

**4901 BATTERY LANE**  
**PRELIMINARY PLAN 120220100 & SITE PLAN 820220160**



**Description**

Request to create one lot for 416,367 square feet of residential development, for a maximum of 372 dwelling units, with a minimum of 15% MPDUs, 277,713 square feet of BOZ density and associated PIP payment.

No. 120220100 & 820220160  
Completed 12-5-2022

MCPB  
Item No. 7  
12-15-2022

Montgomery County  
Planning Board  
2425 Reedie Drive, Floor 14  
Wheaton, MD 20902

## Planning Staff

AB	Adam Bossi, Planner III, Downcounty Planning, <a href="mailto:Adam.Bossi@montgomeryplanning.org">Adam.Bossi@montgomeryplanning.org</a> , 301-495-4529
SD	Stephanie Dickel, Supervisor, Downcounty Planning, <a href="mailto:Stephanie.Dickel@montgomeryplanning.org">Stephanie.Dickel@montgomeryplanning.org</a> , 301-495-4527
CH	Elza Hisel-McCoy, Chief, Downcounty Planning, <a href="mailto:Elza.Hisel-McCoy@montgomeryplanning.org">Elza.Hisel-McCoy@montgomeryplanning.org</a> , 301-495-2115

### LOCATION/ADDRESS

4901 Battery Lane, Bethesda; on the north side of Battery Lane, approximately 450 feet west of Woodmont Avenue

### MASTER PLAN

2017 Bethesda Downtown Sector Plan

### ZONE

CR-1.5 C-0.5 R-1.5 H-120' and Bethesda Overlay Zone (BOZ)

### PROPERTY SIZE

2.12 acres

### APPLICANT

WC Smith Development

### ACCEPTANCE DATE

April 21, 2022

### REVIEW BASIS

Chapter 50, Chapter 59



## Summary:

- Staff recommends approval of the Preliminary Plan and Site Plan applications.
- The Planning Board approved Sketch Plan 320220040 on February 3, 2022, to allow the development of up to 420,528 square feet of multifamily residential development with 15 percent MPDUs, including up to 281,865 square feet of BOZ density.
- Preliminary Plan 120220100 proposes to create one lot for 372 dwelling units.
- Site Plan 820220160 proposes up to 416,367 square feet of residential use, for a maximum of 372 multifamily dwelling units, with a minimum of 15 percent MPDUs, including up to 277, 713 square feet of BOZ density and associated Park Impact Payment (PIP).
- A Forest Conservation Variance request is included and proposes the removal of three on-site specimen trees and impacts to the root zone of five off-site specimen trees. Staff supports the variance request.
- On May 2, 2022, the Planning Director granted a 30-day extension of the review period for the Preliminary and Site Plans from August 18, 2022 to September 17, 2022. On September 8, 2022, the Planning Board granted a second extension of the review period for both applications from September 17, 2022 to December 30, 2022.

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## SECTION 1: EXECUTIVE SUMMARY

Staff has reviewed Preliminary Plan No. 120220100 and Site Plan No. 820220160 for conformance with the applicable requirements of Montgomery County Code Chapter 50 Subdivision of Land and Chapter 59 Zoning Ordinance. The applications propose to redevelop a site in downtown Bethesda and to replace two existing garden-style apartment buildings with a new multi-family building. The subject site is within the CR Zone and Bethesda Overlay Zone (BOZ), and within the boundaries of the 2017 *Bethesda Downtown Sector Plan*. As discussed in this report, and subject to the conditions recommended herein the proposal conforms with the applicable requirements of Chapter 50 and Chapter 59. Staff recommends the Planning Board approve both applications with conditions provided in this report.

The Preliminary Plan proposes to consolidate three existing lots into one lot of approximately 2.1 acres for up to 372 multi-family dwelling units. The Site Plan uses the Optional Method of development to propose 416,367 square feet of residential development in a single building, 120 feet in height with 372 dwelling units, including 15 percent MPDUs, and site features such as ground-level and rooftop amenity spaces for residents, structured parking, landscaping, and two pedestrian through-block connections. The Applicant proposes Public Benefits as required by the Optional Method of development and includes a Park Impact Payment (PIP) for BOZ density.

## SECTION 2: RECOMMENDATIONS AND CONDITIONS

### PRELIMINARY PLAN 120220100

Staff recommends approval with conditions of the Preliminary Plan to create one lot for up to 372 multi-family dwelling units. All site development elements shown on the latest electronic version of the Preliminary Plan as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.

#### GENERAL APPROVAL

1. This Preliminary Plan is limited to one lot for up to 372 multi-family dwelling units.

#### ADEQUATE PUBLIC FACILITIES AND OUTSIDE AGENCIES

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 before 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 letters dated July 29, 2022 and December 2, 2022 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations provided in the letters, 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 July 26, 2022 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as provided 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 September 29, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as provided in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

## FUTURE SITE PLAN APPROVAL REQUIRED

8. Before clearing or grading or recording a plat for the Subject Property, the Applicant must receive Staff certification of a Planning Board-approved Site Plan. The number and location of site elements, including but not limited to buildings, dwelling units, on-site parking, site circulation, sidewalks and bike paths will be determined through site plan review and approval.
9. If an approved site plan or 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 or site plan amendment.

## TRANSPORTATION

### Frontage Improvements

10. The Applicant must provide the right-of-way dedications and show on the record plat(s) all land necessary to accommodate 10 additional feet (for 35 feet total from the existing pavement centerline) along the Subject Property frontage for Battery Lane.
11. Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDOT to ensure construction of a seven-foot (7 ft) sidewalk (minimum) with a six-foot (6 ft) planted buffer (minimum) with a double row of trees along the Property frontage on Battery Lane.

#### LATR Off-site Mitigation Construction Projects and Mitigation Payments

12. Before release of any above-ground building permit, the Applicant must permit and bond the following off-site improvements pursuant to MCDOT requirements, as illustrated on the Certified Preliminary Plan. The Applicant must construct these improvements before a final use and occupancy certificate is issued.
  - a. Pedestrian System Adequacy Mitigation
    - i. Replace the existing sidewalk along the frontage of 4925 Battery Lane with a seven-foot (7 ft) sidewalk (minimum) with a six-foot (6 ft) (minimum) “street buffer” per the 2022 Complete Streets Design Guide.
    - ii. Replace the existing sidewalk along the south side of Battery Lane, between Woodmont Avenue and the western property line of 8240 Wisconsin Avenue with a seven-foot (7 ft) sidewalk (minimum) and a six-foot (6 ft) (minimum) “street buffer” per the 2022 Complete Streets Design Guide, subject to available dedicated right of way.
  - b. Bus Transit System Adequacy Mitigation
    - i. Install a new ADA accessible bus shelter at MCDOT Bus Stop ID: 2001214, located along the frontage of 4925 Battery Lane, that fully addresses all bus transit system deficiencies per the 2022 LATR Guidelines: including a real-time travel information display, trash receptacles, seating, overhead shelter, and USB outlets.
    - ii. Install a new ADA accessible bus shelter at MCDOT Bus Stop ID: 2001215 located along the frontage of 5015 Battery Lane that fully addresses all bus transit system deficiencies per the 2022 LATR Guidelines: including a real-time travel information display, trash receptacles, seating, overhead shelter, and USB outlets.
  - c. If, at the time the Applicant submits for permits to construct one of the required LATR Off-Site Improvements, the improvement is no longer necessary or desirable, because: i) it has been constructed or is under construction by another applicant or as part of a capital improvement project by a government agency, or, ii) the applicable master plan has changed and no longer requires or suggests the improvement, the Applicant can propose an alternative LATR Off-Site Improvement from the priority list of improvements provided in the subject Staff Report that is of similar value. This alternative improvement, if reviewed and approved by Planning Staff, can be substituted and shown on a revised Certified Preliminary Plan.
13. Before issuance of the first above-grade building permit or right-of-way permit (whichever comes first), the Applicant must make a payment of \$967,943 to the Montgomery County



Department of Transportation towards the construction of the following improvements in the Bethesda CBD policy area, as illustrated on the Certified Preliminary Plan. The payments must be adjusted based on the Federal Highway Administration's National Highway Construction Cost Index from the mailing date of the Planning Board resolution to the date of application for the first above-grade building permit or right-of-way permit (whichever comes first). Proof of payment is required.

a. Pedestrian System Adequacy Mitigation

- i. Replace the existing sidewalk along the north side of Battery Lane along the frontage of 4857 Battery Lane with a seven-foot (7 ft) sidewalk (minimum) with a six-foot (6 ft) street buffer (minimum) between the motor vehicle traffic and the sidewalk.

b. Bicycle System Adequacy Mitigation

- i. Provide a two-way separated bicycle lane on Woodmont Avenue from Battery Lane to Rugby Avenue (540 linear feet).
- ii. Provide a two-way separated bicycle lane on Woodmont Avenue from Battery Lane to 350 feet north of Battery Lane (350 linear feet).

## RECORD PLATS

14. There shall be no clearing or grading of the site, except for demolition of the existing buildings, before recordation of plat(s).

## Easements

15. The record plat must show necessary easements.
16. The record plat must show public ingress/egress access along two through-block connections /shared-use paths along the eastern side of the Property (eight-foot (8) minimum width) and the north/rear of the Property (ten-foot (10) minimum width).

## CERTIFIED PRELIMINARY PLAN

17. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
18. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.
19. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
  - a) Show resolutions and approval letters on the certified set

- a) Include the approved Fire and Rescue Access plan in the certified set
- b) Correct development data tables to show zero (0) GFA of commercial uses is proposed with the Application.



## SITE PLAN 820220160

Staff recommends approval of Site Plan No. 820220160 for up to 416,367 square feet of residential development, for a maximum of 372 multi-family dwelling units, with a minimum of 15% MPDUs, up to 277,713 square feet of BOZ density and associated PIP payment. All site development elements shown on the latest electronic plan version of the Site Plan as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.<sup>1</sup>

### DENSITY, HEIGHT & HOUSING

1. Density

The Site Plan is limited to a maximum of 416,367 square feet of total development for residential use on the Subject Property, including up to 372 multi-family dwelling units.

2. Height

The development is limited to a maximum height of 120 feet, as measured from the building height measuring point illustrated on the Certified Site Plan.

3. The development must comply with the conditions of approval for Sketch Plan No. 320220040 per MCPB Resolution No. 22-004, dated February 3, 2022, and the conditions of approval for Preliminary Plan No. 120220100, as may be amended.

4. Moderately Priced Dwelling Units (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 November 8, 2022 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations provided in the letter, which DHCA may amend provided the amendments do not conflict with other conditions of the Site Plan approval.
- b) The development must provide a minimum of 15 percent MPDUs or MCDHCA-approved equivalent consistent with the requirements of Chapter 25A.
- 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 and provided to M-NCPPC Staff.

5. Bethesda Overlay Zone Density and 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

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<sup>1</sup> For the purposes 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.

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 (PIP) of \$2,682,023 before release of the first above-grade building permit for the allocation of 277,713 square feet of Bethesda Overlay Zone Density, not including 42,654 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.

#### OPEN SPACE, FACILITIES AND AMENITIES

- 6. Before issuance of the first Use and Occupancy certificate, excluding core and shell, the Applicant must construct the streetscape improvements, including the undergrounding of utilities, along the Property's frontage on Battery Lane, consistent with the Bethesda Downtown Streetscape Standards or equivalent streetscape as modified by MCDOT and M-NCPPC Staff.
- 7. Before the issuance of the final Use and Occupancy certificate, the Applicant must construct the two through-block connections and associated amenities as shown on the Certified Site Plan.
- 8. The Applicant must provide a minimum of approximately 8,000 square feet of public open space for the two through-block connections.

9. 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 and Mobility –

- i. Minimum Parking – The Applicant must not provide more than 305 parking spaces on the Subject Property, as shown on the Certified Site Plan.
- ii. Through-Block Connections- The Applicant must provide two (2) pedestrian connections on the Property; one bisecting the Site from north to south, and a second connection bisecting the northern-most portion of the Site from east to west. The two pedestrian connections must be shown on the Certified Site Plan.

b) Diversity of Uses and Activities

- i. Enhanced Accessibility for the Disabled – The Applicant must construct nine (9) dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard.

c) Quality Building and Site Design

- i. Architectural Elevations –Final elevation design must be shown on the Certified Site Plan. The exterior architectural elements must be substantially similar to architectural elevations as shown on the Certified Site Plan and as determined by M-NCPPC Staff.
- ii. Exceptional Design – The Applicant must construct the building in a manner consistent with the architectural elevations included in the Certified Site Plan.
- iii. Structured Parking – The Applicant must provide all onsite parking spaces within a below grade structure.
- iv. Tower Step-Back – The Applicant must step back the building's upper floors by a minimum of six (6) feet behind the first-floor façade. The Certified Site Plan must show this step-back.

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 0.881 BLTs to the MCDPS and M-NCPPC staff.
- ii. Cool Roof – The Applicant must provide a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12, as shown on the Certified Site Plan.

10. 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 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.

11. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to streetscape improvements and the two through-block pedestrian connections.

ENVIRONMENT

12. Forest Conservation & Tree Save

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

- b) The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
- c) Before the start of any demolition, clearing, grading or construction, whichever comes first, for this development Application, the Applicant must submit the forest conservation fee-in-lieu payment to the M-NCPPC Planning Department for the 0.31-acres of afforestation/reforestation requirement, or as shown on the certified Final Forest Conservation Plan.
- d) Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings as shown on the Forest Conservation Plan.
- e) The Applicant must plant the variance tree mitigation plantings on the Subject Property, with a minimum size of 3 caliper inches, totaling at least 28 caliper inches, or as shown on the certified Forest Conservation Plan. All trees credited towards variance mitigation must be at least five (5) feet away from any structures, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
- f) Before any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
- g) Before any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures.

