

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

AUG 10 2022

MCPB No. 22-072
Preliminary Plan No. 120220110
Sligo Apartments
Date of Hearing: July 21, 2022

RESOLUTION

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

WHEREAS, on April 6, 2022, Sligo 42 LLC and Sligo 60 LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 1.29 acres of CRT 0.75 C 0.75 R 0.25 H 35’ zoned-land, located on Sligo Avenue approximately 400 feet west of Carroll Lane (“Subject Property”) in the Silver Spring/Takoma Park Policy Area and 2000 *East Silver Spring Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120220110, Sligo Apartments, (“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 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 Verma, seconded by Commissioner Cichy, with a vote of 4-0; Chair Anderson, Commissioners Cichy, Patterson and Verma voting in favor with Commissioner Rubin being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120220110 to create one lot on the Subject Property, subject to the following conditions:¹

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.

2425 Reedie Drive, Floor 14, Wheaton, MD 20902 | Phone: 301-495-4605 | Fax: 301-495-1320

www.montgomeryplanningboard.org | mcp-chair@mncppc.org

Approved as to

Legal Sufficiency: /s/ Matthew T. Mills

M-NCPPC Legal Department

General Approval

1. This Preliminary Plan is limited to 1 lot for up to 115,000 square feet for up to 98 multifamily dwelling units.

Adequate Public Facilities

2. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

Plan Validity Period

3. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and prior to the expiration date 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 filed.

Outside Agencies

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated June 1, 2022 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.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated June 9, 2022 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 MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
7. 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 May 31, 2022 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.

Other Approvals

8. Before approval of a record plat for the Subject Property, the Applicant must receive Staff certification of any subsequent Site Plan(s) associated with this Preliminary Plan. Prior to certification of the Site Plan and recordation of the plat, the Applicant may obtain permits for demolition, below-grade excavation, and sheeting and shoring. The record plat(s) and Certified Site Plan must be submitted to M-NCPPC prior to any below-grade activity occurring on site. The number and location of site elements including but not limited to buildings, dwelling units, on-site parking, site circulation, sidewalks and bikepaths is determined through site plan review and approval.
9. If an approved site plan amendment 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 amendment.

Transportation

Existing Frontage Improvements

10. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
 - a) All land necessary to accommodate 25 feet from the existing pavement centerline along the Subject Property frontage for Sligo Avenue.
11. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a 10-foot wide sidepath with a six-foot vegetated buffer along the Property frontage on Sligo Avenue (no PUE is required).

Record Plats

12. There shall be no clearing or grading of the site prior to submission of the record plat to M-NCPPC.
13. The record plat must show all necessary easements.
14. The existing PUE and right-of-way delineated on Plat No. 21509 must be extinguished prior to recordation of plat.

Certified Preliminary Plan

15. The certified Preliminary Plan must contain the following notes:

a. 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.

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

- a) Show resolutions and all appropriate agency approval letters on the certified set
- b) Include the approved Fire and Rescue Access plan in the certified set.

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. 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 proposed subdivision is located within an existing block that is appropriate for the proposed multifamily development.

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

The proposed lot is appropriate for the development proposed. The 1.15-acre rectangular lot will provide one vehicular access point onto Sligo Avenue for the multi-family building and will also provide several frontage improvements for bicycle and pedestrians. The proposed subdivision has been reviewed and approved for stormwater and fire access adequacy by the Montgomery County Department of Permitting Services.

c) The Preliminary Plan provides for required public sites and adequate open areas

There are no Master Planned sites recommended for this particular Property. As discussed in Finding 2 below, the proposed subdivision will dedicate additional public right-of-way and will implement master planned transportation improvements such as a sidepath and streetscape.

d) The Lot(s) and Use comply with the basic requirements of Chapter 59

The proposed lot will comply with the development standards for CRT zone optional method development and related development standards. As determined at Site Plan, future development will be subject to residential compatibility standards of Section 59.4.8.1 of the Zoning Ordinance.

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

a) Land Use

The Property is located within the *2000 East Silver Spring Master Plan*. The Project conforms to the goals and recommendations of the Master Plan.

- *Preserve the residential character of East Silver Spring neighborhoods*

The Project proposes to redevelop a commercial property with new 98-unit multifamily building with structured parking. The entire Project will be affordable for a variety of income levels. The Project design has been extensively reviewed with Staff to ensure the scale and architecture design is compatible with the surrounding multifamily structures and townhouses.

- *The East Silver Spring Master Plan seeks to preserve existing residential character, encourage neighborhood reinvestment, provide a greater range of housing types, and enhance the quality of life throughout East Silver Spring*

The Project will support the Master Plan's goal to preserve existing residential character and encourage neighborhood investment by redeveloping a property that has been underutilized. The Project will provide new housing stock without displacing any existing residents in a location that is predominantly single family detached homes and older residential buildings.

- *Confirm the existing C-1 and C-O zoning throughout East Silver Spring*

The Subject Property was reconfirmed as C-1 during the adoption of the Master Plan, but during the 2014 Zoning Ordinance update was reclassified to CRT, which is the equivalent zoning under the new Zoning Ordinance.

- *Encourage the use of alternatives to automobile transportation to reduce air pollution*

The Project proposes 98 new units within 1 mile of the Silver Spring Metro Station and 1.5 miles of the Takoma Metro Station. The proposal includes 61 vehicular parking spaces, as allowed by the Reduced Parking Area provisions of the Zoning Ordinance, and 58 bicycle parking spaces in support of encouraging nonauto trips.

