



MCPB

Item:

Date: 2.20.20

Claiborne: Limited Major Site Plan Amendment 82017008C

MF

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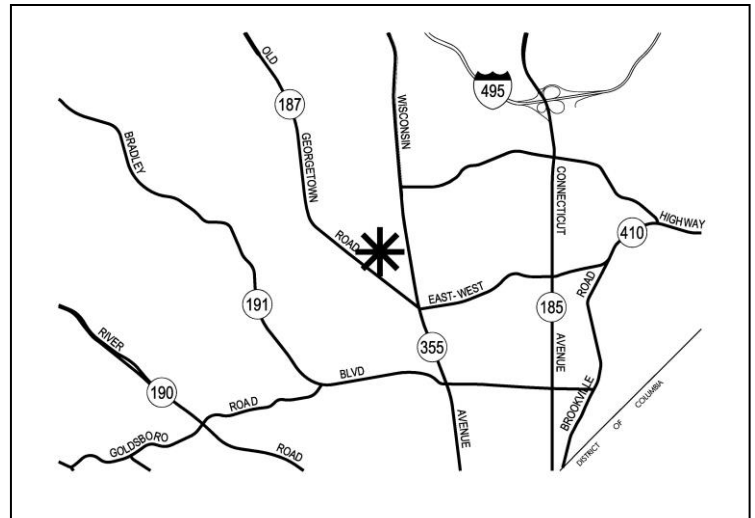
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Staff Report Date: 2.7.20

Description

- Request to revise Condition No. 7.a, “Affordable Housing,” to eliminate the “on-site” requirement for MPDUs;
- Located in the east quadrant of the intersection of Auburn Avenue and Norfolk Avenue;
- 0.41 acres or 17,662 gross square feet of tract area zoned CR 3.0 C 3.0 R 3.0 H110’, CR 3.0 C 3.0 R 3.0 H90’, and Bethesda Overlay Zone in the 2017 Bethesda Downtown Sector Plan;
- Applicant: 4820 Auburn, LLC;
- Accepted: January 7, 2020.



Summary

- Staff recommends **Approval** of the Site Plan Amendment.
- The proposed modification to Condition 7.a will eliminate the requirement for MPDUs to be located “on-site” and provide the Applicant flexibility to meet affordable housing requirements through an Alternative Payment Agreement into the County’s Housing Initiative Fund or other mechanism approved by DHCA, in accordance with Chapter 25A of the County Code.
- The Planning Board previously approved Site Plan 820170080, by Resolution 17-073 dated September 19, 2017, granted approvals for up to 58 dwelling units and up to 2,800 square feet of commercial uses; Site Plan 82017008A, approved by Resolution 19-020 dated March 19, 2019, for up to 84 dwelling units and up to 5,000 square feet of commercial uses. Site Plan 82017008B was approved administratively by the Planning Director on June 27, 2019, which modified the Project’s parking requirement. Except as provided above, these approvals remain unaltered and in force.

SECTION 1 – RECOMMENDED CONDITIONS

Staff recommends approval of Site Plan Amendment No. 82017008C, which seeks to revise Condition No. 7.a, Affordable Housing. Except as amended by the conditions below, the conditions approved under Site Plans 82017008A and 82017008B remain valid and in full effect.

7. Affordable Housing

- a. The development must provide 15 percent Moderately Priced Dwelling Units (MPDUs) consistent with the requirements of Chapter 25A and the applicable Sector Plan.

SECTION 2 - SITE DESCRIPTION

Site Vicinity and Analysis

The subject site (Subject Property or Property) consists of an assemblage of properties in the “Woodmont” subdivision, located on the east corner of the Auburn Avenue/ Norfolk Avenue intersection in the Woodmont Triangle district of the Bethesda Downtown Sector Plan area. The Property has a tract area of approximately 0.41 acres, or 17,662 square feet.



Figure 1: Aerial View

The Property is within the area encompassed by the 2017 *Bethesda Downtown Sector Plan* (Sector Plan), the Height Incentive Area of the Bethesda Overlay Zone, the Bethesda Parking Lot District (PLD), and is located within ½ mile of the Bethesda Metrorail Station.

The Property is surrounded by a mix of commercial, office, retail and residential uses in the Commercial/Residential Zone. Directly to the south of the Property, along Norfolk Avenue, are single story retail establishments. Adjacent to the northeast of the Property, along Auburn Avenue, is a recently constructed 17-story multifamily residential apartment building, known as the Gallery (“Woodmont Central” Site Plan 82011002D).

SECTION 3 - AMENDMENT DESCRIPTION

Previous Approvals

The Planning Board previously approved Site Plan 820170080 (by Resolution MCPB No. 17-073) to allow up to 58 dwelling units and up to 2,800 square feet of commercial uses. That original Site Plan was amended by Site Plan 82017008A (by Resolution MCPB No. 19-020) to allow up to 84 dwelling units and up to 5,000 square feet of commercial uses and included an allocation of Bethesda Overlay Zone density of up to 36,273 square feet and up to 15% MPDUs. The Project was then amended administratively, by Site Plan 82017008B, (by Planning Director memorandum, dated June 27, 2019) to increase the Project’s parking quantity by three spaces.

