

**7126 WISCONSIN AVENUE - RECONSIDERATION
SKETCH PLAN AMENDMENT 32019003A,
PRELIMINARY PLAN 120230020 & SITE PLAN 820230020**



Description

The Proposal is for the development of a 225-foot tall mixed-use building with a maximum of 415,000 square feet of density, inclusive of up to 403,513 square feet of residential uses for up to 330 multi-family dwelling units, with 15 percent MPDUs, and 11,487 square feet of commercial uses including live-work units, with up to 277,165 square feet of Bethesda Overlay Zone (BOZ) density and associated Park Impact Payment (PIP). Up to 130 of the 330 total units may be converted to short-term rental units.

No. 32019003A, 120230020,
820230020
Completed: February 26, 2024

MCPB
Item No. 6
March 7, 2024

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

Planning Staff

AB

Adam Bossi, Planner III, Downcounty Planning, Adam.Bossi@montgomeryplanning.org,
301-495-4529

SD

Stephanie Dickel, Supervisor, Downcounty Planning, Stephanie.Dickel@montgomeryplanning.org,
301-495-4527

EHM

Elza Hisel-McCoy, Chief, Downcounty Planning, Elza.Hisel-McCoy@montgomeryplanning.org,
301-495-2115

LOCATION/ADDRESS

7126 Wisconsin Ave; Proximate to the intersection of Wisconsin Avenue and Bethesda Avenue; focused on properties at the southwest quadrant of the intersection.

MASTER PLAN

2017 Bethesda Downtown Sector Plan

ZONE

CR-3.0, C-3.0, R-2.75, H-225; CR- 3.0 C- 3.0, R- 2. 75, H-200; CR-3.0 C-3.0, R-2.75, H-35; CR- 3.0, C-3.0, R-2.75, H-175; CR3.0, C-2.0, R-2.75, H-90; CRT 0.5, C-0.25, R-0.5, H-70 and Bethesda Overlay Zone

PROPERTY SIZE

1.05 acres

APPLICANT

Wisconsin Avenue Properties, LLC

ACCEPTANCE DATE

November 2, 2022 (Reconsideration granted October 12, 2023)

REVIEW BASIS

Chapter 50 & Chapter 59

Summary:

- The Planning Board previously approved Sketch Plan No. 320190030 for Bethesda Market, a mixed-use project encompassing properties on the east and west sides of Wisconsin Avenue, including the Subject Site. This Sketch Plan Amendment expands the Site's development area, and increases the requested Bethesda Overlay Zone (BOZ) density.
- The Preliminary Plan and Site Plan propose one lot for a high-rise building with up to 415,000 square feet of total density, to include up to 330 multifamily units, of which up to 130 units may be converted to short-term rental units, with 15 percent MPDUs, live-work units, and ground floor commercial uses. The Proposal requests up to 277,165 square feet of BOZ density with an associated PIP payment. The Preliminary Plan includes requests for a specimen tree variance and reduced right-of-way truncation.
- Three extensions of the regulatory review period were previously approved by the Planning Director and Planning Board, from March 2, 2023 to September 28, 2023.
- The Planning Board held a public hearing on the Applications on September 14, 2023 and voted to approve the Proposals. Prior to approval of the Resolutions, a neighboring property that had not been properly noticed requested the Board reconsider their approval, which the Board granted on October 12, 2023. The Applicant submitted a revised Site Plan on February 2, 2024.
- Staff recommends approval of the Sketch Plan Amendment, Preliminary Plan, and Site Plan.

TABLE OF CONTENTS

SECTION 1: EXECUTIVE SUMMARY	3
SECTION 2: RECOMMENDATIONS AND CONDITIONS	6
SKETCH PLAN 32019003A	6
PRELIMINARY PLAN 120230020	7
SITE PLAN 820230020	11
SECTION 3: SITE DESCRIPTION	19
VICINITY	19
PROPERTY DESCRIPTION	20
SECTION 4: PROJECT DESCRIPTION	23
PREVIOUS APPROVALS	23
PROPOSAL	24
SECTION 5: COMMUNITY OUTREACH	33
SECTION 6: SKETCH PLAN NO. 32019003A FINDINGS AND ANALYSIS	34
SECTION 7: PRELIMINARY PLAN NO. 120230020 FINDINGS AND ANALYSIS	39
SECTION 8: SITE PLAN NO. 820230020 FINDINGS AND ANALYSIS	54
SECTION 9: CONCLUSION	66
ATTACHMENTS	66

SECTION 1: EXECUTIVE SUMMARY

Reconsideration & Proposal Update Summary

This Sketch Plan Amendment, Preliminary Plan, and Site Plan and were previously reviewed by the Planning Board at a public hearing on September 14, 2023. At that hearing, the Board voted in favor of approving the Applications. Prior to the issuance of the resolutions for these Applications, on October 11, 2023, an abutting property owner (Seasons Apartments) filed a Request for Reconsideration based on improper notification of the Applications. On October 12, 2023, the Applicant submitted a letter to the Board acknowledging the notification error and supporting their neighbor's Request for Reconsideration. At their October 12, 2023 public hearing, the Planning Board voted to grant the Request for Reconsideration. A new public hearing with the Planning Board regarding these Applications is scheduled for March 7, 2024.

Since the Planning Board did not approve resolutions for the applications reviewed at the September 14, 2023 Public Hearing, this staff report stands complete and alone, reflecting staff review of the revised application. In addition to the changes to the application described below, the BOZ density included in this revised application is subject to an increased Park Impact Payment rate of \$12.49 per square foot, effective July 1, 2023, in accordance with Planning Board Resolution MCPB No. 23-065, regarding the Bethesda Overlay Zone Park Impact Payment Rate biannual adjustment required by Section 59.4.9.2.C.2.b.ii of the Zoning Ordinance. When previously reviewed by the Planning Board on September 14, 2023, the Proposal was subject to the previous PIP rate of \$11.41 per square foot.

Since that time, the Applicant coordinated with the neighbor and has now submitted revised architectural plans with modest modifications to the previously reviewed building design. These revisions are illustratively shown in Figure 1, and are limited to the western façade of the building, floors two through 6, where:

- westerly extensions of the northern and southern façade are pulled back, reducing overall gross floor area of the building by 3,332 square feet to create a more generous step back from the abutting building;
- additional windows are added to units in this focus area, including MPDUs; and
- green roof and green cover are redesigned to fit the reconfigured space.

Both the Applicant and neighbor reported they are satisfied with these modifications to the building design. The updates to the proposed building design and site layout do not substantially change the scope or character of the Proposal. The access, circulation, frontage enhancements, building height, overall massing, and design, and other defining elements of the Proposal, remain consistent with plans previously presented to the Planning Board on September 14, 2023. All findings and recommendations included herein are generally the same as presented in the staff report dated September 1, 2023, (Attachment R), with limited updates to show architectural modifications, including updated development density figures and Park Impact Payment, and notes where

additional review of the Proposal was completed by staff, the Bethesda Design Advisory Panel, and public agencies since the request for reconsideration was granted.



Figure 1: Proposed Building Western Façade Architectural Update

Finally, as originally reported to the Board in staff's September 1, 2023 report and at the September 14, 2023 public hearing on the Proposal, upon approval of this Project, the total existing/approved development density for Downtown Bethesda will reach the Sector Plan's development "soft cap" of 30.4 million square feet. This remains unchanged despite the slight reduction in gross floor area associated with the minor architectural modifications summarized above.

Proposal Summary

The proposed development will implement the western portion of the envisioned Bethesda Market redevelopment. In 2019, the Planning Board approved the Bethesda Market Sketch Plan (320190030), a multi-phase redevelopment of commercial properties on the east and west side of Wisconsin Avenue, including updates to the historic Bethesda Farm Women's Cooperative Market site, and a new park on the adjoining County parking lots. This Proposal is focused on redevelopment of the smaller portion of the Sketch Plan area on the west side of Wisconsin Avenue, highlighted in Figure 2.



Figure 2: Sketch Plan 320190030

The Sketch Plan Amendment introduces a new property into the previously approved development area and accordingly seeks to increase the overall density of the project. The additional property abuts the West Side portion of the Market Sketch Plan area. The Preliminary and Site Plans propose one lot for a new 225-foot-tall mixed-use building with up to 415,000 total square feet on the expanded West Side area of the Market Sketch Plan area only. The proposal includes up to 403,513 square feet of residential uses for up to 330 multi-family dwelling units, with 15 percent MPDUs, and 11,487 square feet of commercial uses including live-work units (not included in the 330 dwelling unit maximum), with up to 277,165 square feet of Bethesda Overlay Zone (BOZ) density and associated Park Impact Payment (PIP).

Under the proposal, up to 130 of the 330 total units may be temporarily or permanently converted to short-term rental units at the owner’s discretion and without further approval from the Planning Board or Planning staff. These 130 units are part of the 330 units subject to the requirement to provide 15 percent MPDUs. DHCA will enforce this requirement, as conditioned.

The proposed building height varies from 200 feet at the western façade and up to the maximum 225 feet in height along Wisconsin Avenue. The Bethesda Downtown Sector Plan recommends the maximum height along Wisconsin Avenue only be allowed “if the property develops in a manner that benefits the Farm Women’s Cooperative Market to the east” (p. 101). Further, original Sketch Plan Condition 15.n. required “At the time of Site Plan, the West Side Project must demonstrate their

contribution to the Farm Women’s Market for the additional height in conformance with the Sector Plan.” To merit the maximum height, the Applicant has contributed \$1 million to the Farm Women’s Market owners and is proposing to:

- Provide a visual art piece celebrating the theme of Women’s history and women’s contributions to agriculture in Montgomery County, adjacent to the visually prominent intersection of Wisconsin and Bethesda Avenues, at the Site’s northeast corner.
- Fund a study and application for listing of the Farm Women’s Cooperative Market on the National Register of Historic Places.

Staff reviewed the Applications for conformance with the applicable requirements of Montgomery County Code, Chapter 50 Subdivision of Land and Chapter 59 Zoning Ordinance. The Site is in the CR Zone and Bethesda Overlay Zone (BOZ) and within the boundaries of the 2017 *Bethesda Downtown Sector Plan*. Subject to the conditions recommended herein, the Proposal conforms with the applicable requirements of Chapter 50 and Chapter 59, and substantially conforms to the applicable requirements of the Sector Plan. Staff recommends the Planning Board approve the three applications with the conditions provided in this report.

SECTION 2: RECOMMENDATIONS AND CONDITIONS

SKETCH PLAN 32019003A

Staff recommends approval of 7126 Wisconsin Avenue/Bethesda Market, Sketch Plan No. 32019003A, for up to 781,137 square feet of density on 6.64 acres (the Sketch Plan area) zoned CR-3.0, C-3.0, R-2.75, H-225; CR- 3.0 C- 3.0, R-2. 75, H-200; CR-3.0 C-3.0, R-2.75, H-35; CR-3.0, C-3.0, R-2.75, H-175; CR3.0, C-2.0, R-2.75, H-90; CRT 0.5, C-0.25, R-0.5, H-70 and Bethesda Overlay Zone, in the 2017 *Bethesda Downtown Sector Plan*. The following site development elements shown on the latest electronic version of Sketch Plan No. 32019003A as of the date of this Staff Report submitted via ePlans to the M-NCPPC are binding under Section 59-7.3.3.F:

1. Maximum density and height;
2. Approximate location of lots and public dedications;
3. General location and extent of public open space;
4. General location of vehicular access points; and
5. Public benefit schedule.

All other elements of the Sketch Plan are illustrative and subject to refinement at the time of Site Plan. This approval is subject to the following conditions:

This Amendment modifies Condition 1 and Condition 12 of Sketch Plan No. 320190030, with all other conditions remaining unchanged and in full force and effect.

MODIFIED CONDITIONS:

1. Density

The Sketch Plan is limited to a maximum of ~~650,305~~ 777,805 square feet of total development, excluding the 4,195 square feet of existing square footage to remain for the Farm Women's Cooperative Market building. The Sketch Plan includes an allocation of up to ~~191,878~~ 277,165 square feet of Bethesda Overlay Zone density for the West Side Project and up to 21,991 square feet of Bethesda Overlay Zone density for the East Side Project. The maximum number and distribution of residential dwelling units and/or non-residential uses will be determined at Preliminary Plan(s).

12. MCDOT letter

The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letters dated October 10, 2019 and as updated for the West Side development program amendment on August 7, 2023, and hereby incorporates them as conditions of the Sketch Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Sketch Plan approval.

PRELIMINARY PLAN 120230020

Staff recommends approval with conditions of the Preliminary Plan to consolidate four properties into a single lot for up to 330 multi-family dwelling units and a minimum of 11,487 square feet of commercial uses. All site development elements shown on the latest electronic version of the Preliminary Plan No. 120230020 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 (1) lot for up to 330 multi-family dwelling units and a minimum of 11,487 square feet of commercial uses. Commercial uses may consist of a combination of ground floor retail, service, and/or Live/Work units. These uses can be changed to other non-residential uses if there is no adverse impact on the Preliminary Plan and APF findings and it is approved by Staff.

