

# **Montgomery County Planning Board**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-073  
Site Plan No. 820220170  
Sligo Apartments  
Date of Hearing: July 21, 2022

**AUG 10 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 April 6, 2022, Sligo 42 LLC and Sligo 60 LLC ("Applicant") filed an application for approval of a site plan for the construction of a multifamily residential building up to 115,00 square feet for up to 98 units 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, the site plan application for the Subject Property was designated Site Plan No. 820220170, Sligo Apartments ("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 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 Site Plan No. 820220170 for the construction of a multifamily residential building up to

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Approved as to

Legal Sufficiency: /s/ Matthew T. Mills

M-NCPPC Legal Department

115,00 square feet for up to 98 units, the Subject Property, subject to the following conditions:<sup>1</sup>

**Density, Height & Housing**

1. Density

The Site Plan is limited to a maximum of 115,000 square feet of total residential development on the Subject Property for up to 98 dwelling units.

2. Height

The development is limited to a maximum height of 48 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan. This height includes an additional height above the mapped height of 35 feet for the provision of MPDUs per Section 59.4.5.2.C.7 of the Zoning Ordinance.

**Open Space, Facilities and Amenities**

3. Public Open Space, Facilities, and Amenities

- a) The Applicant must provide a minimum of 3,200 square feet of public open space (6 % of net lot area) on-site.
- b) Prior to issuance of the final Use and Occupancy Certificate, the Applicant must construct the streetscape improvements, including the 10-foot sidepath and the six-foot vegetated buffer along the Property's frontage on Sligo Avenue, consistent with the *Complete Street Design Guide*.
- c) Before the issuance of the final Use and Occupancy Certificate for the residential development, all public open space areas on the Subject Property must be completed.

4. Public Benefits

The Applicant must provide the following public benefits and meet the applicable criteria and requirements of the Zoning Ordinance and the *CR Zone Incentive Density Implementation Guidelines* for each one.

a) Transit Proximity

The Certified Site Plan must show the distance to the Level 1 transit station (Silver Spring Metro Station), which is located 3,895 feet west of the site.

b) Diversity of Uses and Activities

i. Affordable Housing/MPDUs –

a) The Planning Board has reviewed and accepts the recommendations of Montgomery County Department of Housing and Community Affairs (DHCA) in its letter dated June 2, 2022 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided

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

that the amendments do not conflict with other conditions of the Site Plan approval.

- b) The development must provide 24.5 percent MPDUs or MCDHCA-approved equivalent consistent with the requirements of Chapter 25A and the applicable Master Plan.
  - c) Before issuance of any building permit for any residential unit(s), the MPDU Agreement to Build between the Applicant and the MCDHCA must be executed.
  - c) Quality Building and Site Design
    - i. Structured Parking –  
The Applicant must provide a minimum of 60 parking spaces within a below-grade structure.
5. Recreation Facilities
- a) Before Certified Site Plan approval, the Applicant must meet the square footage requirements for all of the applicable recreational elements and demonstrate to M-NCPPC Staff that each element meets M-NCPPC Recreation Guidelines.
  - b) The Applicant must provide the minimum required recreation facilities as shown on the Certified Site Plan.

## **Environment**

### **6. Tree Save Plan**

- 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.
- b) The development must comply with the Forest Conservation Law and Tree Save Plan as part of FCP Exemption No. 42021143E.

### **7. Noise Attenuation**

- a) Before issuance of any building permit, the Applicant/developer/builder must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatment that:
  - i. The building shell for residential dwelling units affected by exterior noise levels projected at or above 65 dBA Ldn, will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The affected units will be identified on the Certified Site Plan.
- b) If the plan changes in any manner that affects the validity of the noise analysis dated May 13, 2022, for acoustical certifications and noise attenuation features, the Applicant must conduct a new noise analysis to reflect the revised plans, and new noise attenuation features may be required.
- c) Before issuance of any Use and Occupancy Certificate or Final Inspection, whichever is relevant, for any of the noise impacted units, a Professional Engineer must certify to the Planning Department and Department of

Permitting Services that the noise impacted units have been constructed in accordance with the certification of an engineer that specializes in acoustical treatments.