Description of Amendment

The Applicant is proposing to remove the requirement for MPDUs to be provided “on-site”, in response to recent changes to Chapter 25A of the County Code which provide alternative measures to meet the County’s affordable housing requirements. As proposed, the subject Amendment would allow the Applicant to make an Alternative Payment Agreement into the County’s Housing Initiative Fund or other mechanism approved by DHCA. The payment is required to be in the same Planning Area, in this case the Bethesda-Chevy Chase Planning Area. There are no changes to the Planning Board’s previous findings or other elements of the Application.

SECTION 4 - PUBLIC NOTICE

A notice regarding the subject Amendment was sent to all parties of record by the Applicant on January 8, 2020. Additionally, the Site was posted with a sign notifying the public of the Subject Amendment. Staff received one inquiry regarding the proposed amendment, which is included in Attachment C and discussed below.

Staff received one email from a community member, who raised questions about how the Subject Amendment would impact the Project’s density, Bethesda Overlay Zone density, Park Impact Payment, and the provision of affordable housing within Downtown Bethesda. In response to this inquiry, Staff informed the community member that the overall Project density, allocation of Bethesda Overlay Zone (BOZ) density and amount of Park Impact Payment (PIP) remain unchanged as a result of the Subject Amendment. The Project will continue to be constructed with up to 84 dwelling units and up to 5,000 square feet of commercial space.

With regard to the Subject Amendment's impact on the provision of affordable housing within Downtown Bethesda, the Applicant will enter into an Alternative Payment Agreement with Department of Housing and Community Affairs (DHCA) to contribute to the Housing Initiative Fund (HIF). The final amount of the HIF Payment will be determined by DHCA at a later date in accordance with Chapter 25A-5A of the County Code.

SECTION 5 - ANALYSIS AND CONCLUSION

The proposed modifications to the Site Plan will not alter the overall character or impact of the development with respect to the original findings of approval.

ATTACHMENTS

- A. Site Plan 82017008A Resolution
- B. Site Plan 82017008B Approval Memorandum
- C. Community Correspondence
- D. DHCA Agency Letter



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

MCPB No. 19-020
Site Plan No. 82017008A
The Claiborne
Date of Hearing: February 7, 2019

MAR 19 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 September 19, 2017, the Planning Board, by Resolution MCPB No. 17-073, approved Site Plan No. 820170080, for construction of up to 58 dwelling units and up to 2,800 square feet of non-residential uses in the CR 3.0 C 1.0 R 2.75 H90T zone, located on the northeast corner of the Norfolk Avenue and Auburn Avenue intersection ("Subject Property"), in the Bethesda CBD Policy Area and Bethesda CBD Sector Plan area; and

WHEREAS, on October 12, 2018, 4820 Auburn Avenue, LLC ("Applicant") filed an application for approval of an amendment to the previously approved site plan to add additional properties to the Subject Property, modify the off-site density transfers, increase the dwelling units from 58 units to 84 units, increase the non-residential square footage from 2,800 square feet to 5,000 square feet, and bring the Application in conformance with the current zoning, CR 3.0 C 3.0 R 3.0 H110', CR 3.0 C 3.0 R 3.0 H90', and 2017 Bethesda Downtown Sector Plan ("Sector Plan"); and

WHEREAS, the application to amend the site plan was designated Site Plan No. 82017008A, The Claiborne ("Site Plan," "Amendment," 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 January 25, 2019, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on February 7, 2019, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to
Legal Sufficiency

Christina S. [Signature] 2/26/19

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WHEREAS, on February 7, 2019, the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Fani-Gonzalez, seconded by Commissioner Dreyfuss, with a vote of [4-0]; Commissioners Anderson, Dreyfuss, Fani-Gonzalez, and Patterson voting in favor with Commissioner Cichy absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82017008A to supersede the previous approval by adopting the following conditions, which replace in their entirety the conditions of Site Plan No. 82017008A:¹

1. Density Averaging

Before certification of the Site Plan, the Applicant must record an instrument in the County Land records reflecting the density transfer for this project as required under Section 59.4.5.2.B of the Zoning Ordinance. The residential density to be transferred under this Site Plan is measured in gross square feet and will total approximately 7,741 square feet. The Sending Properties will transfer the following square feet of development potential:

- a. 4830 Cordell Avenue will be transferring 1,028 SF of residential density
- b. 5004 Cordell Avenue will be transferring 1,028 SF of residential density
- c. 5001 Wilson Avenue will be transferring 5,685 SF of residential density
- d. 5027 Wilson Avenue will be transferring 0 SF of residential density

2. Bethesda Overlay Zone Density & Park Impact Payment

- 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 the Planning Board Resolution approving the Site Plan. 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 \$224,730, prior to release of the first above-grade building permit for the allocation of 36,273 square feet of Bethesda Overlay Zone Density, not including 13,800 square feet of MPDU density exempt from the PIP calculation. In the event the final allocation of density from the BOZ is less than the approved amount, or if the amount of exempt MPDU density

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.

changes, the Applicant may apply to reduce the allocation of density from the BOZ, and/or modify the PIP through a minor amendment (Consent Agenda).