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 letter dated August 7, 2023, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration (“SHA”) in its letter dated August 17, 2023, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MDSHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
7. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration’s requirements for access and improvements.
8. 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 August 17, 2023, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations 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.
9. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated August 15, 2023, as updated February 15, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

OTHER APPROVALS

10. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of any subsequent Site Plan(s) associated with this Preliminary Plan. The number and location of site elements including but not limited to buildings, dwelling units, on-site parking, site circulation, and sidewalks is determined through site plan review and approval.
11. If an approved site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan amendment.

TRANSPORTATION

Existing Frontage Improvements

12. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
 - a) All land necessary to accommodate thirty feet (30 ft) from the existing pavement centerline along the Subject Property frontage for Bethesda Avenue.
 - b) All land necessary to accommodate fifty-seven feet (57 ft) from the existing pavement centerline along the Subject Property frontage for Wisconsin Avenue.
 - c) All land necessary to accommodate twenty-five feet (25 ft) from the existing pavement centerline along the Subject Property frontage for Miller Avenue.
 - d) Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of an eight-foot-wide (8 ft) sidewalk along the Property frontage on Bethesda Avenue.
 - e) Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MDOT SHA to ensure construction of a twelve-foot-wide (12 ft) sidewalk along the Property frontage on Wisconsin Avenue.
 - f) Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a six-foot-wide (6 ft) sidewalk along the Property frontage on Miller Avenue.

ENVIRONMENT

13. 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.
14. 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.

15. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

RECORD PLATS

16. There shall be no clearing or grading of the site before submission to M-NCPPC of plat(s).
17. The record plat must show necessary easements.

DEVELOPMENTS WITH MPDUS

18. The final number of MPDUs required will be determined at the time of site plan approval.

CERTIFIED PRELIMINARY PLAN

19. 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.
20. Before submittal of the Certified Preliminary Plan, the Applicant must show resolutions and approval letters on the certified set.
21. Prior to certification, the development standards table, plan labels, and notations shall be adjusted to reflect final development figures, including final BOZ density allocation.

SITE PLAN 820230020

Staff recommends approval of Site Plan No. 820230020, for the construction of a 225-foot tall mixed-use building with a maximum of 415,000 square feet of density, inclusive of up to 403,513 square feet of residential uses for up to 330 units, of which up to 130 units may be converted to short-term rental units, with 15 percent MPDUs, and 11,487 square feet of commercial uses, and up to 277,165 square feet of Bethesda Overlay Zone (BOZ) density with an associated PIP payment. Preliminary/Final Forest Conservation Plan No. 820230020 is included with the Site Plan.

The development must comply with the binding elements and conditions of approval for Sketch Plan No. 320190030, and any amendments, and conditions of approval for Preliminary Plan No. 120230020, as may be amended. All site development elements shown on the latest electronic version of the Site Plan, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required.¹

DENSITY, HEIGHT & HOUSING

1. Density

The Site Plan is limited to a maximum of 415,000 square feet of total development on the Subject Property, including up to 403,513 square feet of residential uses, for up to 330 multi-family dwelling units, of which up to 130 units may be converted to short-term rental units, and a minimum of 11,487 square feet of commercial uses. Commercial uses may consist of a combination of ground floor retail/service and Live/Work Units. These can be changed to other commercial uses if there is no adverse impact on the Preliminary Plan and APF findings and it is approved by Staff.

2. Height

- a. Except as provided in Site Plan Condition 2.b., the maximum building height for the Site Plan is 200 feet, as measured from the building height measuring point illustrated on the Certified Site Plan.
- b. As illustrated on the Certified Site Plan, the maximum building height for the portion of the development in the *Bethesda Downtown Sector Plan* “Wisconsin Avenue Corridor” is 225 feet, as measured from the building height measuring point illustrated on the Certified Site Plan, if the development provides the following:
 - i. Publicly visible art piece – the Applicant must commission, manufacture, install, and maintain an art piece on-site, proximate to the Site’s northeast corner, that will recognize women’s history and the contribution of women to agricultural history in Montgomery County.

¹ 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.

1. The general location for the art piece must be illustrated on the Certified Site Plan.
 2. The final design for the art piece must be provided for Staff approval prior to the issuance of the first above-grade building permit.
 3. The Applicant must complete installation of the art piece prior to issuance of the final use and occupancy permit for the development.
- ii. National Register of Historic Places Application – the Applicant must provide funding, not to exceed \$15,000, for the preparation of an application to the National Register of Historic Places for listing of the Farm Women’s Cooperative Market. The Applicant must provide evidence of payment for staff review and approval prior to issuance of the first above-grade building permit.
3. Previous Approvals
- The development must comply with the conditions of approval for Sketch Plan No. 320190030 and Preliminary Plan 120230020, 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 August 7, 2023, and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.
5. The development must provide fifteen (15) percent MPDUs or MCDHCA-approved equivalent, based on the total number of residential units (up to 330) and including any short-term rental units (but not the live/work units), consistent with the requirements of Chapter 25A and the 2017 *Bethesda Downtown Sector Plan*.
6. 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.
7. Live/Work Units
- a) The Applicant may provide up to seven (7) units designated as Live/Work as shown on the Certified Site Plan in accordance Section 59.3.5.14.H.
 - b) Prior Certified Site Plan:
 - i. The Applicant must record a covenant among the Land Records of Montgomery County reflecting the applicable commercial use restriction in a form approved by the M-NCPPC Office of General Counsel; and
 - ii. The Book/Page reference must be included on the Certified Site Plan.

8. Short-Term Rental Units

- a) Up to 130 multi-family units may be converted to short-term rental units, to be invoked and revoked at the Applicant's discretion, without further approval by Planning Staff or the Planning Board.
- b) The development must comply with the limited use standards for short-term residential rentals per the Zoning Ordinance Section 59.3.3.3.1.2.

9. Bethesda Overlay Zone Density & Park Impact Payment

- a) Per Section 59.4.9.2.D.4 of the Zoning Ordinance, the Applicant must have a building permit application accepted by MCDPS that includes the core and shell of the principal building within two years of the date of the Planning Board Resolution approving the Site Plan. Within two years of MCDPS accepting the building permit application, the Applicant must obtain the building permit. The deadlines may not be extended. If the Applicant fails to comply with any of the deadlines in this condition, the entire Site Plan approval is revoked.
10. The Applicant must pay to the M-NCPPC a Park Impact Payment of \$2,899,740.85 prior to release of the first above-grade building permit for the allocation of 277,165 square feet of Bethesda Overlay Zone Density, not including 45,000 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.

11. Green Cover

- a) The Applicant must provide a minimum of 35% (at least 9,182 square feet) of the Site as Green Cover comprised of intensive green roof, native canopy tree plantings, and/or bioretention planter boxes, as shown on the Certified Site Plan. Any proposed tree canopy counted toward this requirement 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.
12. Any green roof installed pursuant to this condition must have a minimum soil depth of eight inches (8") or Staff-approved equivalent.

OPEN SPACE, FACILITIES AND AMENITIES

13. Public Open Space and Amenities

- a) The Applicant must provide on-site a minimum of 3,069 square feet of public open space (11.7% of Site area).

14. Before final Use and Occupancy certificates for the final residential unit:

- i. The Applicant must construct the streetscape improvements, including the undergrounding of utilities, along the Site's frontage on Bethesda Avenue, Wisconsin Avenue, and Miller Avenue, consistent with the Bethesda Downtown Streetscape Standards, and

- ii. All public open space areas on the Subject Property must be completed.

15. Public Benefits

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

a) Connectivity between Uses, Activities, and Mobility Options

- i. Minimum Parking – The Applicant must not provide/construct more than 261 parking spaces on-site.

16. Diversity of Uses and Activities

- i. Enhanced Accessibility for the Disabled – The Applicant must construct and maintain at all times at least 14 dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard.

17. Quality Building and Site Design

- ii. Exceptional Design – The Applicant must construct the building in a manner consistent with the architectural elevations included in the Certified Site Plan
- iii. Historic Resource Protection –
 - a. Prior to the issuance of the final Use and Occupancy permit, the Applicant must install the visual art piece, per Condition 2a; and
 - b. Before issuance of any above-grade building permit, the Applicant must provide proof of payment for the National Register of Historic Places listing study and application, per Condition 2b.
- iv. Structured Parking – The Applicant must provide all onsite parking spaces within a below-grade structure.
- v. Tower Step-Back –The Applicant must step back the building's facade at the seventh floor and twentieth floor by a minimum of six (6) feet behind the first-floor façade. The Certified Site Plan (CSP) must show the step-backs.

18. 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 1.7434 BLTs to MCDPS and M-NCPPC staff.
- ii. Energy Conservation and Generation –The Applicant must construct the building to exceed energy efficiency standards for the building type by 17.5%, as determined by MCDPS through the methodology established by ASHRAE 90.1 (2013) Appendix G. The energy model must be submitted to DPS for review and approval with the building permit application. DPS must approve the findings of the energy model prior to issuance of any building permit.

19. 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.

20. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to streetscape improvements, including but not limited to those in the Site's public open space areas, and the art piece focused on women's history and contributions to agriculture in Montgomery County.

ENVIRONMENT

21. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for this development Application, the Applicant must:

- i. Record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest mitigation bank to satisfy the 0.16 acres of afforestation requirement. If forest mitigation bank credits are not available for purchase, a fee-in-lieu payment to the M-NCPPC Planning Department may be submitted for this requirement.

22. 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. Any noise impacted units must be identified on the Certified Site Plan.
23. If any changes occur to the Site or Preliminary Plan(s) which affect the validity of the noise analysis dated February 15, 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.
24. 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.
25. For all noise impacted residential dwelling units, the Applicant/developer/builder must disclose in writing to all prospective purchasers that those homes/units are impacted by transportation noise. Such notification may be accomplished by inclusion of this information and any measures to reduce the impacts in brochures and promotional

documents and must be included in any noise impacted sales contracts or leases, any illustrative site plan(s) on display within any sales/leasing 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.

26. 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 August 17, 2023 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations 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

27. Transportation

- a) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated April 7, 2023 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

28. Before the issuance of any building permit, the Applicant must obtain approval of a Project-based Transportation Demand Management Plan (TDM) from the Montgomery County Department of Transportation (MCDOT).

29. Pedestrian & Bicycle Circulation

- a) The Applicant must provide 95 long-term and 11 short-term bicycle parking spaces.
30. The long-term bicycle parking spaces must be in secure, well-lit bicycle rooms; one on the ground floor and a second on level P1 of the parking garage. The short-term bicycle parking spaces must be inverted-U racks (or approved equal) installed along the building's retail frontage (weather protected preferred). The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.
31. The applicant must provide one bicycle repair station.
32. The Applicant must provide the following master planned pedestrian and bicycle facilities, the exact location, design, and construction of which must comply with requirements of the Montgomery County Department of Transportation, Division of Traffic Engineering and Operations, before right-of-way permit.
 - i. Bethesda Avenue: eight-foot-wide (8 ft) sidewalk with six-foot-wide (6 ft) buffer from traffic.
 - ii. Wisconsin Avenue: twelve-foot-wide (12 ft) sidewalk with six-foot-wide (6 ft) buffer from traffic.
 - iii. Miller Avenue: six-foot-wide (6 ft) sidewalk with six-foot-wide (6 ft) buffer from traffic.

33. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated August 15, 2023, as updated February 15, 2024, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

SITE PLAN

34. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the Certified Site Plan, as determined by M-NCPPC Staff.

35. Lighting

- a) Before certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).

36. All onsite down-lights must have full cut-off or BUG-equivalent fixtures.

37. Deflectors will be installed on all fixtures to prevent excess illumination and glare.

38. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

39. On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

40. Site Plan Surety and Maintenance Agreement

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

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.

41. The cost estimate must include applicable Site Plan elements, including, but not limited to plant materials, on-site lighting, indoor and outdoor recreational facilities, site furniture, railings, sidewalks, private utilities, visual art piece and National Register of Historic Places listing study (per Condition 2b) and associated improvements of development, including 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.

42. 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.

43. Development Program

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

44. 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 all applicable agency approval letters, development program, and Site Plan resolution, Preliminary Plan resolution, and Sketch Plan resolution(s) as amended, on the approval or cover sheet(s).

45. Include the Loading Management Plan as reviewed with the following adjustments:

- i. Change all references to loading on Bethesda Avenue to indicate that loading will occur on Miller Avenue.
- ii. All scheduled loading activities will occur outside weekday peak travel hours.
- iii. The loading bays will be closed with a roll-top door when not in use.

46. 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."
- iv. "The sidewalk grade, material, and treatment will continue across all Site driveways to improve visibility of and accessibility for pedestrians."
- v. "Entry/exit doors to the two long-term bicycle parking rooms will include push-button access."

