



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

MCPB No. 20-013  
Site Plan No. 82017003A  
St. Elmo Apartments  
Date of Hearing: March 5, 2020

**MAR 13 2020**

**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 May 18, 2017, the Planning Board, by Resolution MCPB No. 17-031, approved Site Plan No. 820170030, for a 16-story, mixed-use building containing up to 263,956 square feet of total development, including up to 256,300 square feet of multi-family residential uses, consisting of up to 210 dwelling units, including 15% moderately priced dwelling units ("MPDUs"), and up to 15,488 square feet of non-residential (retail, restaurant, service or office) uses on 0.7 gross acres of CR 5.0 C 1.0 R 4.75 H 145T zoned-land, located on the southeast side of St. Elmo Avenue, 300 feet southwest of Norfolk Avenue ("Subject Property"), in the Woodmont Triangle area of the Bethesda CBD Sector Plan; and

WHEREAS, on May 25, 2017, by Resolution No. 18-835, the Montgomery County Council Approved and adopted the 2017 Bethesda Downtown Sector Plan ("Sector Plan"), which rezoned the Subject Property to CR 5.0 C 5.0 R 5.0 H 225 within the Bethesda Overlay Zone; and

WHEREAS, on November 20, 2019, the St Elmo Apartments LLC ("Applicant") filed an application for approval of an amendment to the previously approved site plan to increase the building height from 174 feet to 225 feet, increase the overall FAR from 256,000 square feet to 330,000 square feet, increase the number of dwelling units from 245 to up to 279 units, reduce commercial square footage from 15,488 square feet to up to 6,000 square feet, modify density transfers and include an allocation of 162,012 square feet of BOZ density on the Subject Property; and

WHEREAS, the application to amend the site plan was designated Site Plan No. 82017003A, St. Elmo Apartments ("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 February 24, 2020, setting forth its analysis of, and

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Approved as to

Legal Sufficiency:   
MNCPPC Legal Department  
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E-Mail: mcp-chair@mncppc-mc.org

recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 5, 2020, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 82017003A to increase the building height from 174 feet to 225 feet, increase the overall FAR from 256,000 square feet to 330,000 square feet, increase the number of dwelling units from 245 to up to 279 units, reduce commercial square footage from 15,488 square feet to up to 6,000 square feet, modify density transfers, building footprint and streetscape, and include an allocation of 162,012 square feet of BOZ density by adopting the following conditions, which replace in their entirety the conditions of Site Plan 820170030:<sup>1</sup>

1. Density

The Site Plan is limited to a maximum of 330,000 square feet of total development on the Subject Property, including up to 279 residential dwelling units, and up to 6,000 square feet of non-residential uses.

2. Density Averaging

Prior to record plat, 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.

- a. The density to be transferred under this Site Plan is measured in gross square feet and will be from the Sending Property, comprised of Lots 263, 264, 265, 266, and 267 on Del Ray Avenue, totaling 14,863 square feet of transferred density.

3. 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

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<sup>1</sup> 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.

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 Maryland National Capital Park and Planning Commission, ("M-NCPPC") a Park Impact Payment of \$1,334,885, prior to release of the first above-grade building permit for the allocation of 162,012 square feet of Bethesda Overlay Zone Density, not including 41,535 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 changes, the Applicant may apply to reduce the allocation of density from the BOZ, and/or modify the PIP through a minor site plan amendment.

4. Stormwater Management

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") – Water Resources Section in its stormwater management concept letter dated June 11, 2018, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Site Plan approval.

5. Right-of-Way Permitting

The Planning Board has reviewed and accepts the recommendations of the MCDPS – Right-of-Way Permitting Section in its memo dated January 7, 2020, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the memo, which may be amended by MCDPS – Right-of-Way Permitting Section provided that the amendments do not conflict with other conditions of the Site Plan approval.

6. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section, in its letter dated November 5, 2015, and revised January 14, 2020, 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.

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.
- 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 has reviewed and accepts the recommendations of DHCA in its letter, dated January 21, 2020, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by DHCA provided that the amendments do not conflict with other conditions of the Site Plan approval.

