

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-093

Site Plan No. 820220190

Claiborne

Date of Hearing: September 8, 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 July 6, 2022, 4820 Auburn LLC (“Applicant”) filed an application for approval of a site plan to replace previously approved Site Plan No. 82017008C, which has been revoked per Section 59.4.9.2.D.4 of the Zoning Ordinance related to the Bethesda Overlay Zone (“BOZ”); and request to construct a mixed use building with a maximum density of 97,000 square feet, comprised of up to 92,000 square feet of residential uses, for up to 84 multi-family dwelling units with 15% MPDUs, and up to 5,000 square feet of ground floor restaurant/retail uses, including an allocation of up to 36,273 square feet of Bethesda Overlay Zone density and 7,741 square feet of density from four sending properties on 0.41 acres of CR-3.0, C-3.0 R-3.0 H-110’, CR- 3.0, C-3.0 R-3.0 H-90’, and Bethesda Overlay zoned-land, located in the east quadrant of the intersection of Auburn Avenue and Norfolk Avenue (“Subject Property”), in the Bethesda CBD Policy Area and *2017 Bethesda Downtown Sector Plan* (“Sector Plan”) area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820220190, Claiborne (“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 August 26, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on September 8, 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 Rubin, seconded by Vice Chair Verma, with a vote of 5-0; Chair Anderson, Commissioners Cichy, Patterson, Rubin and Verma voting in favor .

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/ Emily Vaias

M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820220190 for approval of a site plan to construct a mixed use building with a maximum density of 97,000 square feet, comprised of up to 92,000 square feet of residential uses, for up to 84 multi-family dwelling units with 15% MPDUs, and up to 5,000 square feet of ground floor restaurant/retail uses, including an allocation of up to 36,273 square feet of BOZ density and 7,741 square feet of density from four sending properties, on the Subject Property, subject to the below conditions. This Site Plan approval and the following Conditions supersede the previous Site Plan No. 820170080, as amended by Site Plan Amendments 82017008A through 82017008C, in its entirety:¹

1. Density

The Site Plan is limited to a maximum of 97,000 square feet of total development on the Subject Property, including 92,000 square feet of residential uses, for up to 84 units, and 5,000 square feet of restaurant/retail uses².

2. Height

The development is limited to a maximum height of 110 feet on the CR-3.0, C-3.0 R-3.0 H-110' zoned property and a maximum height of 90 feet on the CR- 3.0, C-3.0 R-3.0 H- 90' zoned property, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

3. Density Averaging

- a) The Applicant must adhere to the density averaging restrictions as referenced on Record Plat No. 25699 recorded in the Land Records. References for the recorded documents must be included on the Certified Site Plan.
- i. The residential density transferred under this Site Plan is measured in gross square feet and will total approximately 7,741 square feet. The Sending Properties will transfer the following square feet of development potential:
 - a. 4830 Cordell Avenue will be transferring 1,028 SF of residential density
 - b. 5004 Cordell Avenue will be transferring 514 SF of residential density
 - c. 5001 Wilson Avenue will be transferring 5,685 SF of residential density
 - d. 5027 Wilson Avenue will be transferring 514 SF of residential density

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.

²The retail use space can be changed to other commercial uses if there is no adverse impact on the Site Plan and APF findings and it is approved by Staff.

4. Bethesda Overlay Zone Density & Park Impact Payment

- a) Per Section 59.4.9.2.D.4 of the Zoning Ordinance, the Applicant must have a building permit application accepted by MCDPS that includes the core and shell of the principal building within two years of the date of the Planning Board Resolution approving the Site Plan. Within two years of MCDPS accepting the building permit application, the Applicant must obtain the building permit. The deadlines may not be extended. If the Applicant fails to comply with any of the deadlines in this condition, the entire Site Plan approval is revoked.
- b) The Applicant must pay to the M-NCPPC a Park Impact Payment of \$256,416.93, prior to release of the first above-grade building permit for the allocation of 36,273 square feet of Bethesda Overlay Zone Density, not including 13,800 square feet of MPDU density exempt from the PIP calculation. In the event the final allocation of density from the BOZ is less than the approved amount, or if the amount of exempt MPDU density changes, the Applicant may apply to reduce the allocation of density from the BOZ, and/or modify the PIP through a minor Site Plan Amendment.