- vi. “At least 14 dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard must be provided and maintained at all times.”
- 47. Include the Fire and Rescue Access plan in the Certified Site Plan.
- 48. Modify data table to reflect development standards approved by the Planning Board.
- 49. Show the location of Live/Work Units on applicable architectural plan sheets.
- 50. Ensure consistency of all details and layout between Site and Landscape plans.
- 51. Correct the minimum and maximum vehicle parking quantities shown on the Site Plan parking data table.
- 52. Correct the bicycle parking quantities shown on architectural plan sheets to match the parking data table.
- 53. Revise Green Cover exhibit to show the correct lot area and base green cover requirement.
- 54. Identify all residential units impacted by noise levels above 65 dBA Ldn that require further analysis to determine necessary mitigation measures to maintain noise levels in interior living spaces below 45 dBA Ldn.
- 55. Update the Public Benefits table to be consistent with that approved by the Planning Board.
- 56. Identify the location for the bicycle repair station.
- 57. Adjust the development standards table, plan labels, and notations to reflect final development figures, public benefit points, and final allocation of BOZ density and associated Park Impact Payment total.

SECTION 3: SITE DESCRIPTION

VICINITY

The Property (“Subject Property” or “Property” or “Site”), shown in Figure 3, is located in downtown Bethesda, on the west side of Wisconsin Avenue on the block in between Bethesda Avenue to the north and Miller Avenue to the south. This is a prominent location in downtown Bethesda where the 2017 *Bethesda Downtown Sector Plan’s* Bethesda Row District and Wisconsin Avenue Corridor meet. The confronting property to the north is developed with an 11-floor commercial building (Artery Plaza). The abutting property to the west is developed with a 15-floor residential building (Seasons Apartments) with ground-floor retail uses. The confronting property to the south is developed with a 12-story residential building (Solaire) with ground floor commercial uses. To the east, across Wisconsin Avenue are the historic Bethesda Farm Women’s Cooperative Market and a single-story commercial building. The new southern entrance to the Bethesda Metro Station and Purple Line station are under construction one block north of the Property, at the intersection of Wisconsin Avenue and Elm Street. The Site is within the Bethesda Urban District and Parking Lot District.

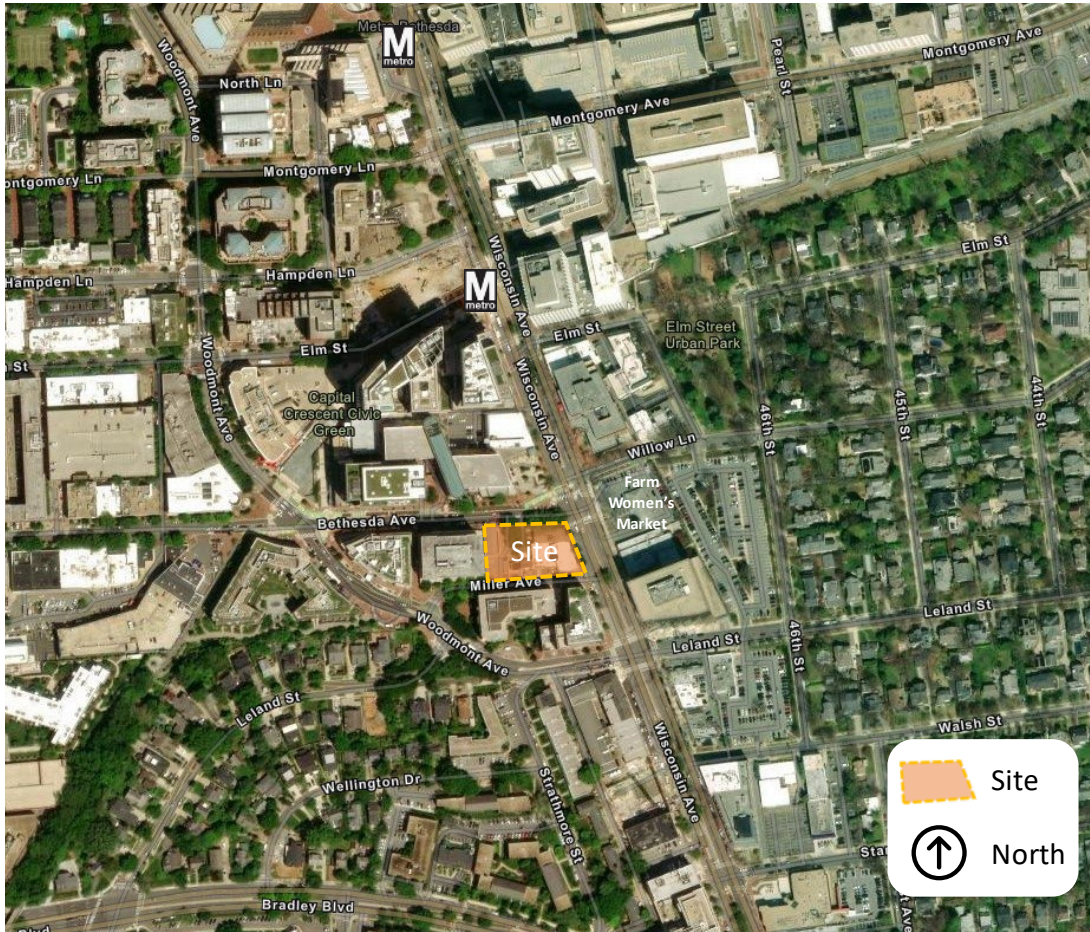


Figure 3 – Vicinity Map

PROPERTY DESCRIPTION

The Property includes an assemblage of three lots known as 7126 Wisconsin Avenue, 7140 Wisconsin Avenue, 4705 Miller Avenue, and one parcel known as 4708 Bethesda Avenue. The total tract area is approximately 1.05 acres (45,945 square feet). Prior and proposed dedication of public right-of-way result in a smaller site area of 0.602 acres (26,234 square feet).

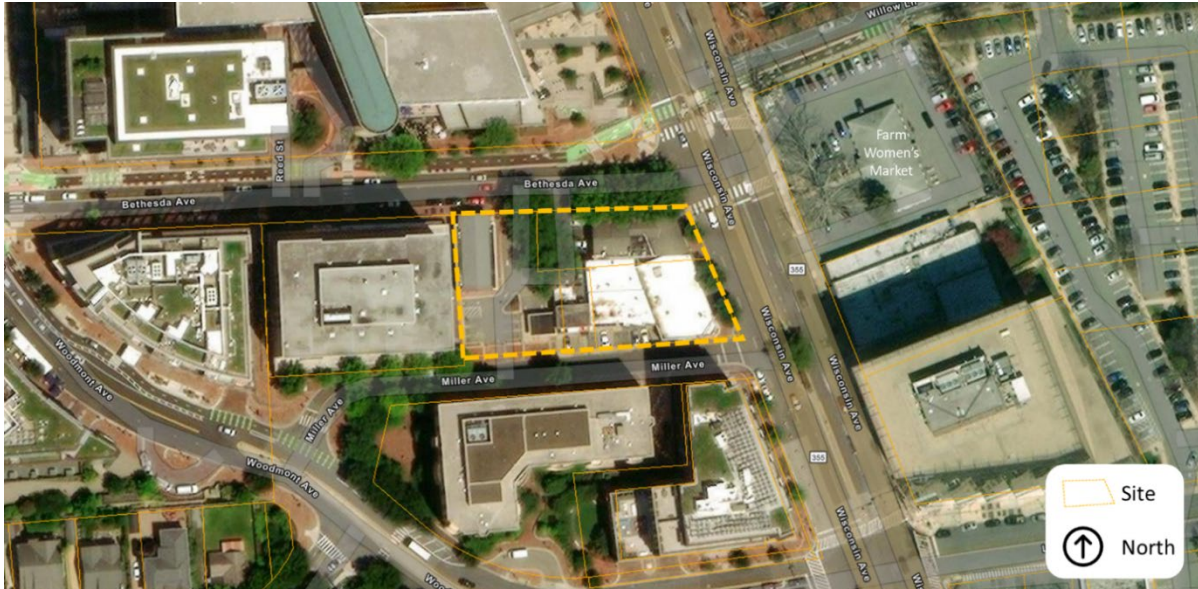


Figure 4 – Subject Property

As illustrated in Figure 4, existing development on the Property includes low-rise commercial buildings and surface parking. Existing uses on-site include a bank with drive-through service, shops, and restaurants. There are multiple existing curb cuts on Bethesda Avenue and Miller Avenue allowing vehicular access into the Property and through the bank portion of it. The Site also includes perpendicular parking spaces with direct access onto Miller Avenue within close proximity to its intersection with Wisconsin Avenue. An existing conditions image of the Site, as viewed from the Farm Women’s Market, is below in Figure 5.



Figure 5 – Existing Conditions Images

The Property is in the Little Falls Branch watershed, which is a Use I-P² watershed. The Site is not associated with any areas of forest, 100-year flood plains, or steep slopes. Street trees are found bordering the Site, most of which measure below 24” in diameter-at-breast-height (DBH); three street trees, two Willow Oaks and one American Elm, are considered significant trees as they measure above 24” but below 30” in DBH. Additionally, one specimen tree, a 45” White Mulberry tree, is located on the Subject Property, as shown in Figure 6. The soils associated with the Property are classified as urban land and are not considered highly erodible nor otherwise sensitive. There are no known rare, threatened, or endangered species on the Property.

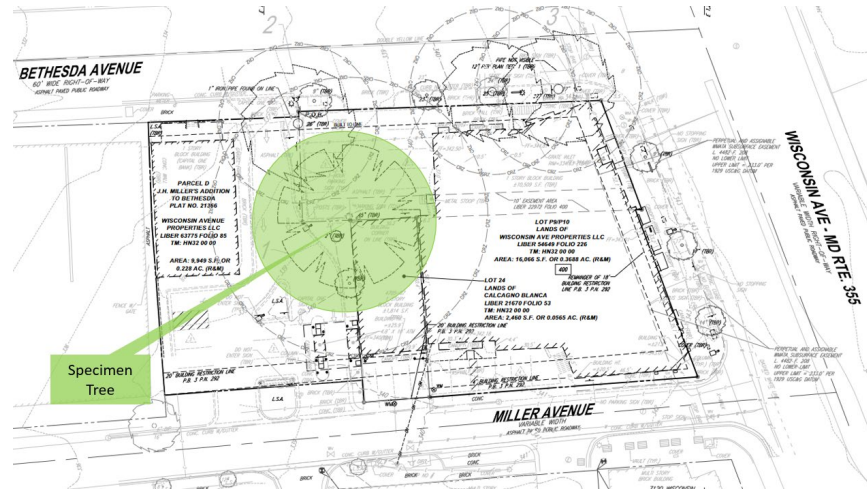


Figure 6 – Specimen Tree Location

The Bethesda Farm Women’s Cooperative Market, shown in Figure 7, is located across Wisconsin Avenue to the east of the Property and is identified as Historic Resource No. 35/014-001A in the Montgomery County Master Plan for Historic Preservation. As is discussed in the Project Description and Required Findings Sections of this report, this Proposal provides contributions toward the preservation and enhancement of the Market as envisioned by the Sector Plan.

² 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.



Figure 7 – Farm Women’s Collaborative Market, 1935 (Montgomery County Historical Society)

SECTION 4: PROJECT DESCRIPTION

PREVIOUS APPROVALS

On December 16, 2019, the Planning Board approved Sketch Plan No. 320190030 for Bethesda Market (MCPB No. 19-123), a mixed-use project of up to 650,305 total square feet on 6.32 acres encompassing the Bethesda Farm Women’s Market and multiple adjacent properties on the east and west side of Wisconsin Avenue, including the subject Site. Figure 8 shows an illustrative image of the Bethesda Market Sketch Plan. The subject Site encompasses the west side of the sketch plan area. The Sketch Plan anticipated the development program for the east and west sides of Wisconsin Avenue would be pursued under separate Preliminary and Site Plans.



Figure 8–Bethesda Market Sketch Plan Illustrative looking southwest

PROPOSAL

Cumulatively, the Applications propose the redevelopment of the Property with a mixed-use building with a maximum height of 225 feet along Wisconsin Avenue, stepping down to 200 feet towards Woodmont Avenue. The proposal includes up to 330 multifamily residential units, of which up to 130 units may be converted to short-term rental units, with 15 percent of the total units (50 units) to be Moderately Priced Dwelling Units (MPDUs) for up to 403,513 square feet of residential density. A minimum commercial area of 11,487 square feet is also provided, for a total Project density of up to 415,000 square feet. This Project expands and implements the West Side portion of the Bethesda Market Sketch Plan (320190030).

Sketch Plan No. 32019003A adds the 4708 Bethesda Avenue property to the development program for Bethesda Market, as illustrated in Figure 9. This expands the scale and limits of the approved concept and allows for a larger redevelopment on the West Side of the Sketch Plan area. The Sketch Plan Amendment does not change the previously approved redevelopment concept for its East Side, including preservation of the Farm Women’s Market, conversion of public parking lots into parks and redevelopment of adjacent buildings. The East Side of the Sketch Plan will be pursued under separate, future preliminary and site plan applications.

