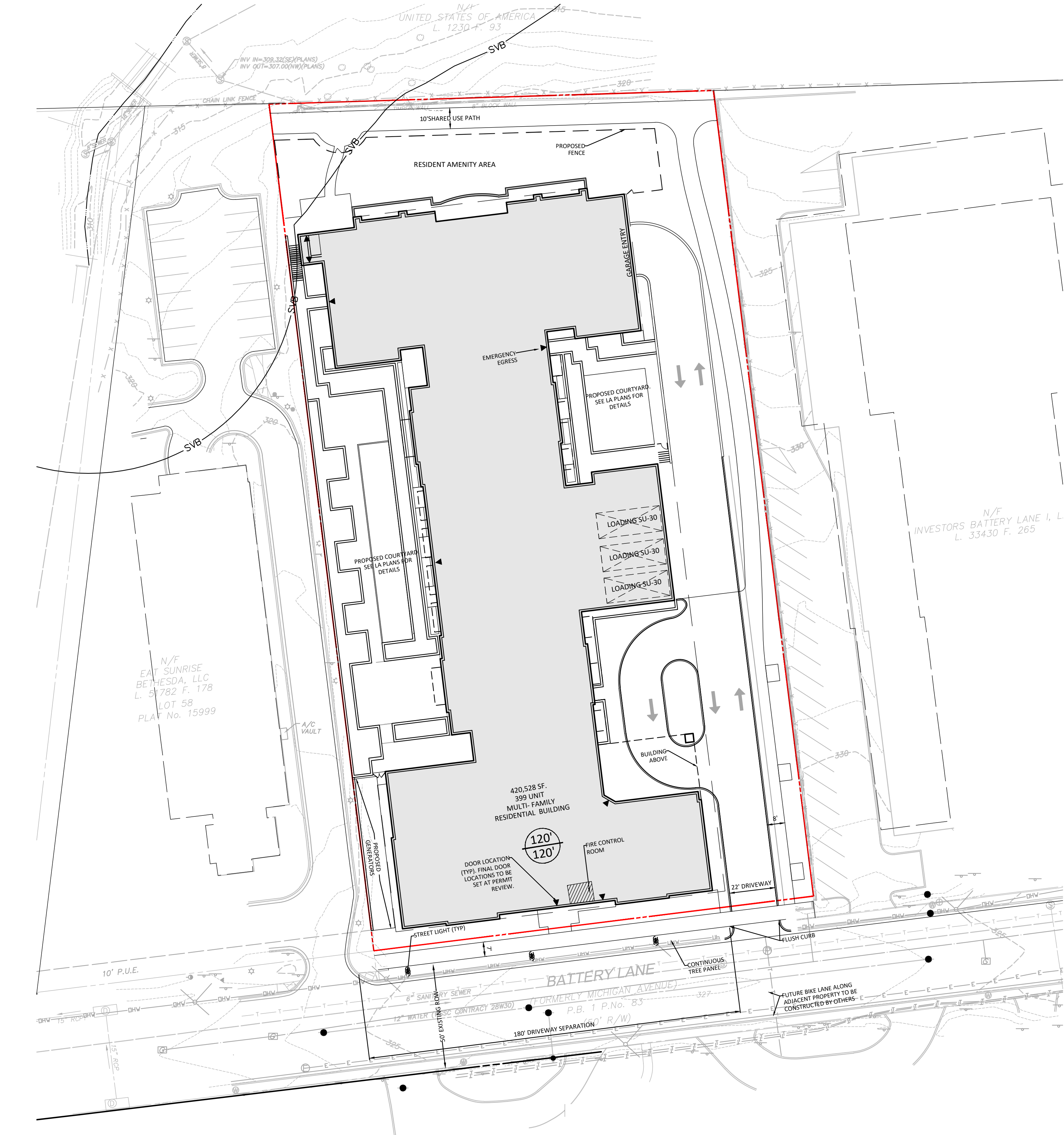


E-FILE STAMP



Property Area Data		CR-1.5 C-0.5 R-1.5 H-120	
Area	SF	Acres	
Gross Tract Area	92,442	2.122	
Previous Battery Lane Dedication	5,316	0.122	
Existing Site Area	87,126	2.000	
Proposed Dedications	2,136	0.049	
Net Lot Area	84,990	1.951	

Density Calculations (sf or FAR)	CR-1.5 C-0.5 R-1.5 H-120		
Allowed Base	Commercial Density	Residential Density	Total Density
Gross Floor Area	46,221	138,663	138,663
FAR	0.50	1.50	1.50
Proposed Total [1]	Commercial Density	Residential Density	Total Density
Residential Floor Area	0	420,528	420,528
Result of MPDU Area Reduction [1]	0	369,378	369,378
BOZ Density Requested [1]		281,874	
MPDU GFA		51,150	
PIP Payment Area		230,724	
Proposed Total FAR	0.00	4.55	4.55

Residential Units	Required %	Proposed Units	Proposed %
Standard Units	85.0%	339	85.0%
MPDUs	15.0%	60	15.0%
Total Units	100%	399	100%

Height (feet) [2]	Maximum
Mapped Zone	120'
Maximum Approved	120'
MPDUs Provided Above 15%	0 units
Average MPDU Size (sf)	853
Gross Floor Area for MPDUs Above 15% (sf)	0
Average Residential Floorplate (sf)	35,044
Additional Building Height Allowed	0'

Building Setbacks	From Side PL	From R.O.W.
Battery Lane	0'	0'

Green Cover (%)	Required SF	Required %	Proposed SF	Proposed %
Site Area	84,990			
Green Cover Area	29,746	35%		
Green Roof / Planting Over Structure	-	-		
Bio Retention Planting	-	-	0	
Total	-	-	29,746	35%

Parking Tabulations [2] [3]	Approved Units/SF	Min (3)/Max Rate	Metric	Min Req	Max Allowed	Provided Spaces
Efficiency Residential Unit	47	0.8sp/1sp		38	47	
Efficiency MPDU Residential Unit	8	0.4sp/1sp		4	8	
1BR Residential Unit	175	0.8sp/1.25sp		140	219	
1BR MPDU Residential Unit	31	0.4sp/1.25sp		13	39	
2BR Residential Unit	117	0.8sp/1.5sp		94	176	
2BR MPDU Residential Unit	21	0.4sp/1.5sp		9	32	
Subtotal of all Residential Units [3]	399	n/a		272	521	
Total Spaces				272	521	322

Bicycle Spaces [4]	Min/Metric	Metric	Min Req	% Long-Term	Min Long-Term	Approved Long-Term	Approved Short-Term	Total
Residential	0.50/unit	378.00	100	95%	95	95	5	
Total			100		95	95	5	100

Notes

- The approved density, excluding MPDU floor area, for the project will exceed the property's mapped total residential density of 1.5 FAR (within the approved height allowances for the CR zoning of the property) through the payment of a Park Impact Payment (PIP) created by the Bethesda Overlay Zone. The PIP is established at \$11.41 per square foot for density above mapped density (and within the height limits established by the CR zoning for the property). The total PIP payment is payable at the time of issuance of building permit for the project.
- Minimum required is reduced by 20% per the BOZ. The site is within the Bethesda PLD and the minimum may be reduced by several other factors, such as unbundling.
- Final number of parking spaces and uses to be determined at building permit but the total will not exceed minimum parking required.
- Final residential bicycle parking spaces will be provided based on constructed number of units at a rate of no less than 0.5 spaces per unit.



NOTE: Sketch Plan drawings are conceptual only and represent proposed development in an illustrative manner. Final building locations, dimensions, heights, uses, phasing, density, parking, unit mix, development standards and programs shall be determined at time of site plan applications.

LEGEND

- Proposed Property Limits
- Proposed Building
- Height Allowed
Height Illustrated
- Conceptual Doorway Location

ATTACHMENT A

VIKA MARYLAND, LLC
20251 Century Blvd., Suite 400
Germantown, MD 20874
301.916.4100 | vika.com
Our Site Set on the Future.

APPLICANT:
WC SMITH DEVELOPMENT
1100 NEW JERSEY AVE SUITE 1000
WASHINGTON, DC, 20003
202.465.7010
CONTACT: BRIAN STROTT

DESIGN CONSULTANTS:

PLANNER, CIVIL ENGINEER
VIKA MARYLAND, LLC
20251 CENTURY BOULEVARD, SUITE 400
GERMANTOWN, MD 20874
301.916.4100
CONTACT: CHANDA BEAUFORT

ARCHITECT
SK&I ARCHITECTURE
4600 EAST WEST HIGHWAY, SUITE 700
BETHESDA, MD 20814
301.654.9300
CONTACT: CHRIS HUFFER

ATTORNEY
SHULMAN ROGERS
12505 PARK POTOMAC AVE., 6TH FL
POTOMAC, MD 20854
301.230.5224
CONTACT: NANCY REGELIN

LANDSCAPE ARCHITECT
PARKER RODRIGUEZ
101 NORTH UNION STREET, SUITE 320
ALEXANDRIA, VA 22314
703.548.5010
CONTACT: STEVE SATTLER

TRAFFIC
WELLS + ASSOCIATES
1110 BONIFANT STREET, SUITE 210
SILVER SPRING, MD 20910
301.448.1333
CONTACT: CHRIS KABATT

REVISIONS	DATE

4901
Battery
Lane

LOTS 49 & 50
NORTHWEST PARK

7TH ELECTION DISTRICT
MONTGOMERY COUNTY,
MARYLAND
WSSC GRID: 210NW05
TAX MAP: HN23

SKETCH
PLAN

PROFESSIONAL SEAL

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND. LICENSE No.: XXXX ENGINEER'S NAME: Name, P.E. EXPIRATION DATE: Month XX, XXXX

THE INFORMATION, DESIGN AND CONTENT OF THESE DRAWINGS OR DOCUMENTS ARE PROPRIETARY TO VIKA MARYLAND, LLC AND CONSTITUTE ITS PROPRIETARY INTELLECTUAL PROPERTY. THESE DRAWINGS AND/OR DOCUMENTS MUST NOT BE FORWARDED, SHARED, COPIED, DIGITALLY CONVERTED, MODIFIED OR USED FOR ANY PURPOSE, IN ANY FORMAT, WITHOUT PRIOR WRITTEN AUTHORIZATION FROM VIKA MARYLAND, LLC. VIOLATIONS MAY RESULT IN PROSECUTION. ONLY APPROVED, SIGNED AND SEALED PLANS OR DRAWINGS MAY BE UTILIZED FOR CONSTRUCTION PURPOSES.

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DRAWN BY: _____
DESIGNED BY: _____
DATE ISSUED: _____

VIKA PROJECT VM50527
DRAWING NO. 320220040

SHEET NO. SK100



DEPARTMENT OF TRANSPORTATION

Marc Elrich
County Executive

Christopher R. Conklin
Director

November 30, 2021

Ms. Grace Bogdan, Planner Coordinator
Down-County Planning Division
The Maryland-National Capital
Park & Planning Commission
2425 Reddie Dr
Wheaton, MD 20902

RE: Sketch Plan No. 320220040
4901 Battery Lane

Dear Ms. Bogdan:

We have completed our review of the sketch plans uploaded to eplans on November 16, 2021. The plan was reviewed by the Development Review Committee at its October 26, 2021 meeting. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services (DPS) in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

Significant Comments

1. Applicant should be mindful that Complete Streets is currently in development and is anticipated to go into effect in the near future. Applicant should consider designing based on the current Complete Streets draft, particularly affecting the cross-sections and strategies toward achieving the target speeds.
2. Battery Lane is classified as a planned Minor Arterial (MA-8) with a minimum right-of-way (ROW) of 70-feet. We recommend following to the applicant:
 - a. Dedicate along the site frontage to conform with the master plan.

Office of the Director

101 Monroe Street 10th Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178 FAX

www.montgomerycountymd.gov

Located one block west of the Rockville Metro Station

Ms. Grace Bogdan
 Sketch Plan No. 320220040
 November 30, 2021
 Page 2

- b. Provide a roadway cross section showing the existing configuration and proposed separated bikeway per the Bicycle Master Plan and to be constructed by the Battery Lane District project. Final cross sections shall be determined at the Preliminary Plan stage.
3. Transportation Demand Management (TDM Plan Requirements):

The project meets the location (Red Subdivision Staging Policy Area and the Bethesda Transportation Management District) and size threshold requirement (more than 40,000 gsf) for a Level 3 project Based Results Plan. A Project-based TDM Results Plan requires a commitment by the owner or applicant to achieve a base NADMS that is 5% higher than the District's goal as well as related commuting goals at that project. The Plan must be submitted and approved by MCDOT prior to issuance of any building permit from DPS.