8. Public Open Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 5,150 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 St. Elmo Avenue and Fairmont Avenue, consistent with the Bethesda Streetscape Standards, except for nonstandard paving and other design elements located outside of the right-of-way as shown on the Certified Site Plan.
- c. 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.

9. Green Cover

- a. The Applicant must provide on-site a minimum Green Cover of 27% 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 six inches.

10. Recreation Facilities

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

11. 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 225 parking spaces on the Subject Property, as shown on the Certified Site Plan.
  - ii. Through-Block Connection - The Applicant must widen and improve the through-block connection between Fairmont Avenue and St. Elmo Avenue, as shown on the Certified Site Plan.
- b. Diversity of Uses and Activities
  - i. Enhanced Accessibility for the disabled – The Applicant must construct a minimum of 3 dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or an equivalent County Standard
- c. Quality of 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.
  - ii. Public Open Space - The Applicant must provide at least 5,150 square feet of public open space on the Subject Property, as illustrated on the Certified Site Plan. The public open space must be directly accessible to a street; open to the public; contain seating, trash receptacles, landscaping, and other amenities; be at least 35 feet wide; and designed so that walls of any residential floor area facing the open space have windows on at least 60 percent of the façade between three and eight feet.
  - iii. Public Art - The Applicant must provide an art piece on the Subject Property, in accordance with Condition 10, as shown on the Certified Site Plan.
  - iv. Structured Parking - The Applicant must provide a minimum of 215 (maximum of 225) parking spaces within the below grade structure on the Subject Property.
- d. Protection and Enhancement of the Environment
  - i. Building Lot Terminations (“BLT”) - The Applicant must purchase BLT easements in an amount equal to 7.5% of the incentive density floor area. One BLT must be purchased for each 31,500 square feet of gross floor area. The Applicant must purchase 0.6504 BLTs. Prior to issuance of any building permit, the Applicant must provide to Staff documentation of the purchase.
  - ii. Cool Roof - The Applicant must install a cool roof, having a minimum solar reflectance index of 75, covering a minimum of 250 square feet of roof area, 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%, as determined by MCDPS through the methodology

established by ASHRAE 90.1 (2013) Appendix G. The final energy model must be submitted to DPS with the building permit application.

**12. Pedestrian and Bicycle Circulation**

- a. The Applicant must provide on the Subject Property a minimum of 96 Bicycle parking spaces for private long-term use and six bicycle spaces for public short-term use.
- b. The private bicycle parking spaces must be installed internal to the residential building. The public bicycle spaces must be inverted-U racks or similar approved by Staff prior to certification of the Site Plan and installed in a location convenient and accessible. The specific locations of the public bicycle racks must be identified on the Certified Site Plan and must be consistent across all drawings.
- c. The Applicant must provide minimum 5-foot sidewalks along the Subject Property frontage on St. Elmo Avenue and Fairmont Avenue, as illustrated on the Certified Site Plan.

**13. 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.

**14. Building Height**

The development is limited to the maximum height of 225 feet, as measured from the approved building height measuring point shown on the Certified Plan.

**15. Building Lot Terminations (BLTs)**

Before issuance of any building permit, the Applicant must provide proof of purchase and/or payment of 0.6504 BLTs to the Department of Permitting Services (DPS).

**16. 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 minutes, dated October 23, 2019.
- 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.

**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 downlights 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. Public Art**

- a. The Applicant must install public art on the Subject Property, commensurate with the design concept and representative artwork that was presented to the Art Review Panel on March 21, 2017.
- b. The Certified Site Plan must state the name of the art piece and the name of the artist designing the artwork, as presented to the Art Review Panel.
- c. The Certified Site Plan must contain site details that clearly indicate the overall dimensions, prescribed materials, necessary lighting fixtures, footers, and fasteners of the art piece.
- d. Prior to issuance of the final use and occupancy certificate, the Applicant must install the art piece on the Subject Property, as shown on the Certified Site Plan.
- e. Prior to issuance of the final use and occupancy certificate, the Applicant must install signage near the art piece that identifies the title of the work, the artist's name, materials, completion date, and overall dimensions of the art piece.
- f. Prior to issuance of the final use and occupancy certificate, the Applicant must submit to the Public Art Coordinator with the M-NCPPC at least three images of the artwork installed on-site and information regarding the associated project number, title of the piece, date of completion, description of materials used, and address.
- g. Any subsequent modifications to the public art, including but not limited to the removal of the artwork, requires a Site Plan Amendment and review by the Art Review Panel.