### 13. Green Cover

The Applicant must provide on-site a minimum 35% of the site area as green cover (at least 29,746 square feet), as described in Section 2.4.1 of the *Bethesda Downtown Sector Plan* and any proposed tree canopy must utilize tree species and canopy sizes at 20-year maturity per the M-NCPPC *Approved Trees Technical Manual*. Green cover must be illustrated on the Certified Site Plan.

#### 14. Noise Attenuation

- a) Before the issuance of the first above-grade building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that 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. Noise-impacted units must be illustrated on the Certified Site Plan.
- b) Before the final inspection for any impacted residential unit, the Applicant /developer/builder must certify to M-NCPPC Staff that the noise-impacted units have been constructed in accordance with the certification of the engineer that specializes in acoustical treatments.
- c) If any changes occur to the Site or Preliminary Plan that affect the validity of the noise analysis dated June 24, 2022, 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.
- d) 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.
- e) 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 unit 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.

#### 15. Stormwater Management

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Service (MCDPS) Water Resources Section in its stormwater management concept letter dated July 26, 2022, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations provided 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 & CIRCULATION

#### 16. Transportation

The Planning Board reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated July 7, 2022 and incorporates them as conditions of approval. The Applicant must

comply with each of the recommendations provided in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

**17. Pedestrian & Bicycle Circulation**

- a. The Applicant must provide 95 long-term and five (5) short-term bicycle parking spaces (100 spaces total).
  - i. The long-term spaces must be in secured, well-lit bicycle rooms on the first and ground floors of the parking garage, accessible by a push-button door, 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.
  - ii. The Applicant must provide one (1) bicycle repair station.
- b. The Applicant must provide the following master-planned pedestrian and bicycle facilities, and the exact location, design and construction must comply with Montgomery County Department of Transportation, Division of Traffic Engineering and Operations requirements, before the final use and occupancy certificate is issued for the Site.
  - i. A publicly accessible shared- use path along the east side of the Property with a minimum width of eight feet (8 ft).
  - ii. A publicly accessible shared-use path along the north/rear of the Property that is a minimum width of ten feet (10 ft).
  - iii. The north and east side shared-use paths on Site will connect, creating a seamless, ADA accessible pathway. These shared-use paths will ultimately connect to the other master-planned trail segments on either side of the Site when those locations redevelop, that will increase bicycle and pedestrian connectivity to the North Bethesda Trail (located northwest of the Site).
  - iv. The Applicant must record all necessary easements or covenants along the two (2) master-planned pathways to ensure public access, and future pathway connections from the adjacent sites when redevelopment occurs.

**18. 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 September 29, 2022, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations provided in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

**SITE PLAN**

**19. Site Design**

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets A01.05 – A01.08 of the submitted architectural drawings, as determined by M-NCPPC Staff.

## 20. Lighting

- a) At 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 comply 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 up-light 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 streetlights 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.

## 21. 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 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, indoor and outdoor recreational facilities, site furniture, retaining walls, fences, railings, sidewalks, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and streetlights. 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.

## 22. 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.

### 23. 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, and Sketch Plan, Preliminary Plan and Site Plan resolutions on the approval or cover sheet(s).
- b) Correct development data tables to show zero (0) GFA of commercial area proposed.
- c) Correct the bicycle parking data table to remove references to commercial area and correct figures to show 100 bicycle parking spaces provided.
- d) Add the following notes:
  - i. “M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading.”
  - ii. “Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services.”
  - iii. “The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur before any site development work commencement and before any work that is covered by the site plan surety and maintenance agreement. The Applicant, along with their representatives, must attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times.”
- e) Include the Fire and Rescue Access plan in the Certified Site Plan.
- f) Ensure the Building Height Measuring Point and associated Building Height Measuring Point Elevation of 326.75 feet is noted consistently on applicable architectural and civil plan sheets.
- g) Ensure consistency of all details and layout between Site and Landscape plans.

## SECTION 3: SITE DESCRIPTION

### VICINITY

The Property (“Subject Property” or “Property” or “Site”), outlined in in Figure 1, is located on the north side of Battery Lane, approximately 450 feet west of its intersection with Woodmont Avenue in Bethesda. It is bounded by the National Institutes of Health campus to the north, Sunrise of Bethesda senior living facility to the west, and four-story garden style apartments to the east and south. The

The map displays the Bethesda area in Maryland. Key features include:

- Major Roads:** MD 355 (Pike Road) running north-south, and MD 187 (Montgomery Avenue) running east-west.
- Landmarks:** National Institutes of Health, Medical Center, Columbia Country Club, and various residential neighborhoods like Glenbrook, Chase Heights, and Westboro.
- Proposed Site:** Indicated by a red rectangle on Battery Lane, near the intersection with Woodmont Avenue.
- Bethesda Trolley Trail:** Shown as a blue dashed line.
- Legend:**
  - Red rectangle: Site
  - Blue dashed line: Bethesda Trolley Trail
  - North arrow: North

The Subject Property is located within the Lower Rock Creek watershed which is a Use I<sup>2</sup> watershed. The Site is not associated with any areas of forest, or 100-year flood plains, however minor areas of steep slopes (greater than or equal to 20%) overlap the Property line along the northwest edge. Additionally, the northwest corner of the site is overlapped by an area of stream valley buffer associated with an offsite stream. Trees are found throughout the Site although most trees on the Property are below 24" in diameter-at-breast-height (DBH). The Property does contain one significant tree, measuring at least 24" but less than 30" DBH, as well as two specimen trees, which measure at least 30" DBH. Additional specimen trees lie offsite within the stream valley buffer area to the north. The soils associated with the Property are classified generally as urban land and silt loam, neither of which are highly erodible nor otherwise sensitive. There are no known rare, threatened, or endangered species on site. There are no known historic properties on or near the site.



*Figure 2 – Site Location in the Battery Lane District of Bethesda Downtown Sector Plan Area*

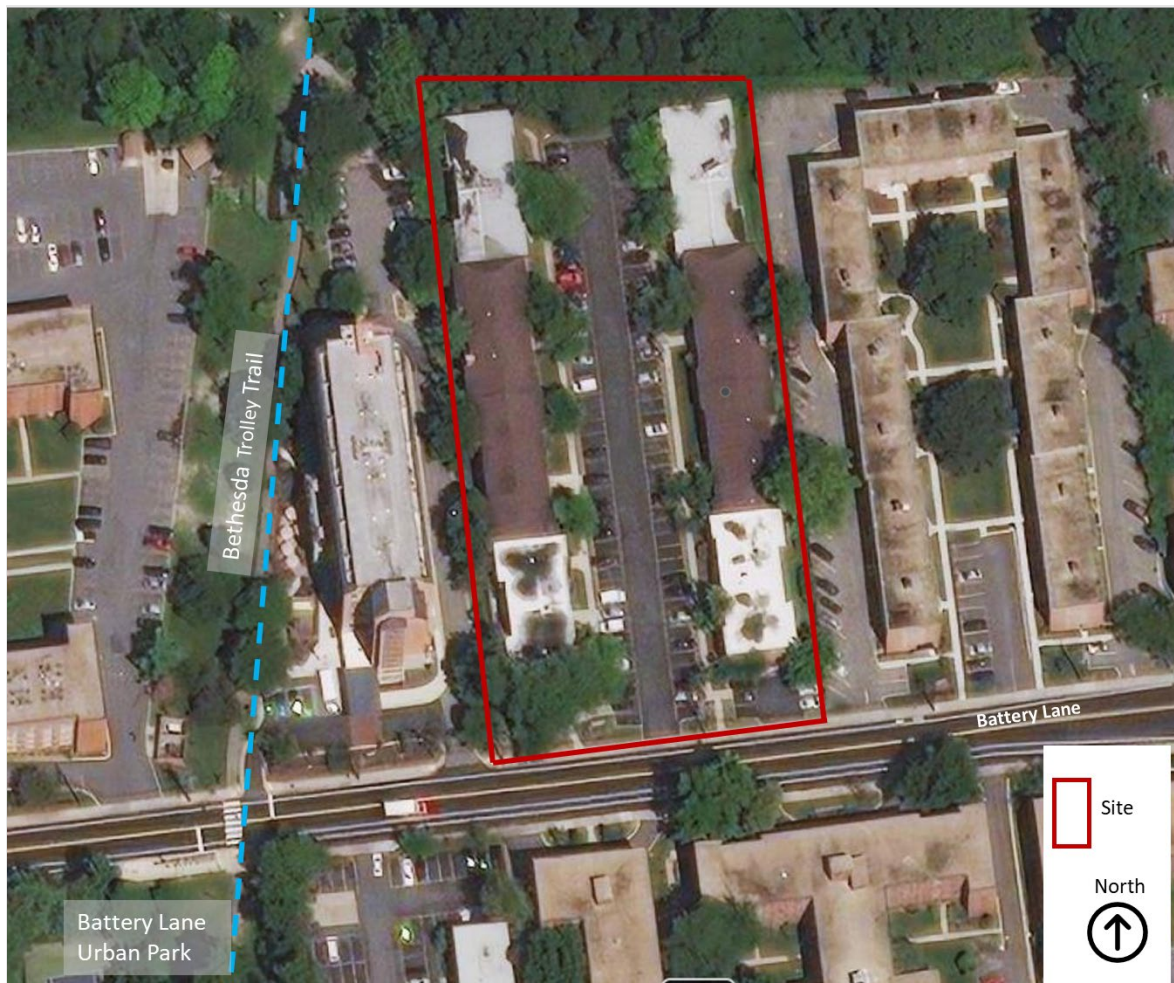
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<sup>2</sup> Use I-P: WATER CONTACT RECREATION & PROTECTION OF AQUATIC LIFE Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply, and industrial water supply



## PROPERTY DESCRIPTION

The Property consists of Lots 26, 49, and 50 originally created in 1910 by Plat No. 134, “Northwest Park”, located on the north side of Battery Lane between Woodmont Avenue and Old Georgetown Road. The Project has a total tract area of 2.12 acres and is outlined in Figure 3. The Property is currently improved with two garden style apartment buildings and associated surface parking, accessed by two curb cuts from Battery Lane.

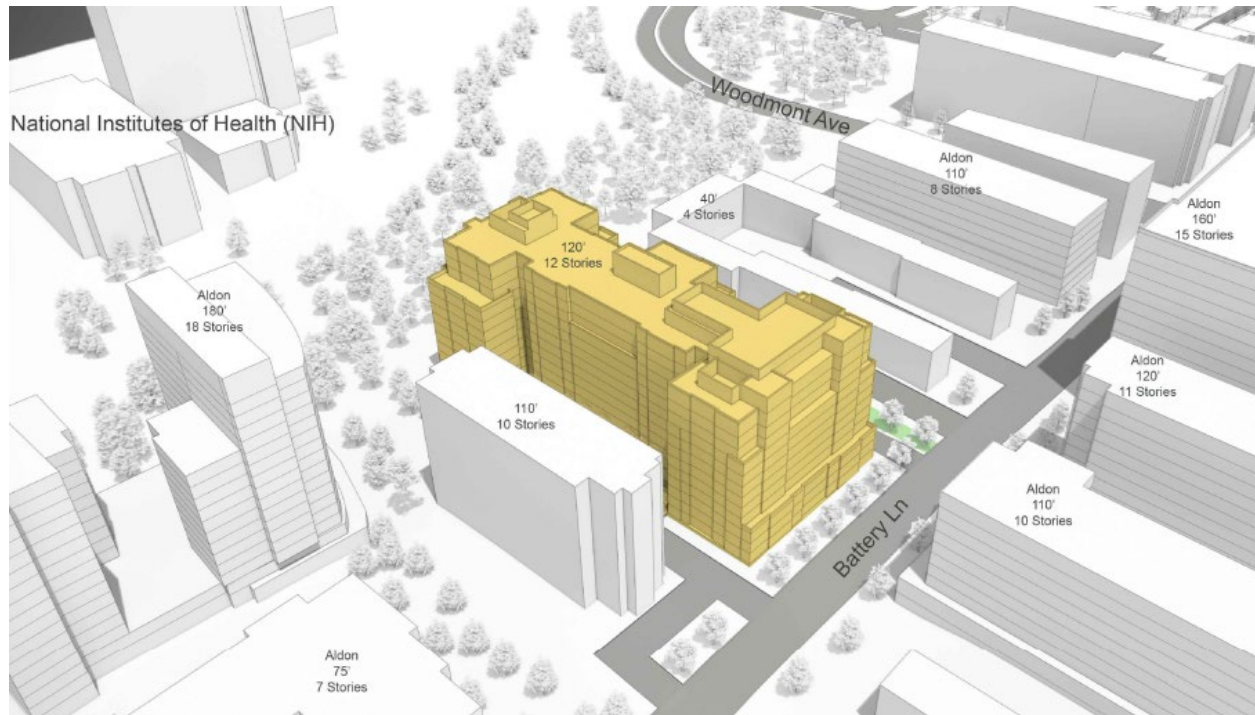


*Figure 3 – Subject Property*

## SECTION 4: PROJECT DESCRIPTION

## PREVIOUS APPROVALS

The Planning Board previously approved Sketch Plan No. 320220040, MCPB No. 22-004 dated February 3, 2022 (Attachment A) to allow up to 420, 528 square feet of residential density for a multi-family development with 15 percent MPDUs, including up to 281,865 square feet of BOZ density. This development concept is illustrated in Figure 4.