5. Moderately Priced Dwelling Units (MPDUs)

- a) The Applicant must adhere to the Agreement to Build dated June 7, 2022 between the Applicant and MCDHCA for Alternative Payment per Chapter 25A. DHCA may amend the agreement so long as the amendment does not conflict with other conditions of Site Plan approval.

Open Space, Facilities and Amenities

6. Public Open Space, Facilities, and Amenities

- a) The Applicant must provide a minimum of 295 square feet of public open space on-site, as illustrated on the Certified Site Plan.
- b) The Applicant must construct streetscape improvements, including the undergrounding of utilities, along the Property's frontage on Auburn Avenue and Norfolk Avenue, consistent with the Bethesda Streetscape Standards, with the exception of a modified paver pattern per Site Plan Condition 19(b), as illustrated in the Certified Site Plan.
- c) The Applicant must construct off-site streetscape improvements on Norfolk Avenue and Del Ray Avenue, not including undergrounding of the existing utility pole at the corner of Norfolk Avenue and Del Ray Avenue, as shown on the Certified Site Plan.

- d) Before the issuance of the final use and occupancy certificate for the residential development, all public open space areas and streetscape improvement areas identified on the Certified Site Plan must be completed.

7. Public Benefits

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

a) Connectivity between Uses, Activities, and Mobility Options

i. Minimum Parking

The Applicant must not provide/construct more than 73 parking spaces.

ii. Streetscape Improvement

The Applicant must comply with Condition 6 related to streetscape improvements.

b) Diversity of Uses and Activities

i. Enhanced Accessibility for the Disabled

The Applicant must construct 1 dwelling unit that satisfies American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard.

c) Quality Building and Site Design

i. Architectural Elevations

The Applicant must comply with Condition 17 related to architectural elevations.

ii. Exceptional Design

The Applicant must comply with Condition 17.

iii. Structured Parking

The Applicant must provide all parking within a below grade structure.

iv. Tower Step-Back

The Applicant must step back the upper floors, as shown on the Certified Site Plan (CSP).

d) Protection and Enhancement of the Natural Environment

i. Building Lot Terminations (BLTs)

Before issuance of any building permit, the Applicant must provide proof of purchase and/or payment of 0.2099 BLTs to the MCDPS and M-NCPPC staff.

ii. Cool Roof

The Applicant must install a cool roof having a minimum solar reflectance index (SRI) of 75 on slopes at or below 2:12 and a minimum SRI of 25 on slopes above 2:12. This SRI rating will cover all roof areas not covered by green roof or mechanical equipment, as shown on the Certified Site Plan.

iii. Energy Conservation and Generation

The Applicant must construct the building to exceed energy efficiency standards for the building type by 17.5%, as determined by MCDPS through the methodology established by ASHRAE 90.1 (2013) Appendix G. The energy model must be submitted to DPS with the building permit application.

iv. Recycling Facility Plan

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Environmental Protection ("MCDEP"), Waste Reduction and Recycling Section in its memorandum dated August 15, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the memorandum, which may be amended by the MCDEP - Waste Reduction and Recycling Section provided that the amendments do not conflict with other conditions of the Site Plan approval.

8. Recreation Facilities

The Applicant must provide the required recreation facilities as shown on the Certified Site Plan (CSP). The CSP must include an exhibit delineating location and detail of recreation facilities, where appropriate, in a manner that is clear and corresponds to the posted surety and maintenance agreement.

Environment

9. Forest Conservation & Tree Save

- a) The development must comply with the conditions of the Forest Conservation exemption 42019048E which was confirmed on October 12, 2018.

