

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

AUG 10 2022

MCPB No. 22-070
Site Plan No. 820210160
Easley's Subdivision
Date of Hearing: July 21, 2022

RESOLUTION

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

WHEREAS, on January 26, 2022, Bobby Athanasakis ("Applicant") filed an application for approval of a site plan for the construction of a 10,000 square foot mixed-use building, including 6,820 square feet of residential uses, for up to 6 units, and 3,180 square feet of non-residential uses on 0.14 acres of land in the CR-3.0 C-2.0 R-2.75 H-110T zone, located at 904 Silver Spring Avenue ("Subject Property"), in the Silver Spring/Takoma Park Policy Area and 2000 *Silver Spring CBD Sector Plan* ("Sector Plan") area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820210160, Easley's Subdivision ("Site Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 11, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 21, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Cichy, seconded by Commissioner Patterson, with a vote of 4-0-0 Chair Anderson and Commissioners Cichy, Patterson, and Verma voting in favor with Commissioner Rubin absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820210160 for the construction of a 10,000 square foot mixed-use building,

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Approved as to

Legal Sufficiency: /s/ Allison Myers

M-NCPPC Legal Department

including 6,820 square feet of residential uses, for up to 6 units, and 3,180 square feet of non-residential uses, the Subject Property, subject to the following conditions:¹

Density, Height & Housing

1. Density

The Site Plan is limited to a maximum of 10,000 square feet of total development on the Subject Property, including 6,820 square feet of residential uses, for up to 6 units, and 3,180 square feet of non-residential uses.

2. Height

The development is limited to a maximum height of 60 feet, as measured from the building height measuring point in compliance with Section 59.4.1.7.C.2 of the Zoning Ordinance, as illustrated on the Certified Site Plan.

Open Space, Facilities and Amenities

3. Streetscape

a) Prior to final use and occupancy permit for the building, the Applicant must construct the streetscape improvements, including the undergrounding of utilities, along the Property's frontage on Silver Spring Avenue, consistent with the Silver Spring Streetscape Standards. The Certified Site Plan shall show streetscape in compliance with MCDPS approval, consisting of the following:

i. a seven-foot wide sidewalk with a seven-foot wide minimum buffer along the property frontage Silver Spring Avenue

b) The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to onsite sidewalk.

4. Visual Amenity

a. At the time of Certified Site Plan submission, the Applicant must include a plan showing a visual LED lighting element and revised paneling that breaks up the mass of the southern façade. The final design must substantially comply with the design presented to the Planning Board at the July 21, 2022 hearing and be approved by Staff.

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.

- b. Prior to the issuance of first use and occupancy permit, the Applicant must complete installation of the lighting element and revised paneling, as shown on the Certified Site Plan.

Environment

5. Forest Conservation & Tree Save

- a) The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.

Transportation & Circulation

6. Transportation

- a) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated May 19, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- b) Prior to the issuance of any building permit, the Applicant must obtain approval of a Project-based Transportation Demand Management Plan (TDM) from the Montgomery County Department of Transportation (MCDOT).

7. Pedestrian & Bicycle Circulation

- a) The Applicant must provide one long-term and one short-term bicycle parking space.
- b) The long-term spaces must be in a secured, well-lit, secure parking area within the building, and the short-term spaces must be inverted-U racks (or approved equal) installed in a location convenient to the main entrance (weather protected preferred). The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.

8. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated March 23, 2022, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

Site Plan

9. Site Design

- a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A200, A201, and A202 of the submitted architectural drawings, as determined by M-NCPPC Staff.

10. Lighting

- a) Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c) Deflectors will be installed on all proposed fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by street lights within the right-of-way.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

11. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, whichever occurs first, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, visual amenity, on-site lighting, retaining walls,

railings, including sidewalks, storm drainage facilities, bike racks, street trees and street lights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.

- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

12. Development Program

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

13. Certified Site Plan

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

- a) Provide and label ADA compliant public sidewalk along the site frontage and where connections are made to the existing sidewalks.
- b) Include all appropriate agency approval letters, development program, and Site Plan resolution and other applicable resolutions on the approval or cover sheet(s).
- c) Coordination with DPS needed on the building height measuring point to be reflected on the Site Plan.
- d) Add the following notes:
 - i. "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
 - ii. "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
 - iii. "The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur prior to any site development work commencement and prior to any work that is covered by the site plan surety and maintenance agreement. The

Applicant, along with their representatives, must attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times."