*Figure 4 – Sketch Plan 320220040*

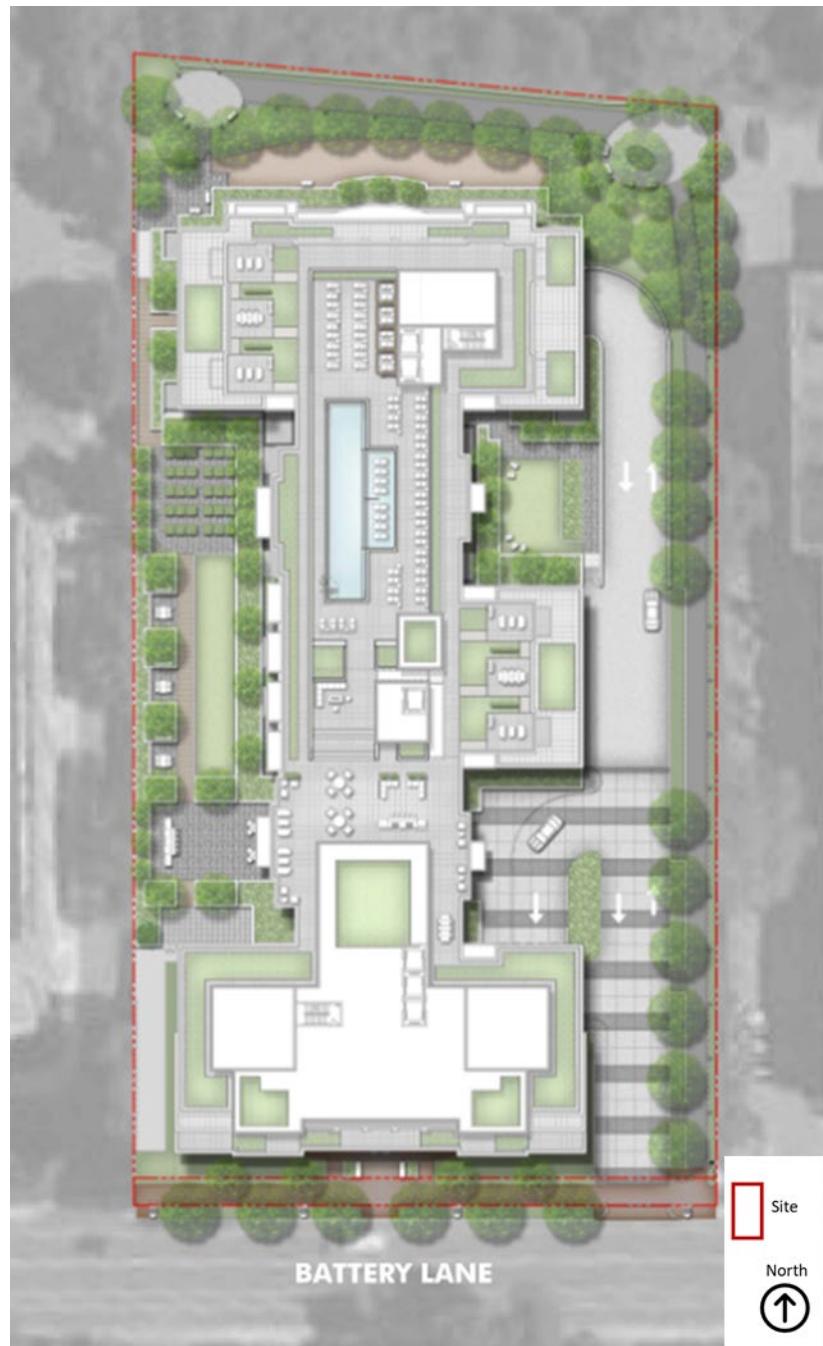
## PROPOSAL

Preliminary Plan No. 120220100 proposes to consolidate the three existing lots that comprise the Site to create one lot of approximately 2.12 acres (tract area) for up to 416, 367 square feet of residential development.

Site Plan No. 820220160 proposes the development of a 120-foot-tall building (12-floors) with 372 dwelling units, including 15 percent MPDUs, and total development density of 416, 367 square feet. The proposed development will include ground-level and rooftop amenity spaces for residents, a covered porte-cochere, subsurface structured parking, landscaping, and two pedestrian through-block connections; as illustratively shown in Figures 5, 6 and 9.

The Preliminary Plan and Site Plan build upon and refine the conceptual development elements approved with the Sketch Plan. As such, the overall development density and associated Park Impact Payment approved with the Sketch Plan were higher than is now proposed. This is an expected

outcome as the proposed project moves from conceptual design with the Sketch Plan, to a more complete and detailed design program with the Preliminary and Site Plans.



*Figure 5– Illustrative Site Plan*

## BUILDING/ARCHITECTURE

The Project proposes one building with 372 multi-family dwelling units, including 15 percent MDPUs, indoor and outdoor residential amenity spaces, and internal parking and loading facilities. The



building will front on Battery Lane and include a well-defined, three-floor base with a step back, six-floor middle, an additional step back at the tenth floor, and tower above for a total of 12 floors (120 feet in height). The footprint of the building is widest at its northern and southern faces and narrower in between. This layout provides space for a ground-level residential amenity courtyard on the building’s west side, and space for vehicular and pedestrian circulation and parking access provided on its east side.

Illustrated in Figure 6, the design of the building is traditional-modern and to be primarily clad with masonry materials in coordinated shades of beige and gray and in textures that are complimentary to one another. The main entrance and lobby area includes oversized windows that provide ample fenestration and visual porosity to the entry portico and Battery Lane streetscape.



Figure 6– Illustrative Building Design



## OPEN SPACE

The Site has a tract area of 2.12 acres with street frontage on Battery Lane on its south side. In accordance with Section 59.4.5.4.B.1 of the Zoning Ordinance, as the Site is in the CR Zone, has frontage on one right-of-way and has a tract area of one to three acres, the Project is not required to provide dedicated public open space. However, the 2017 *Bethesda Downtown Sector Plan* requires two master-planned pedestrian through-block connections on the Site, which are being provided as part of this Project. One connection spans the north-south length of the Site on its eastern side, and the second connection runs east-west along the northern edge of the Property as shown in Figure 9. These two through-block connections are to be part of larger pedestrian connectivity improvements within the Battery Lane District meant to continue the pedestrian grid from Woodmont Triangle as shown in Figure 7. As additional properties in the area redevelop, additional segments of the through-block connections will be provided. The connections are linear features, generally 15 feet in width or wider, inclusive of an eight-foot paved pedestrian pathway flanked by landscaping on either side as illustrated in Figure 8. Two oval-shaped sitting areas are provided along these pathways. One located at the intersection of the eastern and northern through-block connections and second seating area at the western terminus of the northern through-block connection.

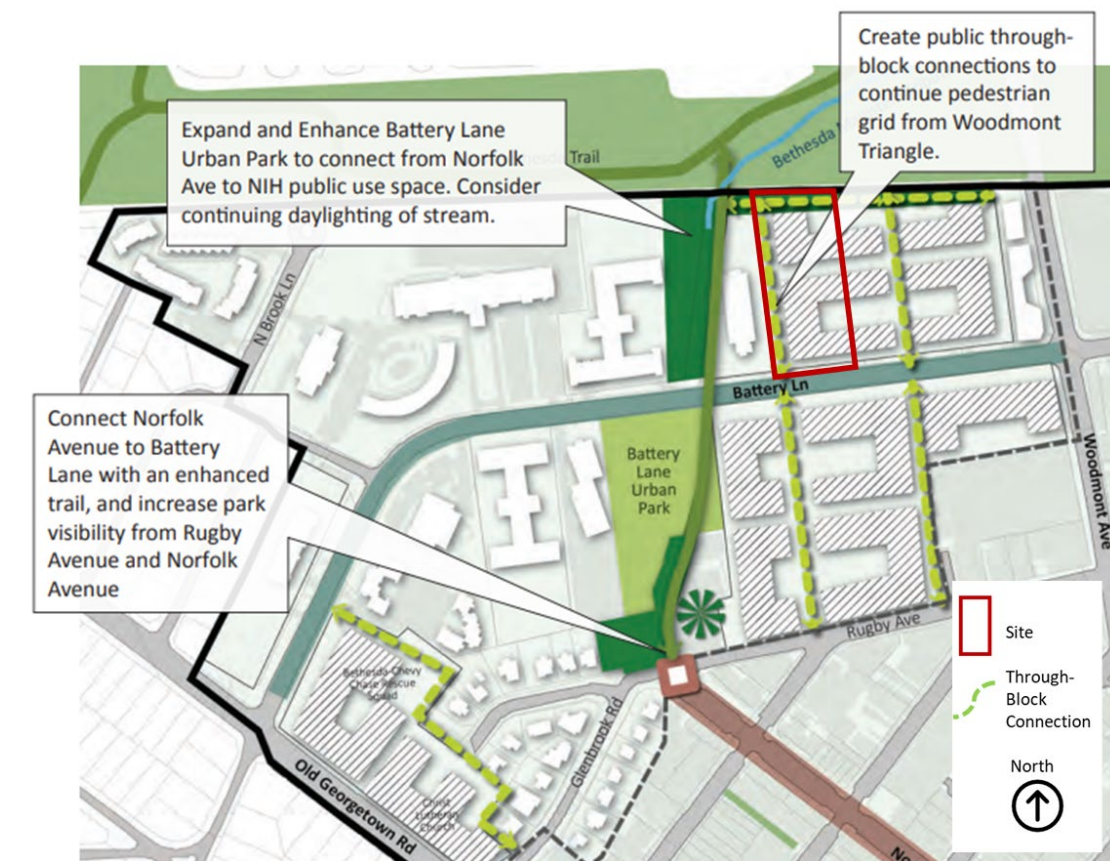


Figure 7– Battery Lane District Through Block Connections (excerpt from Figure 3.13 Battery District Public Realm Improvements, pg. 132 of the Sector Plan)

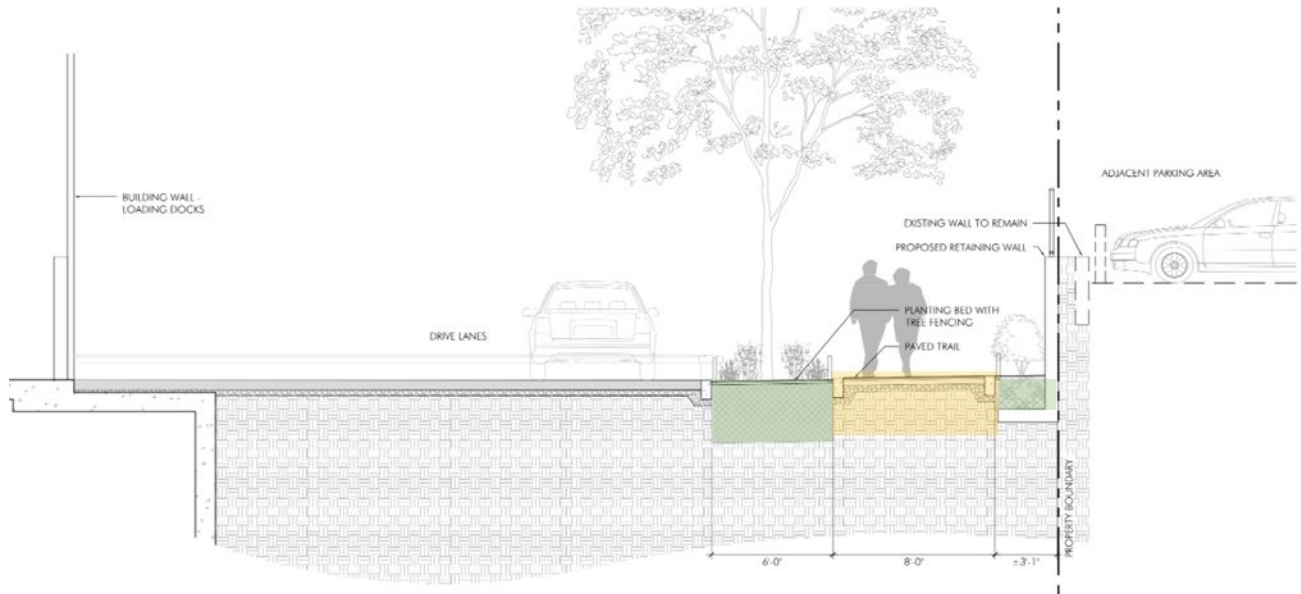


Figure 8– Representative Through Block Connection Section (Eastern Connection)

## TRANSPORTATION

### Access, Circulation, Parking, and Loading

All access to the Site will be provided from Battery Lane. The Project proposes consolidating the two (2) existing curb cuts to a single, new curb cut on the east side of the Site. The new full-movement driveway will provide access to an on-site pick-up/drop-off area, the required on-site loading<sup>3</sup> and trash collection areas, and the on-site parking structure (Figure 9), all located along the east side of the building. The parking garage will include 305 vehicle spaces, which is more than the minimum (276) and fewer than the maximum (504 spaces). The total spaces include six (6) Electric Vehicle charging spaces, six (6) standard ADA spaces, and two (2) ADA van spaces. Six (6) motorcycle spaces are also provided.

<sup>3</sup> The Project proposes 372 dwelling units. Any project that includes 50 or more dwelling units (Section 59-6.2.8.B.1.) must provide one (1) off-street loading space in compliance with the design standards of Section 59-6.2.8.C.