10. Green Cover

- a) The Applicant must provide on-site a minimum of 4,686 square feet of Green Cover, equivalent to 35% of the site area, as illustrated on the Certified Site Plan.
- b) Any green roof installed pursuant to this condition must have a minimum soil depth of eight inches (8").

11. Noise

- a) Prior to the issuance of the first building permit, the Applicant/developer/builder must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments 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.
- b) If any changes occur to the Site plan which affects the validity of the noise analysis dated April 9, 2019, acoustical certifications, and/or noise attenuation features, a new noise analysis will be required to reflect the changes 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.
- d) For all noise impacted residential dwelling units, the Applicant/developer/builder must disclose in writing to all prospective purchasers that those homes are impacted by transportation noise. Such notification may be accomplished by inclusion of this information and any measures to reduce the impacts in brochures and promotional documents and must be included in any noise impacted sales contracts, any illustrative site plan(s) on display within any sales related offices(s); in Homeowner Association documents; with all Deeds of Conveyance of noise impacted units; and by inclusion on all signature subdivision and site plans.

12. Stormwater Management

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Water Resources Section in its stormwater management concept letter dated November 27, 2018, which was confirmed as valid through this review process, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

Transportation

13. Norfolk Avenue Shared Street Implementation

Before issuance of any building permit, the Applicant must provide proof of payment to MNCPPC staff of up to \$127,000 (or other amount determined by the Montgomery County Department of Transportation (MCDOT)) to MCDOT for future implementation of Norfolk Avenue shared street project.

14. Transportation

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 31, 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.

15. Pedestrian & Bicycle Circulation

- a) The Applicant must provide 40 long-term and 6 short-term bicycle parking spaces.
- b) The long-term spaces must be in a secured, well-lit bicycle room in a parking garage, 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.
- 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 the issuance of the final use and occupancy permit:
 - i. Norfolk Avenue: 12-foot-wide sidewalk with 5-foot-wide buffer from traffic.
 - ii. Auburn Avenue: 12-foot-wide sidewalk with 5-foot-wide buffer from traffic.

16. 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 August 26, 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

17. Building and Site Design

- a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the Certified Site Plan, as determined by M-NCPPC Staff.
- b) The Planning Board accepts the recommendations of the Design Advisory Panel as described in their letter, dated October 24, 2018, and confirmed at their April 27, 2022 meeting.
- c) Any significant changes to the design must be presented to the Design Advisory Panel and approved by Staff prior to certification of the Site Plan, and certain changes to the design, as determined by Staff, may require a Site Plan Amendment.
- d) Over an area that incorporates a significant portion of the southern façade, as shown on the Certified Site Plan, the Applicant must provide and maintain a mural, or comparable visual amenity that breaks-up the mass of the façade. This visual amenity must be installed prior to the final Use and Occupancy permit and may change over time without amending the Site Plan while remaining similar in character and quality.

18. Lighting

- a) Before certified Site Plan approval, 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.

19. Landscaping

- a) Before issuance of the final residential Use and Occupancy Certificate, all on-site amenities, including, but not limited to: streetlights, sidewalks/ pedestrian pathway, hardscape, benches, trash receptacles, bicycle facilities, recreation amenities, and public open space must be installed.
- b) The Applicant may install a modified Bethesda Streetscape (paver pattern), as shown on the Certified Site Plan.
- c) Before issuance of the final residential Use and Occupancy Certificate, all rooftop amenities must be installed.
- d) The Applicant must install landscaping no later than the next growing season after completion of site work.

20. Site Plan Surety and Maintenance Agreement

Before 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, the southern façade visual amenity, site furniture, trash enclosures, private utilities, sidewalks, storm drainage facilities. The surety must be posted before issuance of any building permit for the 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.

21. 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.

22. 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, development program, Site Plan resolution and other applicable 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.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of the Claiborne, Site Plan No. 820220190, 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;***

The Site Plan conforms to all binding elements of Sketch Plan No. 32017003A.