- e) Include Fire and Rescue Access plan in the Certified Site Plan.
- f) Modify data table to reflect development standards approved by the Planning Board.
- g) Ensure consistency of all details and layout between Site and Landscape plans.
- h) Revise rear elevation to indicate a minimum of 8-foot wall height adjacent to trash area and fully enclose the rear trash and recycling area with walls and roof; final design may be modified by DPS at building permit.
- i) Add note stating site furniture is allowed without further site plan amendment.
- j) Add street lighting to streetscape improvements unless otherwise determined by DPS.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of designated Site Plan No. 820210160, Easley's Subdivision, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or 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. When reviewing an application, the approval findings apply only to the site covered by the application.***

The findings herein apply only to the Subject Property.

- 2. To approve a Site Plan, the Planning Board must find that the proposed development:***

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

Site Plan 820210160 is in conformance with the associated Preliminary Plan 120210240.

- b) satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;***

This section is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

- c) satisfies under Section 7.7.1.B.5 any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment;***

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

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

i. Division 4.5.3 CR Zone Standard Method

Table 3: Easley's Preliminary Plan & Site Plan Data Table for CR Zone, Standard Method, Section 59.4.5.3.

Development Standard	Permitted/ Required	Proposed
Tract Area	n/a	7,250 sq ft (0.16 acres)
Prior Dedication	n/a	1,250 sq ft (0.02 acres)
Proposed Dedication	n/a	500 sq ft (0.01 acres)
Site Area	n/a	5,500 sq ft (0.13 acres)
Mapped Density CR 3.0 C 2.0 R 2.75 H 110' & Fenton Village Overlay	2.0 FAR ¹	
Residential (GFA/ FAR)		6,820 sq ft
Commercial (GFA/FAR)		3,180 sq ft
Total Mapped Density (GFA/FAR)	14,500 sq ft (2.0 FAR)	10,000 sq ft (1.37 FAR)
Building Height	60' ²	60'
Public Open Space (min s.f.)	0	0
Minimum Setbacks (ft)		
Front	0'	0'
Side (east)	0'	0'
Side (west)	0'	0'
Rear	0'	0'

¹ Section 59.4.9.8.C.4 states that in the CR zone, under the standard method of development the maximum FAR is 2.0 if approved by site plan under Section 59.7.3.4

² While the Subject Property zoning has a mapped height of 110', Section 59.4.9.8.1 restricts building height for blocks within the Fenton Village Overlay Zone that confront a detached residential zone

Form Standards, Section 59.4.5.3.C.5

The Project conforms to the form standards for walls facing a street or open space for CR standard method development. The front of the building will provide a minimum ground story transparency of 60%, and entrance spacing for the ground floor uses will be below the maximum distance of 75 feet. The side and rear of the building do not face an existing street or open space, and therefore the form standards for transparency do not apply to the side and rear.

ii. *Section 59.4.9.8 Fenton Village Overlay Zone standards*

(1) Facilitate the implementation of an organized and cohesive development pattern that is appropriate for an urban environment.

The proposed building will contribute to a cohesive development pattern for the surrounding urban context. The building footprint will be located adjacent to the public right-of-way with ground floor activating uses such as retail and restaurant space. The upper stories, while slightly stepped back above the first floor, will be of a similar alignment to the building to the east and has been designed with architectural features such as outdoor terraces, railings, and balconies for the residential units. Further, as conditioned, the southern façade, which faces a large public parking lot envisioned to potentially become new public open space, will feature a visual amenity to tie together the building facades and the public spaces they define. As the edges of the large "superblocks" of Fenton Village redevelop, such visual connection and coherence is essential to forming an attractive, safe, and welcoming urban environment.

(2) Encourage attractive design and ensure compatibility with existing buildings and uses within and adjacent to the Overlay zone.

As conditioned, the design of the building will be of a compatible height and width to the existing buildings, and the mixed-use nature of the building will blend with the surrounding mixture of commercial, retail, and residential buildings. Directly to the east is a three-story medical office building with ground floor neighborhood serving uses. This building will be four stories with similar ground floor activating uses.