## **Transportation**

### **8. 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 27, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in its memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

### **9. Pedestrian & Bicycle Circulation**

- a) The Applicant must provide 58 long-term and 6 short-term bicycle parking spaces.
- b) The long-term spaces must be in a secured, well-lit bicycle room in the parking garage, and the short-term spaces must be inverted-U racks (or approved equal) in a location convenient and clearly visible from 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.
- c) The Applicant must provide one bicycle repair station.
- d) The Applicant must provide the following master planned pedestrian and bicycle facilities, the exact location, design and construction of which must comply with requirements set forth by the Montgomery County Department of Transportation, Division of Traffic Engineering and Operations, before issuance of the final Use and Occupancy Certificate.
  - i. Sligo Avenue: 10-foot-wide sidepath with six-foot-wide buffer from traffic.

### **10. 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 May 31, 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**

### **11. 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.
- f) On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

#### 12. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or use and occupancy certificate, whichever comes 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, on-site lighting, outdoor recreational facilities, site furniture, trash enclosures, retaining walls, fences, railings, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and street lights. The surety must be posted before issuance of 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.

#### 13. 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.

**14. Certified Site Plan**

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

- a) Include the stormwater management concept approval letter, all other agency approval letters, development program, and Sketch, Preliminary and Site Plan resolutions on the approval or cover sheet(s).
- b) 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."
- c) Fire and Rescue Access plan should be included in the Certified Site Plan.
- d) Modify data table to reflect development standards approved by the Planning Board.
- e) Ensure consistency of all details and layout between Site and Landscape plans.
- f) The Applicant shall make good faith efforts for coordination with the neighbors (toward the north and east) regarding proposed removal of offsite and jointly owned trees and address the locations and quantities of replacement trees/landscaping on the revised landscape plans.
- g) Confirm the gas line and (other utilities) fronting the site will not conflict with the street tree plantings and/or move the existing and proposed utility locations as necessary to appropriately accommodate the new plantings.
- h) The landscape planting list shall be revised to utilize native species in keeping with the East Silver Spring Master Plan recommendations regarding Environment and urban forestry principles. However, the plantings associated with the green roof are to be determined by DPS.
- i) Provide details of recreation facilities.

- j) Revise plans to show reduced stormwater bioretention at the building frontage to provide a more generous front entry plaza.
- k) Revise plans to show a minimum of three street trees along the Sligo Avenue frontage, with a preference of five, to be determined in coordination with the Department of Permitting Services Right of Way Permitting Division.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of **[plan name and number]**, submitted via ePlans to the M-NCPPC as of the date of the Staff Report **[or other date]**, 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 820220170 has been reviewed for conformance with the associated Sketch Plan 320220080 and Preliminary Plan 120220110 previously discussed above.

- 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 CRT Zone**

*Table 6: Sligo Apartments Preliminary and Site Plan Data Table for CRT Zone, Optional Method, Section 59.4.5*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Approved</b>
<b>Tract Area</b>	n/a	56,229 sf(1.29 acres)
<b>Prior Dedication</b>	n/a	3,971 sf (0.09 acres)
<b>Proposed Dedication</b>	n/a	2,320 sf (0.05 acres)
<b>Site Area</b>	n/a	49,938 sf (1.15 acres)
<b>Mapped Density</b> CRT-0.75, C-0.75, R-0.25 H-35'		
Residential (GFA/ FAR)	14,057 sf / 0.25	115,000 sf / 2.05 <sup>1</sup>
Commercial (GFA/FAR)	42,171 sf / 0.75	0 sf
<b>Total Mapped Density</b>	42,171 sf / 0.75	115,000 sf / 2.05
<b>MPDU requirement</b>	12.5%	24.5% (98 units) <sup>2</sup>
<b>Building Height, max average</b>	35 ft	48 ft <sup>4</sup>
<b>Public Open Space (min s.f.)</b>	0%	6%
<b>Minimum Setbacks (ft)</b>		
<b>Front</b>	0	11 ft
<b>Rear</b>	30 ft	42 ft
<b>Side (west)</b>	0	8.5 ft
<b>Side (east)</b>	15 ft	23 ft

<sup>1</sup> Zoning Text Amendment 21-07 was adopted by Montgomery County Council on January 18, 2022, which allows projects in the CR and CRT zone to exempt FAR limits of the underlying zone, provided the maximum residential density does not exceed 2.5 FAR if 100% of the units are income-restricted for at least 30 years under a government regulation or binding agreement

<sup>2</sup> After the expiration of the LIHTC restrictions, the Applicant proposes to keep 24.5% of units on-site as County regulated MPDUs.