Level 3 Results Plans requires the following:

- Appoint a Transportation Coordinator;
- Notify the Department of the Coordinator's contact information within 30 days of receipt of final U&O certificate;
- Provide space in the project for the promotion of TDM;
- Display TDM-related information in highly visible location(s)
- Identify specific TDM actions to be implemented in order to achieve 5% above the Bethesda TMD commuter goals
- Additional and/or Substitution of Strategies: If strategies initially selected by the owner or applicant do not result in the project achieving goals by 6 years after final occupancy, revisions to the plan or strategies initially selected may be required.
- Additional Funding: Commit funding if the project does not achieve the goal within 6 years of final occupancy. Provide higher additional funding if the project has not achieved the goal within 8 years of final occupancy.
- Conduct independent monitoring to determine if the project is meeting its goals, until the project's goals are achieved.

At Preliminary Plan, submit a draft TDM Plan for New Development. Contact Beth.Dennard@montgomerycountymd.gov (240-777-8384) or a template for a Project-based Level 3 TDM Results Plan.

Ms. Grace Bogdan
Sketch Plan No. 320220040
November 30, 2021
Page 3

Standard Comments

1. MCDOT does not object to the applicant submitting a preliminary plan for this project. Pay the Montgomery County Department of Transportation plan review fee in accordance with Montgomery County Council Resolution 16-405 and Executive Regulation 28-06AM ("Schedule of Fees for Transportation-related Reviews of Subdivision Plans and Documents").
2. Show all existing topographic details (paving, storm drainage, driveways adjacent and opposite the site, sidewalks and/or bikeways, utilities, rights of way and easements, etc.) on the preliminary plan.
3. Submit storm drainage and/or flood plain studies, with computations for any portion of the subject site that drains to the Montgomery County public storm drain system. Analyze the capacity of the existing public storm drain system and the impact of the additional runoff. If the proposed subdivision is adjacent to a closed section street, include spread computations in the impact analysis.
4. Submit a completed, executed MCDOT Sight Distances Evaluation certification form, for all existing and proposed site entrances onto County-maintained roads, for our review and approval.
5. We recommend that the applicant coordinate with Mr. Corey Pitts of our Transportation Engineering Section at 240-777-7217 or at corey.pitts@montgomerycountymd.gov regarding the existing bike lanes along the site's frontage on Battery Lane.
6. Design all access points and alleys to be at-grade with sidewalk, dropping down to street level between the sidewalk and roadway.
7. Applicant should be mindful that the Bethesda UMP is currently in development and is anticipated to go into effect in 2021. This project may potentially be subject to UMP Fees depending on where it is in the development process upon the UMP's Council Approval.
8. This is an Urban BPPA: curve radii must be 15' or less, or as small as practicable to accommodate target design vehicles without intrusion into bicycle or pedestrian travelways.
9. The applicant needs to submit a truck circulation plan for review by the M-NCPPC and MCDPS. This plan should delineate the proposed movements on-site between the anticipated access locations, the proposed truck loading spaces, and the proposed dumpsters. The truck circulation pattern and loading position should be designed for counter-clockwise entry and for a left-side

Ms. Grace Bogdan
Sketch Plan No. 320220040
November 30, 2021
Page 4

backing maneuver. Passenger vehicle travel ways should be separated from the expected truck patterns and storage areas. The applicant may also need to provide documentation of their proposed delivery schedules.

10. Provide a minimum 5 ft continuous clear pathway (no grates) along all public streets.
11. A minimum 3 ft width must be maintained between the access point and property line to ensure a minimum 6 ft refuge area should the neighboring property redevelop, and to prevent encroachment on the rights of adjacent properties.
12. Battery Lane needs to conform to the Business District standards.
13. Provide space (22' wide, 7' deep) to install bus shelter for adjacent RO and Metro stop. Please coordinate with Mr. Wayne Miller of our Division of Transit Services to coordinate bus stop improvements. Mr. Miller may be contacted at 240 777-5836 or at Wayne.Miller2@montgomerycountymd.gov.
14. Forest Conservation Easements are NOT ALLOWED to overlap any easement.
15. Provide a minimum 6 ft continuous clear pathway (no grates) along all public streets.
16. If the proposed development will alter any existing streetlights, replacement of signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
17. Upgrade pedestrian facilities at intersections along the site frontage and at adjacent intersections to comply with current ADA standards.
18. Underground utilities and ensure adequate Public Utility Easements.
19. No steps, stoops, transformers, electrical vaults, balconies or retaining walls for the development are allowed in county right-of-way. No door swings into county ROW.
20. Ensure adequate corner truncation, noting master planned protected intersections. If Planning Staff oppose truncation, see if obtaining truncation in an easement may be an acceptable alternative. Truncation is important for ensuring adequate intersection design for signal infrastructure, protected intersections, ADA design, and sight distances.

Ms. Grace Bogdan
 Sketch Plan No. 320220040
 November 30, 2021
 Page 5

21. The owner will be required to submit a recorded covenant for the operation and maintenance of any private storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
22. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
23. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with DPS Right-of-Way Plan Review Section.
24. Permit and bond for required public improvements (to be determined at the preliminary plan stage) will be required prior to approval of the record plat.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact myself for this project at brenda.pardo@montgomerycountymd.gov or at (240) 777-7170.

Sincerely,

Brenda M. Pardo

Brenda M. Pardo, Engineer III
 Development Review Team
 Office to Transportation Policy

[SharePoint\teams\DOT\Director's Office\Development Review\Brenda\Sketch Plan\SP320220040_4901 Battery Lane\Letter\320220040-4901 Battery Ln-DOT Sketch Plan Letter_11.30.21](#)

cc:	Correspondence folder FY 2022	
cc-e:	Chanda Beaufort	VIKA
	Mark Terry	MCDOT DTEO
	Atiq Panjshiri	MCDPS RWPR
	Sam Farhadi	MCDPS RWPR
	Rebecca Torma	MCDOT OTP

Bethesda Downtown Design Advisory Panel

Meeting Minutes

PROJECT: 4901 Battery Lane

DATE: September 22, 2021

*The **4901 Battery Lane** project was reviewed by the Bethesda Downtown Design Advisory Panel on September 22, 2021. The following meeting notes summarize the Panel's discussion, recommendations regarding design excellence, and the exceptional design public benefits points. The project is in the Sketch Plan stage and will need to return to the Design Advisory Panel at the time of Site Plan to review comments provided and determine final vote for design excellence. Should you have any additional questions and/or comments please feel free to contact the Design Advisory Panel Liaison.*

Attendance:

Panel

George Dove

Rod Henderer

Brian Kelly

Damon Orobona

Qiaojue Yu

Paul Mortensen, ex officio member, Senior Urban Designer in the Director's Office

Staff

Gwen Wright, Planning Director

Robert Kronenberg, Deputy Director of Planning

Stephanie Dickel, DownCounty Regulatory Supervisor

Grace Bogdan, Planner Coordinator

Hyojung Garland, Park Planning Supervisor

Rachel Newhouse, Parks Planner

Emily Balmer, DownCounty Administrative Assistant III

Applicant Team

Nancy Regelin – Shulman Rogers

Brian Strott – Applicant WC Smith Development

Chris Huffer – SK+I Architects (presenting)

Chanda Beaufort – VIKA civil

Trini Rodriquez – Parker Rodriquez Landscape Architect

Steven Sattler – Parker Rodriguez Landscape Archtiect

Sami Kirkdil – SK+I

Austin Klevan – SK+I

Members of the Public



Michael Miller
Robert Harris
Andrew Kossow

Discussion Points:

Staff: The project is at Sketch Plan and the review is focused on massing, urban design with respect to design quality and conformance with Design Guidelines. This is the first time this project has been before the Panel, Staff has provided a memo outlining certain concerns related to height, proposed open space, and building massing perspectives

Panel:

General Comments

- The County Council signed off on a plan to reduce greenhouse gases to net zero by 2035 so I hope you are looking more into the design and elements that can make it more efficient and working towards net zero energy. We have to talk in those terms if we are going to meet these ambitious county goals.
- Can you describe the public benefit package and the MPDUs?
 - *Applicant Response: We are proposing 15% MPDUs and we did look at the range of existing market rate affordable which is only 8 units, so we will be providing more than what exists today. We are doing 4 categories, there will be an emphasis on ADA accessible units, structured parking, tower stepback, cool roof, minimum parking, etc*

Massing

- I like the massing, it reminds me of the buildings along Connecticut Avenue, however those buildings have drop offs fronting on Connecticut Avenue and I understand why you pulled that into the site, will there be a front door along Battery Lane?
 - *Applicant Response: Yes, there will be a front building entrance onto Battery Lane, the drop off will be a secondary entrance for deliveries and taxis.*
- I think this is a thoughtfully designed building, the massing looks great. Seems like you've worked closely with planning staff to satisfy the Guidelines, I second comments on activating the east west connection in the rear (north) of the Property. I think you are on the right path.

Setbacks and relation to Battery District

- Does the proposal include the streetscape that was created for the Battery District and more specifically is the building footprint setback from the street centerline treated consistently?
 - *Applicant Response: Yes, the proposed streetscape by Brown Aldon Properties has been integrated into our proposal and we are being consistent with the Battery District setbacks. The Battery District proposes varying setbacks along Battery Lane ranging from 20'-30'. This project is set back 25'.*
- What do the proposed building stepbacks total?
 - *Applicant Response: Between the 3rd and 10th floor are cumulative 15' and then the penthouse will be setback even further.*
- So the cumulative is 15 feet and you are just doing that between two stepbacks instead of all at once.

- *Applicant Response: Yes.*
- I agree your setbacks are heroic and will produce an elegant building. The loading dock only has 24' from the door to the back of driveway with the pedestrian walkway adjacent to that. I suggest looking at the depth of that space more closely as I don't think a regular size truck will fit or maneuver in that space as designed.
 - *Applicant Response: Yes we've begun looking into truck turning templates and it does accommodate a 10x30 truck but we will continue to study that given the surrounding pedestrian infrastructure.*

Precedents

- Just my opinion, do not edge towards heavy traditional, which will end up being faux traditional design. Let yourself be free to design a contemporary building using traditional materials, some of the precedent images were great while others looked faux traditional.
- However, there may be a wonderful traditional solution or contemporary solution for this building which should not be discarded.
- Agreed, I just didn't think all of the precedents accurately depicted that style.
- I appreciated the precedent images that actually showed a base, middle, and top that all related to each other very clearly, no matter what the style is. So hopefully these elements of elevations can be woven together for a full elevation, rather than totally fracturing them apart from each other.