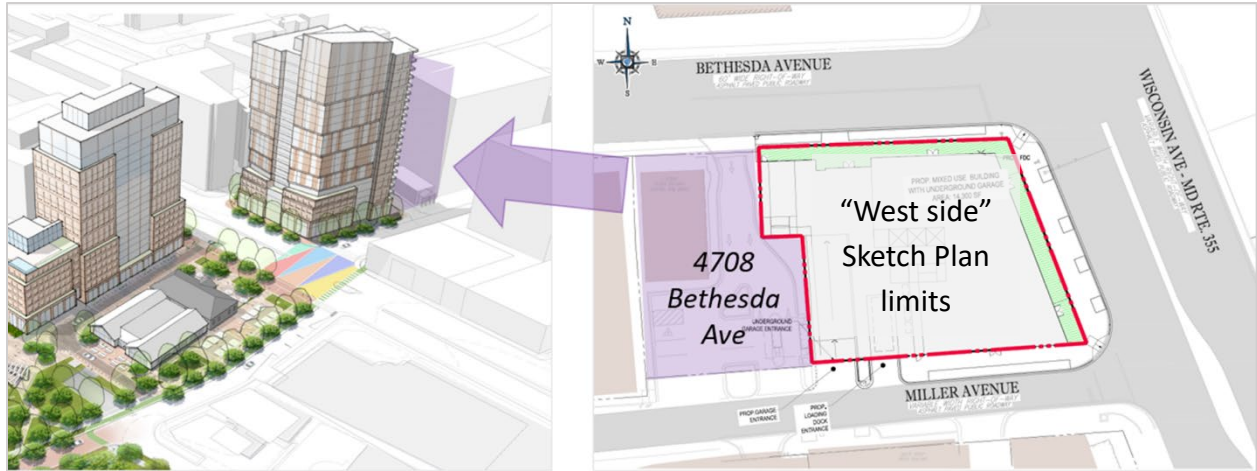


Figure 9–Sketch Plan Amendment – Addition of 4708 Bethesda Avenue

Preliminary Plan No. 120230020 proposes to consolidate three existing lots and one parcel into one lot for up to 415,000 square feet of total density, inclusive of up to 330 multifamily residential units and a minimum of 11,487 square feet of commercial uses.

Site Plan No. 820230020 proposes the development of a 225-foot tall building along Wisconsin Avenue, stepping down to 200 feet, with up to 415,000 square feet of mixed-uses comprised of a maximum of 403,513 square feet of residential uses for a maximum of 330 units, of which up to 130 units may be converted to short-term rental units, with 15 percent MPDUs, and a minimum of 11,487 square feet of commercial uses, with up to 277,165 square feet of Bethesda Overlay Zone (BOZ) density and associated PIP payment. An illustrative site plan is shown in Figure 10.



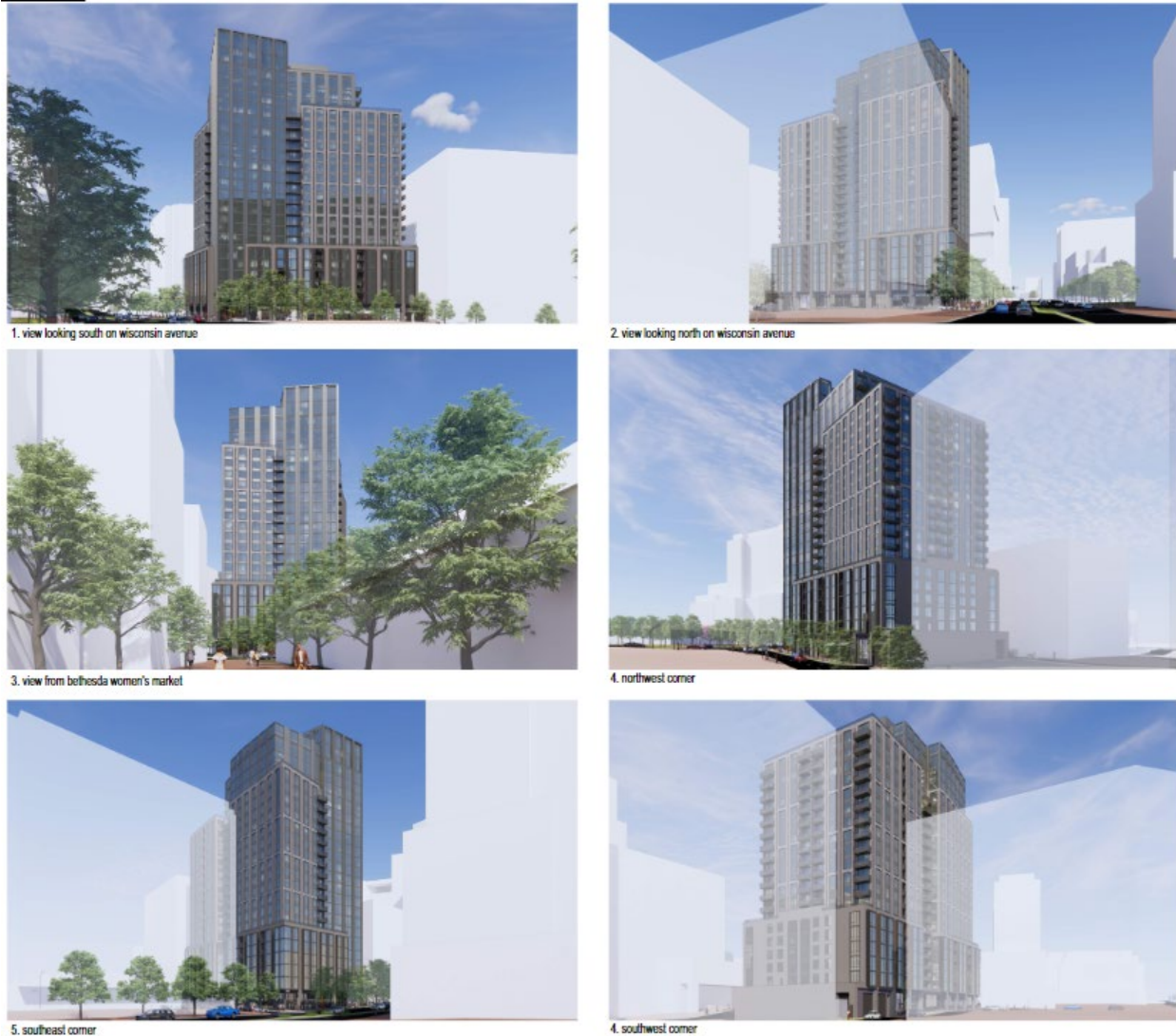
Figure 10 – Illustrative Site Plan

BUILDING/ARCHITECTURE

The Project proposes a single building to occupy the majority of the Site with a maximum height of 225-feet. The height of the building steps down to 200-feet as it moves away from Wisconsin Avenue. The Property shares its western lot line with a 15-story residential building (Seasons Apartments) with ground-floor retail uses, and the western façade of the proposed building includes multiple step backs, starting at the second floor, to provide sufficient space between the existing and proposed buildings. The proposed building will have frontage on Bethesda Avenue, Wisconsin Avenue, and Miller Avenue. Internal loading is accessed from Miller Avenue and a subsurface parking garage is accessed from Bethesda Avenue.

As illustrated in Figure 11, the building’s massing is well proportioned and utilizes classic rectilinear forms that pull up vertically from a six-level base. The tower rises to its maximum height at its northeast corner, where it will be highly visible along Wisconsin Avenue and from the Farm Women’s Market and its future civic green. In addition to its shape and form, elements such as residential balconies, step backs, changes in material and glazing, and strong banding throughout contribute to the creation of a unique building that celebrates its prominent location and is in harmony with the changing character of the neighborhood around it. The building’s design meets many of the goals for development in the Wisconsin Avenue Corridor and Bethesda Row District of the 2017 *Bethesda*

Downtown Sector Plan and associated Design Guidelines as is discussed in the Site Plan findings below.



Figures 11 – Proposed Building

OPEN SPACE

In accordance with Section 59.4.5.4.B.1 of the Zoning Ordinance, the Project is required to provide a minimum of ten percent (10%) of the Site area (2,623 square feet) as public open space. The Project provides 11.7 percent of the Site area (3,069 square feet) as public open space. The proposal wraps most of this space along the building's Bethesda Avenue and Wisconsin Avenue frontages, shown in Figure 12, which allows for the inclusion of wider sidewalks, landscaping and associated frontage elements envisioned by the Sector Plan. It also provides space at the Site's northeast corner for a plaza with seating located directly outside of the main commercial entrance to the building. A visual art piece celebrating women's history in the County will be installed in the plaza.

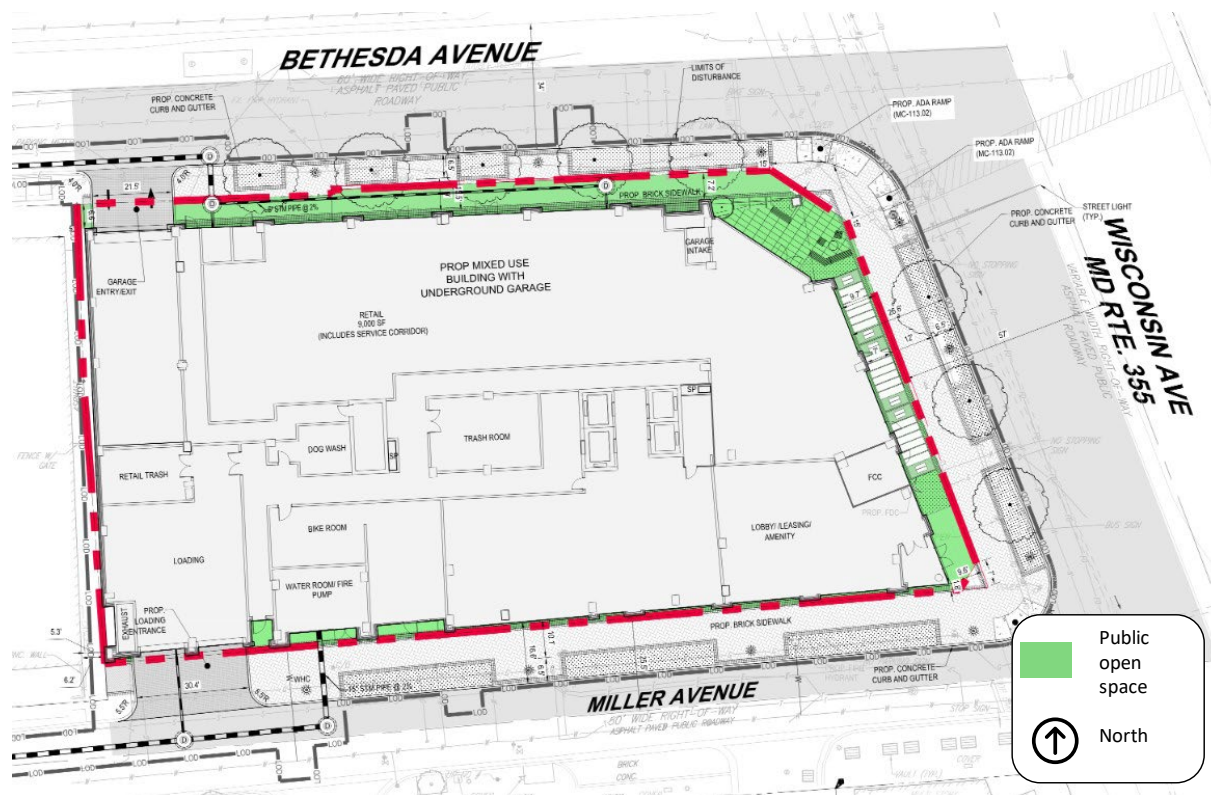


Figure 12 – Public Open Space Exhibit

TRANSPORTATION

Pedestrian access will be significantly improved along the Site’s three frontages on Bethesda, Wisconsin, and Miller Avenues. Currently the sidewalk on Bethesda Avenue, shown in Figure 13, varies in width between three-and-one-half feet and four-and-one-half feet, which does not comply with the minimum sidewalk widths in the *Bethesda Downtown Sector Plan*. The existing sidewalks on Wisconsin Avenue, shown in Figure 14, are wider, but less than the current standard. Miller Avenue can be uncomfortable for walking due to multiple existing driveway curb cuts and the presence of perpendicular parking spaces along much of the Site’s street frontage, as illustrated in Figure 15.

The Subject Application will widen the sidewalks to a minimum of nine feet (9 ft) of clear width on Bethesda and Miller Avenues and a minimum of twelve feet (12 ft) on Wisconsin Avenue. Six-and-one-half foot wide buffers between streets and sidewalks are proposed along the Site’s three frontages and will accommodate street trees and furniture such as benches and short-term bicycle parking. Buffer plantings along Miller Avenue are limited to shrubs and ornamental plantings as the presence of existing underground utilities in the planting area precludes installation of trees.



Figure 13 – Existing sidewalks on Bethesda Avenue



Figure 14 – Existing sidewalks on Wisconsin Avenue



Figure 15 – Existing sidewalks on Miller Avenue

Bicycles are expected to access the Site from either Bethesda Avenue or Miller Avenue. Recently MCDOT completed construction of the two-way separated bike lanes on the north side of Bethesda Avenue as part of the Capital Crescent Surface Trail (the alternative to the forthcoming tunnel under Wisconsin Avenue). Bicyclists can enter the residential lobby on Bethesda Avenue or enter a secure bicycle storage room with a push-button door access on Miller Avenue. No other designated bicycle facilities are envisioned on Wisconsin Avenue or Miller Avenue.