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

**20. 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.

**21. Tree Save Plan**

The development is subject to a tree save plan which addresses the following:

- a. The Applicant must provide a tree save plan with the Certified Site Plan 82017003A that is substantially similar to the tree save plan as previously approved by the Certified Site Plan 820170030;
- b. Show the required offsite mitigation plantings located at 5015 Battery Lane or another location acceptable to Staff;
- c. Provide a minimum two years of maintenance and monitoring and replacement warranty on the offsite mitigation plantings;
- d. The Applicant is not required to place an easement or similar encumbrance on the tree planting site to satisfy this condition.



22. Noise Attenuation

- a. Prior to 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. At the time of Certified Site Plan, the Applicant must provide a signed commitment to construct the units in accord with the noise mitigation design specifications, with any changes that may affect acoustical performance approved by the engineer and Staff in advance of installation.
- c. 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.
- d. Before issuance of Use and Occupancy Certificate for 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.

23. 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 forest conservation exemption letter, stormwater management concept approval letter, development program, and 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 the 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. Remove the curb bump-out that extends into the loading space driveway.
- f. Illustrate public benefit calculations on cover sheet of Site Plan consistent with the Staff Report and Site Plan resolution.
- g. Add notes to roofing plan identifying slopes and Solar Reflective Index for Cool Roof.
- h. Update the green cover exhibit clarifying applicable on-site green area coverage.

BE IT FURTHER RESOLVED that all other site plan conditions of approval for this project remain valid, unchanged and in full force and effect

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of 82017003A, 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 of its Staff as presented at the hearing and set forth in the Staff Report, which the Planning 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 Plan satisfies the findings necessary for Site Plan approval.*

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

The Site Plan conforms to all binding elements of Sketch Plan No. 320150040 and as amended by 32015004A and 32015004B, and Preliminary Plan No. 120150200 and as amended by 12015020A and 12015020B.

*b. satisfies under Section 7.7.1.B.5 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.

*c. satisfies under Section 7.7.1.B.5 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.

*d. satisfies applicable use standards, development standards, and general requirements under this Chapter;*

*i. Division 4.5. Commercial/Residential Zones*

**Development Standards**

The Total Tract, including the Sending Property, is approximately 1.06 acres or 46,250 gross square feet. The Subject Property is zoned CR5.0 C-5.0 R-5.0 H 225' and the Sending Property is zoned CR 3.0 C 3.0 R 2.75 H110' and are both within the Bethesda Overlay Zone. The following Data Table shows the Application's conformance to the development standards of the zone.

**Table 1: Site Plan Data Table**

<b>Subject Property</b>				
CR 5.0 C-5.0 R-5 H-225			30,625 sf (0.70 ac)	
Prior Dedication			5,000 sf (0.11 ac)	
<b>Site Area</b>			<b>25,625 sf (0.59 ac)</b>	
<b>Sending Property</b>				
CR 3.0 C-3.0 R-2.75 H-110			15,625 sf (0.36 ac)	
Prior Dedication			2,500 sf (0.06 ac)	
<b>Site Area</b>			<b>13,125 (0.30) sf</b>	
<b>Total Site Area</b>			<b>38,750 sf (0.89 ac)</b>	
<b>Total Tract Area</b>			<b>46,250 sf (1.06 ac)</b>	
<b>Section 59.4</b>	<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Approved by 82017003A</b>	<b>Proposed</b>
	Residential Density (GFA/ FAR)	153,125 sf (5)	256,300 sf	324,000 sf (10.57)
	Commercial Density (GFA/FAR)	153,125 sf (5)	15,488 sf	6,000 sf (0.20)
	Bethesda Overlay Zone Density	n/a	0	162,012 sf (3.5)
	Sending Property Density	46,875 sf (3) <sup>1</sup>	79,750 sf	14,863 sf
	<b>Total FAR/GFA</b>	<b>n/a</b>	<b>263,956 sf</b>	<b>330,000 sf (10.77)</b>
	<b>MPDUs</b>	<b>15%</b>	<b>15%</b>	<b>15%</b>
	<b>Building Height</b>			
	CR 5.0 C-5.0 R-5 H-225	225 feet	174 feet	225 feet
	<b>Public Open Space (min)</b>	<b>0</b>	<b>5,150 sf</b>	<b>5,150 sf</b>
	<b>Minimum Setbacks</b>			
Front (St. Elmo/Fairmont)	0	0	1'/5'	
Side (West/East)	0	0	0/22' <sup>5</sup>	
<b>Green Cover</b>	<b>35%</b>	<b>n/a</b>	<b>27%</b>	