Pedestrian Connections

- The north/south pedestrian connection must be completely public in presentation and character and invite neighborhood residents to use it. It must avoid being read as a private pathway for residents only. Perhaps the applicant can create this pathway to be a well-designed and well-lit sidewalk to the adjacent driveway so that the entire depth of the space reads as public access.
- I agree with the north/south connection and I think having it next to the driveway will help it feel open. However, the most important public space will be the northern east/west pathway and space between that path and the north elevation of this building. I wish the Sector Plan had a street type so we could better design it for that fronting pathway. The programmed uses, particularly at the ground floor of the building should really help energize that important public pathway. How are you activating this northern landscape area and how are you connecting this building to that east west connector? That needs to be the most actively experienced open space in this plan. I hope the units on that backside could have full access on that pathway. Currently, it looks like you may have parking on that first floor. The space shown as green separated from the pathway by trees should not be a passive, unused area for tenants and/or passing pedestrians. Could we have a residential access door at the rear?
 - *Applicant Response: There is a huge grade difference which may make it more difficult, but we can consider putting the amenity spaces like a bike room and dog washing space could be located there.*
 - *There may be some combination of uses and activation. Perhaps a bike connection, the residents would use that if designed properly. We think it could be more like a park setting and keeping more eyes on the space and more usable.*
 - *We wanted to make sure there were plenty of eyes on the path so it didn't seem dark and lonely, so we agree with orienting terraces and balconies towards these connections is preferable.*

- What are these connections supposed to be ultimately? Are they supposed to be right of way? Hopefully, they will not be completed piecemeal. How do we make sure it is implemented consistently? What should the pavement language be for the user to recognize that this connector is meant to be public not private. If there are no guidelines, then it should be discussed more throughout this process.
 - *Applicant Response: There are currently no standards and the idea up until now for pedestrian connections have been for breaking up blocks and providing porosity downtown. This one is really different and less urban, it is signaling a pedestrian system and a larger network, perhaps that material doesn't need to be sophisticated but ensure it is friendly for all users (bicycles, toddlers etc.) we could have plenty of future conversations to determine what works best. Whatever is decided here can be implemented in the Battery District as it moves forward.*
- Have you tried to incorporate more programmed elements into the open space? Currently it seems mostly tree and lawn, especially at the north end.
 - *Applicant Response: There are a couple things we are balancing, particularly green cover so we are trying to leave the rear as a bucolic park setting, but we are hoping for the courtyards to be more active and social, we are early in the process so we will work on more connections in the future. Achieving the 35% green cover is actually pretty difficult to achieve in the urban setting.*

Panel Recommendations:

At Sketch Plan a straw vote is taken to determine whether the Project is on track to receive the minimum 10 points for Design Excellence. The Panel voted 5-0 that the Project is on track with the following to be addressed at the time of Site Plan:

- a. Strengthen relationship of the rear of the building with the proposed east/west connection at the northern portion of the Property.
- b. Provide consistent pavement material and design pedestrian connections recognizable as the public realm not private pathways.
- c. Further identify style of the building with a base, middle, and top that clearly relate to one another.



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

MCPB No. 19-134
Sketch Plan No. 320190080
Battery Lane District
Date of Hearing: December 12, 2019

FEB 06 2020

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review sketch plan applications; and

WHEREAS, on July 3, 2019, Aldon Properties ("Applicant") filed an application for approval of a sketch plan for construction of up to 1,752,000 square feet of total development on five sites including up to 12,000 square feet of non-residential uses and up to 1,740,000 square feet of residential uses with an overall average of 20% MPDUs project wide and a minimum of 15% MPDUs on each site, and a request of density from the Bethesda Overlay Zone on 11.29 acres of CR 3.5 C 0.5 R 3.5 H 120, CR 1.5 C 0.5 R 1.5 H 120, and the Bethesda Overlay Zone (BOZ) zoned-land, located on Battery Lane between Old Georgetown Road and Woodmont Avenue ("Subject Property") in the Bethesda CBD Policy Area and 2017 *Bethesda Downtown Sector Plan* ("Sector Plan") area; and

WHEREAS, Applicant's sketch plan application was designated Sketch Plan No. 320190080, Battery Lane District, ("Sketch Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated December 2, 2019, setting forth its analysis and recommendation for approval of the Application subject to certain binding elements and conditions ("Staff Report"); and

WHEREAS, on December 12, 2019, 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, on December 12, 2019 the Planning Board voted to approve the Application subject to conditions, on the motion of Commissioner Fani-Gonzalez,

Approved as to
Legal Sufficiency:

Christina Smith

1/6/2020

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

MCPB No. 19-134
 Sketch Plan No. 320190080
 Battery Lane District
 Page 2

seconded by Commissioner Cichy, with a vote of 4-0; Commissioners Anderson, Cichy, Fani-Gonzalez, and Verma voting in favor, Commissioner Patterson was absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Sketch Plan No. 320190080, Battery Lane District, for construction of up to 1,752,000 square feet of total development on five sites including up to 12,000 square feet of non-residential uses and up to 1,740,000 square feet of residential uses with an overall average of 20% MPDUs project wide and a minimum of 15% MPDUs on each site, and a request of density from the Bethesda Overlay Zone on the Subject Property, subject to the following binding elements and conditions:¹

A. Binding Elements. The following site development elements are binding under Section 59-7.3.3.F of the Montgomery County Zoning Ordinance:

1. Maximum density and height;
2. Approximate location of lots and public dedications;
3. General location and extent of public open space;
4. General location of vehicular access points; and
5. Public benefit schedule.

All other elements are illustrative.

B. Conditions. This approval is subject to the following conditions:

1. Density

The Sketch Plan is limited to a maximum density of up to 1,752,000 square feet of total development over five sites, including up to 1,740,000 square feet of residential uses and up to 12,000 square feet of non-residential uses, and an allocation of up to 500,110 square feet of Bethesda Overlay Zone density on the Subject Property. The final square footage and BOZ allocation will be determined with each associated Site Plan.

2. Height

Maximum building height is limited to 120 feet, as measured from the building height measuring point illustrated on the Certified Site Plan for each phase. At the time of Site Plan, individual building heights may exceed the maximum zoning height of 120 feet as allowed by the provision of MPDUs in Section 59.4.9.2.3.b of the Zoning Ordinance.

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

3. Incentive Density

The development must be constructed with the public benefits listed below, unless modifications are made under Section 59.7.3.3.I. At the time of each Site Plan, a minimum number of 100 public benefit points must be provided from the following categories and in conformance with Section 59.4.9.2.C.3.d and 59.4.7 of the Zoning Ordinance and the *CR Zone Incentive Density Implementation Guidelines*. Final points and categories will be established at each Site Plan.

- a. Connectivity and Mobility, achieved by providing fewer than the maximum parking spaces under the Zoning Ordinance and BOZ overlay, through block connections, and way finding;
- b. Diversity of uses and activities, achieved by providing a variety of dwelling unit types and moderately priced dwelling units;
- c. Quality of Building and Site Design, achieved through exceptional design and structured parking; and
- d. Protection and Enhancement of the Natural Environment, achieved through cool roof design, vegetated roof, and building lot terminations.

4. Bethesda Downtown Plan Design Guidelines

At the time of Site Plan for each building, the Applicant must demonstrate the following:

- a. Comments have been addressed from the Design Advisory Panel as specified in their March 27, 2019 and May 22, 2019 meeting minutes;
- b. Project conformance with the *Bethesda Downtown Plan Design Guidelines* in regard to street typology, parks and open space, site design, building form, creative placemaking, and any site-specific guidelines.

5. Building & Site Design

Prior to submittal of individual Site Plans associated with this Sketch Plan, the Applicant must explore the following:

- a. Site A (4857 Battery Lane)
If the building height is in excess of 90 feet, provide a step-back as specified in the Design Guidelines.
- b. Site C (4890 Battery Lane)
Submit design alternatives that remove the proposed layby and increase public open space adjacent to the right-of-way.
- c. Site D (4949 Battery Lane)
 - i. Submit alternative designs that explore each of the following for Sector Plan Conformance:
 - a. In coordination with applicable County agencies, determine the feasibility of daylighting the piped stream;
 - b. Increase the width of linear park space with a minimum average of 95' which includes the existing trail easement on the adjacent property;

- ii. Increase the setback of the northern building to minimize encroachment into stream valley buffer. Mitigation for any encroachment must be provided as specified in the Environmental Guidelines.
- iii. Provide furniture and/or play equipment that activates space along the Bethesda Trolley Trail and pedestrian paths.
- d. Site E (4998 Battery Lane)
 - i. If public open space is proposed at the rear of Site E, provide a public connection to Battery Lane meeting the criteria within the Bethesda Design Guidelines for through block connections;
 - ii. If the building height is in excess of 90 feet, provide a step-back as specified in the Design Guidelines.

6. Master Planned Bicycle Facilities

a. Bethesda Trolley Trail

Upgrade the Bethesda Trolley Trail to Breezeway standards or Staff approved equivalent, including:

- i. 11-foot-wide two-way separated bike lanes, with 2-foot-wide shoulders on either side (a total of 15 feet);
- ii. An 8-foot-wide separated walkway with 2-foot-wide shoulders on either side (a total of 12 feet);
- iii. The existing design of the separated pedestrian path should be straightened to reduce the number of curves and provide pedestrian level lighting.

7. Park Impact Payment (PIP)

The Park Impact Payment (PIP) must be paid to the M-NCPPC prior to the release of the first above-grade building permit for each associated Site Plan. The final amount will be determined at each associated Site Plan.

8. Streetscape

The Applicant must install the Bethesda Streetscape Standard or approved equal by MCDOT and Planning Staff along each of the Site Frontages, including the undergrounding of utilities.

9. Public Open Space

The Project is required to provide as Public Open Space 10% of the total Site Area of 441,030 square feet, 44,103 square feet. Off-Site open space associated with the Separated Bike Lane Facility may count towards the Project's required open space, to be determined at the time of Site Plan review.

10. Green Cover

At the time of each Site Plan, the Applicant must provide a minimum 35% of site area on each site as green cover as described in Section 2.4.1 of the *Bethesda Downtown Sector Plan* and any proposed tree canopy must utilize tree species and canopy sizes at 20-year maturity per the M-NCPPC Approved Trees Technical Manual.

11. Moderately Priced Dwelling Units (MPDUs)

- a. The Applicant must provide a minimum of 15% MPDUs on each site in accordance with Chapter 25A.
- b. The Applicant must provide the following minimum MPDUs at each individual Site Plan:
 1. Site A (4857 Battery Lane): 15%
 2. Site B (4858 Battery Lane): 25%
 3. Site C (4890 Battery Lane): 15%
 4. Site D (4949 Battery Lane): Building D-1 – 17.6% and Building D-2 – 25%
 5. Site E (4998 Battery Lane): 15%
- c. The Planning Board accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (DHCA) in its letter dated November 13, 2019, and hereby incorporates them as conditions of the Sketch 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 any other conditions of the Sketch Plan approval. The Planning Board encourages the Applicant to continue to work with DHCA to provide more MPDUs and/or more affordable MPDUs (less than 50% AMI) in the development.

12. MCDOT letter

The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated November 15, 2019 and does hereby incorporate them as conditions of the Sketch Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Sketch Plan approval.

13. Future Coordination for Preliminary and Site Plans

In addition to any other requirements for Preliminary Plans under Chapter 50 and Site Plans under Chapter 59, the following must be addressed when filing a Preliminary or Site Plans, as appropriate:

- a. Fire and Rescue access and facility details;

MCPB No. 19-134
 Sketch Plan No. 320190080
 Battery Lane District
 Page 6

- b. Demonstrate how each public benefit satisfies the Zoning Ordinance and Incentive Density Implementation Guideline requirements;
- c. Prior to submittal of a Site Plan proposing to receive public benefit points for wayfinding, coordinate with Bethesda Urban Partnership for any proposed wayfinding signage;
- d. Prior to Certified Preliminary Plan, submit a letter of withdrawal for Development Plan G-909;
- e. Prepare a draft Traffic Mitigation Agreement to participate in the Bethesda Transportation Demand Management District;
- f. Address the SITES & LEED recommendations of the Sector Plan, specifically related to energy efficiency and building design features;
- g. SWM concept approval which also addresses the recommendations of the *Bethesda Downtown Sector Plan* Water Quality Section (2.4.2.B);
- h. Prior to Preliminary Plan approval, submit a Tree Save Plan prepared by an ISA Certified Arborist who is also a Maryland Licensed Tree Care Expert;
- i. At the time of each Site Plan, address Bird-Safe Design per the *Bethesda Downtown Sector Plan* Design Guidelines;
- j. At the time of each Site Plan, provide a noise analysis or a waiver per Section 2.2.2 of the 1983 Noise Guidelines.

BE IT FURTHER RESOLVED that having given full consideration to the recommendations and findings 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 and all applicable elements of the Zoning Ordinance, the Board finds that as conditioned the necessary elements of the Sketch Plan are appropriate in concept and appropriate for further review at site plan and that:

1. *The Sketch Plan meets the objectives, general requirements, and standards of the Zoning Ordinance.*

a. Development Standards

The Subject Property includes approximately 11.29 acres zoned CR 3.5 C 0.5 R 3.5 H 120, CR 1.5 C 0.5 R 1.5 H 120, and the Bethesda Overlay Zone (BOZ). The data table below demonstrates the Application's conformance to the applicable development standards of the zones.