- *Continue to provide on-site stormwater treatment with effective technologies where feasible*

The Project proposes a variety of Environmental Site Design techniques to treat stormwater such as green proof planters within the courtyard and two bioretention planters to treat stormwater from the roof drains. The Project received approval of a Stormwater Concept Plan by the Montgomery County Department of Permitting Services Stormwater Division on June 9, 2022.

- *Promote the use of areas designed to increase infiltration within required open or green space*

The location of stormwater infiltration is located in open space areas of the Project such as the courtyard and the public open space along the street frontage. These areas provide a handful of previously described stormwater management features including bioretention facilities.

b) Environment

Environmental Guidelines & Noise Analysis

As previously mentioned, the Property is located within the Sligo Creek watershed which is classified as a Use-Class I watershed by the State of Maryland. The Subject Property contains no forest but does have one significant tree (trees with a diameter at breast height or "DBH" of 24 inches or more) occurring along the northern property line and there are a number of other significant trees within the neighboring properties. There are no documented streams wetlands or associated buffers on or near the Subject Property, and no rare, threatened or endangered species or other environmentally sensitive features are present.

A Traffic Noise Impact and Barrier Analysis was prepared by Hush Acoustics LLC for the Property due to its location along Sligo Avenue and also within 3,000 feet of a railroad, and the results were provided in a report dated May 13, 2022 (Attachment E). 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 impact the building facade closest to Sligo Avenue. However, the interior residential spaces can readily be mitigated to suitable levels (not exceeding 45 dBA Ldn) if windows with the appropriate sound transmission class rating

Existing Use (Credit)						
Small Office Building (2,048 SF)	3	4	3	3	4	5
Specialty Trade Contractor (3,050 SF)	5	6	4	5	7	8
	Subtotal				11	14
Proposed Use						
98 Multi-family Dwelling Units	32	39	27	32	49	60
	Total Net New Trips				38	46

Source: Wells & Associates Transportation Statement, dated January 26, 2022.

c) Other Public Facilities and Services

Schools

The project is served by East Silver Spring ES, Takoma Park MS and Montgomery Blair HS. Based on the FY23 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 4. Applicable FY2023 School Adequacy.

School	Projected School Totals, 2026				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/Deficit		Tier 1	Tier 2	Tier 3
East Silver Spring ES	577	517	89.6%	+60	No UPP	145	176	262
Takoma Park MS	1,322	1,107	83.7%	+215	No UPP	341	480	678
Montgomery Blair HS ²	2,867	2,619	91.3%	+248	No UPP	428	822	1,252

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school’s adequacy status and ceilings, as determined in the Annual School Test. Under the FY23 Annual School Test, East Silver Spring ES, Takoma Park MS and Montgomery Blair HS do not require any UPP as identified in Table 4. If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

Calculation of Student Enrollment Impacts

To calculate the number of students generated by the proposed amendment, the number of dwelling units is multiplied by the applicable School Impact Area student generation rate for each school level. Dwelling units are categorized by structure type: single family

² Projected enrollment reflects the estimated impact of CIP P651908, which will reassign students between the Downcounty Consortium, Walter Johnson HS and Woodward HS in 2026.

detached, single family attached (townhouse), low-rise multifamily unit, or high-rise multifamily unit.

With a net of 98 units that are not age-restricted, the proposed amendment is estimated to generate the following number of students based on the subject Property's location within an Infill Impact Area:

Table 5. Estimated Student Enrollment Impacts.

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	0	0.195	0.000	0.096	0.000	0.139	0.000
SF Attached	0	0.166	0.000	0.091	0.000	0.116	0.000
MF Low-rise	98	0.059	5.782	0.023	2.254	0.032	3.136
MF High-rise	0	0.034	0.000	0.015	0.000	0.016	0.000
TOTALS	98		5		2		3

As shown in Table 5, on average, this project is estimated to generate 5 elementary school students, 2 middle school students and 3 high school students. The number of students generated does not exceed the adequacy ceilings identified for each school in Table 4, therefore no additional UPPs are required and neither are partial payments across multiple UPP tiers.

Other

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 which 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 *Growth and Infrastructure Policy* resolution currently in effect and will be adequate to serve the Property.

4. All Forest Conservation Law, Chapter 22A requirements are satisfied.

A Forest Conservation Exemption (42021143E) was confirmed for the project on March 2, 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.

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

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Section on June 9, 2022. The Application will meet stormwater management goals via green roof and bioretention planter boxes. A partial waiver of stormwater management requirements was requested and conditionally granted with the expectation that incorporation of additional stormwater opportunities will be explored during the design phase of the project.

6. Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.

Not applicable to this Property.

7. Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied.

No other provisions apply to the Subdivision.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for three years 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 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.



Casey Anderson, Chair
Montgomery County Planning Board

BRIAN DONNELLY
9220 WIGHTMAN RD #120
MONTGOMERY VILLAGE, MD 20886

Thomas Ayd
1375 Piccard Drive, Suite 150
Rockville, MD 20850

Brian Donnelly
9220 Wightman Road, Suite 120
Montgomery Village, MD 20879

Heather Dlhopsky
4800 Hampden Lane Suite 200
Bethesda, Maryland 20814

Adam Stockmaster
1375 Piccard Drive, Suite 150
Rockville, MD 20850

Donald Nuzzio
1375 Piccard Drive, Suite 150
Rockville, MD 20850

Matt Auchey
212 E. Main Street, Suite 200
Salisbury, MD 21801

Alan Miner
241 E. 4th Street
Frederick, MD 21701

Nancy Randall
1110 Bonifant Street, Suite 210
Silver Spring, MD 20910

Hamid Soltani
Miner Feinstein Architects, LLC
241 E. 4th Street
Frederick, MD 21701

320220080 Sligo Apartments