Parking <sup>2</sup>	Spaces Required	Spaces Provided
<b>Vehicle Parking</b>		
<b>Residential</b>		
Efficiency (14 market rate units); 3 MPDUS	9 minimum/ 17 maximum	--
1 Bedroom (123 market rate units); 22 MPDUS	73 minimum/ 182 maximum	--
2 Bedroom (76 market rate units); 17 MPDUS	66 minimum/ 140 maximum	--
3 Bedroom (24 market rate units); 0 MPDUS	18 minimum/ 48 maximum	--
<b>Total Residential Parking (237 market rate; 42 MPDUS)</b>	<b>165 minimum/ 386 maximum<sup>3</sup></b>	
<b>Retail, 6,000 SF</b>	<b>21 minimum/ 36 maximum</b>	--
<b>Vehicle Parking Subtotal</b>	<b>186 minimum/ 422 maximum</b>	
<b>BOZ Overlay reduction<sup>4</sup></b>	<b>(149 minimum/ 422 maximum)</b>	
<b>Vehicle Parking Total</b>		<b>215 min/ 225 max</b>
<b>Bicycle Parking (Long Term/ Short Term)</b>		
<b>Residential</b>	(95/5) 100	(95/5) 100
<b>Retail</b>	(1/1) 2	(1/1) 2
<b>Bicycle Parking Total</b>	<b>(96/6) 102</b>	<b>(96/6) 102</b>
<b>Loading Spaces</b>	<b>1</b>	<b>2</b>

<sup>1</sup> 32,012 square feet of commercial density to remain at Sending Property.

<sup>2</sup> Final number of vehicle and bicycle parking spaces to be determined at building permit based on final number of dwelling units and non-residential density. Public Benefit points are based on 225 spaces.

<sup>3</sup> Minimum parking per market rate unit has been adjusted per Zoning Ordinance Section 59.6.2.3.1.5 to reflect unbundling.

<sup>4</sup> Parking calculations account for 20% reduction for Bethesda Overlay Zone parking minimums in accordance with Section 59.4.9.2.C.6.

<sup>5</sup> Setback provided for through block connection from St. Elmo Avenue to Fairmont Avenue

With Site Plan 820170030 (MCPB Resolution No. 17-031), the Planning Board approved an alternative measurement point than what is required by the Zoning Ordinance (Section 59.4.1.7.C.2a). The Applicant requested 82017003A to maintain that alternative measurement point at the southwest corner of the site on Fairmont Avenue. The Planning Board approves this alternative measuring point, finding that the height variation of the proposed building, and the height of the neighboring buildings, are compatible.

The Bethesda Overlay Zone (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. The Applicant is subject to a park impact payment valued at \$11.08/square foot based upon the density requested and facilitates acquisition of parkland in the downtown Bethesda area.

Based on the requested 162,012 square feet of BOZ density, reduced by 41,535 square feet of MPDU density<sup>2</sup>, the Applicant is required to pay for 120,477 square feet of BOZ density at a value of \$1,334,885. The amount of density allocated from the BOZ for the Subject Application is deducted from the 32.4 million cap.

ii. *Division 4.7. Optional Method Public Benefits*

In accordance with the Zoning Ordinance, Section 59.4.7.1., the Site Plan proposes the following public benefits to satisfy the requirements: Connectivity and Mobility, Diversity of Uses and Activities, Quality of Building and Site Design, and Protection of the Natural Environment.