As illustrated in Figure 16, vehicular access will be provided from Bethesda Avenue, at the northwest corner of Site. Loading and trash collection activity will occur on Miller Avenue. The Project will provide two (2) loading bays. As conditioned, the proposed development will be subject to a loading management plan that will increase safety for pedestrians, bicyclists, and other motorists on Miller Avenue.

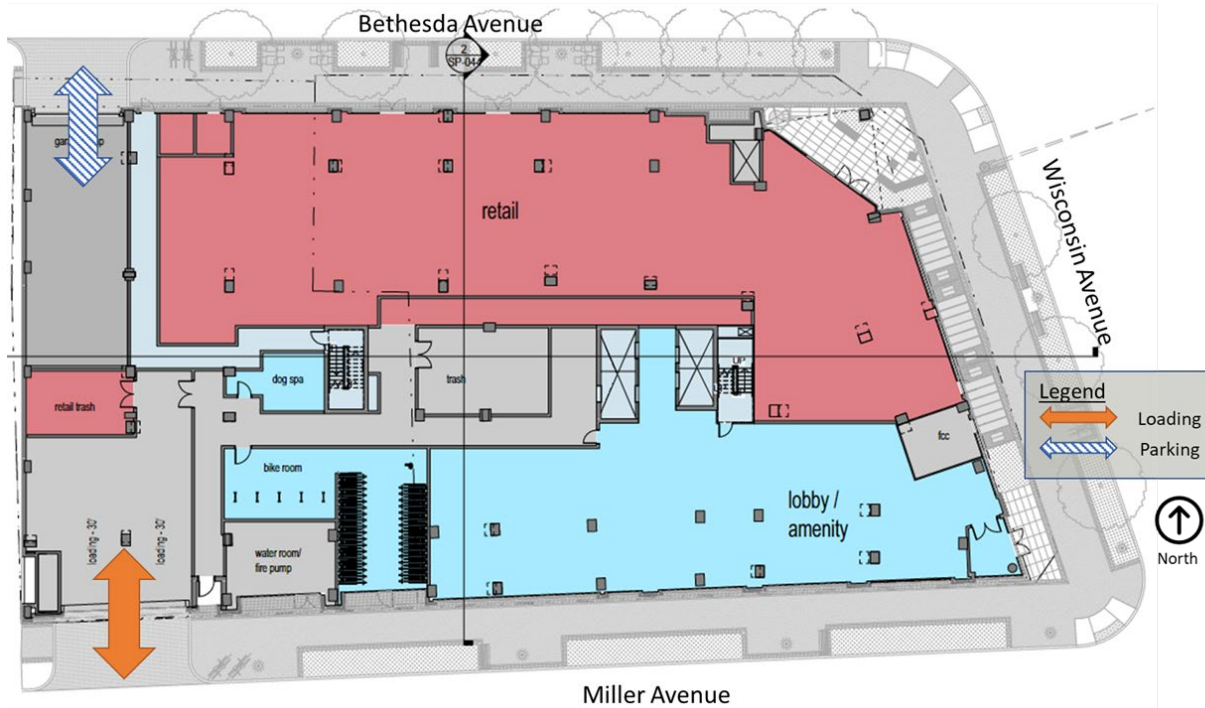


Figure 16 – Ground-Level Access and Circulation

All vehicular parking will be provided on-site within the subsurface parking garage. The Site is in the Bethesda Parking Lot District, which allows for provision of fewer than the minimum number of parking spaces otherwise required (or none at all)³. The Applicant proposes providing 261 spaces which results in a parking ratio of approximately 0.8 spaces per residential unit. This approach to on-site parking aligns with the 2017 *Bethesda Downtown Sector Plan* recommendation for reducing parking within the Sector Plan area.

The Project will provide the required 106 total bicycle parking spaces on-site, with 100 bicycle parking spaces for the residential use (95 long-term and 5 short-term spaces) and 6 spaces for the retail uses (all short-term). The long-term spaces will be divided among two secure bike rooms in the building: one located on the ground floor and the other on P1 of the parking garage. The short-term bicycle parking spaces will be located on the north and east sides of the Site, which are likely to experience the highest levels of short-term bicycle parking demand activity given the proximity to the separated bike lane on the north side of Bethesda Avenue and proximity to neighboring retail opportunities and additional retail space associated with the proposed building.

³ Section 59-6.2.3.H.1.a In a Parking Lot District, an applicant may provide fewer parking spaces than required, after all adjustments are made under Section 6.2.3.I, if the parking lot tax payment is made under Chapter 60. The County Council has established this tax rate as \$0 in recent years, but should this amount be changed in the future, the Applicant could be subject to the payments.

ENVIRONMENT

Green Cover

The 2017 *Bethesda Downtown Sector Plan* requires new developments in downtown Bethesda to provide a minimum of 35 percent green coverage. The green cover may include intensive green roof (6 inches or deeper), tree canopy coverage, or a combination thereof. The Application has a Site Area of 26,234 square feet which results in a minimum green cover requirement of 9,182 square feet. As illustrated in Figure 17, the Applicant proposes to meet this requirement by providing 9,187 square feet of green cover through a combination of planted bioretention areas and intensive green roofs located on various terraces and at the penthouse and rooftop levels of the proposed building.

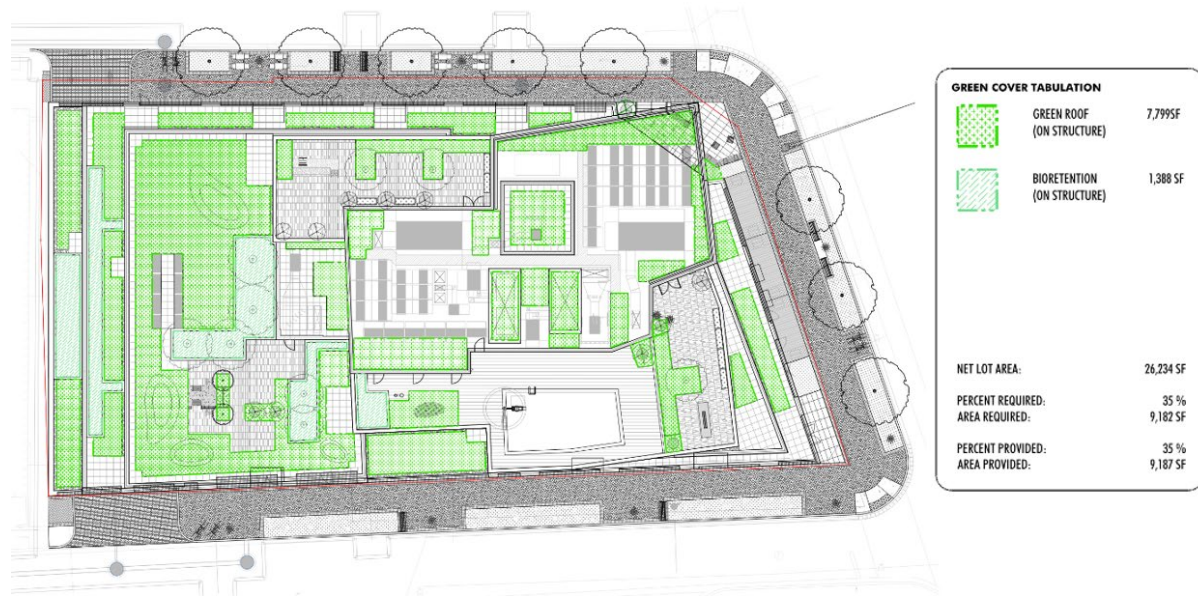


Figure 17 – Green Cover

Bird-Safe Design

The Sector Plan also includes guidelines for integrating bird-safe design features in building proposals to protect local and migratory birds from collisions. This Project incorporates architectural features such as recessed balconies at lower levels and projected balconies at higher levels and interior window treatments that will help to minimize reflectivity of building glazing, which is associated with bird strikes. Staff is supportive of the inclusion of these design elements as they are in-line with the recommendations of the Sector Plan.

Noise

The Proposal locates residential units adjacent to an arterial roadway, Wisconsin Avenue, and is therefore subject to the noise regulations associated with residential development. The acoustical analysis included with the Applications shows that the north and west building elevations will be

exposed to noise levels greater than 65 dBA Ldn; additionally, south and east elevations will be exposed to future noise levels above 45 dBA Ldn. According to Montgomery County's noise regulations for residential development, residential sites and buildings impacted by noise levels above 65 dBA Ldn require further analysis to determine the necessary mitigation measures to maintain noise levels in interior living spaces below 45 dBA Ldn. The acoustical analysis notes that 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; a preliminary recommendation as to the specification of these features are detailed in the submitted noise analysis.

The impacted units, which will be identified on the Certified Site Plan, will require further analysis to determine whether the proposed building architecture will be capable of maintaining interior noise levels below 45 dBA Ldn. 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. Subject to conditions included in this report, the Applicant can meet the interior noise specifications.

SECTION 5: COMMUNITY OUTREACH

The Applicant held a pre-submittal public meeting on June 1, 2022 related to the Sketch Plan Amendment, Preliminary and Site Plans. Two application notice letters were mailed to applicable parties on November 7, 2022 and May 11, 2023. Development application signage was posted and maintained on the Site prior to and during the review of the applications. In addition to the required public meeting and noticing, the Applicant conducted additional outreach consisting of:

- Multiple informal meetings with citizens groups
- Public meetings September 10, 2021 and May 6, 2022 with the Bethesda Implementation Advisory Meeting

Correspondence was received on September 11 and 12, 2023 from residents of the Crescent Condominium building, which confronts the Subject Site to the south, across Miller Avenue. (Attachment N) The correspondence expressed concerns with potential traffic and privacy impacts, as well as the overall scale and proximity of the proposed building to their own building. Staff responded to these concerns by email, and through a presentation slide and discussion at the Planning Board's September 14, 2023 public hearing. No additional correspondence has since been received from residents of the Crescent Condominiums.

A request for reconsideration was filed on October 10, 2023, on behalf of The Seasons, which is the residential building to the west of the Site, as they did not receive proper notification of the subject Applications (Attachment O). On October 11, 2023, the Applicant submitted a letter concurring there was a notification error and supported The Seasons's request for reconsideration. (Attachment P). The Planning Board granted the request for reconsideration at its public meeting on October 12, 2023.

The Seasons is the only property sharing a lot line with the Subject Site. They expressed concerns with the proximity of the proposed building to the lower levels of their existing building. In response, the Applicant worked with representatives of the Seasons to create a wider, and consistent, ten-foot step back in floors two through six of the proposed building’s western façade, facing the Seasons. In a letter dated February 21, 2024, the Seasons said they appreciate and agree with this ten-foot step back and associated architectural modifications.

SECTION 6: SKETCH PLAN NO. 32019003A FINDINGS AND ANALYSIS

The Planning Board approved Sketch Plan No. 320190030 for the Bethesda Market development, which encompasses properties on the east and west sides of Wisconsin Avenue, proximate the Bethesda Farm Women’s Market.

This Sketch Plan Amendment 32019003A proposes to amend the original plan to add the property at 4708 Bethesda Avenue to the “West Side” of the Bethesda Market plan. This Amendment correspondingly increases the density and scope of development for the Project. It does not alter the intent, objectives or requirements in the originally approved Sketch Plan and all previous findings and conditions of approval remain in effect, except as modified herein.

1) Meet the objectives, general requirements, and standards of this Chapter;

The Amendment captures the increase in total project area and associated resulting increase in the scale of the proposal that result from the addition of 4708 Bethesda Avenue into the development program. The Amendment continues to conform with this requirement.

Table 1: 7126 Wisconsin Avenue Sketch Plan Data Table for CR Zone, Optional Method, Section 59.4.5.4

Development Standard	Permitted/ Required	Approved with 320190030	Proposed with 32019003A
Tract Area			
East Side Properties		243,494 sf (5.59 ac)	243,494 sf (5.59 ac)
West Side Properties		31,874 sf (0.73 ac)	45,945 sf (1.05 ac)
Total Gross Tract Area	n/a	275,368 sf (6.32 ac)	289,439 sf (6.64 ac)
East Side Prior Dedication		63,767 sf (1.46 ac)	63,767 sf (1.46 ac)
East Side Proposed Dedication		0	0
West Side Prior Dedication		13,348 sf (3.06 ac)	17,470 sf (0.40 ac)
West Side Proposed Dedication		1,907 sf (0.044 ac)	2,241 sf (0.048 ac)
Site Area			
East Side Properties		179,727 sf (4.13 ac)	179,727 sf (4.13 ac)

West Side Properties		16,619 sf (0.38 ac)	26,234 sf (0.60 ac)
Total Site Area	n/a	196,346 sf (4.51 ac)	205,961 sf (4.73 ac)
Density (GFA/FAR)			
East Side Properties			
Blended Total Mapped Density ¹	350,350 sf (1.44 FAR)	350,350 sf (1.44 FAR) ²	350,350 sf (1.44 FAR) ²
Bethesda Overlay Zone Density		12,455 sf (FAR) ³	12,455 sf (FAR) ³
Total Density		362,805 sf (1.49 FAR)	362,805 sf (1.49 FAR)
West Side Properties			
CR-3.0, C-3.0 R-2.75 mapped	137,835 sf (3.0 FAR)	95,622 sf (3.0 FAR)	137,835 sf (3.0 FAR)
Bethesda Overlay Zone Density		191,878 sf (6.0 FAR)	277,165 sf (6.0 FAR)
Total Density		287,500 sf (9.0 FAR)	415,000 sf (9.0 FAR)
TOTAL DENSITY (EAST & WEST SIDES)		650,305 sf (2.36 FAR)	777,805 sf (2.69FAR)
Building Height (feet)			
East Side Properties			
CR-3.0, C-3.0, R-2.75, H-35	35	35	35
CR-3.0, C-3.0, R-2.75, H-175	175	175	175
CR-3.0, C-3.0, R-2.75, H-90	90	90	90
CR-0.5, C-0.25, R-0.5, H-70	70	70	70
West Side Properties			
CR-3.0, C-3.0, R-2.75, H-225	225	225	225
CR-3.0, C-3.0, R-2.75, H-200	200	200	200
Public Open Space (% min)	10%	10%	10%

¹ For Blended Total Density Table for East Side Properties, see density table in Attachment B.