<sup>3</sup> Zoning Ordinance Section 59.4.5.2.C.7 states that the height limit of the applicable zone does not apply to the extent required to provide MPDUs. The additional height is calculated as the floor area provided for MPDUs above 12.5% divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet.

<sup>4</sup> The square footage provided for MPDUs totals 24,917 square feet and the average floor plate is 23,000 square feet resulting in allowable 24 feet of additional height beyond the mapped 35 feet (59 feet). The Applicant proposes a maximum height of 48 feet.

<sup>5</sup> The Property is adjacent to a residential townhouse zone to the east, and a single family detached zone in the rear. The Application is subject to the Residential Compatibility Standards of Section 59.4.1.8 of the Zoning Ordinance, requiring 1.5 times the adjacent zone setback for the side and rear.



*Table 6 cont: Sligo Apartments Parking Table Per Section 59.6.2*

Parking	Spaces Required	Spaces Provided
Vehicle Parking		
Residential		
MPDUs (24 units);	12 min / 24 max	--
1 Bedroom (27 units);	13.5 min/ 33.75 max	--
2 & 3 Bedroom (43 units);	35.3 min/ 64.5 max	--
<b>Total Residential Parking (98 units)</b>	<b>61 min/ 122.5 max<sup>1</sup></b>	<b>61 spaces<sup>2</sup></b>
Bicycle Parking (Long Term/ Short Term)		
Residential	(47/2) 49	--
<b>Bicycle Parking Total</b>	<b>(47/2) 49</b>	<b>(58/6) 64</b>
Loading Spaces	1	1

<sup>1</sup> Minimum parking per market rate unit has been adjusted per Zoning Ordinance Section 59.6.2.3.1.5 to reflect unbundling and Section 59.6.2.3.1.2 to reflect MPDU parking minimums

<sup>2</sup> Final number of vehicle and bicycle parking spaces to be determined at building permit based on final number of dwelling units and non-residential density. Public Benefit points are based on 450 spaces.

#### ii. ***Division 4.7 Optional Method Public Benefits***

Section 59.4.7.3.D.6.e states that projects that provide a minimum of 20% MPDUs do not have to satisfy any other benefit category under Section 4.5.4.A.2. Regardless, the Applicant proposes to exceed the 50-point requirement utilizing 3 categories. In accordance with the Zoning Ordinance, Section 59.4.7.1, the Site Plan proposes the following public benefits:

*Table 7: Sligo Apartments Public Benefit Calculations*

Public Benefits	Incentive Density	
	Max Allowed	Approved
<b>59.4.7.3C: Transit Proximity</b>		
Silver Spring Metro Station	25	10
<b>59.4.7.3.D: Diversity of Uses and Activities</b>		
Affordable Housing	n/a	144
<b>59.4.7.3E: Quality of Building and Site Design</b>		
Structured Parking	20	20
<b>TOTAL</b>		<b>174</b>

#### **Transit Proximity**

##### **Level 1 – Silver Spring Metro Station**

The Applicant requests 10 points for locating a project within ½ mile – 1 mile of a metro station. The Project is located 3,895 feet (¾ mile) from the Silver Spring Metro Station. Per Table 2, Page 16 of the CR Guidelines, properties zoned CRT are allowed 10 points

for locating a project within ½ mile and 1 mile of an existing or planned metro station. The Planning Board approves 10 points for this category.

### **Diversity of Uses and activities**

#### **Affordable Housing**

The Applicant requests 144 points for providing affordable housing in excess of the minimum required (12.5%). The Applicant proposes to provide 24.5% of dwelling units as MPDUs after the expiration of the LIHTC restrictions. Points are calculated based on the percentage of MPDUs greater than 12.5%. The Planning Board approves the Applicant's request.

$$24.5\% \text{ MPDUs proposed} - 12.5\% \text{ MPDUs min} = 12\% * 12 \text{ points per } 1\% \text{ over min} = 144 \text{ points}$$

### **Quality of building and Site Design**

#### **Structured Parking**

The Applicant requests 20 points for placing all parking in a below grade structure. Points for this incentive are granted on a sliding scale, based on the percentage of total on-site spaced provided in a below-grade parking structure multiplied by 20 points. The Applicant satisfies the requirements for 20 points because all on-site parking is provided in a below-grade garage.