Table 2: Public Benefit Points Summary

Public Benefit	Incentive Density Points		Approved
	Maximum Allowed	Requested	
59.4.7.3C: Connectivity and Mobility			
Minimum Parking*	20	5.97	7.21
Through-block Connection	30	10	10
59.4.7.3D: Diversity of Uses and Activities			
Small Business Opportunities	20	0	0
Enhanced Access for the Disabled	10	3.2	3.2
59.4.7.3E: Quality of Building and Site Design			
Exceptional Design*	30	15	15
Structured Parking	20	20	20
Public Open Space*	30	20	20
Public Art	20	15	15
59.4.7.3F: Protection and Enhancement of the Natural Environment			
Building Lot Termination (BLT)	30	5.85	5.85
Cool Roof	15	10	1
Energy Conservation and Generation*	25	15	15
Total		120.02	112.26

\* Denotes a Sector Plan priority

Connectivity and Mobility

*Minimum Parking:* The Applicant requests 5.97 points for providing fewer than the maximum allowed number of parking spaces. Points for

<sup>2</sup> Section 59.4.9.2.C.3.c.i. of the Zoning Ordinance exempts MPDU density from the Park Impact Payment.

this incentive are granted on a sliding scale from no points for providing the maximum allowable number of on-site spaces to 20 points for providing no more than the minimum numbers of spaces on site. The Applicant provided an incorrect calculation, and when corrected based on the formula set forth in the Guidelines, the points awarded for minimum parking increases. Therefore, Staff recommends 7.21 public benefit points in this category.

$$\begin{aligned} & [((\text{Maximum Allowed Parking}) - (\text{Parking Provided})) / \\ & ((\text{Maximum Allowed Parking}) - (\text{Minimum Parking}))] * 10 \\ & (422 - 225) / (422 - 149) * 10 = 7.21 \text{ points} \end{aligned}$$

*Through-block Connection:* The Applicant requests 10 points for providing a through-block connection between St. Elmo Avenue and Fairmont Avenue, as envisioned in the Sector Plan. This Project's contribution will enhance the existing connection and provide a direct link to County Parking Garage 11. Points for this incentive are granted on criteria such as public access, minimum width, and minimum hours of operation, as determined by the Guidelines. As proposed, the through-block connection will be open between the hours of 8:00 AM and 9:00 PM, include frequent window openings at the ground floor, and be inviting to the public. While the through block connection will be approximately 22.5 feet wide, a portion of the space will be utilized as private dining area for the Project's retail space, therefore Staff cannot recommend additional points for this Project. Staff recommends 10 points for this category.

#### Diversity of Uses and Activities

*Small Business Opportunity:* This category was approved with Sketch Plan Amendment 32015004A, however the Applicant is requesting 0 points at this time with the opportunity to potentially utilize the category in the future. Staff recommends 0 points in this category.

*Enhanced Accessibility for the Disabled:* The Applicant requested 3.2 points for exceeding the requirements for the Americans with Disabilities Act (ADA). The Applicant proposes to construct 3 units that satisfy the American National Standards Institute A117.1 Residential Type A standards, or a County equivalent.

$$\begin{aligned} & (\text{ANSI 117.1 Units} / \text{Total Units}) * 300 \\ & (3 / 279) * 300 = 3.2 \text{ points} \end{aligned}$$

Staff recommends 3.2 points for this category.

**Quality of Building and Site Design**

*Exceptional Design:* The Applicant requested 15 points for exceptional design and the Design Advisory Panel (DAP) voted in support of the requested points at their October 23, 2019 meeting. Staff concurs with the DAP's recommendation and supports 15 points in this category.

The Project 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; provides a compact infill development on a problematic site; and integrates low-impact development methods into the overall design of the site and building, beyond green building or site requirements.