3. Public Open Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 295 square feet of public open space on-site, as illustrated on the Certified Site Plan.
- b. The Applicant must construct streetscape improvements, including the undergrounding of utilities, along the property's frontage on Auburn Avenue and Norfolk Avenue, consistent with the Bethesda Streetscape Standards, with the exception of a modified paver pattern per Site Plan Condition 15(b), as illustrated in the Certified Site Plan.
- c. The Applicant must construct off-site streetscape improvements on Norfolk Avenue and Del Ray Avenue, not including undergrounding of the existing utility pole at the corner of Norfolk Avenue and Del Ray Avenue, as shown on the Certified Site Plan.
- d. Before the issuance of the final use and occupancy certificate for the residential development, all public open space areas and streetscape improvement areas identified on the Certified Site Plan must be completed.

4. Norfolk Avenue Shared Street Implementation

The Applicant must participate in the implementation of the Norfolk Avenue shared street project by either constructing a portion along the Site frontage or contributing a maximum of \$127,000 (or other lesser amount determined by the Applicant and the Montgomery County Department of Transportation (MCDOT)) to MCDOT for future implementation.

- a. The scope and manner of the Applicant's participation must be accepted by the MCDOT and be illustrated on the Certified Site Plan.
- b. If the Applicant's participation is a financial contribution, payment must be made to MCDOT prior to issuance of the first above grade building permit;
- c. If the Applicant's participation is construction, work must be completed prior to issuance of the Final Use and Occupancy Permit.

5. Green Cover

- a. The Applicant must provide on-site a minimum of 4,106 square feet of Green Cover, equivalent to 35% of the site area, as illustrated on the Certified Site Plan.
- b. Any green roof installed pursuant to this condition must have a minimum soil depth of eight inches.

6. Recreation Facilities

The Certified Site Plan must demonstrate conformance with the M-NCPPC Recreation Guidelines.

7. Affordable Housing

- a. The development must provide onsite 15 percent Moderately Priced Dwelling Units (MPDUs) consistent with the requirements of Chapter 25A and the applicable Sector Plan.
- b. Before issuance of the first above-grade building permit, 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 December 20, 2018, 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.

8. 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 December 6, 2018 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

9. 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 June 9, 2017, and revised December 20, 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 Site Plan approval.

10. 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 between Uses, Activities, and Mobility Options
 - i. Minimum Parking
The Applicant must not provide more than 71 parking spaces.
 - ii. Streetscape Improvement
The Applicant must comply with Site Plan Condition 4.
- b. Diversity of Uses and Activities
 - i. Enhanced Accessibility for the Disabled

The development must provide a minimum of one (1) dwelling unit that meets ANSI A117.1 Residential Type A standards, or an equivalent County standard.

c. Quality Building and Site Design

i. Architectural Elevations

The Applicant must comply with Site Plan Condition 14.

ii. Exceptional Design

The Applicant must comply with Site Plan Condition 14.

iii. Structured Parking

The Applicant must provide all parking spaces within the below-grade structure on the Subject Property, as shown on the Certified Site Plan.

iv. Tower Step-Back

The Applicant must step back the building's upper floors, as shown on the Certified Site Plan.

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 equivalent to 0.2099 BLTs to MCDPS.

ii. Cool Roof

The Applicant must install a cool roof having a minimum solar reflectance index (SRI) of 75 on slopes at or below 2:12 and a minimum SRI of 25 on slopes above 2:12. This SRI rating will cover all roof areas not covered by green roof or mechanical equipment, as shown on the Certified Site Plan.

iii. Energy Conservation and Generation

The Applicant must construct the building to exceed energy efficiency standards for the building type by 17.5% through the use of a highly efficient mechanical system, energy efficient lighting, and low-flow plumbing fixtures, as determined by MCDPS.

iv. Recycling Facility Plan

The Applicant must provide a material sorter to handle recyclable materials generated on the Subject Property. The Applicant must also provide a recycling chute and sorter. The Applicant must contract with a private hauler to recycle materials collected on-site.

11. Transportation

Before the release of any above-grade building permit, the Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and MCDOT to participate in the Bethesda Transportation Management District (TMD) and work toward the Sector Plan goal of 55% Non-Auto Driver Mode Share.

12. Pedestrian & Bicycle Circulation

- a. The Applicant must provide a minimum of forty (40) long-term and two (2) short-term bicycle parking spaces.
- b. 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 installed along the building's retail frontage and 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.

13. Building Lot Terminations (BLTs)

Before issuance of any building permit, the Applicant must provide proof of purchase and/or payment of 0.2099 BLTs to the Department of Permitting Services (DPS).

14. Building and Site Design

- a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the Certified Site Plan, as determined by M-NCPPC Staff.
- b) The Planning Board accepts the recommendations of the Design Advisory Panel as described in their letter, dated October 24, 2018.
- c) Any significant changes to the design must be presented to the Design Advisory Panel and approved by Staff prior to certification of the Site Plan, and certain changes to the design, as determined by Staff, may require a Site Plan Amendment.
- d) Over an area that incorporates a significant portion of the southern façade, as shown on the Certified Site Plan, the Applicant must provide and maintain a mural, or comparable visual amenity that breaks-up the mass of the façade. This visual amenity must be installed prior to the final Use and Occupancy permit and may change over time without amending the Site Plan.