Directly to the south and west are surface parking lots. As proposed, a blank wall up to 60 feet in height will be facing the south. While the façade proposes a mixture of colored fiber cement panels, as discussed above and as conditioned, the Applicant must provide a visual amenity on the rear to break up the blank wall to further provide an attractive design and ensure compatibility with potential public spaces to the south. Please see further discussion in Finding 2.g below.

A portion of the rear of the building is proposed to be open to above, which has been designed to be the trash area for the ground floor retail/restaurant uses. Through coordination with DPS staff and Planning Staff recommendations and as conditioned, the Application will fully enclose the walls and roof in this area to ensure it is secure and to restrict exterior elements from entering the building.

(3) Provide flexibility of development standards to encourage innovative design solutions.

While the Application proposes standard method development, the project will provide innovative features to ensure architectural interest, including second floor terraces and roof planters.

(4) Allow for the transfer of the public open space requirement to other properties within the Overlay zone.

Given that the site is only 5,500 square feet, there is no public open space requirement.

(5) Allow new uses.

The Project will provide a new mixed-use building on a currently vacant site. The new uses will be compatible with and contribute to the Fenton Village environment.

iii. ***Division 59-6 General Development Standards***

(1) Division 6.1 Site Access

All access to the Site will be from Silver Spring Avenue. Pedestrian access will be improved along the Site frontage with a seven-foot-wide minimum landscaped street buffer and a seven-foot-wide minimum sidewalk, which transitions to the existing sidewalks on both side of the Site. The design of the sidewalk and the landscape street buffer complies with the 2019 *Silver Spring Streetscape Standards*. The Project does not include a curb cut for either a driveway or a loading area, as on-site parking and loading is not provided nor required given the proposed densities. By not providing a curb cut, the pedestrian through zone is uninterrupted and the potential for conflicts between pedestrians and motorists is minimized.

(2) Division 6.2 Parking, Queuing and Loading

The Site is located within the bounds of the Silver Spring Parking Lot District, and therefore is not required to provide any off-street parking spaces on-site (Section 59-6.2.3.H.1.a). Residents, employees and visitors to the Site will have access to long-term parking within Parking Garage 4 (less than 100 ft west of the Site) and short-term metered parking on either side of Silver Spring Avenue (17 total spaces, 2-hour limit).

The Zoning Code requires one long-term and one short-term bicycle parking space on-site for the proposed retail uses. Projects with fewer than 10 multi-family units on-site are not required to provide bicycle parking. The short-term bicycle parking space will be located along the site frontage, and the long-term bicycle parking will be provided within the building, in compliance with the Bicycle Parking Design Standards (Section 59-6.2.6.).

The Project is proposing fewer than 50 multi-family units and less than 15,000 square feet of retail; therefore, an off-street loading facility is not required. No curb cuts, driveways or loading spaces are proposed as part of the Project.

(3) Division 6.3 Open Space and Recreation

Given the Subject Property's size and singular frontage, the Project is not required to provide public open space per Section 59-4.5.3.C of the Zoning Ordinance. The Project is not required to provide recreation facilities per Section 59-6.3.9 of the Zoning Ordinance given that the proposal will result in less than 19 units.

(4) Division 6.4 General Landscaping and Outdoor lighting

The Project will be landscaped at the ground floor including a planter to the left of the retail/restaurant entrances and streetscaping. On the second floor, the Applicant proposes a series of planters on the terraces adjacent to the residential units. As conditioned, the lighting will conform to the latest Illuminating Engineering Society of North America (IESNA) recommendations.

e) Satisfies the applicable requirements of:

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

The Site Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a Combined Stormwater Management Concept/ Site Development Stormwater Management Plan approval from MCDPS Water Resources Section on January 5, 2022 (Attachment B). Due to the small lot size, a negligible increase in runoff and constraints such as existing utilities and the existing shallow storm drain system, a stormwater management waiver was granted. However, a payment of stormwater management contribution is required. Additionally, the site is not in a special protection area and therefore not subject to a water quality plan requirement and is not located in a floodplain.

ii. Chapter 22A, Forest Conservation.