Data Table

The Sketch Plan meets the development standards of Section 59.4.5.4, as shown in the following Data Table:

MCPB No. 19-134
 Sketch Plan No. 320190080
 Battery Lane District
 Page 7

Table 1: Sketch Plan Data Table

Project Data Table (Section 59.4)		
Development Standard	Permitted/ Required	Proposed
Tract Area (Square Feet/ Acres) CR 3.5 C-0.5 R-3.5 H-120' Site A Site B Site C Subtotal CR 3.5 CR 1.5 C-0.5 R-1.5 H-120' Site D Site E Subtotal CR 1.5 Total Tract Area	n/a	46,553 (1.07) 71,420 (1.64) 139,099 (3.19) 257,072 (5.90) 143,307 (3.29) 91,452 (2.10) 234,759 (5.39) 491,831 (11.29)
Site Area (Square Feet/ Acres) CR 3.5 C-0.5 R-3.5 H-120' Site A Prior Dedication Proposed Dedication Site A Area (Tract Area – Dedications) Site B Prior Dedication Proposed Dedication Site B Area (Tract Area – Dedications) Site C Prior Dedication Proposed Dedication Site C Area (Tract Area – Dedications) CR 1.5 C-0.5 R-1.5 H-120' Site D Prior Dedication Proposed Dedication Site D Area (Tract Area – Dedications) Site E Prior Dedication Proposed Dedication Site E Area (Tract Area – Dedications) Total Site Area	n/a	2,914 (0.07) 1,165 (0.03) 42,474 (0.98) 15,722 (0.36) 3,066 (0.07) 52,632 (1.21) 8,094 (0.19) 3,238 (0.07) 127,767 (2.93) 7,078 (0.16) 3,133 (0.07) 133,096 (3.05) 4,648 (0.11) 1,743 (0.04) 85,061 (1.95) 441,030 (10.12)
Residential Density (GFA/ FAR) CR 3.5 C-0.5 R-3.5 H-120' CR 1.5 C-0.5 R-1.5 H-120' Subtotal	899,752 (3.5) 352,138 (1.5) 1,251,890 (2.55)	— — 1,239,890 (2.53)

Commercial Density (GFA/ FAR)		
CR 3.5 C-0.5 R-3.5 H-120'	128,536 (0.5)	--
CR 1.5 C-0.5 R-1.5 H-120'	117,379 (0.5)	--
Subtotal	245,915 (0.49)	12,000 (0.02)
Total Mapped Density (GFA/FAR)	Residential 1,251,890 (2.55) Commercial 245,915 (0.49) 1,251,890 (2.55)	1,239,890 (2.53) 12,000 (0.02) 1,251,890 (2.55)
MPDU Density (GFA)¹	15%	20% (345,780)
Bethesda Overlay Zone Density (GFA/ FAR)	n/a	500,110 (1.02)
Total GFA/ FAR	n/a	1,752,000 (3.56)
Building Height		
Site A	120 feet	120 feet ²
Site B	120 feet	120 feet ²
Site C	120 feet	120 feet ²
Site D	120 feet	120 feet ²
Site E	120 feet	120 feet
Public Open Space (min)³	10%	10% (44,103 sf)
Green Cover³	35%	35% (154,360 ft)
Minimum Setbacks	n/a	0'

¹ Percentage based on running average of all sites. Gross floor area subject to change at Site Plan. MPDU density is included in the BOZ Density for tracking purposes, however any density attributed to MPDUs is not subject to a Park Impact Payment.

² At the time of Site Plan, individual building heights may exceed the maximum zoning height of 120 feet as allowed by the provision of MPDUs in Section 59.4.9.2.3.b of the Zoning Ordinance.

³ Based on total Project Site Area and will be evaluated during individual Site Plan applications.

The Application will provide the minimum required number of bicycle parking spaces within each building, which will be determined at the time of Site Plan. The final number of vehicular parking spaces will be determined at Site Plan based on the residential units and non-residential square footage.

The Sketch Plan conforms to the intent of the CR zone as described below:

a) Implement the recommendations of applicable master plans.

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

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

The Property is located in the Battery Lane District, designated as sites 4, 7, 9, 11, & 14 on page 130 of the Sector Plan, which recommends rezoning to the CR zone to promote enhanced redevelopment opportunities to foster a quality mix of housing options. This District consists of a range of housing types including garden style apartments along Battery Lane as well as single unit homes and low- to high-rise buildings. Within this district are over 1,000 units in 16 building complexes that provide one of the major sources of market-rate affordable housing in Bethesda. These buildings were mostly built in the 1950s and 1960s and lack amenities found in newer residential development. Battery Lane Park and the North Bethesda Trail are located in the center of the District and are heavily utilized, however wider buffered sidewalks and connections through long blocks are needed to make this neighborhood a truly walkable area. Specifically, the Project addresses the following applicable goals as outlined in the Sector Plan:

- *Preserve existing market-rate affordable housing.*

The Applicant owns two additional buildings within the Battery Lane District that are not part of this development application that will remain as market-rate affordable. 306 of the 477 existing market-rate affordable units within the development application will return as guaranteed affordable housing for low income residents.

- *Promote enhanced redevelopment opportunities to foster a quality mix of housing options.*

The Project will redevelop five existing sites to provide six new buildings with a mix of housing styles including townhouse entry units and taller residential apartment buildings. The Proposal includes a mix of unit sizes including efficiency, one-bedroom, two-bedroom, and three-bedroom units. Each site will provide a minimum of 15% MPDUs and proposes 25% MPDUs on two of the sites that averages out to 20% MPDUs throughout the Project, which further enhances the mix of housing options.

- *Expand neighborhood green at Battery Lane Park.*

While the Project proposes to provide public use space along the existing Bethesda Trolley Trail on Site D, the proposed size of the space is significantly less than Sector Plan recommended 0.9 acres. The Sector Plan refers to this space on page 82 as the North Bethesda Trail Urban Greenway and calls for this enhanced expansion of Battery Lane Urban Park to be a green and active linear park connection between the National Institutes of Health and Woodmont Triangle. The Sector Plan recommends the North Bethesda Trail Urban Greenway to be approximately 0.9 acres in size and wide enough to allow stream improvements including daylighting of the existing piped stream, environmental interpretation and play elements. The Applicant has proposed, in lieu of daylighting the piped stream, to provide stormwater features as well as other passive amenities in the public use space, which would be further determined at the time of Site Plan. The Applicant proposes a mixed-use building at the rear of Site D adjacent to a proposed open space. The size of this space is smaller than the Sector Plan recommended 0.9 acres, at 0.58 acres, and the width is smaller than the Sector Plan visualizes, with an average width of 60 feet. The Applicant has stated that daylighting of the stream is not feasible due to the size of the 66-inch pipe and the depth of the pipe below the existing grade. As conditioned, the Applicant will be required to explore moving building footprints at the time of Site Plan in order to provide area for an enlarged linear Urban Greenway with an average width of 95 feet to be more in keeping with the width of the linear greenway as portrayed in the referenced figures of the Sector Plan. The condition will also require the Applicant to continue working with applicable County agencies to determine the feasibility of daylighting the stream.

- *Improve pedestrian and bike connectivity through the district and along the park.*

The Applicant proposes to enhance the existing Bethesda Trolley Trail which will separate the pedestrian and bicyclists on two separate paths. This separation will further support the 2018 *Bicycle Master Plan* vision to create the MD 255 South Breezeway network. As conditioned, each path will meet the minimum standards as set in the 2018 *Bicycle Master Plan*.

- *On private property, provide a minimum of 35 percent green cover, which may include singularly or a combination of intensive green roof and tree canopy.*

As conditioned, each site will meet the minimum requirements for 35 percent green cover through green roof, tree canopy, or a combination of the two. The Applicant has provided a green cover exhibit conceptually showing how each of the five sites may provide green roof and/or tree canopy meeting the Sector Plan's goals. Each site's green cover will be further reviewed at the time of each Site Plan.

- b) *Target opportunities for redevelopment of single-use commercial areas and surface parking lots with a mix of uses.*

The Project will redevelop six entirely residential areas that also contain several surface parking lots into residential and mixed-use buildings with structured parking, and enhancements to the existing Bethesda Trolley Trail and open space areas for public use. The inclusion of non-residential and enhancement of public use space may encourage more activity along the Bethesda Trolley Trail and proposed open space and removing the surface parking lots.

- c) *Encourage development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities, where parking is prohibited between the building and the street.*

The Project encourages such development by proposing market-rate residential units in a variety of unit types with the inclusion of 20% MPDUs that exceeds the minimum requirement within the Bethesda Overlay Zone, offering housing opportunities for a range of incomes proximate to the numerous transit options of Downtown Bethesda. The

Project will accommodate all modes of transit – pedestrian, bicycle, and vehicular – as it will provide significant streetscape improvements including a new separated bike lane facility, two through block connections, and enhancements to the existing Bethesda Trolley Trail. The Project is located within ½ mile of two Metro stops and numerous bus stops such as RideOn and the Bethesda Circulator. The Project does not propose any parking between the building and the street frontages.

d) Allows a flexible mix of uses, densities, and building heights appropriate to various settings to ensure compatible relationships with adjoining neighborhoods.

The Proposal will increase the mix of housing type and density while proposing a height and massing that is compatible with the desired character of infill development within the Battery Lane District. The existing development located along Battery Lane is a mix of lower-height garden style apartments and taller condominium buildings that reach about 10-11 stories. Four of the proposed buildings are anticipated to have a maximum of 120' in height, which is similar in height with the existing condominium buildings. The Proposal conceptually shows Sites B & D exceeding the zoning height based on the provision of MPDUs. Many changes may occur within the Project over the anticipated build out period and the provision of MPDUs may change throughout the proposed sites. Additional height for the provision of MPDUs will be further evaluated at the time of Site Plan based on the number of MPDUs, unit size, and floorplate average of the individual buildings containing the MPDUs. All sites will be further reviewed at the time of Site Plan for conformance with the *Bethesda Downtown Plan Design Guidelines* (Design Guidelines) and compatibility within the surrounding area.

e) Integrate an appropriate balance of employment and housing opportunities.

The Project will increase housing opportunity by providing high-density residential of varying styles in proximity to existing commercial and employment areas such as NIH and other commercial businesses within Downtown Bethesda.

f) Standardize optional method development by establishing minimum requirements for the provision of public benefits that will support and accommodate density above the standard method limit.

The Project will provide the required public benefits from the minimum number of categories to achieve the desired incentive density above the standard method limit. Final determination of public benefit points will be determined at the time of Site Plan based on the total number of MPDUs provided at that time.

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. An allocation of density from the BOZ requires a park impact payment of \$11.08/square foot based upon the density requested and facilitates acquisition of parkland in the downtown Bethesda area. This Application is requesting an allocation of 128,036 square feet from the BOZ initiating a Park Impact Payment (amount to be determined during Site Plan review) to be paid at the time of building permit. The amount of BOZ density will be deducted from the 32.4 million square feet cap.

2. *The Sketch Plan substantially conforms to the recommendations of the Sector Plan.*

Chapter 2.7 of the Sector Plan details recommendations for meeting Park, Trail, and Open Space Goals. Site Specific recommendations are made for Site D of the Subject Property as specifically labeled B1 on page 71 of the Sector Plan. Recommendations for this site are expanded upon on page 82, 2.7.3(B)(1). The Sector Plan calls for a 0.9-acre Urban Greenway to serve as a linear park which provides a bicycle and pedestrian trail, stream improvements, environmental interpretation, and play elements. This site is further cited for Public Realm Improvements on page 132 of the Sector Plan recommends an expanded and enhanced connection to NIH and daylighting of the piped stream. The Applicant proposes a mixed-use building at the rear of Site D adjacent to a proposed open space. The size of this space is smaller than the Sector Plan recommended 0.9 acres, at 0.58 acres, and the width is smaller than the Sector Plan visualizes, with an average width of 60 feet.