- 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 CR Zone***

Table 1: Claiborne Site Plan Data Table for CR Zone, Optional Method, Section 59.4.5

| Development Standard | Permitted/ Required | Approved |
|-------------------------------------------------------------|------------------------|-------------------------------|
| Tract Area | n/a | |
| Subject Property | | 17,662 sf (0.41 ac) |
| Sending Property¹ | | |
| 4830 Cordell Avenue | | 2,610 sf (0.06 ac) |
| 5001 Wilson Lane | | 13,552 sf (0.31 ac) |
| 5027 Wilson Lane | | 6,998 sf (0.16 ac) |
| 5004 Cordell Avenue | | <u>3,133 sf (0.07 ac)</u> |
| Sending Property Subtotal | | 26,283 sf (0.60 ac) |
| Consolidated Tract Area | | 43,945 sf (1.01 ac) |
| Subject Property Prior Dedication | n/a | 5,972 sf (0.14 ac) |
| Subject Property Proposed Dedication | n/a | 0 sf (0 ac) |
| Site Area | n/a | 11,690 sf (0.27 ac) |
| Mapped Density | | |
| Residential (GFA/ FAR) | | |
| Subject Property (CR-3.0, C-3.0 R-3.0 H-110'/ H-90') | 52,986 sf (3.0) | 47,986 sf (2.72) |
| Sending Properties | | |
| 4830 Cordell Avenue (CR-5.0, C-5.0 R-5.0 H-175') | | 1,028 sf (0.06) |
| 5001 Wilson Lane (CRT-2.25, C-1.5 R-0.75 H-35') | | 5,685 sf (0.32) |
| 5027 Wilson Lane (CRT-2.25, C-1.5 R- 0.75 H-35') | | 514 sf (0.03) |
| <u>5004 Cordell Avenue (CRT-2.25, C-1.5 R-0.75 H-35')</u> | | <u>514 sf (0.03)</u> |
| Residential Density Transfer Subtotal | | 7,741 sf (0.44) |
| Residential Density Total | | 55,727 sf (3.16) |
| Commercial (GFA/FAR) | 52,986 sf (3.0) | 5,000 sf (0.28) |
| Total Mapped Density (GFA/FAR) | 52,986 sf (3.0) | 60,727 sf (3.43) ³ |
| Bethesda Overlay Zone Density | n/a | 36,273 sf (2.05) |
| Total Maximum Density | n/a | 97,000 sf (5.49) |
| MPDU requirement | 15% | 15% (13,800 sf) ² |
| Maximum Building Height | | |
| CR-3.0, C-3.0 R-3.0 H-110' | 110 feet | 110 feet |
| CR-3.0, C-3.0 R-3.0 H-90' | 90 feet | 90 feet |
| Public Open Space (min s.f.) | 0 | 295 sf (2.5%) |
| Green Cover | 35% | 40.2% |
| Minimum Setbacks (ft) | 0 | 0 |

¹Density Transfer only for residential uses

² MPDU density is exempt from PIP calculation per Section 59.4.9.2.c.i

³ A development may exceed the mapped FAR on a site if the Planning Board approves a site plan that includes an allocation of gross floor area from the BOZ density or FAR averaging per Section 59.4.9.2.C.2.a

Table 1 (Continued): Parking

| Parking | Spaces Required | Spaces Provided |
|------------------------------------------------|----------------------------------------|-------------------------|
| Vehicle Parking | | |
| Retail | n/a | 0 ¹ |
| Residential | | |
| 1 Bedroom (19 units) | (1 min / 1.25 max) | -- |
| 2 Bedroom (64 units) | (1 min / 1.5 max) | -- |
| 3 Bedroom (1 unit) | (1 / 2 max) | -- |
| Total | (68 minimum ³ /122 maximum) | 73 maximum ² |
| Bicycle Parking (Long Term/ Short Term) | | |
| Retail | (0/0) 0 | -- |
| Residential | (40/6) 42 | -- |
| Total | (40/6) 42 | (40/6) 42 |
| Loading Spaces | 1 | 1 |

¹ No parking is provided for retail uses in accordance with the LATR provisions for ancillary retail.