- **Providing innovative solutions in response to the immediate context;**  
The base of the building will be setback along St. Elmo Avenue and Fairmont Avenue consistent with the adjacent properties to the east and west on both frontages to create a continuous building line. The design incorporates various stepbacks as the building rises in height on all facades. The site design provides an enhanced through block connection as well as tower setback (22.5' from the Property line as recommended in the Design Guidelines) from the existing adjacent development, the Bainbridge.
- **Creating a sense of place, that serves as a landmark.**  
The central mass of the building, along with projections for balconies and wings will create strong facades. The architectural embellishments and promenades will create a strong sense of place from a distance and in the immediate vicinity. The proposed public artwork within the through block connection will further embellish the public realm.
- **Enhancing the public realm in a distinct and original manner;**  
The Project will improve the public streetscape on both the St. Elmo and Fairmont Avenue frontages, as well as create a distinct character along the through block connection with a landscape design that introduces hardscapes, planter design, and public artwork. The building design incorporates numerous recommendations from the Design Guidelines such as setbacks,

stepbacks, tower separation and a meaningful base, middle and top design that exhibit strong beacon-like vertical massings and detailed elements.

- **Introducing materials, forms, or building methods unique to the immediate vicinity or applied in a unique way;**

The building is comprised of unit masonry with stone and cast stone accents, and large areas of architectural glazing systems, enhanced with ornamental metal detailing. The design along with wrapped around balconies and cornices will create a balance of horizontal and vertical elements which will be distinctive from the existing nearby development.

*Structured Parking:* The Applicant requests 20 points for providing all parking within a below-grade parking structure. The Applicant satisfies the requirements for 20 points because all on-site parking is provided in a below-grade garage.

*Public Open Space:* As a Site with less than 1.00 acre and two public roadway frontages, the Project is not required to provide public open space. The Applicant, however, is proposing approximately 20% of the Site, or 5,150 square feet, as public open space and requests public benefit points for so providing. Based on the formula set forth in the Commercial/ Residential and Employment Zone Incentive Density Implementation Guidelines, provided below, the Applicant is eligible for 10.2 points in this category:

$$\begin{aligned} &[(\text{Public Open Space}) / (\text{Site Area}) * 100 \\ &5,150 \text{ sf} / 25,625 \text{ sf} * 100 = 20 \text{ points} \end{aligned}$$

Staff recommends 20 points for this category.

*Public Art:* The Applicant requests 15 points for installation of public art. Points for this category are granted based on goals listed in the Implementation Guidelines and by review of the Art Review Panel. The Applicant has already met with the Art Review Panel in March of 2017 with a proposal for public art installation. Staff supports the Applicant's request for 15 points.

**Protection and Enhancement of the Natural Environment**

*Building Lot Termination (BLT):* The Applicant requests 5.85 points for the purchase of BLT easements or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5% incentive



density floor area, exclusive of any density allocated for MPDUs. Points are granted by the calculation of BLTs as provided in Section 59.4.7.3.F of the Zoning Ordinance:

$$(((288,465 \text{ sf}) - (15,313 \text{ sf})) * 7.5\%) / 31,500) * 9 = 5.85 \text{ points}$$

Staff supports the Applicant's request for 5.85 public benefit points.

*Cool Roof:* The Applicant proposes to provide 250 square feet of cool roof that will collectively meet or exceed a solar reflectance index (SRI) of 75. Points for this award are granted on a prorated basis per total roof area. Staff recommends 1 point for this benefit.

*Energy Conservation and Generation:* The Applicant is requesting 15 points for providing a building that exceeds applicable energy efficiency standards by 17.5%. The Applicant has provided a preliminary energy/use generation model with comparisons to the average use/generation for the building type based on the Department of Energy Standards. The final model with specific methods used to achieve this reduction will be determined by MCDPS prior to the issuance of Building Permit. As conditioned, the Applicant will meet the minimum reduction standards for this category and Staff recommends 15 points for this benefit.

iii. *Division 6.1. Site Access*

Vehicular access for the Site will be provided from St. Elmo Avenue, and the loading will be configured as a through block condition, allowing trucks to enter off Fairmont Avenue and exit onto St. Elmo Avenue, eliminating trucks backing into the roadway. Long-term bicycle parking will be provided within the garage and short-term bicycle parking will be provided along the Property's frontage, as shown on the Certified Site Plan.