As discussed in Finding 1.a above, the Project, as conditioned, substantially conforms to the recommendation of the 2017 *Bethesda Downtown Sector Plan*. The Project will provide a variety of high density multi-family residential buildings within the Battery Lane District, increase the supply of

housing to serve a variety of income levels, provide two through block connections, enhance the existing Bethesda Trolley Trail and redesign the Battery Lane right-of-way to allow for a separated bike lane facility that will enhance the safety, connectivity, and character of the Battery Lane District. As conditioned, the Applicant will be required to explore moving building footprints at the time of Site Plan in order to provide area for an enlarged linear Urban Greenway with an average width of 95 feet to be more in keeping with the width of the linear greenway as portrayed in the referenced figures of the Sector Plan. The condition will also require the Applicant to continue working with applicable County agencies to determine the feasibility of daylighting the stream.

3. *The Sketch Plan satisfies, under Section 7.7.1.B.5 of the Zoning Ordinance, the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

Development Plan G-909 was previously approved for this site; however, the Property is no longer subject to this development plan pursuant to Section 59.7.7.1.B.5.a.i of the Zoning Ordinance as a Sectional Map Amendment was approved after October 30, 2014 implementing the 2017 *Bethesda Downtown Sector Plan*. The Applicant could proceed with the PD-zoned application and apply the densities, heights and binding elements from that case or implement what the Sector Plan applied to the site. Since the Applicant has chosen to implement the densities, heights and recommendations of the recent Sector Plan, the Project has been conditioned to submit a letter of withdrawal for the Development Plan.

4. *The Sketch Plan achieves compatible internal and external relationships between existing and pending nearby development.*

Site D proposes a building at the rear of the site adjacent to the Bethesda Trolley Trail and existing stream outfall, which encroaches into the 100' stream valley buffer by approximately 80'. The Project has been conditioned to explore minimizing the building encroachment into the stream buffer to conform with the Montgomery County Environmental Guidelines and provide mitigation for any unavoidable encroachment, which will be further reviewed at the time of Site Plan for compatibility.

The Project will achieve internal and external relationships with existing and pending development through the inclusion of public open space and offsite open space improvements such as upgrades to the Battery Lane ROW street section, the creation of two through block connections at the rear of Site C, the enhancement of the existing Bethesda Trolley Trail and street crossing,

and the design of each of the proposed buildings. At the time of Site Plan, each building will be reviewed for conformance with the Design Guidelines which sets a level of architectural excellence. Given that the location of the Project abuts a residential detached neighborhood in the rear of Site E, the Project is required to conform with the residential compatibility standards in Section 4.8.1.A of the Zoning Ordinance, which the Applicant has conceptually showed and will be further reviewed at the time of Site Plan.

5. *The Sketch Plan provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading.*

Pedestrian access to the sites 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 or approved equal by MCDOT, and an improved Bethesda Trolley Trail connection, from Battery Lane to property owned by the National Institutes of Health, along Site D. The immediate area is served by Metrobus, RideOn, the Bethesda Circulator and the WMATA Metrorail Red Line. Two metrorail stops are generally between ½ mile from the development sites. Conceptual vehicular access to each of the sites is discussed below and the final location, design, and approval of site access points will be determined at the time of Preliminary Plan:

Site A: Site A, located on the eastern edge of the Battery District near Woodmont Avenue, proposes its conceptual access point as a consolidated garage and loading driveway at the southeast corner of the site via the north side of Battery Lane. This conceptual access point is immediately adjacent to the adjacent driveway for 4811 Battery Lane.

Site B: Site B, located on the eastern edge of the Battery District near Woodmont Avenue, proposes its conceptual access point as a consolidated garage and loading driveway at the northwest corner of the site via the south side of Battery Lane. This conceptual access point is shared with one of two conceptual access points for Site C which is adjacent to Site B to the west.

Site C: Site C, located on the south side of Battery Lane, just west of Site B, proposes three conceptual access points via the south side of Battery Lane: The western-most access point is a one-way inbound driveway that circumnavigates the perimeter of Site C before exiting the site at the eastern-most driveway, which is shared with Site B, as discussed above. The third access point, located in the middle of Site C, is a one-way inbound lay-by the connects with the eastern-most driveway shared with Site B. The

proposed layby is not supported and, as conditioned, Site C will be limited to the western-most inbound driveway and eastern-most driveway shared with Site B.

Site D: Site D, located in the center of the Battery District adjacent to the Bethesda Trolley Trail proposes its conceptual access point as a consolidated garage and loading driveway at the southwest corner of the site via the north side of Battery Lane. This conceptual access point will facilitate all vehicular traffic to the site and will minimize potential conflicts between vehicles and bicyclists along the Bethesda Trolley Trail.

Site E: Site E, located on western of Battery Lane Urban Park, proposes its conceptual access point as a consolidated garage and loading driveway at the northeast corner of the site via the south side of Battery Lane. This conceptual access point is immediately adjacent to the adjacent driveway for 4970 Battery Lane.

Bicyclists access to the Property via Battery Lane, the Bethesda Trolley Trail, and Woodmont Avenue will be improved as part of the Subject Application. The Applicant proposes to redesign and implement separated bicycle lanes on a portion of Battery Lane and Woodmont Avenue, and improve the width of quality of the Bethesda Trolley Trail as recommended in the 2018 *Bicycle Master Plan*. The design of these facilities, as well as the scope and manner of participation, will be determined at the time of Preliminary Plan.

Master Plan Roadways and Pedestrian/Bikeway Facilities

The 2017 *Bethesda Downtown Sector Plan* and 2018 *Bicycle Master Plan* recommend the following master plan facilities along Property frontage:

1. Battery Lane: A minor arterial roadway (MA-8) with a minimum right-of-way width of 70-feet and two-way separated bicycle lanes on the south side of Battery Lane.
 - a. Between the Old Georgetown Road and the Bethesda Trolley Trail, the 2018 *Bicycle Master Plan* does not specify the north or south side of the street;
 - b. Between the Bethesda Trolley Trail and Woodmont Avenue, the separated bicycle lanes are designated as a portion of the *City of Rockville to Friendship Heights Breezeway Network* and are recommended to be on the north side of Battery Lane;
2. Woodmont Avenue: An arterial roadway (A-68) with a minimum right-of-way width of 80-feet and two-way separated bicycle lanes on the west side of the street;

3. Bethesda Trolley Trail: an off-street trail, this bicycle facility is designated as a portion of the *City of Rockville to Friendship Heights Breezeway Network*.
6. *The Sketch Plan proposes an outline of public benefits that supports the requested incentive density and is appropriate for the specific community.*

Taking into account the considerations in Section 59-4.7.1.B, including the recommendations and objectives of the Sector Plan and any applicable design guidelines, the Incentive Density Implementation Guidelines, the size and configuration of the site and its relationship to adjacent properties, similar public benefits nearby, and additional enhancements related to the individual public benefits, the Planning Board finds that the following outline of public benefits supports the Applicant's request for incentive density and is appropriate for the community surrounding the site. Final determination of public benefit point values will be determined at Site Plan(s).

For the proposed development, the Zoning Ordinance requires 100 points in four categories. Although at the time of Sketch Plan review only the categories need be approved, the following table shows both the categories and points for the public benefits requested at Sketch Plan to demonstrate the project's ability to meet the requirement to provide sufficient benefit points. At the time of each Site Plan submittal, the points will be reviewed to ensure each Site Plan is contributing a minimum of 100 points. If a Site Plan proposes 20% or more of residential units as MPDUs, public benefits are not required, except for Exceptional Design, per Section 59.4.9.2.C.3.d.iv of the Zoning Ordinance.

Table 2: Proposed Public Benefits

Public Benefits Calculations		
Public Benefit	Incentive Density Points	
	Max Allowed	Requested
59.4.7.3C: Connectivity and Mobility		
Minimum Parking ¹	20	12.4
Through Block Connection	30	30
Way finding	10	10
59.4.7.3D: Diversity of Uses and Activities		
Dwelling Unit Mix	30	30
Moderately Priced Dwelling Units	n/a	75
59.4.7.3E: Quality of Building and Site Design		
Exceptional Design ¹	30	30
Structured Parking	20	15

59.4.7.3F: Protection and Enhancement of the Natural Environment		
Building Lot Termination (BLT)	30	33.27
Cool Roof	15	15
Vegetated Roof	20	20
TOTAL	100 (min)	270.97

¹Denotes Sector Plan priority

Connectivity and Mobility

Minimum Parking: The Applicant requests 12.4 points for providing fewer than the maximum allowed number of parking spaces. Points for this incentive are granted on a sliding scale from no points for providing maximum allowable number of on-site spaces to 20 points for providing no more than the minimum number of spaces on-site. Final determination will be made at each Site Plan.

Through Block Connection: The Applicant requests 30 points for providing a through block connection through Sites C & D. Points for this incentive are granted based on basic criteria listed in the Zoning Ordinance and additional points may be granted if additional criteria are met. The conceptual proposal shows the basic and some additional criteria being met, however further review at Site Plan will be required to determine the final points achieved. The category is supported at this time.

Way Finding: The Applicant requests 10 points for design and implementation of a way finding system orienting pedestrians and cyclists to major public open spaces, cultural facilities and transit opportunities. The Applicant has provided conceptual designs of way finding systems taking into consideration the regional context of the public spaces such as Battery Lane Urban Park, the Bethesda Trolley Trail, and the numerous transit stops located throughout the Battery Lane. The category is supported at this time, and the Project has been conditioned to work with BUP at time of Site Plan to further develop the concept.

Diversity of Uses and Activities

Dwelling Unit Mix: The Applicant requests 30 points for providing a mix of efficiency, one-bedroom, two-bedroom, and three-bedroom units. Points for this incentive are granted based on a percentage of each unit type to be provided. The Applicant has provided a conceptual number of unit types, however additional efficiency and three-bedroom dwelling units will be required at the time of each Site Plan to achieve the maximum amount of points requested. The category is supported at this time.

Moderately Priced Dwelling Units: The Applicant requests 75 points for providing more than 15% dwelling units as MPDUs. There is no limitation to the number of points to be requested or approved for providing affordable housing. The proposal includes a project wide goal of 20% MPDUs with some individual sites providing up to 25% MPDUs. The exact number of units to be provided as MPDUs and the unit type will be required at the time of each Site Plan for review and final approval by DHCA. The category is supported at this time.

Quality of Building and Site Design

Exceptional Design: The Applicant requests 30 points for building and/or site design that enhances the character of a setting. As a site receiving an allocation of Bethesda Overlay Zone density, the Project is subject to the Design Advisory Panel review, which will award points based on the quality of the design. The Applicant asserts that the Project fulfills many recommendations of the *Bethesda Downtown Sector Plan* and Design Guidelines. The category is supported at this time and the Design Advisory Panel will review the Project again at the time of each Site Plan.

This Project was reviewed by the Design Advisory Panel on March 27, 2019 and May 22, 2019. The Panel's scope of review was focused on the Project from a district level and therefore did not review each individual site for conformance with the *Bethesda Downtown Plan Design Guidelines* (Design Guidelines). Each site will be reviewed by the DAP at the time of Site Plan review, which may result in comments beyond issues listed below.

The Panel provided these initial recommendations at the March 27, 2019 meeting:

- Provide an urban design vision for the entire street from Woodmont Avenue to Old Georgetown Road. Incorporate opportunities for deeper setbacks, increased canopy trees and plantings to create a garden district that differentiates itself from the more urban areas in downtown Bethesda.
- Widen the public open space on site D, the North Bethesda Trail Urban Greenway, as recommended in the Bethesda Downtown Plan. Create a better visual and physical connection between Battery Lane Urban Park and the NIH public open space.
- Reconfigure the massing and orientation of the buildings on site D to relate to the widened public open space along the Bethesda Trolley Trail. Consider reducing the footprint and increasing the height of the midrise building along Battery Lane.

- Create a brief pattern book or selection of materials to provide cohesion for the multiple projects in the district. Make sure to avoid excessive homogeneity while aiming to provide consistency.
- Consider making one of the connections on site C pedestrian-only rather than having a vehicular loop around the site. In addition, study the feasibility of a street connection through site C from Battery Lane to Rugby Avenue.