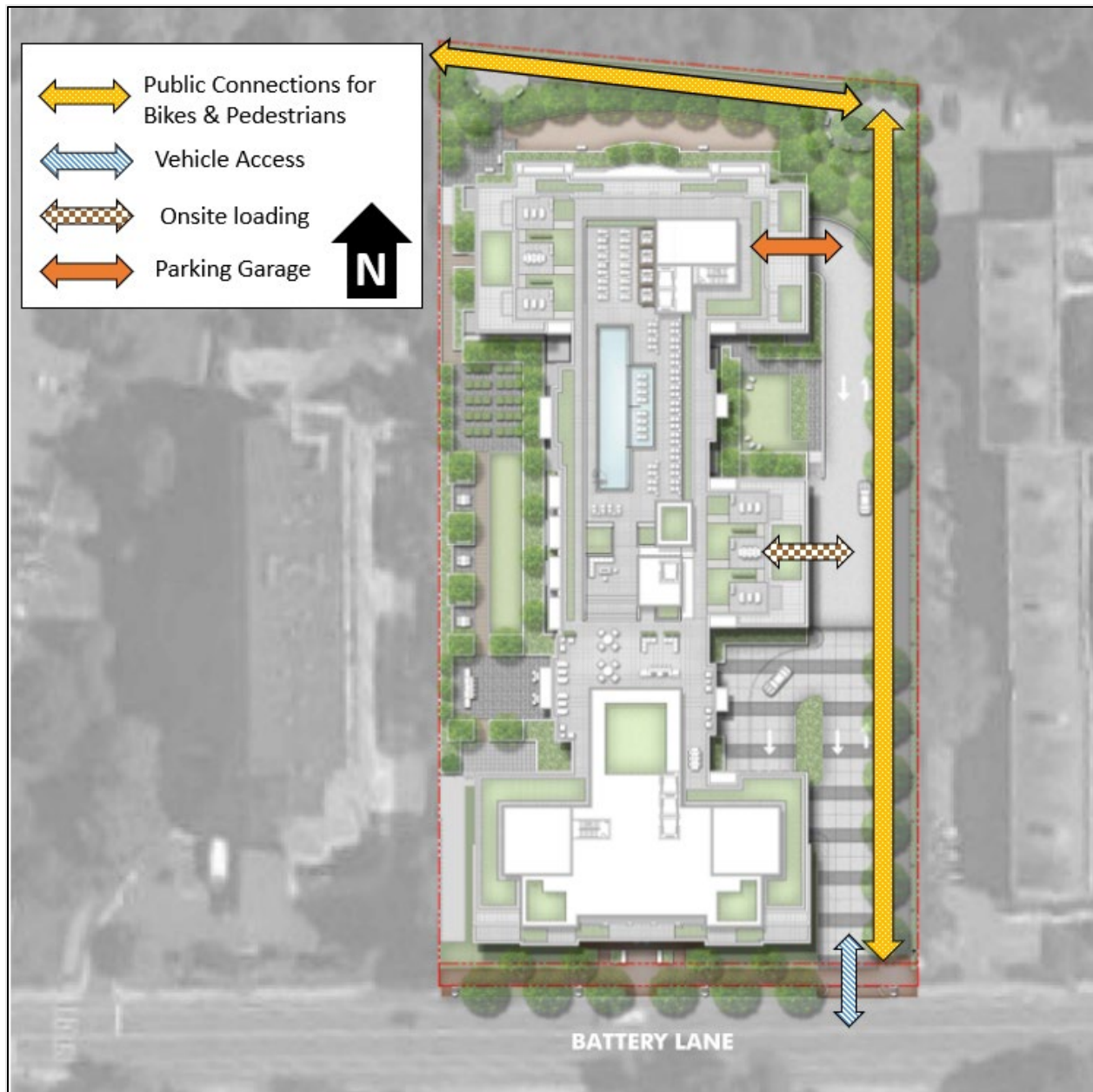


Figure 9: Access and Circulation

Two (2) off-street loading spaces are required for the project, and the Applicant proposes to construct a three-bay enclosed loading dock in the center wing of the building, accessible from the one (1) driveway on-site. Internal access from the loading dock is provided directly to elevators for moving, the package delivery room, and the trash room.

Pedestrian access will be provided from the improved sidewalk along the Site frontage. Battery Lane is classified as a Neighborhood Connector in the 2017 *Bethesda Downtown Plan Design Guidelines*. The Site Plan shows a six-and-one-half-foot (6.5 ft) tree lawn, buffering a seven-foot clear pedestrian zone

(sidewalk) and a two-foot maintenance zone. As shown on the Site Plan, the project demonstrates compliance with the Guidelines.

## ENVIRONMENT

As previously mentioned, the Subject Property is located within the Lower Rock Creek Watershed and there are no areas of forest, wetlands, or flood plains. The Sector Plan recommended east-west through-block connection, located at the rear of the Property, does however partially overlap with a 100-foot stream valley buffer associated with an off-site stream. During review of the previously approved Sketch Plan application, Staff worked with the Applicant to minimize encroachment into the stream buffer and to incorporate environmental enhancements as part of the design. The *Montgomery County Environmental Guidelines* specifically detail methods for the protection of stream valleys; page 17 of the document states that “no buildings, structures, impervious surfaces, or activities requiring clearing or grading will be permitted in stream buffers, except for infrastructural uses, bikeways, and trails found to be necessary, unavoidable, and minimized.” As this through-block connection is recommended by the Sector Plan at this location, the Applicant’s proposal for this 15-foot-wide pathway includes canopy trees and dense landscaping as well as permeable asphalt within the stream valley buffer area. Given that the area of onsite stream buffer is minor, the proposal meets the intent of the Environmental Guidelines.

## Green Cover

The Sector Plan includes a number of recommendations to achieve the urban green goals. An important recommendation to this effect is the on-site 35% green coverage minimum. The green cover may include an intensive green roof (6 inches or deeper) and/or tree canopy cover. The Application consists of a Site Area of 84,990 square feet (SF) which results in a green cover requirement of at least 29,746 SF. Currently, the Application proposes to meet this requirement through tree canopy as well as an 8-inch-deep green roof. The green cover provided by tree canopy is proposed at 14,405 SF while the proposed green roof provides an additional 15,434 SF. These figures exceed the required amount, totaling to 29,839 SF of green cover. The proposed project aligns with the Sector Plan’s Urban Green Goals.

## SECTION 5: PRELIMINARY PLAN NO. 120220100 FINDINGS AND ANALYSIS

The Preliminary Plan proposes one lot, measuring approximately 84,990 square feet or 1.95 acres of lot area, for a maximum density of up to 416,367 square feet of residential uses. This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Application has also been reviewed by other applicable State, County and City agencies.

- 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.***

The proposed lot has been reviewed for compliance with Chapter 50, the Subdivision Regulations. The layout of the single-lot subdivision, including its size, width, shape, orientation is appropriate for a 372-unit apartment building located within the CR zone.

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

The block design is existing and appropriate for the proposed development and use. The length, width and shape of the block are compatible with the development patterns in the Battery Lane District.

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

The Preliminary Plan proposes one lot of approximately 1.95 acres lot area that is rectangular in shape and dimensioned approximately 213 feet wide by 390 feet long. The size and dimensions of the lot are appropriate for the Project location and proposed multi-family residential development. The full length of the Site's southern lot line abuts Battery Lane, a public right-of-way. The Preliminary Plan does not propose any flag lots.

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

***i. Master Planned Sites***

The 2017 *Bethesda Downtown Sector Plan* identifies two, pedestrian through-block connections to be provided on the Site; one bisecting it from north to south, and a second, east-west connection along the northern Property line (page 132, Sector Plan). The Project includes both of the pedestrian through-block connections in the locations identified by the Sector Plan.

The two through-block connections are designed to be generally consistent with the Guidelines for Public Through-Block Connections Shared by Pedestrians and Cyclists Only as shown in Figure 2.06 on page 31 of the 2017 *Bethesda Downtown Plan Design Guidelines*. An east-west path segment provided along the northern section of the Site is a portion of the master-planned pedestrian and bicycle connection between Woodmont Avenue to the east and Bethesda Trolley Trail to the west. The north-south path segment provided along the east side of the Site will connect Battery Lane to the future east-west trail between Woodmont Ave and the Trolley Trail. The location of the through block connections is illustrated in Figure 9 of this report.



ii. ***Local Recreation***

The proposed subdivision does not include dedication of land for public recreation purposes. As detailed in accompanying Site Plan 820220160, adequate private, on-site recreational facilities for future residents of the development are proposed and include a rooftop amenity area and ground-level recreational spaces.

iii. ***Transportation and Utilities***

The Sector Plan requires two publicly accessible through-block connections on the Site, which are provided on the Preliminary Plan. Public ingress/egress easements will be required to ensure public access along the through-block connections. Utilities are to be undergrounded.

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

The Preliminary Plan meets all applicable sections of the Subdivision Regulations. The size, width, shape, and orientation of the proposed lot are appropriate for the zone, location and residential use proposed for the Site. As shown in Site Plan Finding 2.d, Table 8, the proposed lot will comply with the development standards for CR zone optional method development and related development standards

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

***a) Land Use***

The Preliminary Plan substantially conforms to the 2017 *Bethesda Downtown Sector Plan*. The Property is within the area identified as the “Battery Lane District” and is designated as part of Site 6 on page 129 of the Sector Plan, which recommended rezoning the Site to the CR zone<sup>4</sup>. The residential character of the proposed development is consistent with the Sector Plan’s recommendation regarding the appropriateness of the proposed use. The Preliminary Plan conforms with the Sector Plan’s overall goals for the Battery Lane District as follows:

***i. Preserve existing market-rate affordable housing.***

The Project will include a total of 372 multi-family dwelling units, of which 15 percent (56 units) will be moderately priced dwelling units (MPDUs). These units will replace the existing 87 units on-site. The existing units are considered “market rate affordable” as are most apartments in the Battery District due to their age (built in the 1950s and 1960s) and general lack of modern conveniences, such as air conditioning.

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<sup>4</sup> The Site was rezoned from R-10 to CR-1.5 C-0.5 R-1.5 H-120 by Sectional Map Amendment H-122 for the Bethesda Downtown Plan.

The 56 MPDUs will be new government-sanctioned affordable housing units, built to modern standards, where no MPDUs currently exist.

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

The Sector Plan (page 129) specifically recommends rezoning of the subject Site to the CR zone “to promote enhanced redevelopment opportunities to foster a quality mix of housing options”. The Preliminary Plan and accompanying Site Plan propose a comprehensive redevelopment of the Site which will replace the two existing garden-style apartment buildings containing 87 units, with a single building containing 372 multifamily dwelling units, to include 15 percent MPDUs. This is a total increase of 287 dwelling units on the Property over existing conditions. A mix of studio, one bedroom and two-bedroom units are proposed.

***iii. Expand neighborhood green at Battery Lane Park.***

Battery Lane Urban Park is adjacent to the Site but is not abutting nor contiguous with it. No expansion of the park is contemplated with this Preliminary Plan. However, planned frontage improvements and provision of two through-block connections on the Site will enhance the pedestrian realm near the Park.

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

The two proposed through-block connections are consistent with the recommendations of the Sector Plan. An east-west path segment provided along the northern section of the Site is a portion of the master-planned pedestrian and bicycle connection between Woodmont Avenue to the east and Bethesda Trolley Trail to the west. The north-south path segment provided along the east side of the Site will connect Battery Lane to the future east-west trail between Woodmont Avenue and the Trolley Trail. The Trolley Trail links to the Battery Lane Park to the south and continues through the NIH property to the north. The provision of these two master-planned through-block connections will improve bicycle and pedestrian connectivity in the Battery District and is supportive of the Sector Plan’s broader goal to “link streets, through-block connection, greenways and trails to create a well-connected network” (page 17).

***b) Environment***

Battery Lane is designated as a Canopy Corridor in the Sector Plan. This designation is intended to create green corridors that connect parks, trails, stream buffers, and dense



forest networks within and beyond the Bethesda Boundaries. The corridors also align with recommended bike and pedestrian priority streets where tree canopy becomes an essential element to enhance shade and comfort while also providing an ecological benefit.

To meet these goals, the Applicant has proposed improvements to the Battery Lane streetscape as well as a segment of the Sector Planned east-west through-block connection that will ultimately connect through to Battery Lane Urban Park.

### **c) Transportation**

The Preliminary Plan substantially conforms with the 2017 *Bethesda Downtown Sector Plan*, including the specific density recommendations, applicable urban design, roadway, and general recommendations outlined in the Sector Plan for the Subject Property.

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

#### **a) Roads and other Transportation Facilities**

##### *Roads and Other Transportation Facilities*

Battery Lane is a Minor Arterial with a master-planned width of 70 feet total. The Applicant will be dedicating an additional 10 feet of right-of-way along the Site frontage between the property line and the roadway centerline to address the master-planned width of the roadway. Per the 2017 *Bethesda Downtown Plan Design Guidelines*, Battery Lane is a Neighborhood Connector. The Streetscape will be improved to the Design Guidelines recommendations, by providing a six-foot (6ft) continuous tree panel within the street buffer, and a seven-foot (7ft) pedestrian through zone within the sidewalk.

##### Transit Connectivity

The immediate area is well served by transit that includes the Red Line Bethesda Metrorail Station, several Metrobus and RideOn Stops (one located immediately east of the Site), bus stops served by the Bethesda Circulator, as well as the future Purple Line station.

