinctive infill buildings and step down to lower densities and heights near the edges.*

The Application will place high density residential uses and street-activating retail uses in the core of Downtown Bethesda, incorporating urban design elements that provide visual interest further defining the skyline in the Wisconsin Avenue Corridor District.

- *Economic competitiveness based on new development, public amenities and proximity to public transit to attract businesses and visitors from throughout the region, and foster entrepreneurship and innovation.*

The Application will provide infill redevelopment within the highest intensity center in Downtown Bethesda which is dominated by office buildings and retail that serves the office customer base. The Application will provide an influx of residents to the Metro Core area providing much needed around-the-clock activity contributing to a more vibrant mixed-use identity. The combination of multifamily dwelling units, ground floor commercial retail uses, and amenities proposed will increase the customer base of nearby shops, restaurants and services in the Metro Core during nighttime and on weekends.

- *Encourage high-performance buildings and sites nearest the established centers.*

The Application will incorporate energy efficient building systems to exceed the ASHRAE 90.1 standard by a minimum of 17.5%, as required by the Bethesda Overlay Zone. In addition, intensive green roof systems are proposed to maximize the Property's overall green cover.

Additionally, the Applicant has addressed the Downtown Plan Design Guidelines Bird-Safe Design recommendations by reducing glazed areas and minimizing up-lighting and will substantially conform to the Sector Plan requirement to provide 35% Green cover, with 32.5% of the net lot area achieved through intensive green roof and bioretention planters.

Therefore, the Site Plan substantially conforms to the 2017 *Bethesda Downtown Sector 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 approved in Preliminary Plan No. 120190190, 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 Sector Plan identifies the Wisconsin Avenue Corridor District as an area that should emphasize mixed land uses that focus on employment, high density residential, and distinctive infill buildings. The Application will provide residential uses on-site as well as a height and density that is compatible with the desired character of infill development within the Wisconsin Avenue Corridor District. The Project's design and scale is compatible with adjacent buildings in the Wisconsin Avenue Corridor District.

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 ~~OCT 01 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 Vice Chair Fani-González, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy and Verma voting in favor, and Commissioner Patterson absent at its regular meeting held on Thursday, September 19, 2019, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board