Pedestrian access to the Site will be from the established sidewalk network and will be enhanced by streetscape improvements along each of the Property frontages, consistent with the Bethesda Streetscape Standards. Additionally, the Project enhances an existing mid-block pedestrian connection connects St. Elmo Avenue to Fairmont Avenue and the County Parking Garage #11 to the south.

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

Parking for the residential building will be provided in a below-grade facility. Vehicular and loading access will occur via St. Elmo Avenue.

Loading for the Project will occur internal to the Site within two spaces designed for SU-30 trucks. All vehicles will enter and exit the Site via head-in/ head-out maneuvers.

v. *Division 6.3. Open Space and Recreation*

The Project is not required to provide public open space because the tract area is less than one acre and the Site has two or fewer frontages on public roadways (59.4.5.4.B.1.a), however, the Site will provide 20% of the Site as public open space. The Application is in conformance with the *Recreation Guidelines*, as demonstrated in the Recreation Facilities Data table provided with the Application (Scenario ID 9709). The Applicant is providing bicycle amenities; indoor community spaces, including a fitness room; interior courtyards with picnic seating; and rooftop amenities. Final locations and quantities of each of these amenities will be shown on the Certified Site Plan.

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

Landscaping and lighting, as well as other site amenities, will be provided to ensure that these facilities will be safe, adequate, and efficient for year-round use and enjoyment by residents and visitors. The Project will transform existing streetscape along both the St. Elmo Avenue and Fairmont Avenue frontages with new street trees, improved, wider sidewalks, street lighting, and street furniture. The on-site lighting will limit the necessary light levels to streets and sidewalks.

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

e. *satisfies the applicable requirements of:*

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

The MCDPS Stormwater Management Section approved the stormwater management concept on June 11, 2018 (Attachment D). According to the approval letter, the stormwater management concept meets stormwater management goals using green roof, and a partial waiver is granted due to site limitations.

*ii. Chapter 22A, Forest Conservation*

The Project received approval of an exemption from Forest Conservation requirements on November 3, 2015 (42016068E). The exemption cited the need for a tree save plan which was approved with Certified Site Plan 820170030. This tree save plan provided mitigation in the form of planting four offsite trees and will not be affected by this amendment.

- f. 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 the garage and loading entrances on St. Elmo Avenue to limit impacts to the pedestrian environment and improves public streetscape along its two frontages. The building provides pedestrian entrances along both its St. Elmo Avenue and Fairmont Avenue façades to contribute to an active streetscape. The Project provides a safe and well-integrated building and site amenities. The Project provides a through block connection from St. Elmo through to Fairmont Avenue and County Parking Garage #11 to the south. In addition to the streetscape improvements along both frontages, and public art within the through block connection, the Project provides amenities for the residents within the building and on the rooftop.

- g. substantially conforms with 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* ("Sector Plan"). Specifically, this 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 Project incorporates the recommendations of the Sector Plan by increasing the following:

1. Parks and open spaces;
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.

Specifically, the Project addresses the following goals as outlined in the Sector Plan and Woodmont Triangle District sections of the Sector Plan:

- *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 42 units). As a result, the Project provides additional, desired affordable housing in close proximity to transit and other services.

- *Create opportunities for public spaces to balance high intensity new development.*

The Project will double the width of the existing through-block connection created by the neighboring apartment building. The Applicant has worked closely with the owners of the adjacent apartments to create a truly dynamic and unified space that works for both pedestrians passing through and as an enhanced public and private gathering space.

- *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 efficient standards for buildings, as well as comply the requirements of the County's adoption of the 2015 International Green Construction Code (IGCC).



- *Continue the Constrained Long-term Parking Policy and promote incentives to reduce parking.*

Given its proximity to transit, the Project will provide significantly fewer than the maximum number of parking spaces on-site. The Project proposes to provide a minimum of 215 and a maximum of 225 parking spaces on-site. This is well below the maximum number of parking spaces allowed by the Zoning Ordinance (i.e. 386 parking spaces).