A Forest Conservation Exemption (42021103E) was confirmed for the project on June 15, 2021. The application qualifies for the exemption under 22A-5(s)(1) because the activity is occurring on a tract of land less than 1.5 acres with no existing forest or existing specimen or champion tree, and the afforestation requirements would not exceed 10,000 square feet.

f) Provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;

Pedestrian access and circulation will be improved with the streetscape improvements proposed by the Project. The existing five-foot sidewalk will be enhanced with a seven-foot sidewalk, buffered by a seven-foot-wide minimum landscape street buffer. The streetscape is further activated with two proposed retail bays along the Site frontage. No curb cuts or driveways are proposed for the Site, which limits the number of potential conflicts between pedestrians and motorists.

g) Substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;

i. Land Use

The Property is located within the 2000 *Silver Spring CBD Sector Plan* ("Sector Plan"), which contains themes that articulate the shared goals and vision for the CBD and demonstrate how successful development incorporates multiple themes to "create varied land uses, development patterns, environments, and transportation choice ... to create variety, the hallmark of an active downtown." (p. 15) The development meets these goals and vision by creating a mixed-use commercial building that is scaled to the surrounding neighborhood and enhances the pedestrian experience in its vicinity.

Transit-Oriented Downtown

The Property is located less than a half mile from the Silver Spring Metro/MARC train/Transit Center (and future Purple Line station). By locating within the walksheds of these transportation choices, the workers and visitors coming to the site increase transit demand and support transit-oriented development. The Site is also proximate to the many existing and planned bike lanes within the Silver Spring area.

Commercial Downtown

The project allows for a mix of retail/restaurant and residential uses. These uses will complement the existing commercial uses in Fenton Village in an up-to-date building.

Residential Downtown

The project includes residential uses and shares a block of Silver Spring Avenue that includes both single-family homes as well as approved 4-6-story multi-family development immediately across the street. At four stories the new multi-use building will be compatible with the other residential uses as the uses on the block intensify toward Fenton Street.

Civic Downtown

The new streetscape, planters, architectural treatments and visual amenity, as conditioned, provide a number of elements adding to the fabric of the civic spaces of the Sector Plan area.

Green Downtown

The project includes recommended elements of the Green Downtown such as new public streetscape, with a street tree and other landscape plantings, and planter on the ground floor near the building entrance and also provides planters on the second-floor terrace/balconies which will be visible to other tenants and passersby.

Pedestrian-Friendly Downtown

As conditioned, the project provides new streetscape per the Silver Spring Design Guidelines including sidewalks, lighting and a street tree. The four-story building is scaled and designed in a manner sensitive to the pedestrian environment.

Per the Applicant's statement of justification, the Applicant owns and operates the iconic Manny and Olga's restaurant at 8107 Fenton Street, which it has done since the early 1990s. This family-owned business -- with four restaurants in Silver Spring/Wheaton, one in Bethesda and four in the District of Columbia -- has a well-established business base in Montgomery County and is a highly localized business presence. The family business, now in its second generation of operators, seeks to relocate the restaurant currently operating out of leased space on Fenton Street into a business-owned building. This is consistent with the Applicant's business model at each of its other locations and gives the business a long-term interest in remaining in Silver Spring, along with a

potential opportunity to expand its operations. This furthers the overall Sector Plan and Fenton Village Overlay zone goals of fostering smaller, locally owned and family-owned businesses

Fenton Village Overlay

The Sector Plan created the Fenton Village Overlay to revitalize the area, facilitate housing that will upgrade the physical environment and bring new residents, and provide a pedestrian-friendly environment that encourages people to stroll and stay. The Proposal will meet these objectives by redeveloping a currently vacant piece of land into a mixed-use building with ground floor activating uses and residential units above, all within a low rise building that will improve the surrounding streetscape.

ii. *Environment*

The Sector Plan states, "Stormwater management is the most important environmental issues to address in the Silver Spring CBD." The Site Plan Application meets the stormwater management requirements of Chapter 19 of the County Code and the Applicant received a Combined Stormwater Management Concept/ Site Development Stormwater Management Plan approval from MCDPS Water Resources Section on January 5, 2022 (discussed in Finding 2.e.i above, in more detail).

The Sector Plan also recommends enhancement of the natural environment by creating green space. The Applicant is providing streetscape improvements which includes a tree and landscape bed. Furthermore, a planter box will be located onsite near the building entrance. The second-floor building layout includes private balconies/terraces featuring landscape planters which offer visual green relief from the highly urbanized setting.