² Final unit count and corresponding parking spaces to be determined at Building Permit.

³ Minimum parking is reduced by 20% within the Bethesda Overlay Zone.

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 \$11.41 per square foot based upon the density requested and facilitates acquisition of parkland in the downtown Bethesda area. This Application is requesting an allocation of 36,273 square feet from the BOZ initiating a Park Impact Payment of \$256,416.93 (13,800 square feet of MPDU Density to be exempt from payment) to be paid at the time of building permit. The amount of density allocated from the BOZ for this Application is deducted from the 32.4 million cap.

ii. Division 4.7 Optional Method Public Benefits

In accordance with the Zoning Ordinance, Section 59.4.7.1, the Site Plan proposes 101.79 public benefit points in 4 categories to satisfy the requirements:

Table 2: Public Benefit Calculations- Division 59-4.7

| Public Benefit | Incentive Density Points | | |
|-------------------------------------------------------------------------|--------------------------|------------|---------------|
| | Max Allowed | Requested | Approved |
| 59.4.7.3C: Connectivity and Mobility | | | |
| Minimum Parking | 20 | 12 | 9.07 |
| Streetscape Improvements | 30 | 12 | 12 |
| 59.4.7.3D: Diversity of Uses and Activities | | | |
| Enhanced accessibility for the disabled | 20 | 3 | 3 |
| 59.4.7.3E: Quality of Building and Site Design | | | |
| Architectural Elevations | 30 | 10 | 10 |
| Exceptional Design | 30 | 10 | 10 |
| Structured Parking | 20 | 20 | 20 |
| Tower step-back | 20 | 5.2 | 5.2 |
| 59.4.7.3F: Protection and Enhancement of the Natural Environment | | | |
| BLTs | 30 | 1.89 | 1.89 |
| Cool Roof | 10 | 10 | 10 |
| Energy Conservation and Generation | 15 | 15 | 15 |
| Recycling Facility Plan | 10 | 5 | 5 |
| TOTAL | | 104 | 101.16 |

Connectivity and Mobility

Minimum Parking: The Project proposes to provide 73 parking spaces; fewer than the maximum number of parking spaces required under the Zoning Ordinance. The Applicant requests 9.07 points and the Board approves this request. The points are calculated as follows:

$$[(122/73)/(122/68)]*10 = 9.07 \text{ points}$$

Streetscape Improvements: The Applicant requests 12 points for proposed off-site streetscape improvements along the remainder of Norfolk Avenue to Del Ray Avenue in addition to the required streetscape improvements along the Property frontage. The off-site portion measures approximately 1,405 square feet. The Planning Board approves 12 points in this public benefit category, which is supported by the following calculation:

$$[(1,405 \text{ SF}/11,690 \text{ SF})*100] = 12.01 \text{ (12 Points)}$$

Diversity of Uses and Activities

Enhanced Accessibility for the Disabled:

Section 59.4.7.3.D.4. of the Zoning Ordinance permits up to 20 public benefit points for providing dwelling units with interiors that satisfy accessibility standards set forth by the American National Standards Institute (ANSI), A117.1 Residential Type A standards. The Project is providing one (1) dwelling unit that meets A117.1 or an

appropriate County standard. The Planning Board approves 3 points, which is supported by the following calculation:

$$[(1/84)*300] = 3 \text{ points}$$

Quality of Building and Site Design

Architectural Elevations: The Applicant requests 10 points for providing a building that contains a masonry base and contemporary façade on the upper floors. The building will contribute to the streetscape by providing a detailed and permeable façade at the ground floor. This design treatment is intended to help relate the building to buildings on the rest of the block as well as the pedestrian realm and provide a step back above this base. The Planning Board approves 10 points for this category.