The Panel voted at the May 22, 2019 meeting that the Project is on track to receive a minimum of 10 exceptional design points with the following recommendations:

- The panel is generally supportive of the district vision but there are implementation concerns that should be coordinated with County agencies including phasing of Battery Lane improvements, drop-off areas and parking strategy.
- Develop the approach for programming of the linear park near NIH as an important social gathering space.
- Show an arrow for a potential future connection to Auburn Avenue and Woodmont Triangle District from Site C.
- Illustrate the connection between each site and the overall vision at Site Plan.

Structured Parking: The Applicant requests 15 points for providing structured parking in a below grade parking structure. The category is supported at this time.

Protection and Enhancement of the Natural Environment

BLTs: The Applicant requests 33.27 points for the purchase of BLT easements or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5% incentive density floor area. Points are granted by the calculation of BLTs as provided in Section 59.4.7.3.F of the Zoning Ordinance. While the Applicant has requested 33.27 points be granted for BLTs, a maximum of 30 points can be granted. The category is supported at this time and will be further reviewed for points at each Site Plan review.

Cool Roof: The Applicant requests 15 points for constructing any roof area that is not covered by a vegetated roof with a minimum solar reflectance index (SRI) as specified in the Incentive Density Implementation Guidelines. On sites that are larger than one acre, incentive density of 5 points are appropriate for development that meets the cool roof requirements of the Zoning Ordinance. The category is supported at this time and will be further reviewed for points at each Site Plan review.

Vegetated Roof: The Applicant requests 20 points for the installation of vegetated roofs with a soil depth of at least 4 inches covering at least 33% of each building's roof, excluding space for mechanical equipment. The Applicant has provided a conceptual layout showing each of the six proposed buildings with vegetated roofs. The category is supported at this time and will be further reviewed for points at each Site Plan review.

7. *The Sketch Plan establishes a feasible and appropriate phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.*

The Applicant anticipates the build out of the Project to extend over 10 to 15 years and in multiple phases. These phases may occur in any order or may be combined. The phasing will be determined by the Applicant based on market demand and operational needs. As conditioned, each phase will be required to achieve a minimum of 100 public benefit points as described in Section 59.4.7.3 and 59.4.9.2.c.3.d. A Preliminary Plan application is currently under review for 4 of the 5 sites (Sites A, C, D &E) which may require phasing of certain improvements that will be determined at the time of Preliminary Plan approval.

BE IT FURTHER RESOLVED that the Board's approval of a sketch plan is in concept only and subject to further review at site plan, when, based on detailed review the Board may modify the Sketch Plan's binding elements or conditions based on the Montgomery County Code, the Sector Plan, or other requirements; and

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 all binding site development elements shown on the latest version of 320190080, Battery Lane District, received by M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

MCPB No. 19-134
 Sketch Plan No. 320190080
 Battery Lane District
 Page 22

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB 06 2020 (which is the date that this Resolution is mailed to all parties of record); and

* * * * *

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 and Commissioners Cichy and Verma voting in favor, and Vice Chair Fani-González and Commissioner Patterson absent at its regular meeting held on Thursday, January 16, 2020, in Silver Spring, Maryland.



 Casey Anderson, Chair
 Montgomery County Planning Board



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

MCPB No. 20-033
Preliminary Plan No. 120190240
Battery Lane District Preliminary Plan
Date of Hearing: April 23, 2020

MAY 14 2020

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on July 3, 2019, Aldon Properties ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create 4 lots on 9.65 acres of CR 3.5 C 0.5 R 3.5 H 120, CR 1.5 C 0.5 R 1.5 H 120, and the Bethesda Overlay Zone (BOZ) zoned-land, located on Battery Lane between Old Georgetown Road and Woodmont Avenue ("Subject Property"), in the Bethesda CBD Policy Area and 2017 *Bethesda Downtown Sector Plan* ("Sector Plan") area; and

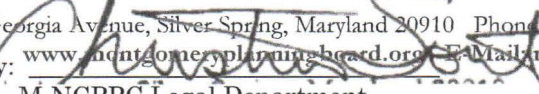
WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120190240, Battery Lane District ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated April 10, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 23, 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, on April 23, 2020, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Cichy, seconded by Commissioner Verma, with a vote of 3-0; Commissioners Anderson, Cichy, and Verma voting in favor, with Commissioner Patterson abstaining, and Commissioner Fani-Gonzales being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120190240 to create 4 lots on the Subject Property, subject to the

Approved as to 8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
Legal Sufficiency:  www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc.org
M-NCPPC Legal Department

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 2

following conditions:¹

General Approval

1. This Preliminary Plan is limited to four lots for up to 1,341,000 square feet of development including 6,000 square feet of non-residential uses and 1,335,000 square feet of residential uses for up to 1,130 units.

Adequate Public Facilities and Outside Agencies

2. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for one hundred twenty (120) months from the date of mailing of this Planning Board Resolution, as illustrated on the Certified Preliminary Plan.
3. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated February 20, 2020 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
4. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration ("MDSHA") in its letter dated March 3, 2020 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. Before recording any plat for any site included in the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements.
6. Any record plat for any site within the Subject Property must show all floodplain and associated 25-foot building restriction lines.
7. 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 letters dated November 13, 2019, November 18, 2019, and April 2, 2020 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be

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.

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 3

amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

8. 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 October 22, 2019 and revised February 20, 2020 and 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 amendment does not conflict with other conditions of Preliminary Plan approval.
9. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (“DHCA”), in its letter dated November 13, 2019, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Future Site Plan Required

10. Before clearing or grading or Planning Board approval of a record plat for any site included in the Subject Property, the Applicant must receive Staff certification of a Planning Board-approved Site Plan. Demolition and site preparation are permitted. The number and location of site elements, including but not limited to buildings, dwelling units, on-site parking, site circulation, sidewalks, and any associated bike path design will be determined through Site Plan review and approval.
11. If any approved Site Plan(s) or Site Plan amendment(s) for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the Site Plan(s) or Site Plan amendment(s).
12. Building and Site Design
 Prior to Planning Board approval of individual Site Plans associated with this Preliminary Plan, the Applicant must:
 - a. Site C; Submit Alternative Method of Compliance request for the lay-by access point for consideration by the Planning Board and approval by MCDPS – Right-of-Way Permitting Section;
 - b. Sites A, C, & D; Provide public pedestrian and bicycle connections and enhanced open spaces as specified in the 2017 *Bethesda Downtown Sector Plan*;

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 4

- c. Site D; Design of any open space areas between the building and 100-year floodplain must minimize hardscape and maximize planting of native species.
- d. Address the SITES & LEED recommendations of the Sector Plan, specifically related to energy efficiency and building design features;
- e. At the time of each Site Plan, the Applicant must provide a minimum of 35% of site area on each Site as green cover as described in Section 2.4.1 of the *Bethesda Downtown Sector Plan* and any proposed tree canopy must utilize tree species and canopy sizes at 20-year maturity per the M-NCPPC Approved Trees Technical Manual.
- f. For any open spaces on Sites A and E, submit either a noise analysis or a waiver request per Section 2.2.2 of the Noise Guidelines;
- g. Address Bird-Safe Design per the Sector Plan Design Guidelines.

Environment

13. The Applicant must comply with the following conditions of approval of Preliminary Forest Conservation Plan 120190240, approved as part of this Preliminary Plan.

- a. Prior to certification of Preliminary Plan, the Applicant must update the Variance Tree Mitigation Table to reflect the correct number of mitigation trees to be planted based on the 114.50 caliper inch mitigation requirement with a minimum size of 3 caliper inches per tree.
- b. The Variance Tree Mitigation Table must demonstrate appropriate mitigation plantings for each individual site; however, Staff may approve minor adjustments to the quantities per site at the time of Final Forest Conservation Plan.
 - i. The location of trees credited towards variance mitigation plantings must be at least 5 feet away from any structures, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or associated easements.
- c. Future Site Plan submittals for implementation of any site included in the Preliminary Plan must include an associated Final Forest Conservation Plan.
- d. Prior to any permit for land disturbance activity for any site included in the Subject Property; the Applicant must record a Certificate of Compliance to use an off-site forest mitigation bank easement in the Montgomery County Land Records. The Certificate of Compliance must address the applicable site(s) and be in a form approved by the M-NCPPC Office of the General Counsel.

Transportation

MCPB No. 20-033
Preliminary Plan No. 120190240
Battery Lane District Preliminary Plan
Page 5

14. The Applicant must dedicate and show on the record plat(s) all land necessary to accommodate a minimum of 35 feet from the existing right-of-way centerline along the Subject Property frontages for Battery Lane in support of a master-planned 70-foot right-of-way.
15. 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.

Off-Site Improvements

16. Separated Bicycle Facility

Due to the Applicant's requested multi-phased build-out, the Applicant must implement the two-way separated bicycle facility along the south side of Battery Lane as both an interim and ultimate condition.

- a. Prior to the issuance of the first above grade building permit, the Applicant must obtain MCDOT acceptance of the Interim Separated Bike Lane Facility between Old Georgetown Road and Woodmont Avenue.
- b. Prior to the issuance of the first residential Use & Occupancy Certificate for the first building, the Applicant must construct and obtain MCDOT acceptance of the protected intersection at Woodmont Avenue and Battery Lane.
- c. Prior to the certification of each Site Plan for each individual site, the Applicant must show the final design of the Ultimate Separated Bike Lane Facility on the Certified Site Plan, subject to MCDOT approval. Construction of the ultimate facility is preferred; however, the final determination of construction or financial contribution will be made by MCDOT. Any financial contribution amount must be approved by MCDOT prior to Certification of each Site Plan.
- d. Prior to the issuance of the first Use & Occupancy Certificate for each individual Site Plan, the Applicant must construct for MCDOT acceptance or financially contribute to the implementation of the Ultimate Separated Bike Lane Facility along the associated site frontage. If a financial contribution is accepted by MCDOT, the contribution must be made prior to issuance of the first Use & Occupancy Certificate for each individual Site Plan.

Certified Preliminary Plan

17. The Applicant must include all applicable agency approval letters and Preliminary Plan Resolution on the approval or cover sheet(s) of the Certified Preliminary Plan.

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 6

18. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of Site Plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.

19. Prior to submittal of the Certified Preliminary Plan, the Applicant must make the following changes:

- a. Revise Phasing Plans to define "Interim" and "Ultimate" Separated Bike Lane Facility, and to incorporate Off-Site Improvements as stated in the above conditions.
- b. Update Preliminary Plan for Site D to reflect the recently approved floodplain study.
- c. Modify data table to reflect development standards approved by Planning Board.

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

1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

a. *The block design is appropriate for the development or use contemplated*

The length, width, and shape of the block are consistent with Section 50.4.3.B of the Subdivision Code. The proposed subdivision is within an existing block and established street grid that is developed for multifamily housing.

b. *The lot design is appropriate for the development or use contemplated*

The Preliminary Plan meets all applicable sections of the Subdivision Code. The four proposed lot sizes, widths, shapes, and orientation are appropriate for the location of the subdivision, taking into account the recommendations of the Sector Plan, the existing lot pattern of the surrounding properties, and

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 7

for the building-type contemplated for the Property, multi-family development.

As further discussed in Finding 4, the lot design for Site D is large enough to develop for the purposes of multi-family residential while being encumbered by an existing floodplain.

- c. *The Preliminary Plan provides for required public sites and adequate open areas*

Master Planned Sites

The 2017 *Bethesda Downtown Sector Plan* recommends an enhanced public open space, referred to as the North Bethesda Urban Greenway, on Site D. The development of Site D and the related open space and recreation improvements will be reviewed as part of the Site Plan for Site D. The Preliminary Plan has been conditioned to require conformance with the Sector Plan recommendations for Site D at the time of Site Plan review. The Sector Plan also calls for a public connection on Site A and Site C. On Site A, the intent is to create a pedestrian connection going east from Woodmont Avenue, through the rear of the properties on the north side of Battery Lane, to the Bethesda Trolley Trail on Site D. The design for Site A will allow for a public pedestrian connection as recommended in the Sector Plan. The recommended public connection on Site C will provide a north/south pedestrian connection from Rugby Avenue to Battery Lane, which will be accommodated by Site C.

There are no other Sector Plan recommendations for public facilities or local recreation requirements for the Subject Property.

- d. *The Lot(s) and Use comply with the basic requirements of Chapter 59*
 The lots were reviewed under and found to be in compliance with the dimensional requirements for the CR zone as specified in the Zoning Ordinance.