15. Landscaping

- a. Prior to issuance of final residential Use and Occupancy Certificate, all on-site amenities, including, but not limited to: streetlights, sidewalks/pedestrian pathway, hardscape, benches, trash receptacles, bicycle facilities, recreation amenities, and public open space must be installed.
- b. The Applicant may install a modified Bethesda Streetscape (paver pattern), as shown on the Certified Site Plan.
- c. Prior to issuance of the final residential Use and Occupancy Certificate, all rooftop amenities must be installed.
- d. The Applicant must install landscaping no later than the next growing season after completion of site work.

- e. The Applicant must provide vertical and horizontal screening for rooftop mechanical equipment to be approved by Staff at certified site plan.

16. Forest Conservation & Tree Save

- a. The development must comply with the conditions of the Forest Conservation exemption 42019048E which was confirmed on October 12, 2018.
- b. The Applicant must label the existing street tree to remain (18" DBH Zelkova) and must show and detail tree protection on the landscape plan and detail sheet.

17. Lighting

- a. Prior to issuance of any above-grade building permit, 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 onsite 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 onsite down-lights must have full cut-off fixtures, or the BUG equivalent.
- c. Deflectors will be installed on all proposed 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.

18. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, excluding sheet 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 Staff approval, will establish the surety amount.
- b. The cost estimate must include applicable at-grade Site Plan elements, including, but not limited to plant material, on-site lighting, the southern façade visual amenity, site furniture, trash enclosures, private utilities, sidewalks, storm drainage facilities. The surety must be posted before issuance of the 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 streetscape requirements, including Norfolk Avenue shared street project improvements.
- d. A separate cost estimate and bond must be completed for any off-site improvements associated with the Norfolk Avenue shared street project participation, as shown on the Certified Site Plan.
- e. 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.
- f. 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 the approval of the Certified Site Plan.

20. Certified Site Plan

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

- a. Include the stormwater management concept approval letter, development program, 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 and Landscape plans.
- e. Coordinate with Staff for modifications regarding planting, and soil detail requirements.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of The Claiborne - 82017008A, submitted via ePlans to the M-NCPPC as of the date of the Staff Report January 25, 2018, 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 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 Subject Application brings the previous approval into conformance with the 2017 Bethesda Downtown Plan and fully complies with the zoning.

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

The Subject Application is not subject to any 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.*

Not applicable.

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

- a. Development Standards

The Subject Property includes approximately 0.41 acres zoned CR 3.0 C 3.0 R 3.0 H110' and CR 3.0 C 3.0 R 3.0 H90'. The Application satisfies the applicable development standards as shown in the following data table:

Table 1: Site Plan Data Table

Section 59.4	Development Standard	Permitted/ Mapped Density/ Required	Approved
	Subject Property Tract Area (CR 3.0 C 3.0 R 3.0 H110' / H90')		17,662 sf (0.41 ac)
	Density Transfer Site Tract Area¹ 4830 Cordell Avenue (CR 5.0 C 5.0 R 5.0 H175') 5001 Wilson Lane (CRT 2.25 C 1.5 R 0.75 H35') 5027 Wilson Lane (CRT 2.25 C 1.5 R 0.75 H35') 5004 Cordell Avenue (CRT 2.25 C 1.5 R 0.75 H35') Density Transfer Subtotal	n/a	2,610 sf (0.06 ac) 13,552 sf (0.31 ac) 6,988 sf (0.16 ac) <u>3,133 sf (0.07 ac)</u> 26,283 sf (0.60 ac)
	Consolidated Tract Area		43,945 sf (1.01 ac)
	Subject Property Prior Dedication Subject Property Proposed Dedication	n/a	5,972 sf (0.14 ac) 0 sf (0.00 ac)
	Subject Property Site Area		11,690 sf (0.27 ac)
	Residential Density (GFA/ FAR) Subject Property (CR 3.0 C 3.0 R 3.0 H110' / H90') 4830 Cordell Avenue (CR 5.0 C 5.0 R 5.0 H175') 5001 Wilson Lane (CRT 2.25 C 1.5 R 0.75 H35') 5027 Wilson Lane (CRT 2.25 C 1.5 R 0.75 H35') 5004 Cordell Avenue (CRT 2.25 C 1.5 R 0.75 H35') Residential Density Transfer Subtotal Residential Density Total	52,986 sf (3.0) 52,986 sf (3.0)	47,986 sf (2.72) 1,028 sf (0.06) 5,685 sf (0.32) 0 sf (0.00) <u>1,028 sf (0.06)</u> 7,741 sf (0.44) 55,727 sf (3.16)
	Dwelling Units, max.	n/a	84
	MPDUs, min. (percent/du)	15%/13	15%/13
	MPDU Density, exempt from PIP calculation (GFA/ FAR)	n/a	13,800 sf (0.78)
	Commercial Density, max. (GFA/ FAR) Subject Property (CR 3.0 C 3.0 R 3.0 H110' / H90')	52,986 sf (3.0)	5,000 sf (0.28)
	Bethesda Overlay Zone Density	n/a	36,273 sf (2.05)
	Total Maximum Density (GFA/ FAR)	52,986 sf (3.0)	97,000 sf (5.49)
	Maximum Building Height CR 3.0 C 3.0 R 3.0 H110'	110 feet	110 feet