²The total mapped density of 350,350 square feet excludes 4,195 square feet of existing density to remain for the Historic Farm Women’s Cooperative Market building, in accordance with the Zoning Ordinance, Section 59.4.5.4.B.2.C.

³The East Side Project may increase BOZ density up to 21,991 square feet, consistent with Sketch Plan Condition No.1. The project density will exceed the Mapped Density. However, a Park Impact Payment will not be required for the East Side Properties/Project because the MPDUs are in excess of the requested Bethesda Overlay Zone (Section 59.4.9.2.C.3.c.i.). The Preferred Development option will provide 15% MPDUs, final number of dwelling units will be determined at the time of Site Plan.

a) Implement the recommendations of applicable master plans (59.4.5.1.A)

The Amendment enhances the Proposal’s ability to implement the recommendations of the Sector Plan in accordance with the Planning Board’s previous finding by adding additional area to the scope of the West Side development program. The approved West Side development program included three of four existing, underutilized properties situated in-between Wisconsin Avenue and 4710

Bethesda Avenue (Seasons Apartment building). These properties are the last remaining on the block that have yet to redevelop.

This Amendment adds 4708 Bethesda Avenue, the fourth, and final remaining property on this portion of the block, into the Sketch Plan area. This addition allows for a singular redevelopment of all four existing properties, which are all currently home to low-rise, single-use buildings. This was not contemplated with the original Sketch Plan approval and will result in a higher-quality redevelopment of the Site's prominent location in the core of downtown, in-line with Sector Plan's recommendations for the Bethesda Row District and Wisconsin Avenue Corridor.

b) Target opportunities for redevelopment of single-use commercial areas and surface parking lots with a mix of uses.

This Amendment does not alter the Planning Board's previous finding of conformance with this requirement. The existing site includes low-rise, single-use commercial buildings, surface parking, and a drive-through service use in the core of Bethesda that are proposed for redevelopment with a high-rise, mixed use building.

c) Encourage development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities, where parking is prohibited between the building and the street.

The Amendment does not alter the Board's previous finding of conformance with this requirement. The proposal provides for new multi-family residential housing to include a mix of unit types and 15 percent MPDUs, as well as for up to 130 units to be utilized for short-term rentals. This will offer new housing opportunities for a range of incomes proximate to numerous transit options in downtown Bethesda. The project will also accommodate ground floor commercial uses, several Live/Work Units, and expand the pedestrian realm on its three street frontages. Parking is accommodated in a subsurface garage under the building. The Proposal also removes existing perpendicular parking spaces that are located in between existing buildings and Miller Avenue.

d) Allows a flexible mix of uses, densities, and building heights appropriate to various settings to ensure compatible relationships with adjoining neighborhoods.

The proposed Amendment does not alter the Board's previous finding of conformance with this requirement. It provides for residential and commercial uses in a building with the height, density and unique architectural character envisioned by the Sector Plan for this location within Downtown Bethesda.

e) Integrate an appropriate balance of employment and housing opportunities.

The proposed Amendment does not alter the Board's previous finding of conformance with this requirement. The Amendment provides for a mixed-use project with multi-family residential units,

some of which may be used for short-term rental purposes, and commercial uses. This is an appropriate mix of employment and housing opportunities.

f) Standardize optional method development by establishing minimum requirements for the provision of public benefits that will support and accommodate density above the standard method limit.

The Project will provide the required 100 public benefit points from a minimum of four categories to achieve the desired incentive density above the standard method limit. Final determination of public benefit points will be determined at the time of Site Plan.

2) Substantially conforms to the recommendations of the applicable master plan:

As discussed in Finding 1.a. above, the Amendment does not alter the Planning Board's previous finding of conformance with these criteria.

3) Satisfy any development plan or schematic development plan in effect on October 29, 2014;

The Sketch Plan is not subject to a development plan or schematic development plan.

4) Achieve compatible internal and external relationships between existing and pending nearby development;

The proposed Amendment does not alter the Planning Board's previous finding of conformance with this requirement. The amended building and site design remain compatible with existing and pending nearby developments.

5) Provides satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading;

All vehicular parking and loading are internal to the proposed building as was previously approved. The Amendment locates loading access at the southwest corner of the Site from Miller Avenue and locates parking garage access at the Site's northwest corner from Bethesda Avenue. This vehicular access arrangement is an improvement over the previously approved concept and made possible by the addition of 4708 Bethesda Avenue into the development program. Pedestrian and bicyclist access and circulation around the Site will be enhanced through the improvement of sidewalks and streetscapes on Miller, Bethesda, and Wisconsin Avenues. A combination of long and short-term bicycle parking spaces is provided. As such, the Amendment provides satisfactory vehicular, pedestrian and bicyclist access, circulation, parking, and loading.

6) Propose an outline of public benefits that supports the requested incentive density and is appropriate for the specific community;

This Sketch Plan Amendment proposes minor modifications to the public benefits schedule previously approved in concept by the Planning Board. The original Sketch Plan approval included

separate conceptual public benefit outlines for the West Side and East Side portions of the Bethesda Market plan. The Amendment is focused on the outline of public benefits for the West Side development program only. It retains the public benefit categories previously approved in concept by the Planning Board. It does propose modifications to public benefit subcategories and potential number of points requested. Within each point category, the key changes proposed by this Amendment are:

- **Connectivity and Mobility** – fewer points sought for Minimum Parking.
- **Diversity of Uses and Activities** – no changes.
- **Quality Building and Site Design** – increases points for Exceptional Design, reduces points for Tower Step-Back, removes all points for Architectural Elevations, and adds the Historic Resource Protection subcategory and associated points request.
- **Protection and Enhancement of the Natural Environment** – increases BLTs, removes Cool Roof points request.

The following Table 2 shows the categories and points for the public benefits previously approved in concept with the original Sketch Plan, and as requested with this Sketch Plan Amendment for the West Side portion of the development only. The Amendment still provides for greater than the 100 points required in the four categories previously approved. Staff supports the requested amendments to the Sketch Plan outline of public benefit categories and the expected points associated with each benefit. The public benefits program for the East Side of the Sketch Plan area will be evaluated in separate, future site plan applications.

Section 8, Site Plan Findings of this report provides a detailed description of how the proposal fulfills requirements for the public benefit points requested for the West Side development. The final number of points is determined at the time of Site Plan.

Table 2: West Side Development Concept - Public Benefit Calculations- Division 59-4.7

Public Benefit	Maximum Points Allowed	Previously Approved in Concept	Proposed with Amendment A
Connectivity and Mobility			
Minimum Parking	20	10	6.8
Diversity of Uses and Activities			
Enhanced Accessibility	20	20	20
Quality Building and Site Design			
Architectural Elevations	30	20	0
Exceptional Design	30	10	20
Historic Resource Protection	20	0	10
Structured Parking	20	20	20
Tower Step-Back	20	10	5
Protection and Enhancement of the Natural Environment			
Building Lot Terminations (BLT)	30	5.8	8.4

Cool Roof	15	10	0
Energy Conservation and Generation	25	15	15
Total Points	Minimum of 100	120.8	105.2

- 7) Establish a feasible and appropriate provisional phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.**

All site elements for the West Side are proposed to be developed in a single phase and are the subject of the accompanying preliminary and site plan applications.

SECTION 7: PRELIMINARY PLAN NO. 120230020 FINDINGS AND ANALYSIS

The Preliminary Plan would create one (1) lot, measuring approximately 26,234 square feet or 0.6 acres of Site area, for a maximum density of up to 415,000 square feet, with up to 330 multifamily residential units and a minimum of 11,487 square feet of commercial uses. This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Application has 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, and orientation is appropriate for the proposed mixed-use building located in 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 pattern in the neighborhood in which the Site is located.

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

The size and dimensions of the lot are appropriate for the Project location and proposed mixed-use development. The Preliminary Plan requests reduced truncation at its corners adjacent to the intersections of Wisconsin/Bethesda Avenues and Wisconsin/Miller Avenues.

Section 50.4.3.E.2.f.iii of the Montgomery County Subdivision Regulations indicate that corner lots at an intersection must be truncated by straight lines joining points 25 feet back from the theoretical property line intersection in each quadrant for traffic operations and safety. For the Subject Property, this requires 25-foot truncation at its two eastern corners, adjacent to the intersections of Wisconsin /Bethesda Avenue and Wisconsin/Miller Avenue.

The Applicant is seeking approval from the Planning Board for reduced truncation at both of these corners of the Site. A 15-foot truncation is proposed at the intersection of Wisconsin/Bethesda Avenue and a seven-foot (7 ft) truncation is proposed at the intersection of Wisconsin/Miller Avenues.

These truncations are located at building entrance points on each corner and are designed to be open, accessible, and free of obstructions. They are the largest truncations that can be provided while maintaining enough building area to create a functional underground parking garage and associated ramping. Under the existing conditions on the Site, there are no truncations at either intersection. MCDOT, SHA and Planning staff determined that there is adequate sight distance for each respective movement. As proposed, the pedestrian space at these corners is significantly increased from the current conditions and the proposed improvements satisfy the increased right-of-way width and building setbacks required by the Bethesda Overlay Zone. Specifically, in following the Bethesda Downtown Sector Plan Design Guidelines, the proposed building is set back an additional nine feet (9 ft) from the right-of-way, creating approximately 26 feet of space between the curb and building, where previously only 16 feet was provided. This is a 62 percent increase of building separation from the face of curb than what exists today. The added space between the building and road, along with the requested reduced truncations at the corners, allow for a functional streetscape environment to be created, with a planting/furnishing zone, pedestrian through zone, and frontage zone, in accordance with the Design Guidelines. With the truncations as proposed, there is adequate room along the Site frontage to locate and install necessary traffic control measures, right-of-way signage, and associated appurtenances.

The proposed building location, set back further from roadways than existing conditions, and manner in which the building's lower levels will frame the public realm and streetscape, will enhance vehicular and pedestrian visibility at its two adjacent intersections such that reduced truncation still allows for enhanced traffic operations and safety. Sight distance evaluations were reviewed by MCDOT, which approved the proposed distances with the reduced truncation. Staff supports the Applicant's request for reduced truncation at the corners of the Site adjacent to the intersections of Wisconsin/Bethesda Avenues and Wisconsin/Miller Avenues, in accordance with Section 50.4.3.E.2.f.iii of the Subdivision Regulations.

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

Master Planned Sites

The 2017 *Bethesda Downtown Sector Plan* does not recommend specific public sites or open areas to be provided at this Site. However, the Sector Plan does include recommendations for the overall

development density and building height to be increased on the Site “to provide flexible development opportunities and allow future development to better adapt to market conditions.” This recommendation applies to the entire Site, which spans two of the Sector Plan’s nine Downtown districts. The western portion of the Site is within the Bethesda Row District and is identified as Map #163 on page 107 of the Sector Plan. The eastern portion of the Site is within the Wisconsin Avenue Corridor and is identified as Map #107 on page 99 of the Sector Plan. For the area included in Map #107, the Sector Plan stipulates an increase in the allowable building height to 225 feet can be achieved “if the property develops in a manner that benefits the Farm Women’s Cooperative Market to the east”.

To merit the maximum height, the Applicant has contributed \$1 million to the Farm Women’s Market owners and will also:

- Provide a visual art piece celebrating the theme of Women’s history and women’s contributions to agriculture in Montgomery County, adjacent to the visually prominent intersection of Wisconsin and Bethesda Avenues, at the Site’s northeast corner; and
- Fund a study and application for listing of the Farm Women’s Cooperative Market on the National Register of Historic Places.

Local Recreation

ii.

The Preliminary Plan does not include dedication of land for public recreation purposes. The accompanying Site Plan 820230020, proposes private, on-site recreational facilities for future residents of the development, which includes an outdoor rooftop amenity area with a pool.

iii.

Transportation and Utilities

Utilities are to be undergrounded along the Site’s three frontages on Bethesda Avenue, Miller Avenue, and Wisconsin Avenue.

There are no master-planned transportation improvements associated with the Site.