- *Promote infill development with higher densities and building heights nearest the central core of Downtown Bethesda to accommodate future growth.*

The Property is currently improved with low-density, aging commercial office buildings. Given its location within walking distance of the Bethesda Metro Station, the project is proposing to redevelop the site with a 22-story mixed-use, transit-oriented development.

#### *Green Cover*

The Sector Plan includes several recommendations to achieve the urban green goals outlined for the Bethesda Downtown area. An important recommendation to this effect is the onsite 35% green coverage minimum. The green cover may include singularly or a combination of intensive green roof (6 inches or deeper) or tree canopy cover. Staff acknowledged during the review of the previous Sketch Plan amendment that the combination of a narrow site and need for the through-block connection result in an inability to meet the Sector Plan recommendation for 35% green cover.

The Project has a net site area of 25,625 square feet resulting in a green coverage requirement of 8,969 square feet (35% of net site area). The exhibit (Attachment E) shows green cover on the roof and within the through-block connection. The parking garage is below the through-block connection area which allows the onsite portions of the planters to count as green cover, as long as the areas are built to the standards listed in the 2017 *Bethesda Downtown Sector Plan*. Staff recognizes the constraints of the site and has worked with the Applicant to discuss efforts to maximize their green cover area, as previously conditioned. This collaboration, in conjunction with revised plans submitted as a part of this amendment, has resulted in the Applicant providing a green coverage area of approximately 7,026 square feet, or 27% of net site area. This reflects an increase from the previously provided 5,000 square feet (19.5%) of site

area. To clarify the final green cover area provided, Staff has recommended a condition to clarify the onsite portions of the through-block planting areas prior to certification of Site Plan.

*Noise*

In a waiver request dated December 31, 2019, the Applicant cites the abatement measures recommended in the Noise Guidelines to reduce noise to open space, which include additional setbacks, acoustical walls, earth berms, and structural barriers.

Due to the nature of this project, which includes the completion of a Sector Plan recommended publicly accessible through-block connection, additional setbacks are not feasible as the recommended measures would restrict pedestrian flow and reduce visibility. Additionally, the Applicant provides residents with open space via amenity terraces above the surface noise of adjacent streets and each unit is equipped with internal ventilation which allows for year-round closing of windows. The Applicant is required to provide noise attenuation for any impacted residential units. With the above constraints and design alternatives in mind, Staff recommends approval of this Noise Waiver request, with a condition requiring noise attenuation for residential dwelling units.

- h. 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. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;*

As discussed in the Preliminary Plan No. 12015020 findings and, as amended by 12015020A and 12015020B, 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.

- i. on a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and*

The Subject Property is not located in a Rural Residential or Residential zone.

- j. on a property in all other zones, is compatible with existing, approved or pending adjacent development.*

The Project design is compatible in height and scale with the existing and pending nearby development in the Woodmont Triangle District. At 225 feet in height, the building will be taller than the surrounding existing buildings, as this is one of the few sites in the vicinity to redevelop under the 2017 *Bethesda Downtown Sector Plan* which allows for increased building height. The Project has worked with the adjacent residential development to expand and enhance the existing through block connection which will include public art. Additionally, the Project has been designed to step-back on the west side of the Property to lessen visual impacts of height from Old Georgetown Road.

The Site Plan is compatible with other uses and other site plans, as well with existing and proposed adjacent development. The Project's design and scale is compatible with adjacent buildings in the Wisconsin Avenue District.

- 2. To approve a site plan for a Restaurant with a Drive-Thru, the Planning Board must also find that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood.*

Not applicable, this Site Plan does not include a restaurant with a drive-thru.

- 3. For a property zoned C-1 or C-2 on October 29, 2014 that has not been rezoned by Sectional Map Amendment or Local Map Amendment after October 30, 2014, if the proposed development includes less gross floor area for Retail/Service Establishment uses than the existing development, the Planning Board must consider if the decrease in gross floor area will have an adverse impact on the surrounding area.*

Not applicable, the Subject Property is not zoned C-1 or C-2.

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 1 3 2020 (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 Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, March 5, 2020, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board