CR 3.0 C 3.0 R 3.0 H90'	90 feet	90 feet
Public Open Space, min.	0	295 sf (2.5%)
Green Cover	35%	35% (4,106 sf)
Minimum Setbacks	0	0

Table 1 (Continued): Parking

Parking	Spaces Required	Spaces Provided
Vehicle Parking		
Retail	(18 minimum/ 30 maximum)	0 ¹
Residential		
1 Bedroom (17 market rate units); 2 MPDUS	(19 minimum/ 24 maximum)	--
2 Bedroom (53 market rate units); 11 MPDUS	(64 minimum/ 96 maximum)	--
3 Bedroom (1 market rate units); 0 MPDUS	(1 minimum/ 2 maximum)	--
Residential Subtotal (71 market rate; 13 MPDUs)	(84 minimum/ 122 maximum)	71
Total	(102 minimum/152 maximum)	71 maximum²
Bicycle Parking (Long Term/ Short Term)	(0/0) 0	(0/0) 0
Retail	(40/2) 42	(40/2) 42
Residential	(40/2) 42	(40/2) 42
Total		
Loading Spaces	1	1

¹ No parking is provided for retail uses in accordance with the LATR provisions for ancillary retail.

² Parking below the minimum requirement is permitted because the Project is within the Bethesda Parking Lot District.

b. 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.

Table 2: Site Plan Public Benefits Calculations			
Public Benefit	Incentive Density Points		
	Max Allowed	Requested	Approved
59.4.7.3C: Connectivity and Mobility			
Minimum Parking	20	12	12
Streetscape Improvements	30	12	12
59.4.7.3D: Diversity of Uses and Activities			
Enhanced accessibility for the disabled	20	3	3
59.4.7.3E: Quality of Building and Site Design			
Architectural Elevations	30	10	10
Exceptional Design	30	10	10
Structured Parking	20	20	20
Tower step-back	20	10	5.2
59.4.7.3F: Protection and Enhancement of the Natural Environment			
BLTs	30	1.9	1.89
Cool Roof	10	10	10
Energy Conservation and Generation	15	15	15
Recycling Facility Plan	10	5	5
TOTAL		108	104

Connectivity and Mobility

Minimum Parking: The Project proposes to provide 71 parking spaces; fewer than the minimum number of parking spaces (84 spaces) required under the Zoning Ordinance. The Applicant requests 12 points and the Planning Board grants this request. The points are calculated as follows:

$$[(122/71)/(122/84)]*10 = 12 \text{ points}$$

Streetscape Improvements: The Applicant requests 12 points for proposed off-site streetscape improvements along the remainder of Norfolk Avenue to Del Ray Avenue in addition to the required streetscape improvements along the property frontage. The off-site portion measures approximately 1,405 square feet. The Planning Board grants 12 points in this public benefit category, which is supported by the following calculation:

$$[(1,405 \text{ SF}/11,690 \text{ SF})*100] = 12.01 \text{ (12 Points)}$$

Diversity of Uses and Activities

- i. *Enhanced Accessibility for the Disabled:*
 Section 59.4.7.3.D.4. of the Zoning Ordinance permits up to 20 public benefit points for providing dwelling units with interiors that satisfy

accessibility standards set forth by the American National Standards Institute (ANSI), A117.1 Residential Type A standards, The Project is providing one (1) dwelling unit that meets A117.1 or an appropriate County standard. The Planning Board grants this request, which is supported by the following calculation:

$$[(1/84)*300] = 3 \text{ points}$$

Quality of Building and Site Design

Architectural Elevations: The Applicant requests 10 points for providing a building that contains a masonry base and contemporary façade on the upper floors. The building will contribute to the streetscape by providing a detailed and permeable façade at the ground floor. This design treatment is intended to help relate the building to buildings on the rest of the block as well as the pedestrian realm and provide a step back above this base. The Planning Board grants the Applicant's request for 10 points.

Exceptional Design: The Applicant requests 10 points for a building or site design that provides innovative solutions in response to the immediate context; creates a sense of place and serves as a landmark; enhances the public realm in a distinct and original manner; introduces materials, forms, or building methods unique to the immediate vicinity or applied in a unique way; uses design solutions to make compact infill development living and shopping environments more pleasurable and desirable; and integrates low-impact development methods into the overall design of the site and building, beyond green building or site requirements. The Design Advisory Panel reviewed the project at its October 24, 2018 meeting and voted to support 10 points for exceptional design. The Planning Board grants the Applicant's request for 10 points for the provision of this public benefit.

Structured Parking: The Applicant requests 20 points for structured parking for the parking that will be below grade. The Application proposes all parking spaces to be provided in a below-ground parking garage and the layout of the parking garage is depicted in the architectural plans and will be included in the Certified Site Plan. The Planning Board grants 20 points for this benefit.

$$[(0/71)*10 + (71/71)*20] = 20$$

Tower Step-back: The Applicant requests 10 points for providing a tower step-back of at least 52% of the building above the fourth floor. Applied to the building, this step-back occurs on the 110-foot tall portion of the building as a 10-foot step-back at or about a height of 40-feet; on the 90-foot tall portion of

the building, as a 4-foot step-back at or about a height of 20-feet. Since the four-foot step-back does not meet the minimum criteria set forth in the Guidelines, The Planning Board grants 5.2 points for this benefit.