##### Transportation Demand Management

As a project proposing a total square footage that is larger than 40,000 square feet within the Bethesda Transportation Management District (TMD), a Red Policy Area as designated by the 2021 *Growth and Infrastructure Policy*, the development is required to develop a Level 3 Results Transportation Demand Management (TDM) Plan with the Planning Board and MCDOT. The Applicant will also be required to participate in the Bethesda Transportation Management District (TMD).

##### Master-Planned Bikeways and Public Connections

The Project also demonstrates conformance with the 2017 *Bethesda Downtown Sector Plan* by providing two (2) of the master-planned Public Connections within the Battery Lane District; one that runs along the east side of the Site and another along the north (rear) of the Site, which ultimately connects to the North Bethesda Trolley Trail (modified page 69 of the Sector Plan included in Figure 10 below). The Sector Plan envisioned a path along the rear and west of the Site. Given the topography of the Site, the height of the stepback of the proposed building and the opportunity for canopy tree plantings on the east side of the Site, the east side of the Site presented a more open and vegetated design of the shared-use path. The purpose of the shared-use path is to provide additional non-motorized connections to the Bethesda Trolley trail, and the public shared-use paths to be provided on-site achieve that outcome. The nodes of the northern trail are designed in such a way that when the properties east and west of the Site redevelop, they will be able to connect to the northern (rear) pathway, thereby completing the master-planned connection to the Bethesda Trolley Trail.

The sidepath along the east side of the Property will be a minimum of eight-feet (8 ft) wide, buffered by a seven-foot planter and the sidepath along the rear of the Site (north) will be a minimum of 10 feet wide. As stated previously, the Applicant also proposes ample tree canopy and understory plantings along the public connections.

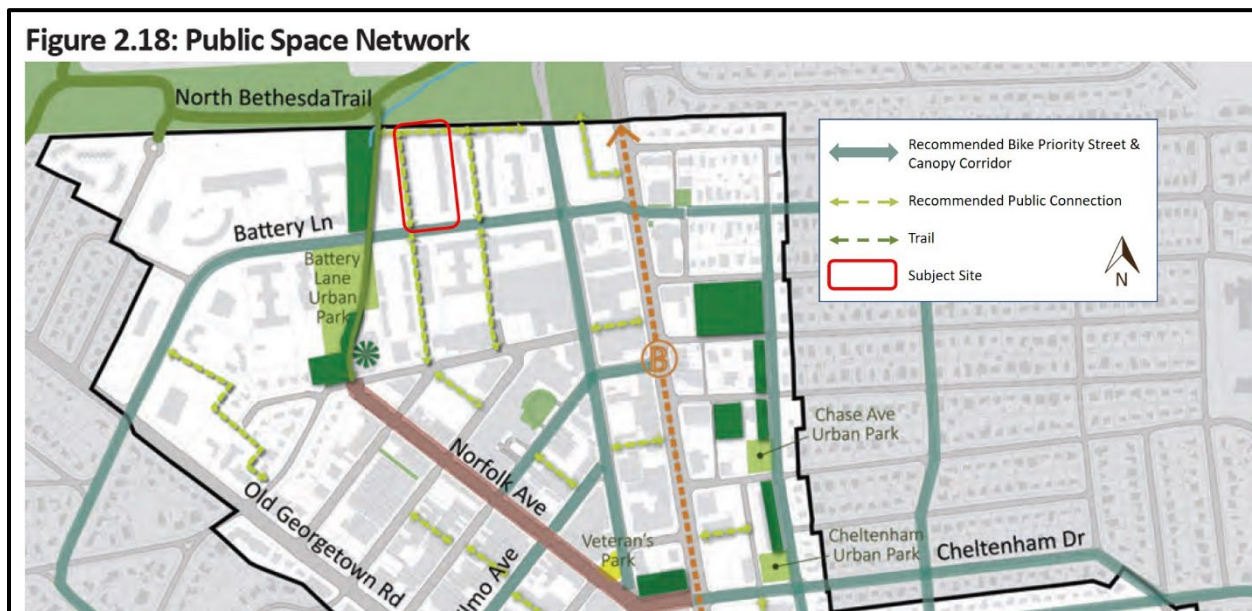


Figure 10– Modified Public Space network map from the Sector Plan (pg 69)

The Subject Site is located along a master-planned Bike Priority Street and within the Sector Plan’s designated canopy corridors. The 2017 *Bethesda Downtown Plan Design Guidelines* recommend that streets within the canopy corridors provide the maximum sidewalk width possible and consider opportunities for double rows of trees (page 32). The Applicant is showing a double row of trees along the Battery Lane Site frontage. The Site Plan also shows a seven-foot (7 ft) sidewalk buffered by a six-and-one-half-foot (6.5 ft) tree lawn, which falls within the range of widths required for the Sidewalk

Zones per the 2017 *Bethesda Downtown Plan Design Guidelines*. The Applicant will also be required to underground the existing overhead utilities along the Site frontage.

The 2018 *Bicycle Master Plan* also envisions a separated bikeway along Battery Lane between Old Georgetown Road and Wisconsin Avenue. The Planning Board made a determination for the ultimate design, alignment and placement of the master-planned bikeway when they approved the Battery Lane District on April 23, 2020 (Preliminary Plan No. 120190240). The Board resolved that the two-way separated bikeway would be installed on the south side of Battery Lane. The ultimate cross section of Battery Lane is included in Figure 11.

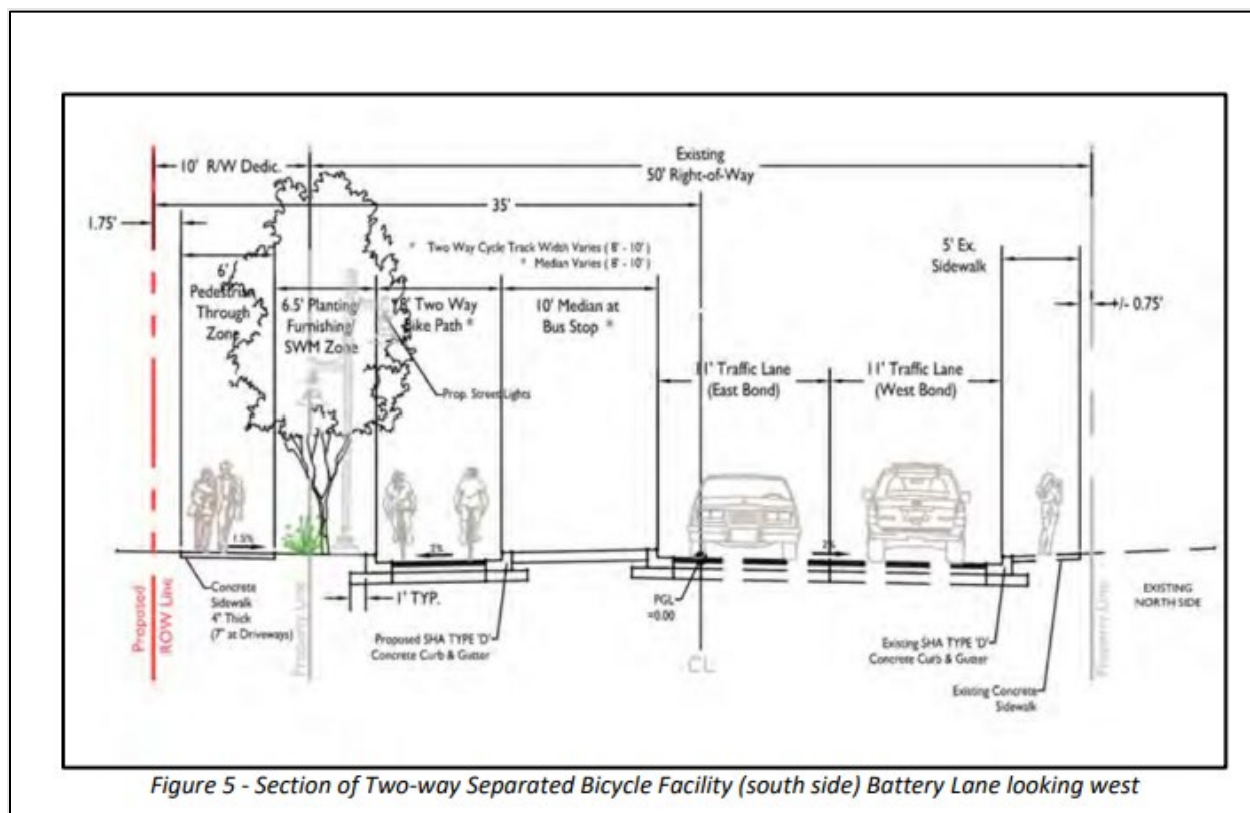


Figure 11 – Approved Cross Section for Battery Lane District Preliminary Plan 120190140

Given the approved cross section for Battery Lane, the Applicant will not be required to install a bikeway along the Site frontage.

#### Private On-site Transportation Infrastructure

The Applicant proposed constructing an on-site drop-off area for residents and unscheduled deliveries, as well as an on-site loading space and on-site parking for residents and visitors. All of these facilities are accessed from a consolidated curb cut along the eastern side of the Site.

Consolidating vehicular access reduces the exposure to crashes with pedestrians, bicyclists, and other motorists traveling on Battery Lane.

### ***b) Local Area Transportation Review (LATR)***

#### *Local Area Transportation Review*

As a proposed development with 372 mid-rise dwelling units, the Project is estimated to generate 193 total peak hour person trips in the morning and 165 total peak hour person trips in the evening. After accounting for peak hour person trips currently associated with the existing 87 mid-rise multi-family units on the Site, (47 morning peak hour person trips and 59 evening peak hour person trips), the Project is estimated to generate 146 net new morning peak hour person trips and 165 net new evening peak hour person trips. As a result of the estimated transportation impact, the Project must submit a Transportation Impact Study with the Preliminary Plan to satisfy the Local Area Transportation Review (LATR).

*Table 1 – Battery Lane Estimated Person Trip Generation*

Land Use	Morning Peak Hour	Evening Peak Hour
Existing (credit)		
Residential Mid-Rise Multifamily 87 units	48	59
Proposed		
Residential Mid-Rise Multifamily 372 units	157	184
Net New Person Trips		
	109	125

Source: Transportation Impact study by Wells & Associated dated July 5, 2022, amended by staff

#### *Travel Mode Adequacy Test*

The 2020 *Growth and Infrastructure Policy* requires evaluation all transportation modes, including: auto-drive, transit, walking and biking. Mode-specific adequacy tests are required for any project estimated to generate 50 or more net new peak hour person trips. The only exception is that projects within Red Policy Areas (such as the Subject Site) are not required to evaluate motor vehicle adequacy. The adequacy tests for transit, pedestrians, and bicyclists are still required. The mode split of the total person trips for the Project are summarized by travel mode in Table 2. The Project's estimated transportation impact necessitates that the Transportation Impact Study evaluate three (3) of the four (4) travel mode adequacy tests.

*Table 2 – 4901 Battery Lane Trip Estimate by Mode*

	Total Person-Trips	Auto-Driver	Transit	Pedestrian <sup>5</sup>	Bicycle
Morning Peak Hour	109	80	18	44	26

<sup>5</sup> Pedestrian trips are calculated by adding non-motorized and transit trips.

Evening Peak Hour	125	38	15	36	21
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Source: Transportation Impact study by Wells & Associated dated July 5, 2022, amended by staff

- As the Site is located within a Red Policy area, a motor vehicle adequacy test is not required for the Project.
- Transit system adequacy was evaluated by inventorying two (2) bus stops located within 1,000 feet of the Property. Where shelters and associated amenities are not provided, the Applicant must install the standard amenities in coordination with MCDOT.
- Pedestrian system adequacy was evaluated within 750 feet of the Property. Mitigation will be required to achieve a Pedestrian Level of Comfort (PLOC) greater than 2 (Somewhat Comfortable), and/or deficiencies identified for streetlamps within the scoped boundary. The Pedestrian system adequacy also requires mitigation for ADA deficiencies identified within 375 feet of the Property.
- Bicycle system adequacy was evaluated by analyzing bikeways within 750 feet of the Property. Mitigation will be required to achieve a Level of Traffic Stress 2 (LTS-2) or lower, consistent with the Bicycle Master Plan.

Under Section 8 of 2022 *Local Area Transportation Review Guidelines* (LATR Proportionality Guide), the maximum cost of mitigation improvements the Applicant is required to construct or fund for a project consisting of 372 residential units is not to exceed \$1,875,773 (see calculation below).

*LATR Proportionality Guide = (Extent of Development) (LATR Proportionality Guide Rate) (LATR Proportionality Guide Adjustment Factor)*

$$\$1,875,773 = (372 \text{ units}) (\$9,168) (55\%)$$

For the Subject Preliminary Plan, the cost of construction and/or mitigation payments for mitigation project is not to exceed \$1,875,773. After evaluating the adequacy of each of the required transportation modes, the Applicant identified a comprehensive list of deficiencies, by which a prioritized list of mitigation improvements was submitted to staff for review. In compliance with the 2022 LATR, the final list of seven (7) prioritized projects was finalized by the reviewing agencies and are now conditioned for approval of the Preliminary plan. The table identifies those projects which could be feasibly constructed, as well as those projects that could not be feasibly constructed (due to unattainable right-of-way or would require changes to traffic operations outside the control of the applicant) and are addressed by way of mitigation payments. The final list of projects is included in Table 3 and a map of the projects is provided on Figure 11 below.