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

As discussed in Section 7 Site Plan Findings and Analysis, Table 7, the Site Plan data table for the CR Zone Optional Method of development, the Proposal will comply with the development standards for the CR Zone Optional Method. 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 mix of uses proposed for the Site.

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

a) Land Use

The Preliminary Plan substantially conforms with the 2017 *Bethesda Downtown Sector Plan*. The Property spans two Downtown districts. The eastern portion of the Property is designated as Map #107 within the Wisconsin Avenue Corridor (page 99 of the Sector Plan), and western portion of the Site is designated as Map #163 within the Bethesda Row District (page 107 of the Sector Plan). The Wisconsin Avenue Corridor and Bethesda Row District are two of the Downtown's established centers. Wisconsin Avenue is the main artery through the center of Downtown, where the Sector Plan focuses on innovative building design, invigorating streetscapes and creating more public spaces in targeted locations. The Bethesda Row District is the "heart" of Downtown and is home to a bustling retail district with an active streetscape environment. Sector Plan goals for the Bethesda Row District focus on preserving the neighborhood's human-scale and mixed-use character and creating better connections between it and the new southern entrance to the Bethesda Metro Station, with future access to the Purple Line, being constructed one block to the north.

The character of the Project is consistent with the Sector Plan's recommendations regarding the scope and scale of development desired for this location. The Proposal conforms with the applicable goals of the Sector Plan for the Wisconsin Avenue Corridor and Bethesda Row District as follows:

Wisconsin Avenue Corridor

- i. Encourage infill and reinvestment on underutilized commercial sites and private surface parking lots.*

The Proposal will replace multiple low-density commercial buildings and private surface parking with the tall, high-density, mixed-use building envisioned by the Sector Plan.

- ii. Encourage mixed income/affordable housing near transit stations.*

The Proposal will include up to 330 new multi-family residential units, including a mix of one, two and three-bedroom units, where none currently exist. Of the total units, 15 percent will be MPDUs, and up to 130 units may be utilized as short-term rental units. The development will be within walking distance of the Bethesda Metrorail Station, multiple bus stops, and future Purple Line Station.

- iii. Provide zoning recommendations that allow signature tall buildings at major civic spaces in the established centers.*

The eastern portion of the Property is designated as Map #107 within the Wisconsin Avenue Corridor (page 99 of the Sector Plan), and its western portion is designated as Map #163 within the Bethesda Row District (page 107 of the Sector Plan). The Sector Plan allows for a building height of up to 225 feet for Map #107 if the property redevelops in a manner that benefits the Farm Women's Cooperative Market to the east. The Sector Plan recommends a building height of up to 200 feet for Map #163.

The Project proposes a building that steps down from its maximum height of 225 feet tall along the Wisconsin Avenue Corridor, to 200 feet where the Property transitions to the Bethesda Row District, in conformance with the Sector Plan's recommendations. To achieve the maximum building height of

225 feet for the portion of the Site on Map #107, the Project includes benefits for the Farm Women's Cooperative Market. The two proposed benefits outlined below are in addition to prior contributions the Applicant has noted making toward the Market's preservation and advancement of the Bethesda Market Sketch Plan:

- Provision of a visual art piece celebrating the theme of Women's history and women's contributions to agriculture in Montgomery County, adjacent to the visually prominent intersection of Wisconsin and Bethesda Avenues, at the Site's northeast corner. This location confronts the Market with a crosswalk linking the properties across Wisconsin Avenue. The inclusion of the art piece will help draw additional attention to the Market and its associated history.
- Funding of a study and application for listing of the Farm Women's Cooperative Market on the National Register of Historic Places.

As a combined package, the proposed benefits for the Farm Women's Cooperative Market will help achieve the Sector Plan's vision for the Market site. Staff supports the Applicant's proposed contributions for the good of the Farm Women's Cooperative Market and request to achieve the maximum building height of 225 feet for portions of the development proposed within the Wisconsin Avenue Corridor.

- iv. Develop compact nodes that place the highest intensity in those centers, provide distinctive infill buildings and step down to lower densities and heights near the edges.*

The Project provides a distinctive infill building at the prominent intersection of Bethesda and Wisconsin Avenues. The proposed building reaches its maximum height at its northeast corner, adjacent to this intersection. Allowed building heights and densities generally increase on properties to the north and decrease on properties to the west and south. Accordingly, the proposed building steps down from a maximum 225-foot height along its eastern façade, to 200-feet on its western side.

- v. Encourage high-performance buildings and sites nearest the established centers.*

The Site is located in the High-Performance Area as shown on page 65 of the Sector Plan, which requires development proposals to exceed energy efficiency standards for the building type. As discussed in Section 7 Site Plan Findings and Analysis, the Proposal seeks to exceed energy efficiency standards for the building type by 17.5 percent.

- vi. Improve the pedestrian environment with upgraded streetscapes.*

The Proposal provides the appropriate space and layout for the inclusion of streetscape elements to the Bethesda Downtown Streetscape Standard. This will include wider sidewalks, plantings, street trees and furnishings.

- vii. Emphasize mixed land uses focused on employment and high density residential.*

The mix of uses proposed consists of high density residential and commercial uses.

- viii. *Create green, active, and walkable sidewalks that are designed to balance pedestrian and retail activity with vehicular and BRT traffic this major corridor.*

The Preliminary Plan allows for the implementation of streetscape improvements to the Bethesda Streetscape Standard on the Site's frontages on Bethesda, Miller, and Wisconsin Avenues. Public open space is concentrated along the Site's Wisconsin and Bethesda Avenue frontages, which allows for the creation of wider sidewalks and additional landscaping to further enhance the pedestrian realm. Ground level commercial uses will wrap the building's Wisconsin and Bethesda Avenue frontages, serving to extend the "main street shopping character" of the Bethesda Row District easterly to Wisconsin Avenue.

Vehicular access to the Site is consolidated from multiple existing access points on Bethesda and Miller Avenues to a single point on Bethesda Avenue. A separate access point for loading and service vehicles is located on Miller Avenue at the Site's southwest corner. An existing surface parking lot and perpendicular parking spaces located between buildings and Miller Avenue will be eliminated. The Proposal will reduce points of conflict between vehicles, pedestrians, and bicyclists. The Proposal provides required right-of-way dedications, including along the Site's Wisconsin Avenue frontage, to allow for adequate space for a future BRT line envisioned for the Corridor.

- ix. *Enhance the Farm Women's Cooperative Market as both a market and a public space connected to Bethesda Avenue and the Bethesda Row District.*

This Site serves as a bridge between the Wisconsin Avenue Corridor and Bethesda Row District. As is discussed in Preliminary Plan Finding 2.a.iii, and Finding 2.a.viii above, the Project has been designed with specific benefits for the Farm Women's Cooperative Market, and to provide an enhanced streetscape lined with activating uses along Bethesda and Wisconsin Avenues. A visual art installation, on-theme with the Farm Women's Market, is also to be provided at the visually prominent northeast corner of the Site, which confronts the Market. This art piece will create a visual and interpretative connection between a de facto eastern entrance to the Bethesda Row District at Bethesda Avenue and Farm Women's Market across Wisconsin Avenue. Improved sidewalks and streetscapes will enhance walkability in between the locations.

- x. *Design tall buildings along Wisconsin Avenue to have a human-scaled presence on the street, reduced uniformity, and compatibility with edge neighborhoods.*

As is discussed Section 7, Site Plan Findings and Analysis, the proposed building is designed with a maximum height of 225 feet proximate to Wisconsin Avenue on its east side and steps down in height to 200 feet on its western side. These heights are compatible with the allowable heights of surrounding properties. The base of the building and streetscape elements are designed to be comfortable and human-scaled, in-line with the *Bethesda Downtown Plan Design Guidelines*.

- xi. *Provide visual interest along the corridor by highlighting significant points with increased height.*

As discussed in Wisconsin Avenue Corridor Goals Findings iii and iv above, the proposed building is designed with increased height along the Corridor, reaching its apex adjacent to the intersection of Wisconsin and Bethesda Avenues. This emphasizes the location's significance as the touch point between the bustling Bethesda Row retail and social scene to the west and the Farm Women's Cooperative Market, whose planned enhancement will add new public parks, mixed-use development and opportunities across Wisconsin Avenue to the east.

- xii. Incentivize the provision of green space and affordable housing through increased height along Wisconsin Avenue.*

This proposal is incentivized, through 25 feet of additional building height along Wisconsin Avenue, to “develop in a manner that benefits the Farm Women's Cooperative Market”, as discussed in Finding 2.a.iii above. Additionally, the Proposal provides 9,187 square feet of green cover, 3,069 square feet of public open space, and 15 percent MPDUs where none currently exist.

Bethesda Row District

- i. Preserve the human-scale and mixed-use character of the neighborhood.*

This Proposal extends the pattern of mixed-use redevelopment the Bethesda Row District has experienced and pulls it easterly to the Wisconsin Avenue Corridor. The strong base design of the proposed building and enhancement of the surrounding frontage areas will create comfortable, human-scaled urban streetscapes.

- ii. Continue the main street shopping character along Bethesda Avenue consistent with recent development.*

Ground floor retail space is proposed along the building's Bethesda Avenue frontage and half of its Wisconsin Avenue frontage. This provides the opportunity for extension of the main street shopping character of Bethesda Avenue easterly to Wisconsin Avenue, consistent with recent development.

- iii. Improve bike facilities and connectivity throughout the district.*

As recommended by the Sector Plan and *Bicycle Master Plan*, the County recently installed a two-way separated bike lane on the north side of Bethesda Avenue, confronting the Site. There are no other master-planned recommended bicycle enhancements on or adjacent to the Site.

Regardless, the Proposal is supportive of biking and includes over 100 bicycle parking spaces, with multiple bicycle racks for short-term parking provided in streetscape areas and secured storage rooms provided internal to the building for residents' long-term bicycle parking. Additionally, the Proposal removes multiple existing driveways, a drive-through, and roadside perpendicular parking, all points of potential conflict between vehicles and bicyclists, from the Site, which improves safety and connectivity around it.

- iv. Maintain the district's human-scaled design and character in new developments.*

Expanding upon points noted in findings i and ii above, the Proposal maintains the District’s human-scaled design by including a building base designed to be proportional to surrounding developments, with ample fenestration, and lined with activating uses.

b) Environment

The Proposal provides environmental benefits in conformance with the Sector Plan. As is discussed in Section 8, Site Plan findings, the accompanying Site Plan proposal incorporates stormwater management, tree canopy, green cover, bird-safe design and high-performance energy principles into the site and building design per the *Bethesda Downtown Sector Plan* and associated Design Guidelines.

c) Transportation

The 2017 *Bethesda Downtown Sector Plan* recommends the following minimum right-of-way widths for the Sites three frontages:

- Bethesda Avenue: Downtown Street with minimum 60-foot right-of-way.
- Miller Avenue: Downtown Street with minimum 50-foot right-of-way.
- Wisconsin Avenue: Downtown Boulevard with minimum 114-foot right-of-way.

As recorded in Plats No. 21366 and No. 292, the existing right-of-way widths vary on all three frontages. The Preliminary Plan includes dedication of additional right-of-way area to provide for the minimum planned right-of-way widths on each of the Site’s three roadway frontages.

The 2018 *Bicycle Master Plan* envisioned a two-way separated bike lane along the north side of Bethesda Avenue. MCDOT completed construction of this bike lane and an associated protected intersection at Bethesda Avenue and Wisconsin Avenue in 2022. No additional bicycle facilities are recommended by the Sector Plan at or adjacent to the Site.

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

i.

a) Roads and other Transportation Facilities

Existing Facilities

The Site fronts on three public roadways: Bethesda, Wisconsin, and Miller Avenues. The design and condition of the roadways meet the minimum standards for MCDOT and MDOT SHA. The streetscape elements including the sidewalks and street buffers currently do not meet the minimum standards of the 2017 *Bethesda Downtown Streetscape Guidelines*. As conditioned and as shown on the Preliminary Plan and Site Plan design sheets, the Applicant will improve the sidewalks along all three frontages to comply with the 2017 *Bethesda Downtown Streetscape Guidelines*.

Proposed public transportation infrastructure

Pedestrian access will be significantly improved along the Site’s three frontages on Bethesda, Wisconsin, and Miller Avenues. Currently the sidewalk on Bethesda Avenue varies between three-and-one-half feet and four-and-one-half feet, which does not comply with the minimum sidewalk widths in the *Bethesda Downtown Sector Plan*. The Subject Application will widen the sidewalks to a minimum of nine feet of clear width on Bethesda and Miller Avenues and a minimum of 12 feet on Wisconsin Avenue. The tree-lined street buffers on all three frontages will be a minimum of six-and-one-half feet wide to accommodate street trees and furniture such as benches and short-term bicycle parking.

Proposed private transportation infrastructure

No private transportation infrastructure is proposed with this Application.

iii. **b) Local Area Transportation Review (LATR)**

This Application proposes replacing the existing drive-through bank and retail uses with 330 multi-family housing units. In accordance with the 2023 LATR Guidelines, the Site is estimated to generate an increase of 48 net new person trips in the morning peak hour and a decrease of 93 net new person trips in the evening peak hour. Note that the proposed retail is less than 15,000 gross square feet, less than 10 percent of the floor area ratio, and no parking spaces are reserved for the retail use. Therefore the proposed retail is determined to be ancillary, per the 2023 LATR Guidelines and its trips are not analyzed as part of the Adequate Public Facilities evaluation for the Site. A summary of the estimated trips to be generated by the Subject Application compared to those trips estimated to be generated by the existing uses on the Site is provided in Table 3.