Protection and Enhancement of the Natural Environment

BLTs: Up to 30 points can be granted for the purchase of Building Lot Termination (BLT) easements or payment to the Agricultural Land Preservation Fund (ALPF). The Applicant proposes the purchase of 0.2099 BLT easements for 1.89 public benefit points. The Planning Board grants this request, which is supported by the following calculation:

$$[(7.5\% * 88,169)/31,500] = 0.2099 \text{ BLTs} = 1.89 \text{ points}$$

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, for a site less than 1 acre in size, thus achieving 10 points in this public benefit category. The Planning Board grants 10 points for this benefit.

Energy Conservation and Generation: The Project is being designed to exceed the energy efficiency standards for its building type by 17.5%, through such features as a highly efficient mechanical system, energy efficient lighting, and low-flow plumbing fixtures. The Applicant has provided an energy/use generation model with comparisons to the average use/generation for the building type based on the Department of Energy Standards. The Applicant requests 15 points in this public benefit category and the Planning Board grants the Applicant's request.

Recycling Facility Plan: The Applicant requests 5 points for providing a recycling facility plan that exceeds County requirements. This Site Plan includes a designated recycling material sorter, paper shredder. The Planning Board grants 5 points for this benefit.

c. General Requirements

i. *Site Access*

Vehicular access and loading will occur via a consolidated access point on Auburn Avenue. Pedestrians and bicyclists will be able to enter the Project from the residential lobbies on either Auburn Avenue or Norfolk Avenue and short-term bicycle parking will be provided along the public sidewalks. The Project provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading.

ii. *Parking, Queuing, and Loading*

Residential Parking for the building will be provided in a below-grade facility. Vehicular and loading access will occur via Auburn Avenue along the north side of the Property to limit impacts to Norfolk Avenue.

iii. *Open Space and Recreation*

There is no open space requirement for the Subject Property because the Site area measures less than ½ acre two frontages, however, the Project will provide 295 square feet of open space along its frontage. The Application is in conformance with the *Recreation Guidelines*.

iv. *General Landscaping and Outdoor Lighting*

Landscaping and lighting, as well as other site amenities, will be provided to ensure that the Project will be safe, adequate, and efficient for year-round use and enjoyment by residents and visitors. The Project will transform existing streetscape along the Auburn Avenue and Norfolk 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.

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

The MCDPS Stormwater Management Section approved the Stormwater Management Concept on November 27, 2018. According to the approval letter, the Stormwater Management Concept proposes to meet stormwater management requirements via environmental site design to the maximum extent practicable through the use of a green roof, micro-bioretenment and a partial Quality and Quantity waiver.

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, 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 acre that will not result in the clearing of more than a total of 20,000 square feet of existing forest, or any existing specimen tree or champion tree, and afforestation requirements would not exceed 10,000 square feet.

The Applicant is proposing to save one existing street tree, an 18" DBH Zelkova. Prior to certification of the Site Plan, the Applicant must show this tree and tree protection measures accurately on the landscape sheets.

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

The Project provides adequate, safe, and efficient parking and circulation patterns. The Project consolidates new vehicular access to Auburn Avenue and limits impacts to the pedestrian environment and improves public streetscape along its three frontages. The Building provides an activated façade that will contribute to the vibrancy of the Woodmont Triangle District.

The Project provides a safe and well-integrated building, open spaces and site amenities. The Project presents as a 110-foot tall high-rise building along the northern side of the Project that steps-down to a height of 90-feet on the southern side. The building steps-back above the fourth floor, along the north side of the project, and above the second floor, along the south side of the project, to achieve Sector Plan design guidance for Norfolk Avenue.

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 Project substantially conforms to the recommendations for the Property included in the 2017 *Bethesda Downtown Sector Plan*. 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 Subject Property is designated as sites 231 and 22 on page 111 of the Sector Plan. The Project specifically addresses the following Sector Plan goals:

- *Incentivize expanded affordability for housing.*

The new multi-family residential apartment building will include a minimum of 15 percent Moderately Priced Dwelling Units (MPDUs) (or up to 13 units). As a result, the Project provides additional, desired affordable housing in close proximity to transit and other services.

- *Enhance Norfolk Avenue as the Main Street for the district, building on what works well and creates the unique character in Woodmont Triangle.*

The Subject Property is located at the northern entrance to Norfolk Avenue. Given its prominent location, the Project has been designed to facilitate the pedestrian-scale retail character envisioned for Norfolk Avenue by providing step-backs along the Norfolk Avenue façade. As a result, the building will contribute to the desired lower-heights of Norfolk Avenue.

The Applicant will participate in the implementation of the Sector Plan recommended shared street improvements along their Norfolk Avenue frontage. The precise scope and manner of participation will be determined at the time of Certified Site Plan. The Applicant's participation is anticipated to be either through a monetary contribution, in an amount approved by MCDOT, or through implementation of a portion of the Norfolk Avenue shared street. The final determination of the Applicant's participation in the Norfolk Avenue shared street, as recommended in the Sector Plan, will be determined at the time of Certified Site Plan, in conjunction with MCDOT and the Department of Permitting Services.