**Table 3: 4901 Battery Lane**

<b>LATR Mitigation Project List</b>				
Map ID	Project Location	Project Description	Construct/ Mitigation Payment	Project Cost
1	North side of Battery Lane along the frontage of 4857 Battery Lane	Replace the existing sidewalk with a seven-foot sidewalk (minimum) with a six-foot street buffer (minimum)	Mitigation Payment	\$445,361.00
2	North side of Battery Lane along the frontage of 4925 Battery Lane	Replace the existing sidewalk with a seven-foot sidewalk (minimum) with a six-foot street buffer (minimum)	Construct	\$391,467.00
3	South side of Battery Lane, between Woodmont Avenue and the western property line of 8240 Wisconsin Avenue	Replace the existing sidewalk with a seven-foot sidewalk (minimum) with a six-foot street buffer (minimum)	Construct	\$256,534.00
4	Woodmont Avenue between Battery Lane and Rugby Avenue (540 linear feet)	Provide a two-way separated bicycle lane	Mitigation Payment	\$244,784.00
5	Woodmont Avenue 350 north of Battery Lane (350 linear feet)	Provide a buffered sidepath	Mitigation Payment	\$449,784.00
6	4925 Battery Lane (north side)  MCDOT Bus Stop ID: 2001214	Install a new ADA accessible bus shelter	Construct	(Included with sidewalk project Map ID 2)
7	5015 Battery Lane (north side)  MCDOT Bus Stop ID: 2001215	Install a new ADA accessible bus shelter with all LATR-required amenities	Construct	\$75,221.00
Construction Subtotal				\$723,222.00
Mitigation Payment Subtotal				\$1,139,477
MPDU Credit <sup>1</sup>				\$171,534.00
Adjusted Mitigation Payment Subtotal				\$967,943
<b>Total</b>				<b>\$1,691,166</b>
Proportionality Guide				\$1,875,773



<sup>1</sup> Consistent with Section TA4 of the 2020-2024 Growth and Infrastructure Policy, any mitigation payment will be reduced proportionally based on the share of the project's LATR Proportionality Guide that is generated by MPDUs.

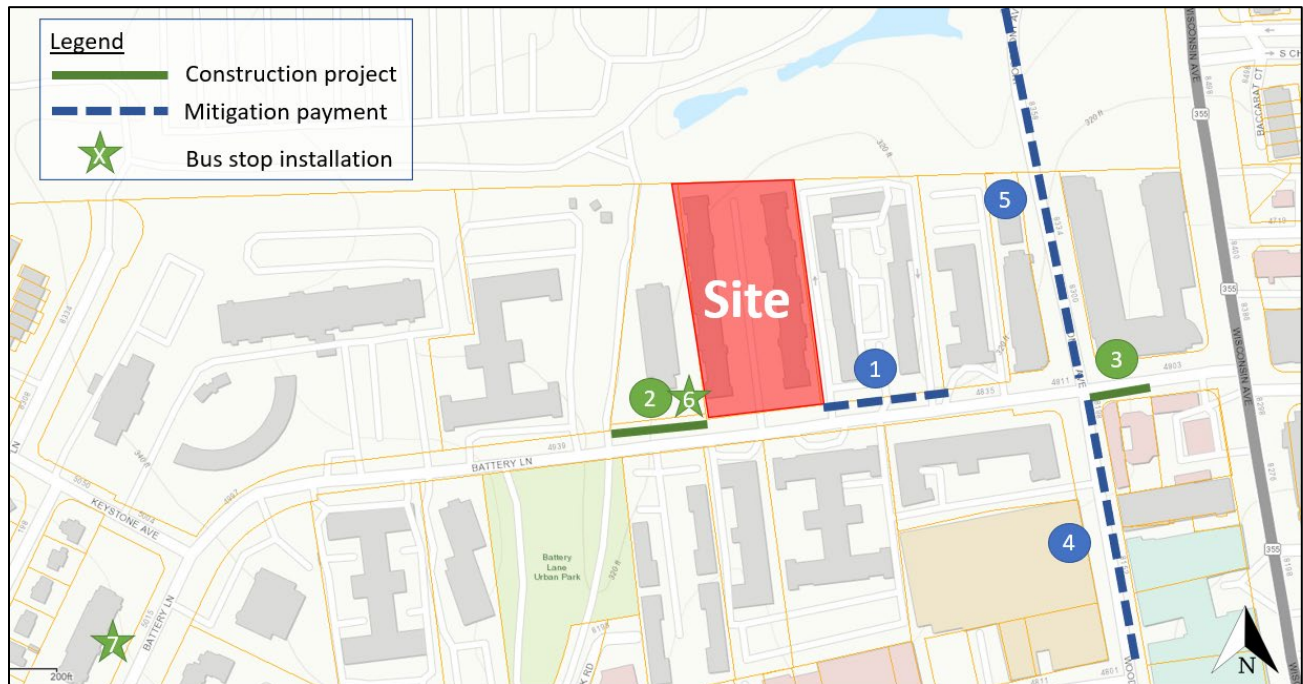


Figure 11 – Map of Off-site LATR Mitigation Projects

As conditioned, all off-site mitigation projects must be permitted, bonded for construction, and all mitigation payments must be paid before the issuance of the first above grade building permit or right-of-way permit (whichever comes first). Montgomery County Planning, MCDOT, and MDOT SHA staff reviewed the TIS and approved the mitigation project list. Therefore, the Applicant has satisfied the requirements of the LATR, and the public transportation facilities are adequate for the Site.

#### *Master-Planned Roadways and Bikeways*

In accordance with the 2017 *Bethesda Downtown Sector Plan*, the Applicant will dedicate an additional 10-feet of right-of-way along the Battery Lane Site frontage to achieve the master-planned total width of 70 feet (50 feet are currently dedicated to public right-of-way).

The Applicant proposes constructing two master-planned pedestrian and bikeway connections along the eastern and northern boundaries of the Site, which will connect to the Bethesda Trolley Trail with future development of the adjacent sites.

A two-way separated bikeway is master planned along the south side of Battery Lane (opposite the Site). The Battery District Project (Preliminary Plan No. 120190240) is required to construct this bikeway. Therefore, the Applicant for the Subject Application is not obligated to participate in the construction of the two-way separated bikeway.



### c) Other Public Facilities and Services

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.

### Schools

The FY23 Annual School Test, approved by the Planning Board on June 16, 2022, and effective July 1, 2022, is applicable to this Application. This plan proposes 372 multifamily high-rise units. The project is served by Bethesda ES, Westland MS and Bethesda-Chevy Chase 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: FY2023 School Adequacy*

School	Projected School Totals, 2026				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/ Deficit		Tier 1	Tier 2	Tier 3
Bethesda ES	560	594	106.1%	-34	No UPP	51	78	162
Westland MS	1,105	782	70.8%	+323	No UPP	449	544	710
Bethesda-Chevy Chase HS	2,457	2,356	95.9%	+101	No UPP	281	593	961

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, Bethesda ES and Westland MS and Bethesda-Chevy Chase HS do not require any UPP as identified in Table 5. If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may 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 detached, single family attached (townhouse), low-rise multifamily unit, or high-rise multifamily unit.

With a net of 372 multifamily high-rise units that are not age-restricted, the proposed project is estimated to generate the following number of students based on the Property's location within an Infill Impact Area:

*Table 5: FY2023 School Adequacy 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	0	0.059	0.000	0.023	0.000	0.032	0.000
MF High-rise	372	0.034	12.648	0.015	5.580	0.016	5.952
<b>TOTALS</b>	<b>372</b>		<b>12</b>		<b>5</b>		<b>5</b>

As shown in Table 5, on average, this project is estimated to generate 12 elementary school students, 5 middle school students and 5 high school students. The number of students generated does not exceed the adequacy ceilings identified for each school in Table 5, therefore no additional UPPs are required, and neither are partial payments across multiple UPP tiers.

#### **Analysis Conclusion and Condition of Approval**

Based on the school capacity analysis performed, using the FY2023 Annual School Test, this application is not subject to a Utilization Premium Payment. Therefore, no UPP condition is required.

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

##### **a) Forest Conservation Plan/Exemption**

#### **Environmental Guidelines**

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD), designated no. 420220090, was approved for the Subject Property on October 1, 2021. The plan identified the existing man-made and natural features associated with the Property, such as the buildings, associated parking, street trees and landscape elements. The on-site elements described on the NRI/FSD includes significant and specimen trees located near the north, east, and south site boundaries while the existing residential buildings and surface parking make up most of the Site. There are no rare, threatened, or endangered species, no stream/buffers, or steep slopes on Site. There are no historic or cultural properties onsite.

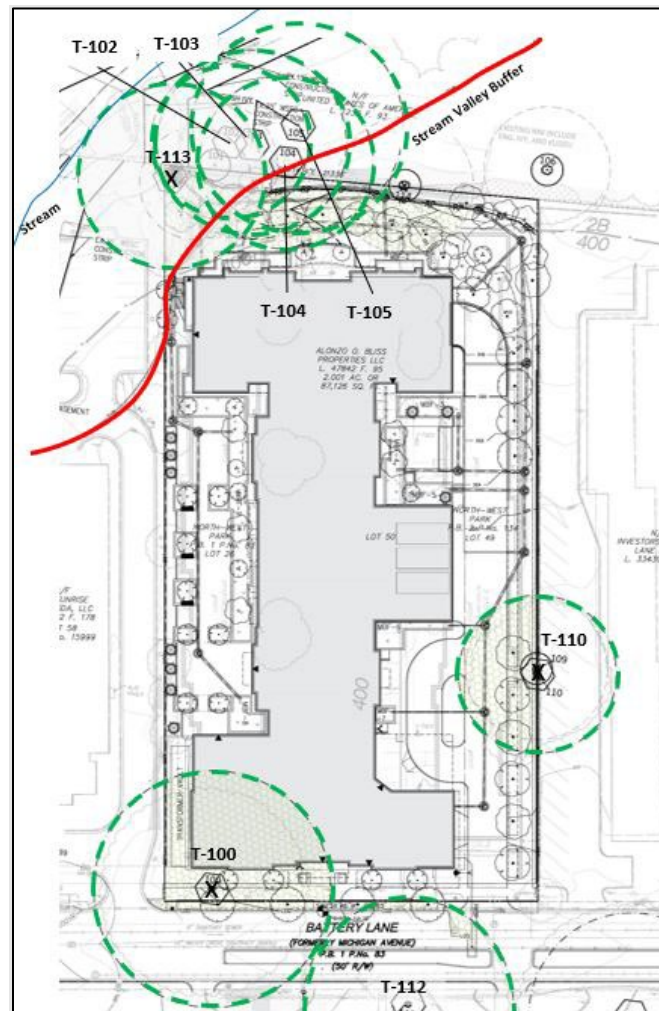


Figure 12: Specimen Trees and Stream Valley Buffer associated with the Subject Property

## Forest Conservation

Although there is no forest on-site or adjacent to the Property, this Application is subject to Chapter 22A Forest Conservation Law and has included a Preliminary/Final Forest Conservation Plan with this Application. Due to the tract area, associated offsite work, and the high-density residential land use

category of this project the Forest Conservation Worksheet included in the Forest Conservation Plan shows a calculated Afforestation Requirement of 0.31-acres, which Staff recommends be met via fee-in-lieu. Additionally, due to the loss of specimen trees, sized at 30” or greater in diameter-at-breast-height (DBH), this Application is also subject to the variance provisions of Chapter 22A.

#### Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The Law requires no impact to trees that measure 30 inches DBH or greater; are part of a historic site or designated with a historic structure; are designated as national, state, or county champion trees; are at least 75% of the diameter of the current State champion tree of that species; or to trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The subject Application includes disturbance/removal of trees that are  $\geq 30$ ” DBH, therefore a variance is required. The Applicant submitted a variance request dated September 26, 2022 for impacts to five subject trees and the proposed removal of three subject trees that are considered high-priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

*Table 6: Trees to be Removed*

<b>TREE #</b>	<b>TYPE</b>	<b>DBH</b>	<b>Percent of CRZ Impacted by LOD</b>	<b>CONDITION</b>	<b>PROPOSED STATUS</b>
100	White Ash	45”	46%	Fair	<b>REMOVE</b>
110	London Plane Tree	30”	50%	Fair	<b>REMOVE</b>
113	Boxelder	35”	27%	Fair	<b>REMOVE</b>

*Table 7: Trees to be Impacted but Retained*

<b>TREE #</b>	<b>TYPE</b>	<b>DBH</b>	<b>Percent of CRZ Impacted by LOD</b>	<b>CONDITION</b>	<b>PROPOSED STATUS</b>
102	Eastern Black Oak	30”	20%	Fair	<b>SAVE</b>
103	Eastern Black Oak	36”	26%	Good	<b>SAVE</b>

104	Laurel Oak	33"	33%	Good	<b>SAVE</b>
105	White Oak	40"	15%	Good	<b>SAVE</b>
112	Red Maple	40"	5%	Good	<b>SAVE</b>



Figure 13: FCP exhibit showing variance trees proposed for removal

### Unwarranted Hardship

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. In addition to the required findings outlined numerically below, Staff has determined that the Applicant has demonstrated that enforcement of the variance provision would result in an unwarranted hardship due to a number of distinct, yet related reasons:

In general, due to the location of specimen trees, largely on the perimeter of the Site, the narrow lot shape and layout of the existing residential buildings, and the desire to implement a Sector Plan recommended through-block connection as well as multi-family housing with associated open space in this urban location the development proposal results in unavoidable variance tree impacts. Specifically, Tree 110, a 35" Boxelder, lies on the eastern property line; this location coincides directly with both main driveway access for the proposed development as well as the Sector Plan recommended through-block connection. Given the intensity of disturbance set to occur in this location as well as the design proposal, retaining this tree is not feasible. Tree 113 is located in the northwest corner of the Site at the current conclusion of the through-block path. In order to implement the desired environmental enhancements, which includes porous paving and improved drainage, major excavation and disturbance is required; the Applicant is able to provide tree protection for and retain the offsite significant and specimen trees in this location. Tree 113 is, unfortunately, located too near to the proposed path and in line with the existing grade, unlike the offsite trees. Alternative designs for this area were considered but would result in more grading in the area and increased tree impacts rather than further retention and minimized tree impacts. Lastly, frontage improvements including implementing an improved streetscape and bike lane necessitate the removal of Tree 100; although this removal cannot be avoided while improving site frontage and implementing accessible sidewalks, the proposal for this area does include a Sector Plan recommended double row of trees along Battery Lane. In summation, the required demolition of the existing structures and implementation of a functional and accessible site layout would not be feasible without impacts to these subject trees. As conditioned, the proposed layout, which has been coordinated between the Applicant and MNCPPC Staff, minimize CRZ impacts to existing specimen trees. Further, the Applicant has retained an Arborist and will continue to coordinate with the arborist as well as the M-NCPPC Forest Conservation Inspector to utilize specialized construction techniques, provide tree protection, and minimize the limits of disturbance as feasible in the field. Based on the existing circumstances and conditions on the Property, there is an unwarranted hardship.