The Sector Plan has recommendations on air quality which includes considerations for exhaust vents to be located away from residential balconies/terraces and other conflicting locations. The exhaust fans for the restaurants are located on the upper roof. Per applicable code requirements, this equipment is will be vertically discharged above the roof line and appropriately distanced from any apartment air intakes and apartment openings/ balconies.

The Sector Plan also recommends incorporating recycling and energy efficient programs and standards into new development. The Applicant is providing enclosed areas for trash and recycling bins at the southeast corner of the site on the Ground Floor level for the business and residential occupants of the building to recycle items. The Applicant will incorporate energy efficient programs, materials and final design details taking into

consideration the International Green Construction Code (IGCC), which will be addressed at the time of building permit.

Noise Guidelines

A Traffic Noise Impact Analysis was prepared by Cerami Associates for the Property due to its location within 600 feet of an arterial road (Georgia Avenue), and the results were provided in a report dated April 5, 2022 (Attachment D). A noise analysis is necessary to demonstrate conformance with the 1983 Staff Guidelines For the Consideration of Transportation Noise Impacts In Land Use Planning and Development ("Noise Guidelines") by determining the projected interior and exterior noise levels and whether or not mitigation for residential units and outdoor recreational areas is required. The Montgomery County "Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development" stipulate a 65 dBA Ldn maximum noise level for outdoor recreation areas and 45 dBA Ldn for indoor areas.

The results of the analysis for this Property indicate that future unmitigated traffic noise levels above 65 dBA Ldn will not impact the site. Therefore, the interior residential spaces can readily be mitigated to suitable levels (not exceeding 45 dBA Ldn) through standard construction and no further mitigation is required.

iii. *Transportation*

Per the 2000 *Silver Spring CBD Sector Plan* and the 2018 *Master Plan of Highways and Transitways*, Silver Spring Avenue is classified as a Business District Street with a master-planned minimum right-of-way of 70 feet. As conditioned, the Applicant is dedicating an additional 10-feet to public right-of-way along the Site frontage to achieve 35-feet from the pavement centerline and the property line (half of the total 70-foot width).

The 2000 *Silver Spring CBD Sector Plan* and the 2018 *Bicycle Master Plan* do not recommend designated bikeways along Silver Spring Avenue.

The 2000 *Silver Spring CBD Sector Plan* encourages the use of alternatives to automobile transportation to reduce air pollution. The project has no on-site parking for the Ground Floor Retail/Restaurant Use, or for the Residential Use (six residential apartments units), thereby disincentivizing automobile use to the Ground Floor Retail/Restaurant

use by employees and customers; and disincentivizing automobile ownership by residents and automobile use by their guests and invitees.

Additionally, the Applicant is providing a Transportation Demand Management Plan ("TDM") which will identify a site-specific "individual responsible for assisting and facilitation the Department of Transportation's efforts to achieve County's Non-Auto Driver Mode Share (NAMDS) goals and other traffic mitigation and community goals. As part of the TDM plan the applicant will provide space on-site for TDM-related information in a location visible to employees, residents, and other project users.

The physical absence of on-site parking combined with the operational provision of a TDM Plan substantially complies with this Sector Plan recommendation.

The recently adopted (but not in effect for this Application) 2022 *Silver Spring Downtown and Adjacent Communities Plan* recommends that the surface parking lot to the south become open space in the future. Given the proposed elevator tower/emergency fire stair facing the rear is currently designed as a blank wall, Condition No. 4 will require the Applicant to provide a visual amenity on the rear to break up the blank wall..

Therefore, as conditioned, the Project conforms with the applicable master plans.

- h) will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;*
- i) As discussed in the findings of approved Preliminary Plan No. 120210240, the Site will be served by adequate public facilities ("APF"), including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. The APF approved as part of Preliminary Plan No. 120210240 remains valid on a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and*

Not applicable, the Subject Property is not located within a Rural Residential or Residential Zone.

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

As discussed in Finding 2.d.ii(2) above, the Project will be compatible with existing, approved, and pending adjacent development.

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

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

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

Not applicable, the Subject Property was not zoned C-1 or C-2 on October 29, 2014.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 10 2022 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Vice Chair Verma, seconded by Commissioner Cichy, with a vote of 4-0-1; Chair Anderson, Vice Chair Verma, and Commissioners Cichy, and Patterson, voting in favor of the motion, Commissioner Rubin abstaining, at its regular meeting held on Thursday, July 28, 2022, in Wheaton, Maryland and via video conference.



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