Exceptional Design: The Applicant requests 10 points for a building or site design that provides innovative solutions in response to the immediate context; creates a sense of place and serves as a landmark; enhances the public realm in a distinct and original manner; introduces materials, forms, or building methods unique to the immediate vicinity or applied in a unique way; uses design solutions to make compact infill development living and shopping environments more pleasurable and desirable; and integrates low-impact development methods into the overall design of the site and building, beyond green building or site requirements. The Design Advisory Panel reviewed the project at its October 24, 2018 meeting and voted to support 10 points for exceptional design. The Design Advisory Panel was briefed on the new Site Plan application at their April 2022 meeting and voted again to maintain 10 points for exceptional design. The Planning Board agrees and approves 10 points for this category.

Structured Parking: The Applicant requests 20 points for structured parking for the parking that will be below grade. The Application proposes all parking spaces to be provided in a below-ground parking garage and the layout of the parking garage is depicted in the architectural plans and will be included in the Certified Site Plan. The Planning Board approves 20 points for this benefit.

$$[(0/73)*10 + (73/73*20)] = 20$$

Tower Step-back: The Applicant requests 10 points for providing a tower step-back of at least 52% of the building above the fourth floor. Applied to the building, this step-back occurs on the 110-foot tall portion of the building as a 10-foot step-back at or about a height of 40 feet; on the 90-foot tall portion of the building, as a 4-foot step-back at or about a height of 20 feet. Since the four-foot step-back does not meet the minimum criteria set forth in the Guidelines, the Planning Board only approves 5.2 points for this benefit.

Protection and Enhancement of the Natural Environment

BLTs: Up to 30 points can be granted for the purchase of Building Lot Termination (BLT) easements or payment to the Agricultural Land Preservation Fund (ALPF). The Applicant proposes the purchase of 0.2099 BLT easements for 1.89 public benefit points. The Planning Board approves 1.89 points, which is supported by the following calculation:

$$[(7.5\% * 88,169)/31,500] = 0.2099 \text{ BLTs} = 1.89 \text{ points}$$

Cool Roof: The Applicant requests 10 points for providing a cool roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum of SRI of 25 for slopes above 2:12, for a site less than 1 acre in size, thus achieving 10 points in this public benefit category. The Planning Board approves 10 points for this benefit.

Energy Conservation and Generation: The Project is being designed to exceed the energy efficiency standards for its building type by 17.5%, through such features as a highly efficient mechanical system, energy efficient lighting, and low-flow plumbing fixtures. The Applicant has provided an energy/use generation model with comparisons to the average use/generation for the building type based on the Department of Energy Standards, therefore the Planning Board approves 15 points for this category as requested.

Recycling Facility Plan: The Applicant requests 5 points for providing a recycling facility plan that exceeds County requirements. This plan includes designated areas for recycling chute, paper shredder, food scraps, battery recycling, plastic bag/film/shrink wrap, and commercial trash and recycling bins. The Planning Board approves 5 points for this category.

iii. Division 59-6 General Development Standards

(1) Division 6.1 Site Access

Vehicular access and loading will occur via a consolidated access point on Auburn Avenue. Pedestrians and bicyclists will be able to enter the Project from the residential lobbies on either Auburn Avenue or Norfolk Avenue and short-term bicycle parking will be provided along the public sidewalks. The Project provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading.

(2) Division 6.2 Parking, Queuing and Loading

Residential Parking for the building will be provided in a below-grade facility. Vehicular and loading access will occur via Auburn Avenue along the north side of the Property to limit impacts to Norfolk Avenue.

(3) Division 6.3 Open Space and Recreation

There is no open space requirement for the Subject Property because the Site area measures less than ½ acre with two frontages, however, the Project will provide 295 square feet of open space along its frontage. The Application is in conformance with the *Recreation Guidelines*.