2. *The Preliminary Plan substantially conforms to the Master Plan.*

a. Land Use

The Project substantially conforms to the site recommendations included in the 2017 *Bethesda Downtown Sector Plan*. The Property is located in the Battery Lane District, designated as sites 4, 7, 9, 11, & 14 on page 130 of the Sector Plan, which recommends rezoning to the CR zone to promote enhanced redevelopment opportunities to foster a quality mix of housing options. This District consists of a range of housing types including garden style apartments along Battery Lane as well as single unit homes and low- to high-

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 8

rise buildings. Battery Lane Park and the North Bethesda Trail are located in the center of the District and are heavily utilized, however wider buffered sidewalks and connections through long blocks are needed to make this neighborhood a truly walkable area. Specifically, the Project addresses the following applicable goals as outlined in the Sector Plan:

- *Preserve existing market-rate affordable housing.*

The Applicant owns two additional buildings within the Battery Lane District that are not part of this development application that will remain as market-rate affordable. The associated Sketch Plan was conditioned to require certain sites provide MPDUs in excess of the 15% minimum requirement.

- *Promote enhanced redevelopment opportunities to foster a quality mix of housing options.*

The Preliminary Plan will create four lots to allow for redevelopment of older multifamily buildings to provide an increase of multifamily units with a mix of housing styles including townhouse entry units and taller residential apartment buildings. The related Sketch Plan proposal includes a mix of unit sizes including efficiency, one-bedroom, two-bedroom, and three-bedroom units at varying levels of affordability, including MPDU's.

- *Expand neighborhood green at Battery Lane Park.*

On Site D of the Preliminary Plan, the Sector Plan recommends an expansion of Battery Lane Urban Park, referred to as the North Bethesda Trail Urban Greenway (Page 82 of the Sector Plan) and calls for this to be a green and active linear park connection between the National Institutes of Health and Woodmont Triangle. The Sector Plan recommends the expansion to be approximately 0.9 acres in size and wide enough to allow stream improvements, including daylighting of the existing piped stream, environmental interpretation and play elements. The proposed configuration of Site D will allow for an expansion of a neighborhood green as recommended in the Sector Plan, with the details of size and design to be reviewed at the time of Site Plan, as conditioned.

b. Environment

The Sector Plan recommends that development on private property provide a minimum of 35 percent green cover, which may include singularly or a

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 9

combination of intensive green roof and tree canopy. As conditioned, each site will meet the minimum requirements for 35 percent green cover through green roof, tree canopy, or a combination of the two. The Applicant has provided a green cover exhibit conceptually showing how each of the five sites may provide green roof and/or tree canopy meeting the Sector Plan's goals. Each site's green cover will be further reviewed at the time of each Site Plan.

The Sector Plan calls for any future development on Site D to consider daylighting the existing piped stream. The ecosystem benefits provided by daylighting the piped stream, which include significantly increased stormwater capture; improved water quality; and increased biodiversity and habitat, are also directly linked to Sector Plan goals. While the Applicant has initially stated this is infeasible due to the depth of the existing pipe, the related Sketch Plan conditioned the Applicant to continue working with applicable County agencies to determine the feasibility of daylighting the stream. This feasibility will be determined during subsequent Site Plan review of Site D, along with related Sketch Plan conditions requiring expansion of the neighborhood green.

c. Transportation

The 2017 *Bethesda Downtown Sector Plan* recommended improvements to pedestrian and bike connectivity throughout the Battery District and along the park. The 2018 *Bicycle Master Plan* also recommended specific pedestrian and bicycle improvements such as enhancement of the existing Bethesda Trolley Trail to support the MD 255 South Breezeway network and the construction of two-way Separated Bicycle Facilities along Battery Lane. The Applicant will enhance the existing Bethesda Trolley Trail which will separate the pedestrian and bicyclists on two separate paths. The Preliminary Plan also redesigns the existing Battery Lane right-of-way to allow the construction of a two-way Separated Bicycle facility along the south side of Battery Lane. As conditioned, these improvements will be in conformance with the recommendations of the 2018 *Bicycle Master Plan* and the Sector Plan.

The Preliminary Plan Application substantially conforms to the 2017 *Bethesda Downtown Sector Plan*. The Preliminary Plan Application complies with the specific density recommendations for the Subject Property as well as the applicable urban design, roadway, and general recommendations outlined in the Sector Plan. The site is not subject to an Urban Renewal Plan.

3. *Public facilities will be adequate to support and service the area of the subdivision.*

a. Roads and Other Transportation Facilities

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 10

Transportation access is adequate to serve the proposed development by this Preliminary Plan.

i. *Existing Facilities*

Each of the proposed lots has direct frontage and access to Battery Lane, which contains two travel lanes, sidewalks, and overhead utilities. The Project is located approximately half a mile from two Metro Stations (Bethesda Metro to the south, and Medical Center to the north). The Project will also provide direct access and enhancements to the Bethesda Trolley Trail with access to Battery Lane Urban Park.

ii. *Proposed public transportation infrastructure*

Vehicular access to each of the proposed lots subject to this Preliminary Plan are proposed directly from Battery Lane. The Applicant proposes consolidating many of the existing access points to reduce curb cuts, which will be finalized at the time of Site Plan review. As conditioned, access points proposed for Site C will require the submittal of an Alternative Method of Compliance waiver at the time of Site Plan. Pedestrian and bicycle access to the Property will be provided along Battery Lane, the sidewalks will be enhanced with the Bethesda Streetscape Standards, or alternative standard as directed by MCDOT at the time of Site Plan(s), and the bicycle facilities will be upgraded with the two-way Separated Bicycle facility. The Project is located approximately half a mile from two Metro Stations (Bethesda Metro to the south, and Medical Center to the north). The Project will also provide direct access and enhancements to the Bethesda Trolley Trail with access to Battery Lane Urban Park.

b. Local Area Transportation Review (LATR)

A transportation study, dated May 31, 2019, was submitted to analyze the Project. The proposed development is estimated to generate 360 net new morning peak-hour person trips (183 vehicle trips) and 424 net new evening peak-hour person trips (216 vehicle trips). Because the estimated transportation impact of the Project exceeds 50 net new trips for the vehicular, pedestrian, and bicycle modes, the Project evaluated the adequacy of each of these modes to satisfy the Local Area Transportation Review requirement.

Vehicle Adequacy

MCPB No. 20-033
Preliminary Plan No. 120190240
Battery Lane District Preliminary Plan
Page 11

As a project that generates fewer than 250 net new peak hour vehicle trips within Downtown Bethesda, the Applicant was required to evaluate one tier of intersections, resulting in a total of four intersections and the site access points along the Battery Lane corridor. In accordance with the 2016-2020 Subdivision Staging Policy, the intersections included in this analysis were evaluated as part of the Battery Lane corridor within the Downtown area under the Highway Capacity Manual (HCM) methodology. That methodology allows for a more comprehensive operational analysis of the transportation network than an evaluation of each of the intersections in isolation. The four specific intersections studied as part of the Transportation Study are:

1. Battery Lane/ Old Georgetown Road
2. Battery Lane/ Keystone Avenue
3. Battery Lane/ Woodmont Avenue
4. Battery Lane/ Wisconsin Avenue/ Rosedale Avenue

The Transportation Impact Statement concluded that the Battery Lane Corridor would continue to function within the congestion standard set forth in the Subdivision Staging Policy. Staff at the Montgomery County Department of Transportation (MCDOT), MNCPPC, and the Maryland State Highway Administration (MDSHA) accepted the findings of the Transportation Impact Statement. As a point of clarification, the MDSHA approval letter indicated that the Applicant team was unresponsive to requests by that agency to provide analysis of each of the isolated intersections along the Battery Lane Corridor. This supplemental information was requested to further evaluate operations at those intersections in the future, however, it is not necessary in the determination of adequate public transportation facilities for the Subject Application.

Pedestrian Adequacy

Because the Project generates more than 50 peak hour pedestrian trips, the Applicant evaluated each of the crosswalk level of service at LATR study intersections within 500 feet of the site and determined that each of the pedestrian crossings would operate at a level of service "C" or better in the future condition. The Applicant must fix or fund improvements to non-compliant ADA infrastructure pedestrian infrastructure within 500 feet of the Subject Property, in accordance with the 2016-2020 Subdivision Staging Policy and supplemental guidance issued by the Montgomery County Department of Transportation. As conditioned by MCDOT in their letter dated January 15, 2020, the Project is required to construct or fund improvements to provide adequate pedestrian infrastructure for the pedestrian trips generated by the Project.

Bicycle Adequacy

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 12

The Applicant evaluated bicycle travel in accordance with the Planning Department's "Level of Traffic Stress" analysis, which recognizes the effect different roadways have on bicyclists' comfort. That analysis determined that bicycle facilities within 750 feet of the Site were Level of Traffic Stress "2" or better in the future condition. This finding was based, in large part, on the provision of the two-way separated bicycle facility along Battery Lane and enhancement of the Bethesda Trolley Trail. As conditioned, the Applicant will design and construct the required bicycle infrastructure, in accordance with direction from MCDOT, to provide adequate service for the bicycle trips generated by the Project.

c. Other Public Facilities

Schools Analysis

The Project was reviewed for school adequacy based on the applicable annual school test (FY20 Annual School Test) which was approved by the Planning Board on June 20, 2019 and effective July 1, 2019. The Application proposes development of 1,130 multifamily high-rise units, replacing 264 existing multifamily high-rise units and 147 existing multifamily low-rise units.

Calculation of Student Generation

To calculate the number of students generated by the development, the number of dwelling units is multiplied by the applicable regional student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low- to mid-rise multifamily unit, or high-rise multifamily unit. The Subject Property is located in the southwest region of the County.

With a net of 719 units, the proposed project is estimated to generate 13 new elementary school students, 5 new middle school students, and 9 new high school students.

Cluster Adequacy Test

The project is located in the Bethesda-Chevy Chase High School Cluster. The student enrollment and capacity projections were based on the FY20 Annual School Test.

The Moratorium Threshold is the number of additional projected students that would cause the projected utilization to exceed the 120% utilization threshold and therefore trigger a cluster-wide residential development moratorium. The test indicated the estimated enrollment impacts of this application fall below the moratorium thresholds at all three school levels. Therefore, there is sufficient capacity at the elementary, middle, and high

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 13

school cluster levels to accommodate the estimated number of students generated by this project.

Individual School Adequacy Test

The applicable elementary and middle schools for this project are Bethesda ES and Westland MS, respectively. The individual school adequacy is based on the FY20 Annual School Test for student enrollment and capacity projections for these applicable schools.

Under the individual school adequacy test, a school is deemed inadequate if the projected school utilization rate exceeds 120% and the school seat deficit meets or exceeds 110 seats for an elementary school or 180 seats for a middle school. If a school's projected enrollment exceeds *both* thresholds, then the school service area is placed in a residential development moratorium.

The Moratorium Enrollment Thresholds are the numbers of additional projected students that would cause the projected utilization to exceed the 120% utilization threshold and the seat deficit threshold. The test indicated the estimated enrollment impacts of this application fall below the moratorium thresholds for both Bethesda ES and Westland MS. Therefore, there is sufficient anticipated school capacity to accommodate the estimated number of students generated by this project.

Based on the school cluster and individual school capacity analysis performed, using the FY2020 Annual School Test, there is adequate school capacity for the amount and type of development proposed by this Application.

Public facilities and services are available and will be adequate to serve the proposed development. The Subject Property is proposed to be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as electrical, telecommunications, gas, police stations, firehouses, and health services are operating according to the *Subdivision Staging Policy* resolution currently in effect and will be adequate to serve the Property.