- *Preserve low density, pedestrian scale character along Norfolk Avenue.*

The proposed building will be located directly on the street and will both define and activate the pedestrian environment. This design will promote a more pedestrian oriented streetscape experience by expanding the

streetscape and providing façades with multiple points of entry. Parking and loading will be accommodated internally on site via a consolidated garage and loading access point on Auburn Avenue.

- *Increase 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.*

The Project will result in significant improvements to the treatment of stormwater management on-site, as there are no known stormwater management facilities located on the Property. The Project is located within the High-Performance Area and will incorporate and meet the requirements in the Sector Plan and Bethesda Overlay Zone for exceeding current energy efficiency standards for buildings.

The Project is in general conformance with the 2017 *Bethesda Downtown 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 evaluated with Preliminary Plan 120170025A, the Project will be served by adequate public services and 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 as with existing and proposed adjacent development. The Project's design and scale is compatible with adjacent buildings in the Woodmont Triangle 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 MAR 19 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 Commissioner Fani-González, with Chair Anderson and Commissioners Fani-González and Cichy voting in favor, and Vice Chair Dreyfuss and Commissioner Patterson absent at its regular meeting held on Thursday, March 7, 2019, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board



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

Memorandum

TO: Gwen Wright, Planning Director

VIA: Mark Pfefferle, Interim Chief, *MP*
Elza Hisel-McCoy, Regulatory Supervisor *EH*
Area 1 Planning Division

FROM: Matthew Folden, Planner Coordinator *Mat*
Area 1 Planning Division

RE: The Claiborne
Minor Site Plan Amendment 82017008B

DATE: June 27, 2019

Section 59.7.7.1.B.3 of the Zoning Code addresses Amendments for Plans approved or pending before October 30, 2014. Section 7.7.1.B.3.a states that until October 30, 2039, an Applicant may apply to amend any previously approved application under the development standards and procedures of the property's zoning on October 29, 2014, subject to certain limitations.

Section 7.7.1.B.3.b of the Zoning Ordinance, however, allows Applicants to apply to amend a site plan approved before October 30, 2014, to take advantage of the parking requirements contained in Sections 6.2.3 and Section 6.2.4 of the Zoning Ordinance that went into effect on October 30, 2014.

Under Section 59.7.3.4.J.2, the Planning Director may approve in writing certain applications for an amendment to a Certified Site Plan. Such amendments, which are considered minor in nature and do not alter the intent and objectives of the plan, specifically include an amendment "to reduce the approved parking to satisfy Article 59-6."

Neither a Pre-Application meeting with the community/public/parties of record nor a Pre-Submittal meeting with the DARC Intake Section is required. However, submittal of the application to DARC is required. In addition, applicants must provide public notice under Division 7.5.

On June 5, 2019, 4820 Auburn, LLC ("Applicant") filed a site plan amendment application, designated Site Plan No. 82017008B ("Amendment") to increase on-site parking by three (3) vehicle spaces, from 71 spaces to 74 spaces, and decrease the number of Public Benefit points

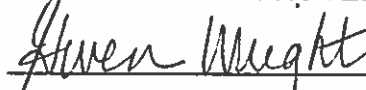
awarded for Minimum Parking, from 12 points to 11 points, to reflect the increase in on-site parking.

A notice of the subject site plan amendment was sent to all required parties by the Applicant on June 5, 2017. The notice gave the interested parties 15 days to review and comment on the contents of the amended site plan. Staff did not receive any correspondence regarding the application.

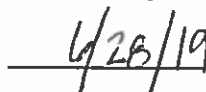
The proposed amendment is consistent with the provisions of Section 59.7.3.4.J.2 of the Montgomery County Zoning Ordinance for Minor Plan Amendments. The amendment does not alter the intent, objectives, or requirements of the Planning Board in approving the site plan.

This Amendment shall remain valid as provided in Montgomery County Code § 59.7.3.4.H. The Applicant is responsible for submitting a certified site plan after approval by the Director for the specific modifications.

ACCEPTED & APPROVED BY:



Gwen Wright, Planning Director



Date Approved

From: [Folden, Matthew](#)
To: [Naomi Spinrad](#)
Cc: [Howerton, Leslye](#); [Govoni, Lisa](#); [Dickel, Stephanie](#)
Subject: RE: MPDUs in Bethesda downtown and Claiborne site plan amendment
Date: Friday, January 31, 2020 12:46:00 PM
Attachments: [image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)

Hi Naomi,

Thank you for your inquiry about Site Plan Amendment 82017008C, which seeks Planning Board approval to eliminate the “onsite” MPDU requirement in accordance recent changes to the County’s Affordable Housing requirements set forth in Chapter 25A of the County Code. For your reference, DHCA has reviewed the Applicant’s request and supports the Applicant’s proposal to meet MPDU requirements through an Alternative Payment Agreement/ Contribution to the Housing Initiative Fund.

The only change proposed by the subject amendment is to remove the “onsite” requirement for MPDUs. There is no change to the project density, BOZ allocation, or PIP payment.

Alternative Payment Agreements are intended to address issues facing MPDUs in a condominium project, which include condo fees not associated with the MPDU sale price. Such fees often make condominium units unaffordable for prospective residents and unsuitable for the MPDU program. In response to this issue, Alternative Payment Agreements contribute funds directly to creating deeper affordable housing subsidies. Additionally, Alternative Payments help reduce mortgages to make high-rise condos more affordable to MPDU purchasers; help extend the life of expiring MPDUs in White Flint; help create supportive housing options for MCCH; and also increased affordability to deeper levels in the Bonifant (a senior affordable housing development). Alternative payments are also not permitted for rental units.