(4) Division 6.4 General Landscaping and Outdoor lighting

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

As shown in the Development Standards table, the Site Plan meets all general requirements and development standards of Division 4.5 of the Zoning Ordinance, the optional method public benefits provisions of Division 4.7 of the Zoning Ordinance, and the general development requirements of Article 59.6 of the Zoning Ordinance.

e) Satisfies the applicable requirements of:

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

The MCDPS Stormwater Management Section approved the Stormwater Management Concept on November 27, 2018 (Attachment C). With this Site Plan application, it was determined by MCDPS that the previous approval letter remains valid given there are no major changes in the building or stormwater design. According to the approval letter, the Stormwater Management Concept proposes to meet stormwater management requirements via environmental site design to the maximum extent practicable through the use of a green roof, micro-bioretention and a partial Quality and Quantity waiver. Accordingly, the Application satisfies Chapter 19.

ii. Chapter 22A, Forest Conservation.

This Application is subject to the Chapter 22A, Montgomery County Forest Conservation Law, but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(2) because the proposed activity occurs on a tract of land less than 1 acre that will not result in the clearing of more than a total of 20,000 square feet of existing forest, or any existing specimen tree or champion tree, and afforestation requirements would not exceed 10,000 square feet. Therefore, the Application satisfies Chapter 22A.

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

The Project provides adequate, safe, and efficient parking and circulation patterns. The Project consolidates new vehicular access to Auburn Avenue and limits impacts to the pedestrian environment and improves public streetscape along its three frontages. The building provides an activated façade that will contribute to the vibrancy of the Woodmont Triangle District.

The Project provides a safe and well-integrated building, open spaces and site amenities. The Project presents as a 110-foot tall high-rise building along the northern side of the Project that steps-down to a height of 90-feet on the southern side. The building steps-back above the fourth floor, along the north side of the project, and above the second floor along the south side of the project, to achieve Sector Plan design guidance for Norfolk Avenue.

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

2017 Bethesda Downtown Sector Plan

The Project substantially conforms to the recommendations for the Property included in the *2017 Bethesda Downtown Sector Plan*. Specifically, this Plan builds on the past successes of Downtown Bethesda to create a truly sustainable downtown by focusing on components that will bolster the elements most in need of enhancement. The 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 designated as sites 231 and 22 on page 111 of the Sector Plan. Woodmont Triangle is an eclectic, mixed-use district that balances high-rise residential development with small-scale retail and arts amenities. This district serves as an office and retail center during the day, and as a restaurant district during the evenings and weekends.

Woodmont Triangle is primarily a commercial area, containing both retail and office uses. Residential uses were once limited, but since the 2006 Woodmont Triangle Amendment, additional apartments and condominiums have been developed in the district. The Project specifically addresses the following Sector Plan goals:

- *Incentivize expanded affordability for housing.*

The new multi-family residential apartment building will provide a minimum of 15 percent Moderately Priced Dwelling Units (MPDUs) per the requirements of Chapter 25(A). As a result, the Project provides additional, desired affordable housing in close proximity to transit and other services.

- *Enhance Norfolk Avenue as the Main Street for the district, building on what works well and creates the unique character in Woodmont Triangle.*

The Property is located at the northern entrance to Norfolk Avenue. Given its prominent location, the Project has been designed to facilitate the pedestrian-scale retail character envisioned for Norfolk Avenue by providing step-backs along the Norfolk Avenue façade. As a result, the building will contribute to the desired lower-heights of Norfolk Avenue. The Applicant will participate in the implementation of the Sector Plan recommended shared street improvements along their Norfolk Avenue frontage through a monetary contribution to MCDOT. As conditioned, the amount will not exceed \$127,000 (or lesser amount determined by MCDOT).

- *Preserve low density, pedestrian scale character along Norfolk Avenue.*

The proposed building will be located directly on the street and will both define and activate the pedestrian environment. This design will promote a more pedestrian oriented streetscape experience by expanding the streetscape and providing façades with multiple points of entry. Parking and loading will be accommodated internally on site via a consolidated garage and loading access point on Auburn Avenue.