Adequate Public Facility Validity Period

In accordance with Section 50.4.3.J.5.b.ii, the Applicant requested a validity period longer than the minimum specified in the Code based on the size and complexity of the Preliminary Plan. That request set forth a detailed phasing plan demonstrating when each phase of development would be completed. Unless otherwise specified through a condition of approval, construction

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 14

phasing for any site covered by the Preliminary Plan can take place in any order, either sequentially or simultaneously. As conditioned, the Adequate Public Facility review for the Preliminary Plan will remain valid for one hundred twenty (120) months, phased in the following manner to ensure timely delivery of the public amenities:

1. Prior to the issuance of the first above grade building permit, the Interim Separated Bike Lane Facility must be accepted by MCDOT between Old Georgetown Road and Woodmont Avenue.
2. Prior to the issuance of the first residential Use & Occupancy Certificate for the first building, the protected intersection at Woodmont Avenue and Battery Lane must be constructed by the Applicant and accepted by MCDOT.
3. Prior to the certification of each Site Plan for each individual site, the final design of the Ultimate Separated Bike Lane Facility must be shown on the Certified Site Plan, subject to MCDOT approval. Construction of the ultimate facility is preferred; however, the final determination of construction or financial contribution will be made by MCDOT. Any financial contribution amount must be accepted by MCDOT prior to Certification of each Site Plan.
4. Prior to the issuance of the first Use & Occupancy Certificate for each individual Site Plan, the portion of the frontage for the Ultimate Separated Bike Lane Facility must be constructed and accepted by MCDOT. If a financial contribution is accepted by MCDOT, the contribution must be made prior to issuance of the first Use & Occupancy Certificate for each individual Site Plan.

In accordance with Section 50.4.3.J.5.b.ii, the size and complexity of the Preliminary Plan warrants the extended validity period and, as conditioned, would not be adverse to the public interest.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

a. Environmental Guidelines

Individual Natural Resource Inventory Forest Stand Delineations (NRI/FSD) were approved for each site within this Application on April 29, 2019. The plans, designated No. 420191430; 420191450; 420191460; and 420191470 identify the existing man-made and natural features associated with the Property, such as the buildings, associated parking, the street trees, and landscape elements. The on-site setting includes significant and specimen trees present within Sites A, C, D, and E. There are no rare, threatened, or endangered species present within the subject sites.

MCPB No. 20-033
Preliminary Plan No. 120190240
Battery Lane District Preliminary Plan
Page 15

All of the Sites lie within the Lower Rock Creek Watershed, which is a use I-P watershed. A perennial stream, observed on approved NRI/FSD No. 420191460, and associated 100' stream valley buffer lies within Site D in the northwest corner. The stream runs on the surface for approximately 80', draining to the north, before it becomes piped to run south along Site D's eastern border towards Battery Lane.

b. Forest Conservation Plan

There is no forest on-site or adjacent to the Property, however there is an afforestation requirement of approximately 1.51 acres which will be addressed off-site, via certificate of compliance from an off-site bank.

c. Forest Conservation Variance & Tree Save Plan

Based on the submitted plans, approximately 114.50 caliper inches of variance mitigation tree plantings are required onsite and must consist of native canopy trees. This required planting may also be counted towards Sector Plan green cover requirements (35% of each site) provided that the selected tree species are consistent with the approved species list found in the MNCPPC Trees – Approved Technical Manual.

Due to the impact anticipated by the proposed project, this Application is subject to a forest conservation variance. Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. The Forest Conservation Law requires no impact to trees that: measure 30 inches or greater, DBH; are part of an historic site or designated with an historic structure; are designated as national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species ("Protected Trees"). Any impact to a Protected Tree, including removal or disturbance within the Tree's critical root zone ("CRZ") requires a variance. An application for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law.

The Applicant submitted a variance request in a letter dated August 21, 2019, for the impacts/removal of trees. The Applicant proposes to remove ten (10) trees (Protected Trees) that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. As conditioned by Sketch Plan No. 320190080, the Applicant has submitted a Tree Save Plan (TSP) for review with the Preliminary Plan Application. The TSP proposes the use of root

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 16

pruning and tree protection/silt fencing as coordinated by an International Society of Arboriculture certified arborist, who is also a MD licensed tree care expert.

Table 9 - Trees to be Removed

Tree Number	Species	DBH Inches	CRZ Impact	Status
ST-40	Red Maple	30	59%	Good condition
ST-45	Tulip Tree	31	22%	good condition; grading, sidewalk, and dry utility line
ST-47	Red Maple	33	100%	Good condition; trunk cavities
ST-48	Red Maple	37	100%	Good condition; twin trunk
ST-55	Silver Maple	43	27%	good condition; grading, sidewalk, dry utility line, and storm drain
ST-56	Osage Orange	34	30%	Fair condition; trunk cavities
ST-60	Red Maple	39	69%	Good condition
ST-61	Red Maple	41	67%	Fair condition; epicormic branching
ST-62	Red Mulberry	34	34%	Poor condition; leaning; trunk cavities; vines
ST-80	White Ash	36	34%	Poor condition; ash borer

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the Protected Trees in an undisturbed state would result in an unwarranted hardship, denying an applicant reasonable and significant use of a property. In addition to the required findings outlined numerically below, the Applicant has demonstrated that failure to grant the variance would result in an unwarranted hardship because the life cycle of the existing apartment complex has run its course. Redeveloping the site in accordance with the County's Bethesda Downtown Sector Plan would provide an improved quality of life for residents, including those in MPDU's, allow for improved green and open space, and increase connectivity between the Battery District and the rest of Downtown Bethesda. The Planning Board finds that there would be an unwarranted hardship if a variance were not considered.

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 17

Variance Findings

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. The Planning Board made the following determination based on the required findings in the review of the variance request and the preliminary forest conservation plan:

Granting of the requested variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the disturbance to the Protected Trees is due to the reasonable development of the Property. Further, the redevelopment of the Subject Property, which is a right that has been granted to others on nearby properties, would include the fulfillment of Sector Plan recommendations including providing linkages and gateways to the North Bethesda Trail via an Urban Greenway.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The need for the variance is not based on conditions or circumstances which are the result of actions by the Applicant. The Subject Property is in the Battery District, which consists of clusters of similar high-rise and garden apartment buildings. This district is also bordered on the north by the NIH facilities. The past development of these properties, which include extensive surface parking extending to adjacent property lines, has resulted in an environment that presents various engineering constraints. These circumstances are specific to the Subject Property and are not related to the actions of the Applicant.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The need for the variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property. The requested variance is based upon the nature of the existing Sites and the resulting location of trees and on-site environmental features and utilities.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 18

The Department of Permitting Services (DPS) approved the stormwater management (SWM) concepts for the project on November 13, 2019, November 18, 2019, and April 2, 2020. The SWM concept proposes to meet required storm water management goals by the use of micro-bioretenention planter boxes and 8-inch thick green roof on proposed buildings. Aside from stormwater management features, water quality will be further enhanced with this project through variance mitigation tree plantings which serve to maximize the permeability of the soil, further reduce water runoff, and provide increased shade and water retention/uptake. Therefore, due to the above, the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Protected Trees

There are 10 trees proposed for removal in association with this Application. Planting mitigation for removals should be at a rate that approximates the form and function of the trees removed. Replacement should occur at a ratio of approximately one-inch caliper for every four inches DBH of removal, using trees that are a minimum of three inches caliper. For the 357 diameter-inches of subject trees to be removed, the Applicant must provide mitigation of at least 114.5 caliper-inches of replacements. Therefore, the mitigation requirements would be satisfied by the planting of 39 three-inch caliper trees. The Applicant currently proposes the planting of 32 three-inch caliper trees. Prior to the approval of Certified Preliminary Plans, the Applicant will be required to update the Variance Tree Mitigation Table to reflect the correct amount of mitigation plantings.

County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on December 16, 2019. The County Arborist did not provide any comments or concerns regarding this request.

As a result of the above findings, the Planning Board approves the Applicant's request for variance from Forest Conservation Law to remove 10 subject trees with conditions requiring mitigation plantings of at least 114.5 caliper inches.

d. Noise

The Subject Application proposes development within 600 feet of arterial roads with more than 20,000 cars per day on Site A and E, therefore a Noise Analysis

MCPB No. 20-033
Preliminary Plan No. 120190240
Battery Lane District Preliminary Plan
Page 19

for these Sites is required. A waiver per Section 2.2.2 of the Noise Guidelines may be requested for open space only. The Project has been conditioned to require a Noise Analysis be submitted prior to approval of Site Plans for Sites A and E.

e. Environmental Protection

There is an existing piped stream that carries water from downtown Bethesda through Site D along the eastern property line. This piped stream daylights at the northeast corner of the site into an unnamed tributary on the National Institutes of Health property. The portion of the stream that is daylighted on Site D is subject to a 50-foot stream buffer, per the Montgomery County Environmental Guidelines. No buildings or structures are permitted within stream buffers. Exceptions to this guideline may, however, be made for bikeways, trails, and infrastructural uses found to be necessary, unavoidable, and minimized.

Given that Site D is the largest of all five sites (3.05 acres), and the limited size and location of the stream valley buffer, a large developable footprint remains outside of the stream valley buffer. Pursuant to Environmental Guidelines, the related Sketch Plan was conditioned to explore design alternatives for Site D building placement and/or footprints in order to minimize and mitigate any encroachment into the Stream Valley Buffer. The Project is located within an urban environment and therefore future constraints of the site may be identified. Any unavoidable encroachment into the stream valley buffer must be minimized and mitigated per Environmental Guidelines recommendations. Daylighting of the stream may be considered as potential mitigation for encroachment into the buffer.

As part of the Preliminary Plan Application review, the Applicant was required to complete a floodplain delineation study to determine where the existing floodplain line is located within Site D. The study, as approved by MCDPS, determined that the 100-year floodplain is located along the eastern property line. The approval requires the established 100-Year Floodplain and its associated 25-foot Floodplain Buffer to be shown on any associated sediment control plan and record plats. Any disturbance within 25 feet of the approved 100-year floodplain will require a Floodplain District Permit.

Section 50.4.3.K of the Subdivision Ordinance requires that the Planning Board restrict subdivision or development of any property that is located in the 100-year floodplain. The Planning Board may allow a platted lot to contain floodplain when it is demonstrated that there is sufficient safe ground to develop the property within the required setbacks of the zoning classification. Given that this Property (Site D) is zoned CR, there is no required side or rear setbacks

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 20

where the floodplain exists onsite. After dedication, Site D will be approximately 3 acres in size and large enough to accommodate development despite the encumbrance of the 100-year floodplain and the associated 25-foot floodplain buffer along the eastern property line. The Sector Plan recommends that Site D consider daylighting the existing stream, and the related Sketch Plan conditioned the Project to coordinate the feasibility of daylighting the stream during Site Plan review. The related Sketch Plan also conditioned the Project to explore design alternatives for Site D that would increase the width of the linear open space along the eastern property line with a minimum average of 95' and to minimize encroachment into the stream valley buffer. The Preliminary Plan has been conditioned to update the drawings based on the recently approved floodplain study prior to Certification of the Preliminary Plan. Therefore, Site D will be large enough to develop safely without disturbing the approved 100-year floodplain or 25-foot buffer, and the Project has been conditioned to explore design alternatives that increase open space along this area, minimize hardscape between the building and the 100-year floodplain, and to explore the feasibility of daylighting the stream during Site Plan review.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

All four lots have received Stormwater Concept Plan approvals from the Montgomery County Department of Permitting Services (MCDPS). Site A/Lot A (4857 Battery Lane) proposes to meet stormwater management requirements through the combination of stormwater planter boxes and extensive (8-inch depth) green roof. Site C/Lot C (4900 Battery Lane) proposes to meet stormwater management requirements through the combination of stormwater planter boxes, extensive (8-inch depth) green roof, and suspended micro-bioretenention (silva cells) areas. Site D/Lot D (4949 Battery Lane) proposes to meet stormwater management requirements through a combination of micro-bioretenention and green roof. Site E/Lot E (4998 Battery Lane) proposes to meet stormwater management requirements through the combination of stormwater planter boxes, extensive (8-inch depth) green roof, non-rooftop disconnection and a partial waiver for the remaining ESD which will drain to an existing NIH stormwater management pond.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 120 months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G, and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; 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

MCPB No. 20-033
 Preliminary Plan No. 120190240
 Battery Lane District Preliminary Plan
 Page 21

MAY 14 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 and Commissioners Cichy, Patterson, and Verma voting in favor, and Vice Chair Fani-González absent at its regular meeting held on Thursday, April 30, 2020, in Silver Spring, Maryland.



 Casey Anderson, Chair
 Montgomery County Planning Board