Because the proposed amendment is consistent with Chapter 25A, staff is recommending that the Board approve the application. A Public Hearing is tentatively scheduled for February 20th.

Lisa Govoni, MNCPPC Housing Planner, and I are available to discuss your questions further at your convenience.

Respectfully,

Matt



Matthew Folden, AICP
Planner Coordinator

Montgomery County Planning Department
 8787 Georgia Avenue, Silver Spring, MD 20910
matthew.folden@montgomeryplanning.org
 o: 301.495.4539



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From: Dickel, Stephanie <Stephanie.Dickel@montgomeryplanning.org>
Sent: Monday, January 27, 2020 10:03 AM
To: Naomi Spinrad <nspinrad@gmail.com>
Cc: Howerton, Leslye <leslye.howerton@montgomeryplanning.org>; Folden, Matthew <matthew.folden@montgomeryplanning.org>

Subject: Re: MPDUs in Bethesda downtown and Claiborne site plan amendment

Naomi

Matt Folden is the lead reviewer for this project. He is out today but we will get back to you on your questions this week.

Stephanie

Sent from my iPhone

On Jan 27, 2020, at 9:58 AM, Naomi Spinrad <nspinrad@gmail.com> wrote:

Dear Stephanie and Leslye,

I hope you can explain the situation with the Claiborne, MPDUs, and PIP payment, and more generally how off-site MPDUs and alternative payments work in the context of increasing affordable housing and socioeconomic diversity in downtown Bethesda.

The Claiborne has a site plan amendment that will reduce the number of on-site MPDUs, and they are reducing the amount of BOZ density they are purchasing, which in turn will reduce the PIP they owe.

- Is it correct that this will reduce the overall density of the project?
- The Claiborne developer says MPDUs in the building will have condo fees too high for those qualified for MPDUs. Will this translate to more market rate units with less density as a result of the amendment?
- Does the unused BOZ density go back into the BOZ?
- Is there any requirement that the MPDUs the Claiborne is NOT supplying be created within the Bethesda Downtown boundaries, even if the Claiborne is making a payment in lieu of the MPDUs?
- The DHCA letter supporting this amendment suggests that the unsupplied MPDUs could be instead created at the Barclay, an HOC property on Bradley Boulevard. Has any proposal for redevelopment of the Barclay been submitted? Has planning staff had any conversations with HOC about the Barclay or other HOC sites in downtown Bethesda?
- Could these MPDUs be supplied in another private development? Within downtown Bethesda? Has planning had any conversations about this with the Claiborne or other project developers?

Finally, will planning staff write its own staff report for the Planning Board with recommendations about how to proceed?

In looking over the DHCA staff report on the amendment, and the report provided by DHCA to the Council last July on MPDUs in 2017, it's clear that in the downtown Bethesda plan area, many MPDUs were provided off site (and not necessarily in Bethesda) - but this report would not have included any projects under the new plan. In the same report, the list showing status of new projects includes projects from both the old and the current master plans, but doesn't indicate whether MPDUs will be provided on or off site, or a payment substituted. In addition to the specific mechanics addressed above, it seems that it's very possible a good number of required MPDUs may in fact not be provided in the Bethesda Downtown area at all. This would be troubling, given the community support during the planning process for 15% MPDUs, which we hoped would increase affordable housing here and provide some socioeconomic integration.

I'd like to understand this better - appreciate whatever specific and more general information you can provide. I've included links below to several documents.

Thanks,
Naomi

<https://eplans.montgomeryplanning.org/UFS/31344/86859/01-SOJ-82017008C.pdf/01-SOJ-82017008C.pdf>

https://eplans.montgomeryplanning.org/UFS/31344/86859/32-DHCALTR-82017008C.pdf/32-DHCALTR-82017008C.pdf_V2/32-DHCALTR-82017008C.pdf

https://www.montgomerycountymd.gov/DHCA/Resources/Files/housing/singlefamily/mpdu/MPDU_Report_2017.pdf



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Marc Elrich
County Executive

Aseem K. Nigam
Director

January 22, 2020

Mr. Matthew Folden
Area 1 Division
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: The Claiborne
Site Plan Amendment No. 82017008C

Dear Mr. Folden:

The Montgomery County Department of Housing and Community Affairs (DHCA) has reviewed the above referenced Site Plan Amendment and recommends Approval. The DHCA Director has approved a Decision Memo allowing the applicant to enter into an Alternative Payment Agreement with DHCA, contingent on the approval of this Site Plan Amendment.

Sincerely,

Lisa Schwartz, Manager
Affordable Housing Programs Section

cc: Brad Fox, Bohler Engineering
Heather Dlhopsky, Linowes and Blocher LLP

https://mcgov.sharepoint.com/teams/DHCA/Housing/Affordable/Shared Documents/MPDU/Developments/Claiborne/Claiborne DHCA Letter_1-22-2020.docx

Division of Housing

Affordable Housing Common Ownership Communities Landlord-Tenant Affairs Multifamily Housing

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