- *Increase environmental innovation, including more energy efficient buildings, better stormwater management, improved sidewalks and bicycle routes, and other measures to enhance community health and quality of life.*

The Project will result in significant improvements to the treatment of stormwater management on-site, as there are no known stormwater management facilities located on the Property. The Project is located within the High Performance Area and will incorporate and meet the requirements in the Sector Plan and Bethesda Overlay Zone for exceeding current energy efficiency standards for buildings.

The Bethesda Downtown Plan includes recommendations to achieve the urban green goals within the Sector Plan boundary. An important recommendation to this effect is the onsite 35% green area coverage minimum. The green cover may include singularly or a combination of intensive green roof (6 inches or deeper) or tree canopy cover.

The Application previously proposed to meet this requirement through the provision of multiple green roof areas totaling approximately 4,106 square feet of green roof, which provided 35.1% coverage. Following updates to the proposal for the Site, the Applicant

now proposes a total of 4,686 square feet of green cover which provides 40.2% coverage. Staff and the Planning Board fully support these updates which adhere to the recommendations of the Sector Plan and go well beyond the minimum of 35%.

The Project substantially conforms with the recommendations of the 2017 *Bethesda Downtown Plan*.

Noise Guidelines

The Subject Application provides residential units fronting an arterial roadway and is thus subject to the county Noise Guidelines. To address development standards regarding noise mitigation, the Applicant has requested to have the exterior noise guidelines waived under Section 2.2.2 of the Noise Guidelines due to the site's location in an urban downtown area. Strict compliance with the guidelines to maintain 65 dBA throughout all exterior spaces would significantly compromise the design of the project's open space.

The Applicant did, however, provide a Noise analysis of interior units which shows that small portions of the south elevation of the proposed building will be exposed to future transportation noise levels of up to 65 dBA Ldn. The acoustical engineers at Phoenix Noise and Vibration, who conducted the noise analysis, state that compliance with Montgomery County's residential interior noise level of 45 dBA Ldn can be achieved through reasonable modifications to the proposed building construction such as the implementation of windows and/or doors with increased STC ratings. All other residential units on the north, west, and east elevations will not be exposed to high noise levels and will not require mitigation.

The Planning Board approves the waiver for exterior noise and has provided standard conditions of approval relative to interior noise levels.

- 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;***

With the approval of Preliminary Plan No. 12017025A, the Planning Board determined that the development will be served by adequate public facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. The approval remains valid.

- i) 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 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 Site Plan is compatible with other uses and other site plans, as well with existing and proposed adjacent development. The Project's design and scale is compatible with adjacent buildings in the Woodmont Triangle District, as discussed above.

- 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 SEP 21 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 Commissioner Rubin, seconded by Vice Chair Verma, with a vote of 5-0; Chair Anderson, Vice Chair Verma, and Commissioners Cichy, Patterson, and Rubin, voting in favor of the motion, at its regular meeting held on Thursday, September 15, 2022, in Wheaton, Maryland and via video conference.



Casey Anderson, Chair
Montgomery County Planning Board

Brad Fox
16701 Melford Boulevard
Suite 310
Bowie, MD 20715

c/o DBT Capital - Auburn,
LLC Kenric Walwyn
400 7th Street, SE
Washington, DC 20003

Larney Reed
4600 East West Highway
Suite 700
Bethesda, MD 20814

Bruno Carvalho
1025 Connecticut Avenue, NW
Suite 1000
Washington, DC 20036

Heather Dlhopsky
4800 Hampden Lane
Suite 200
Bethesda, Maryland 20814

Nick Speech
16701 Melford Boulevard Suite 310
Bowie, MD 20715

Bob Kyte
16701 Melford Boulevard Suite 310
Bowie, MD 20715

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The Claiborne
September 8 2022