***b) Variance Findings***

The following determinations are based on the required findings for granting of the requested variance:

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

The Applicant's proposal is to demolish the existing building and surface parking lots to construct a 120-foot multi-family building with structured parking, provide efficient site access/circulation for Fire and Rescue, and provide onsite stormwater management, as well as improve the public realm as envisioned in the Sector Plan. Further, the Applicant's proposal will provide environmental benefits via proposed mitigation plantings. With these factors considered, Staff concludes the variance

request would be granted to any applicant in a similar situation and does not represent a special privilege granted to this Applicant.

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

As stated above, the requested variance and associated tree impacts are due to the concerns related to the existing layout of buildings in relation to specimen trees on the Site's perimeter. Providing adequate site access/circulation, providing the required frontage improvements (including those associated with the Green Corridor recommendation of the Sector Plan), while also constructing a new multi-family residential building necessitates variance tree impacts. The variance request submitted by the Applicant reflects efforts to lessen overall site impacts and retain mature trees where possible. Without this flexibility in the proposed design and construction, far greater subject tree impacts would be expected. Therefore, this variance request is not based on circumstances which are the result of actions by the Applicant.

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

The requested variance is a result of the proposed site design and layout on the Subject Property and not as a result of land or building use on a neighboring property.

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

The proposed tree plantings, which includes mitigation plantings in addition to canopy trees and additional landscaping along the proposed through-block connection, will help maximize the permeability of the soil, which serves to reduce runoff. The planting of these trees will also help water quality goals by maintaining and increasing the level of shading and water retention and uptake. The Applicant has also proposed permeable asphalt in sensitive areas onsite in order to minimize runoff offsite. Additionally, the Subject Property does not currently contain any stormwater management features. The Applicant proposes a development which will meet current State and local stormwater management standards; this has been verified by the approval of a Stormwater Management Plan with the Department of Permitting Services. A measurable degradation in water quality is not anticipated as the development will provide Best Management Practices (BMP) areas to meet ESD requirements for the Site in order to achieve water quality standards. This Application greatly reduces impervious surfaces, as the proposal removes surface parking and implements areas of green roof and landscape plantings within the design. Thus, the



Application will ultimately result in an improvement of water quality, rather than cause measurable degradation.

#### Mitigation for Trees Subject to the Variance Provisions

There are three (3) subject trees proposed for removal in association with this Application. Planting mitigation for the removal should be at a rate that approximates the form and function of the trees removed, at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" caliper. As a result of the proposed removal of three subject trees, for a total of 110" DBH removed, which results in a mitigation requirement of at least 28 caliper inches of native canopy trees sized at least 3 caliper inches each. The Applicant has proposed planting at least 10 canopy trees sized at 3" in caliper for a total of 30 caliper inches in mitigation. Staff supports this approach which meets the required mitigation calculations.

#### Recommendation on the Variance

As a result of the above findings, Staff recommends approval of the Applicant's request for a variance from the Forest Conservation Law to impact, but retain, five (5) subject trees and to remove three (3) subject trees associated with the Application.

#### **Noise**

The Subject Application provides residential units near an arterial roadway and is therefore subject to the noise regulations associated with residential development. To address development standards regarding noise mitigation, the Applicant coordinated with Phoenix Noise and Vibration, LLC, an engineer specializing in acoustics. The analysis shows that noise levels on the first eight floors on south side of the proposed building facades will be exposed to noise levels greater than 65 dBA Ldn. Phoenix Noise and Vibration notes interior noise levels can be maintained at or below the required 45 dBA Ldn by increasing the STC ratings of the exterior building components such as windows and doors. These units require further analysis to determine whether the proposed building architecture will be capable of maintaining interior noise levels below 45 dBA Ldn. The remaining residential units will not be exposed to significant transportation noise levels and do not require mitigation as currently proposed. Phoenix also notes that the Site's future outdoor activity areas will not be exposed to ground level noise impacts greater than 65 dBA Ldn, therefore no mitigation is required for outdoor noise levels. As conditioned, the Applicant must meet the interior noise specifications and provide confirmation to Staff.

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

This Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Division on July 26, 2022. There are no known stormwater management facilities existing on the Property. The Application will meet stormwater management goals through green roof and micro-bioretenention planter boxes to treat stormwater runoff without the use of waivers. A detailed stormwater management review will occur at the time of detailed plan review and all facilities will be designed using the latest MCDPS guidelines.

- 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.**

The Applicant does not have any notice, actual or constructive, of the existence of a burial site on the Property and none are included in the Montgomery County Cemetery inventory.

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

There are no other applicable provisions specific to the Property and necessary for approval of the subdivision.

## SECTION 6: SITE PLAN NO. 820220160 FINDINGS AND ANALYSIS

Section 59.4.5.4.A.1 requires that Optional Method projects in the CR zone receive an approved Site Plan under Section 59.7.3.4 for any development on a property with an approved Sketch Plan.

- 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;**

Sketch Plan 320220040 applies to the Site and was approved by the Planning Board (MCPB No. 22-004, dated February 3, 2022) subject to five Binding Elements and ten conditions. The Site Plan satisfies this previous approval as summarized:

Binding Elements:

- I. Maximum density and height;
- II. Approximate location of lots and public dedications;
- III. General location and extent of public open space;
- IV. General location of vehicular access points; and

V. Public benefit schedule.

The Site Plan conforms with the Binding Elements and conditions of approval of the Sketch Plan. The proposal is within the established density and height limitations, provides appropriate design elements that are responsive to the public benefits schedule, and includes the required public dedications and through-block connections.

***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 for the Property.

***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 4.5.4 CR Zone Optional Method Development***

*Table 8: 4901 Battery Lane Site Plan Data Table for CR-15, C-0.5 R-1.5 H-120 Zone, Optional Method, Section 59.4.5.4*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Proposed</b>
<b>Tract Area</b>	2.12 acres	2.12 acres
<b>Prior Dedication</b>	0.122 acres	0.122 acres
<b>Proposed Dedication</b>	0.049 acres	0.049 acres
<b>Site Area</b>	1.95 acres	1.95 acres
<b>Mapped Density CR-15, C-0.5 R-1.5 H-120 Zone Residential (GFA/ FAR)</b>	138,663 sq. ft. / 1.5 FAR	138, 654 sq. ft. / 1.5 FAR
<b>Commercial (GFA/FAR)</b>	46,221 sq. ft. / 0.5 FAR	0 sq. ft. / 0.0 FAR
<b>Total Mapped Density (GFA/FAR)</b>	138, 663 sq. ft. / 1.5 FAR	138, 663 sq. ft. / 1.5 FAR
<b>Bethesda Overlay Zone (BOZ) Density</b>	281,874 sq. ft. / 3.05 FAR	277,713 sq. ft. / 3.0 FAR
<b>MPDU requirement</b>	15 percent	15.1 percent

<b>MPDU Bonus Density (GFA/FAR)</b>	51,150 sq. ft. / 0.55 FAR	42,654 sq. ft. / 0.46 FAR
<b>Total GFA/FAR with MPDU bonus (GFA/FAR)</b>	420,528 sq. ft. / 4.55 FAR	416,367 sq. ft. / 4.5 FAR
<b>Building Height</b>	120 ft.	120 ft.
<b>Public Open Space (min s.f.)</b>	0 sq. ft.	0 sq. ft.
<b>Minimum Setbacks (ft)</b>	0 ft.	0 ft.
<b>Front</b>	0 ft.	0 ft.
<b>Rear</b>	0 ft.	0 ft.
<b>Front Side</b>		
<b><u>Parking</u></b>	<b><u>Spaces Required (minimum / maximum)</u></b>	<b><u>Spaces Provided</u></b>
<b><u>Vehicle Parking</u></b>		
<b>Total Vehicle Parking<sup>6</sup></b>	<b>276 min / 504 max</b>	<b>305<sup>7</sup></b>
<b>Efficiency Units (22)</b>	18 min / 22 max	
<b>Efficiency MPDU (4)</b>	2 min / 4 max	
<b>1 Bedroom Unit (140)</b>	112 min / 175 max	
<b>1 Bedroom MPDU (26)</b>	10 min / 33 max	
<b>2 Bedroom Unit (154)</b>	123 min / 231 max	
<b>2 Bedroom MPDU (26)</b>	11 min / 39 max	
<b><u>Loading Spaces</u></b>	<b><u>Spaces Required</u></b>	<b><u>Spaces Provided</u></b>
372 Multifamily Units	1	3
<b><u>Bicycle Parking</u></b>	<b><u>Spaces Required (Long Term / Short Term)</u></b>	<b><u>Spaces Provided</u></b>

<sup>6</sup> Parking calculations account for 20% reduction for Bethesda Overlay Zone parking minimums in accordance with Section 59.4.9.2.C.6.

<sup>7</sup> The final number of vehicle parking spaces to be determined at building permit based on the final number of dwelling units. Public benefit points are based on 305 parking spaces.

<b>372 Multifamily Units</b>	95 / 5 (100 total)	95 / 5 (100 total)

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. The Applicant is subject to a Park Impact Payment (PIP) valued at \$11.41/square foot based upon the density requested and facilitates acquisition of parkland in the downtown Bethesda area.

Based on the requested 277,713 square feet of BOZ density, reduced by 42,654 square feet of MPDU density<sup>8</sup>, the Applicant is required to pay for 235,050 square feet of BOZ density at a value of \$2,682,023.19. The amount of density allocated from the BOZ for the Subject Application is deducted from the 32.4 million cap.

#### *Section 4.5.4.B.4 - Form Standards*

The Site Plan conforms to the intent of the form standards, including transparency, blank walls and active entrances. The Project proposes ample fenestration at the ground-level for transparency as well as activating features on the ground-floor level, including an expansive residential lobby and amenity area fronting on Battery Lane. A covered, vehicular drop off area is located on the east side of the lobby, which will further activate the space while separating vehicular and pedestrian activity around the lobby. The building incorporates an architectural design that leaves no blank walls. As conditioned, the exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the architectural drawings included in the Certified Site Plan, as determined by Staff.

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

In accordance with the Zoning Ordinance, Section 59.4.7.1, as modified by Section 59.4.9.2.C.4 for the Bethesda Overlay Zone, the Site Plan proposes 118.19 public benefit points in four categories to satisfy the requirements: Connectivity and Mobility, Diversity of Uses and Activities, Quality Building and Site Design, and Protection and Enhancement of the Natural Environment.

*Table 11: Public Benefit Calculations- Division 59-4.7*

<b>Public Benefit</b>	<b>Maximum Points Allowed</b>	<b>Proposed</b>
<b>Connectivity and Mobility</b>		

<sup>8</sup> Section 59.4.9.2.C.3.c.i. of the Zoning Ordinance exempts MPDU density from the Park Impact Payment.

Minimum Parking	20	8
Through-Block Connections	30	20
<b>Diversity of Uses and Activities</b>		
Enhanced Accessibility	20	7.26
<b>Quality Building and Site Design</b>		
Architectural Elevations	20	15
Exceptional Design	30	15
Structured Parking	20	20
Tower Step-Back	10	20
<b>Protection and Enhancement of the Natural Environment</b>		
Building Lot Terminations (BLT)	30	7.93
Cool Roof	10	5
<b>Total Points</b>	<b>Minimum of 100</b>	<b>118.19</b>

## CONNECTIVITY AND MOBILITY

### Minimum Parking

The Applicant requests eight points for the provision of a lesser quantity of on-site parking than the maximum allowed. The maximum public benefit points available for minimum parking is increased from 10 to 20 points in the BOZ. Points for this incentive are granted on a sliding scale, with zero points earned for providing the maximum number of allowed on-site parking spaces, and 20 points granted for providing no more than the maximum number of on-site parking spaces required. Based on the formula set forth in the Incentive Density Implementation Guidelines, the proposed project is eligible for eight public benefit points in this category.

$$\{((\text{Maximum Allowed Parking}) - (\text{Parking Provided})) / ((\text{Maximum Allowed Parking}) - (\text{Minimum Parking}))\} * 10 = \text{number of public benefit Points}$$

$$(504-305) / (504-254) * 10 = 8 \text{ points}$$

The Application provides 305 parking spaces, which is 199 fewer spaces than the maximum, and yields eight public benefit points. Staff supports the allocation of eight public benefit points for minimum parking.