### **iii. *Division 6, General Development Standards***

#### ***(1) Division 6.1 Site Access***

All access to the Site will be provided from a consolidated curb cut on Sligo Avenue at the eastern Property line. The driveway was evaluated for sight-distance and was approved based on the criteria for a minor arterial.

#### ***(2) Division 6.2 Parking, Queuing and Loading***

Vehicular parking will be provided with a structured parking deck, with 52 standard spaces, one carshare space, four ADA accessible parking spaces and adjacent aisles, and four motorcycle parking spaces. The 61 total spaces meet the minimum required for a project of this size within a Reduced Parking Area, with 24 MPDUs, where parking is unbundled from the units. Staff supports meeting the minimum number of required off-street parking spaces as the Site is located within walking distance of both the imminent Purple Line Station (at the Silver Spring Library) and the Silver Spring Transit Center, which is served by Metrorail, MARC and WMATA bus and RideOn bus service.

The Project proposes an off-street loading facility within the rear portion of the parking deck in accordance with Section 59-6.2.8 of the County Code (Loading Design Standards). The loading facility meets the minimum design criteria for a single-unit truck, providing a space that is 10-feet wide by 30-feet long. The facility is conveniently located adjacent to the trash room, stairs and elevator vestibule.

All agencies reviewed the driveway, parking deck design and circulation pattern and provided written approval of the Site Plan.

***(3) Division 6.3 Open Space and Recreation***

As stated previously, while the Property is not required to provide public open space per Section 59.4.5.4.B.1 of the Zoning Ordinance, the Application will provide 6% of the Site Area as public open space in the form of a plaza at the main building entrance. The plaza will be furnished with seating areas and landscaping. The Project will also provide an interior courtyard with picnic seating, community space room, and a fitness room, satisfying the requirements of onsite Recreation Facilities.

***(4) General Landscaping and Outdoor lighting***

The Applicant proposes landscaping along the Property frontage surrounding the proposed plaza and main entrance, within the proposed interior courtyard, and at the rear of the Property. The Application has been conditioned to require exterior lighting to comply with the latest Illuminating Engineering Society of North America (IESNA) recommendations. As this is an optional method project, the screening requirements of Section 59.6.5 only apply to standard method development.

**e) Satisfies the applicable requirements of:**

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

As discussed in Preliminary Plan 120220110 Finding 5, the requirements of Chapter 19 have been satisfied.

**ii. *Chapter 22A, Forest Conservation.***

As discussed in Preliminary Plan 120220110 Finding 4, the requirements of Chapter 22a have been satisfied.

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

The Proposal will provide a new multifamily building with underground parking and safe circulation patterns for pedestrians, bicycles, and vehicles, while providing open spaces for the residents and surrounding community. The massing has been designed to reduce bulk through depth, material variation, and stepping down in height to neighboring townhouse and residential development.

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

The 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 a 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.

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

As discussed in Preliminary Plan 120220110 Finding 2.c, the frontage improvements comply with the applicable master plans. The existing and future roadway and transit networks are adequate to support the Project. The Site is estimated to generate fewer than 50 net new person trips in the peak hour, and therefore no further analysis is required to make a finding for adequacy of the public transportation network.

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

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

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

The Subject Property abuts a single family detached zone in the rear, and a Residential Townhouse zone to the east. The Project must comply with the standards of Section 59.4.1.8 for Residential Compatibility, which includes a greater setback at the side and rear, as well as a gradual increase in height at the rear and east side of the Site. The Application proposes a rear setback of 42 feet which is greater than 1.5 times the R-60 zone (30 feet) and a side (east) setback of 23 feet which is greater than 1.5 times the RT zone (15 feet). The Applicant provided exhibits demonstrating that the height of the building to the rear and east will not protrude beyond a 45-degree angular plane projecting over the Property as required by the Residential Compatibility height provisions.

- 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).

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**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

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