### Through-Block Connections

The Project proposes two through-block connections; one north-south connection on the Site's eastern side, and one east-west connection on the Site's northern side. Both through-block connections are recommended for the Site by the Sector Plan. The east-west link will eventually provide a pedestrian connection between the Bethesda Trolley Trail to the west and Woodmont Avenue to the east. The north-south connection will link to sidewalks on Battery Lane. The north-south connection is designed as an eight-foot-wide paved pathway

flanked by landscaping on either side. The total width of the north-south connection corridor is approximately 15 feet. The east-west connection is designed as a ten-foot-wide paved pathway flanked by landscaping of varied width. Two paved oval sitting areas are included at its eastern and western terminus, where future connections to abutting properties are envisioned. These two pedestrian through-block connections are the first segments of a larger network of pedestrian pathways envisioned in the Battery Lane District, with future segments to be created as additional properties in the area redevelop. The maximum public benefit points available for through-block connections is increased from 20 to 30 points in the BOZ. The Applicant requests 20 public benefit points for the provision of the two Sector Plan-recommended through-block connections. Staff supports this request.

## DIVERISTY OF USES AND ACTIVITIES

### Enhanced Accessibility

The Applicant requests 7.26 public benefit points for providing nine dwelling units that satisfy ANSI A117.1 Residential Type A accessibility standard or equivalent county standard. Each percentage of units provided to this standard is worth three points. Nine of the 372 dwelling units equates to approximately 2.4 percent of the proposed total units (0.024 percent units x 3 points = 7.26 points). Staff supports this request.

## QUALITY BUILDING AND SITE DESIGN

### Architectural Elevations

The maximum public benefit points available for architectural elevations is increased from 20 to 30 points in the BOZ. The Applicant requests 15 public benefit points for providing high-quality architectural elevations on all four sides of the building that include binding design elements approved with the Sketch Plan. These elements include, but are not limited to, including minimum transparency requirements for the section of the building fronting Battery Lane, design parameters that affect the perception of building mass, pedestrian comfort, and includes materials and form that are compatible with the neighborhood. The provision of well-proportioned and attractive elevations is particularly significant with this proposal as all four sides of the building will be visible from the public realm. The southern façade will be highly visible from Battery Lane. The northern and eastern facades will be highly visible from the pedestrian through-block connections provided with the development, and western façade will be visible from the existing nearby Bethesda Trolley Trail and abutting senior living building. Staff supports this request.

### Exceptional Design

The maximum public benefit points available for exceptional design is increased from 10 to 30 points in the BOZ. The Applicant requests 15 public benefit points for providing a building and site design that enhance the character of the Battery Lane setting. As a site receiving an allocation of Bethesda Overlay Zone density, the Project is subject review by the Design



Advisory Panel, which recommends awarding of points based on the quality of the design. The Applicant asserts the Project will fulfill recommendations of the *Bethesda Downtown Sector Plan* and associated Design Guidelines.

The Project provides a site design that incorporates two-through block connections that will contribute to improving pedestrian and bicycle connectivity in the Battery Lane District. These two linear corridors will include paved pathways, landscaping and other amenities that will make them pleasant spaces for moving through. In addition to the through-block connections, the site design provides for ground-level outdoor recreational spaces for residents on the west and north sides of the site.

The Project provides a building with a distinctive “traditional-modern” design that is respectful of the existing development in the neighborhood, as well as the proposed redevelopment of multiple adjacent Battery Lane properties through the Battery District project (Sketch Plan 320190080 and Preliminary Plan 120190240). The building includes high-quality façade designs on all four sides in response to its visibility from Battery Lane, the two through-block connections and existing senior housing to the west. Stepbacks are included on all sides of the building on multiple levels which reduces the bulk and perceived scale of the building, while providing terraces with outdoor space for residents. The use of masonry materials throughout, glazing treatments, strong expression lines and overall proportionality building elements contribute the proposed building’s exceptional design.

The proposed project creates a sense of place that is respectful of the existing character of the neighborhood but at a scale that is compatible with the Sector Plan’s vision for the redevelopment of the Battery Lane District. The new building’s location at the intersection of two through-block connections and its prominence along Battery Lane will showcase the building as a landmark within the neighborhood. The building’s unique shape, massing with multiple stepbacks, terraces and use of traditional materials will blend together to create a building that is visually interesting and enhance the public realm in a distinct manner.

At their February 23, 2022 meeting, the Design Advisory Panel (DAP) voted 5-0 in support of awarding 15 points for Exceptional Design, with the following comment: “Consider recessing the building entry at the Battery Lane frontage to soften the impact of the wide building frontage and building canopy on the pedestrian experience along Battery Lane.” The Applicant revised the building design to recess the Battery Lane entry and reduce the length of the canopy to soften its presence in the pedestrian realm. Additionally, planters and benches were added to the entry plaza area to reinforce the transitional space between the building entrance and Battery Lane Sidewalk. Staff recommends 15 points for Exceptional Design.

### Structured Parking

The Applicant requests 20 public benefit points for providing Structured Parking. The proposal includes below-grade structured parking with 305 spaces. All on-site parking will be provided in the subsurface garage. The *CR Zone Incentive Density Implementation Guidelines* grants points on a sliding scale based on the percentage of total on-site spaces to be provided in a below-grade parking structure. The proposed parking regime qualifies for 20 public benefit points as 100 percent of the proposed parking spaces for the project will

be located in a subsurface parking structure. Staff supports the request for 20 public benefit points.

#### Tower Step-Back

The maximum public benefit points available for tower step-back is increased from 10 to 20 points in the BOZ. The Applicant requests 20 points for providing Tower Step-Backs. for The Project proposes multiple stepbacks in the façade design on all four sides of the building. Up to twenty points may be achieved in the Bethesda Overlay Zone for stepping back the building's upper floors by six feet behind the first-floor façade. This step back must begin at a height no greater than 72 feet. Additional points may be appropriate if deeper setbacks are provided, a setback is included at a lower level, and/or if integration of setbacks is achieved with reduced floor plate sizes on upper floors. Three step backs are provided along the southern façade, above the 3<sup>rd</sup>, 10<sup>th</sup> and 11<sup>th</sup> floors, which recesses the upper levels of the building 18 feet behind the first-floor façade along Battery Lane. As the proposal meets these criteria, staff supports the requested 20 public benefits for Tower Step-Backs.

### PROTECTION AND ENHANCEMENT OF THE NATURAL ENVIRONMENT

#### Building Lot Terminations (BLT)

The Applicant requests 7.93 points for the purchase of 0.881 BLT easements or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5 percent incentive density floor area, exclusive of any density allocated for MPDUs. Points are granted by the calculation of BLTs as provided in Section 59.4.7.3.F of the Zoning Ordinance. Staff supports the 7.93 public benefits points requested based on the following calculation:

$$(((416,367-(46,218))*7.5\%)/31,500*9= 7.93 \text{ points}$$

#### Cool Roof

The maximum public benefit points available for cool roof is increased from 10 to 15 points in the BOZ. The Applicant requests five points for providing cool roof area. The Project will meet the minimum solar reflective index (SRI) on a total 6,365 square feet of the building's non-vegetated roof area. Staff supports the request for five public benefit points.

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

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

The Project proposes consolidating the existing two driveways on Battery Lane down to one that will serve the on-site pick-up and drop-off loop, loading area, and parking structure. Pedestrian access will be enhanced by the streetscape improvements proposed along the Battery Lane Site frontage. The existing sidewalk on Battery Lane will be replaced by a 6.5-foot tree lawn buffering a 7-foot sidewalk. The Project addresses the Canopy Corridor designation of the 2017

*Bethesda Downtown Plan Streetscape Guidelines* by installing a double row of trees on either side of the sidewalk.

The Applicant proposes constructing two master-planned pedestrian and bikeway connections along the eastern and northern boundaries of the Site, which will connect to the Bethesda Trolley Trail with future development of the adjacent sites.

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

The Project proposes a parking structure on-site that will provide a total of 305 parking spaces, which is comfortably within the range of required parking spaces for a residential development with up to 372 units (276 min./504 max.). The Project is providing one additional loading bay beyond the two that are required.

In an effort to improve the safety along Battery Lane, the Project also proposes an on-site pick-up and drop-off layby lane, accessible by the Site driveway. This creates a space for ride share, taxi and unscheduled deliveries to queue away from the public right-of-way. Locating this feature along the east side of the building declutters the view of the Site and activates the frontage on Battery Lane.

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

As the Site includes between one to three acres of tract area and frontage on a single right-of-way, the provision of open space is not required in accordance with Section 59.4.5.4.B.1. However, the Project includes two through-block connections. These linear spaces include approximately 8,615 square feet of area that will be open and accessible to the public as envisioned by the Sector Plan.

The Application is in conformance with the *Recreation Guidelines*, as demonstrated in the Proposed Onsite Recreation Facilities table included on the Site Plan. Recreation facilities include a rooftop amenity area with an outdoor pool, grilling and seating areas, a fitness room, an outdoor dog run and indoor dog cleaning station, bicycle parking and repair station, and garden plots for residents. The final locations and quantities of each of these amenities will be shown on the Certified Site Plan.

## **(4) Division 6.4 General Landscaping and Outdoor lighting**

Landscaping and outdoor lighting is proposed as part of the Project. These elements along Battery Lane are generally designed to the Bethesda Streetscape Standards. Landscaping is provided around the periphery of the Site. Lighting is provided in appropriate locations around the Site and building to ensure safe and attractive nighttime illumination.

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

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

DPS approved a Combined Stormwater Management Concept/ Site Development Stormwater Management Plan on July 26, 2022. The plan proposes to meet required stormwater management goals via green roof area and micro-bioretenment to maximum extent practicable.

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

As described above, this Application is subject to Chapter 22A Forest Conservation Law. To this end, the Applicant has submitted a Forest Conservation Plan showing that forest conservation requirements will be met via fee-in-lieu.

Additionally, in order to satisfy the variance provisions of Chapter 22A, the Applicant has submitted a variance request and proposed mitigation for the proposed removal of three specimen trees in the form of 30" of mitigation plantings. Staff recommends the approval of this request. As conditioned, all applicable requirements of Chapter 22A will be met.

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

All parking, loading, trash collection, and pick-up and drop-off activities will occur on-site and out of the public right-of-way. The Project proposes consolidating the two existing driveways to one, which reduces conflict exposure for pedestrians and other vehicles. Pedestrian safety and connectivity will be improved with the enhanced streetscape improvements along the Site's Battery Lane frontage and with the two new public connections the Project is providing on-site along the eastern and northern sides of the Property. These connections were envisioned in the 2017 *Bethesda Downtown Sector Plan*. The intent of the connection is to break up the Battery Lane block and to connect to the existing Bethesda Trolley Trail, a regional trail connecting Bethesda to Rockville, located west of the Site.

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

As described in the findings for Preliminary Plan 120220100, the Project substantially conforms with the recommendations of the 2017 *Bethesda Downtown Sector Plan*. Furthermore, the development proposed will contribute to the Sector Plan's goals for enhancing the pedestrian realm within the Battery District. The two through-block connections to be provided are the first segments of a new east-west pedestrian and bicycle pathway envisioned to connect the Bethesda Trolley Trail and Woodmont Avenue. Battery Lane streetscape improvements, including the undergrounding of utilities, provision of wider

sidewalks and construction of a segment of a new bike lane in the Site's frontage, are Project elements that will implement goals of the Sector Plan and Bicycle Master Plan.

***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;***

A detailed discussion of the adequacy public facilities analysis is included under the Preliminary Plan findings of the staff report. The list of mitigation construction projects and payments is provided in detail under that finding. Therefore, as conditioned, a finding can be made that there are adequate public facilities to support the Project.

***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. This requirement is not applicable to this Application.

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

The proposed residential building of up to 120 feet in height is appropriate to the setting. Adjacent properties are zoned for similar height maximums and a mix of densities. The majority of existing development proximate the site along Battery Lane are developed with residential uses and other projects pending nearby (i.e. Battery District Sketch Plan No. 320190080, Preliminary Plan No. 120190240 and associated Battery District Site C Site Plan No. 820220230) are also primarily residential in nature.

***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.***

This requirement is not applicable as this Site Plan does not include a restaurant with drive-through service.

***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.***

This requirement is not applicable as the Subject Property was not zoned C-1 or C-2 on October 29, 2014.

## SECTION 7: COMMUNITY OUTREACH

The Applicant held a pre-submittal public meeting on February 9, 2022 related to the Preliminary and Site Plans. The meeting was conducted virtually per COVID-19 Guidelines and has complied with all submittal and noticing requirements. In addition to the required public meeting, the Applicant has completed the required on-site sign posting and mailed written notice of the applications to applicable parties.

As of date of this Staff Report, no correspondence has been received.

## SECTION 8: CONCLUSION

As conditioned, the Preliminary Plan and Site Plan applications each satisfy the findings under Sections 59.7.3.3 and 7.3.4 and the applicable standards of the Zoning Ordinance, substantially conform to the recommendations of the 2017 *Bethesda Downtown Sector Plan* and satisfy the findings of the Subdivision Regulations, Chapter 50. Therefore, Staff recommends approval of the Preliminary Plan and Site Plan with the conditions as noted in this report.

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## ATTACHMENTS

*Attachment A: Preliminary Plan*

*Attachment B: Site Plan*

*Attachment C: Sketch Plan Resolution*

*Attachment D: Agency Letters*

*Attachment E: DAP Meeting Minutes*

*Attachment F: Variance Request*

*Attachment G: LATR Off-Site Mitigation Projects Concept Drawings and Cost Estimate Tables*