Table 3: Estimated Trip Generation of Existing and Proposed Uses at 7126 Wisconsin Avenue

Land Use	Density	ITE Trip Gen. Rates		Adjusted Vehicle Rates		Person Trips	
		AM	PM	AM	PM	AM	PM
Existing							
Drive-thru Bank	2,160 SF	22	45	14	28	29	59
Retail	17,438	41	115	25	70	57	158
Subtotal		63	160	39	98	86	217
Proposed							
Muti-family	330	68	63	68	63	134	124
Net New		5	-97	29	-35	48	-93

Source: Transportation Exemption Statement, Wells & Associates (June 24, 2022) as modified by Staff

Therefore, as the Subject Application is estimated to generate fewer than 50 net new person trips in either the morning or evening peak hour, the Transportation Exemption Statement prepared by Wells & Associates, dated June 24, 2022, satisfies the LATR and no further transportation impact analysis is required on behalf of the Applicant.

c) Schools

The FY24 Annual School Test, approved by the Planning Board on June 22, 2023 and effective July 1, 2023 is applicable to this application. The 330 multifamily high-rise units proposed will be served by the Somerset Elementary School, Westland Middle School, and Bethesda-Chevy Chase High School. The FY24 Annual School Test results show student enrollment and capacity projections for these schools in Table 4.

Table 4: Applicable FY2023 School Adequacy.

School	Projected School Totals, 2027				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	Percent Utilization	Surplus/Deficit		Tier 1	Tier 2	Tier 3
Somerset ES	540	369	68.3%	+171	No UPP	256	279	360
Westland MS	1,073	862	80.3%	+211	No UPP	337	426	587
Bethesda-Chevy Chase HS	2,475	2,420	97.8%	+55	No UPP	235	550	922

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 shown in Table 5, the FY24 Annual School Test shows these schools do not require any UPP. If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

To calculate the number of students generated by the proposed plan, 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; with the subject Application providing a high-rise multifamily unit structure.

With a net of 330 multifamily high-rise units that are not age-restricted, the proposed project is estimated to generate the following number of students based on the subject property’s location within an Infill Impact Area:

Table 5. Estimated Student Enrollment Impacts.

Type of Unit	Net Numbe	ES Generatio	ES Students	MS Generatio	MS Students	HS Generatio	HS Students
SF	0	0.202	0.000	0.096	0.000	0.141	0.000
SF Attached	0	0.161	0.000	0.087	0.000	0.126	0.000
MF Low-rise	0	0.065	0.000	0.030	0.000	0.040	0.000

MF High-	330	0.039	12.870	0.016	5.280	0.018	5.940
TOTALS	330		12		5		5

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 estimated number of students generated does not exceed the adequacy ceilings identified for each school. Therefore, no additional UPPs are required, and neither are partial payments across multiple UPP tiers.

d) Other Public Facilities and Services

Other utilities, public facilities, and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Growth and Infrastructure Policy currently in effect.

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

a) Forest Conservation Plan/Exemption

The Property is subject to the requirements of Chapter 22A of the Montgomery County Code (the "Forest Conservation Law") in effect prior to the April 2023 update to the Forest Conservation Law as the Preliminary Plan and Site Plan, which the Forest Conservation Application is associated with, was accepted for review on November 22, 2022. A Natural Resources Inventory/ Forest Stand Delineation No. 420221760 ("NRI/FSD") was prepared for the Overall Property and approved by M-NCPPC on April 7, 2022. The NRI/FSD demonstrates that there is no forest on-site, the Property contains no protected soils, or rare/threatened/endangered species. One specimen tree (45" DBH White Mulberry Tree) in poor condition is located in the center of the Site.

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 Preliminary/Final Forest Conservation Plan No. 120230020/820230020 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 0.10 acres; in line with recent updates to the Montgomery County Forest Conservation Law and regulatory review policies, this Afforestation Requirement has been increased to 0.16 acres due to offsite mitigation associated with the proposed removal of the previously mentioned specimen tree. This is further discussed in the Chapter 22A variance provisions/findings below.

As conditioned by this report, all applicable requirements of Chapter 22A Forest Conservation Law will be satisfied.

b) Variance Findings

FOREST CONSERVATION VARIANCE



Figure 19- Variance Tree Photo

Table 6: Protected Trees to be Removed

TREE #	TYPE	DBH	Percent of CRZ Impacted by LOD	CONDITION	PROPOSED STATUS
1	White Mulberry	45"	99%	Poor	REMOVE

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, unwarranted hardship results from the location of the existing specimen tree with respect to the shape and size of the lot. The specimen tree is centrally located in the developable area of the Site. In order for this Site to provide development in line with the recommendations of the sector plan and in line with the zoning ordinance, impacts to the specimen tree are necessary. Retaining the tree onsite would greatly reduce the area buildable area available for the Applicant and still entail disturbance to the critical root zone of the tree; given the identified 'poor' condition of this tree, retention with high amounts of disturbance would not be in line with the goals of the Forest Conservation Law. Therefore, the Applicant has demonstrated a

sufficient unwarranted hardship to justify a variance request because they would be denied reasonable and significant use of the Property for a multifamily building with associated commercial uses.

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.

Variance Findings

To approve the Variance, the Planning Board must find that the Variance:

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

- i. Granting the variance will not confer a special privilege on the Applicant. The specimen tree proposed to be impacted by this work is located within a highly urbanized environment and is in poor condition. Critical root zone impacts are unavoidable in order to implement any work on the Site. Rather than limit the full scope of the project as described above, removal with mitigation would provide healthy canopy trees in place of a tree currently declining in health. The variance request would be granted to any applicant in a similar situation. Therefore, the granting of this variance is not a special privilege that would be denied to other applicants.

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

- iii. The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing Site conditions and necessary design requirements of this project.

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

- iv. The requested variance is a result of the existing conditions on the Property and the associated requirements of the proposed development; the request is not a result of land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Site is not located in the vicinity of a stream buffer, wetland, or special protection area. The entirety of the area proposed for redevelopment is presently developed with existing buildings and parking

infrastructure; the existing conditions are majority impervious areas with no existing stormwater management.

As part of this project, the Applicant will provide street tree plantings and vegetated buffers which serve to increase the amount of pervious surfaces as compared to the minimal landscaping currently found onsite. Additionally, atop the building the Applicant proposes green roof and bioretention planting areas. In aggregate, the proposal will improve water quality over the existing condition by providing increased water uptake via infiltration and evapotranspiration by the planted species. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision

There is one (1) Protected Tree proposed for removal in association with this Application. Onsite 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. The result of the proposed removal of one Protected Tree, for a total of 45" DBH removed, results in a mitigation requirement of 11 caliper inches of native canopy trees sized at least 3 caliper inches each. Although Staff policy requires that on-site mitigation planting is prioritized whenever possible, due to the highly restricted, urban setting of the Subject Property which would not provide an adequate setting for the planting and continued health of three (3) to four (4) mitigation trees within the property lines of the Site, offsite mitigation for the proposed removal is recommended. Using an offsite mitigation formula which considers the 11 caliper inches of mitigation requirement and an offsite mitigation rate of 100 two-inch trees per acre, the Applicant becomes responsible for an additional 0.06 acres of offsite afforestation requirement for a total of 0.16 acres of afforestation required for the Subject Application. Given that this requirement is below the 0.5-acre threshold, Staff supports the Applicant's request that this requirement be met offsite via forest mitigation bank or via fee-in-lieu.

Variance Recommendation

Staff recommends the Planning Board approve with conditions the Applicant's request for a variance from Forest Conservation Law to remove one protected tree associated with this Application.

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 August 17, 2023. There are no known stormwater management facilities existing on the Property. The Application will meet stormwater management goals through green roof and planter boxes to treat stormwater runoff to the maximum extent practicable. Due to limitations of the Site, a partial waiver

was granted by MCDPS. 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 8: SITE PLAN NO. 820230020 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 (the 1.05-acre West Side tract of the Bethesda Market Sketch Plan).

- 2) To approve a Site Plan, the Planning Board must find that the proposed development:**
a) satisfies any previous approval that applies to the site;

The Site Plan satisfies the requirements of Preliminary Plan 120230020 and Sketch Plan 320190030, as amended. The Sketch Plan Amendment and Preliminary Plan are specifically designed to be supportive of the Site 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, as provided in the associated Sketch and Preliminary Plans.

- 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 associated with this Proposal.

- 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;*

Division 4.5.4 CR Zone Optional Method

Table 7: 7126 Wisconsin Avenue Site Plan Data Table for CR Zone, Optional Method, Section 59.4.5.4

Development Standard	Permitted/ Required	Proposed
Tract Area	n/a	45,945 sf (1.05 acres)
Prior Dedication	n/a	17,470 sf (0.401 acres)
Proposed Dedication	n/a	2,241 sf (0.051 acres)
Site Area	n/a	26,234 sf (0.602 acres)
Mapped Density CR-3.0 C-3.0 R-2.75 H-225 & CR-3.0 C-3.0 R-2.75 H-200		
Residential (GFA/ FAR)	126,348 sf (2.75)	403,513 sf (8.8)
Commercial (GFA/FAR)	137,835 sf (3.0)	11,487 sf (0.3)
Total Mapped Density (GFA/FAR)	137,835 sf (3.0)	137,835 sf (3.0)
Bethesda Overlay Zone (BOZ) Density	n/a	277,165 sf
MPDU requirement	15 percent	15 percent
MPDU Bonus Density (GFA/FAR)	n/a	45,000 sf (0.98)
Total GFA/FAR with MPDU bonus (GFA/FAR)	415,000 sf (9.0)	415,000 sf (9.0)
Building Height	225 ft	225 ft
Public Open Space (min s.f.)	2,623 sf (10 percent)	3,069 sf (11.7 percent)
Minimum Setbacks (ft)		
Front (Bethesda Ave.)	0	6
Front (Wisconsin Ave.)	0	8
Front (Miller Ave.)	0	0

Table 8: 7126 Wisconsin Avenue Site Plan Parking Data Table for CR Zone, Optional Method, Section 59.4.5.4

	Required	Provided
Parking Spaces		
Vehicular	(Min/Max Spaces)	
115 market rate 1 bedroom ^{1,2,3}	37/144	
120 market rate 2 bedroom ^{1,2,3}	58/180	
45 market rate 3 bedroom ^{1,2,3}	22/90	
50 MPDU ^{1,2,4}	16/50	
Total	132/464	261⁵

Bicycle (Long-Term/Short-term)	95/5	95/11
Loading Spaces		
Residential use with 50 or more units	1	1
Commercial use up to 25,000 SF of GFA	1	1
Total	2	2

- 1 Section 59-4.9.2.C.6. The minimum number of vehicle parking spaces [in the Bethesda Overlay Zone] required is 80% of the minimum number of spaces required by Section 59.6.2.4
- 2 Section 59-6.2.3.7.a.i The baseline parking minimum or shared parking model minimum may be reduced by the Non-Auto Driver Mode Share (NADMS) percentage goal recommended in the applicable master plan, up to a maximum reduction of 20%.
- 3 Section 59-6.2.3.5. Parking will be unbundled for all residential units, including the MPDU's, live/work units, and potential short-term rentals.

Unbundled parking space reductions: 0.5 for efficiency and 1-bedroom units, 0.75 for 2-or more bedroom units.
- 4 Section 59-6.2.3.2. The baseline parking minimum in the parking table in Section 6.2.4.B may reduced for MDPUs by 0.5.
5. The total number of units will be determined at building permit based on the final number of residential units. No parking is provided for the ancillary retail onsite.

The Bethesda Overlay Zone (BOZ) was adopted July 18, 2017 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) in downtown Bethesda, whereby the zoning approved for most properties retains the base density but increases the allowable heights on respective sites to allow for greater development density. An applicant can request an allocation of BOZ density to build to the maximum height permitted as needed. The Applicant is subject to a park impact payment (PIP), with a rate of \$12.49/square foot based upon the density requested and facilitates acquisition of parkland in the Downtown Bethesda area.

Based on the requested 277,165 square feet of BOZ density, reduced by 45,000 square feet of MPDU density⁴, the Applicant is required to pay for 232,165 square feet of BOZ density at a value of \$2,899,740.85. The amount of density allocated from the BOZ for the Subject Application is deducted from the 32.4 million cap.

Section 3.3.3.1 – Short-Term Residential Rental

Short-Term Residential Rental is an accessory residential use that is allowed as a limited use in the CR Zone. The Proposal includes up to 330 multifamily residential units, of which 15 percent (50 units) will

⁴ Section 59.4.9.2.C.3.c.i. of the Zoning Ordinance exempts MPDU density from the Park Impact Payment.

be MPDUs. Of the remaining 280 market rate units, the Proposal provides that up to 130 units may be used for short-term residential rental purposes.

Where Short-Term Residential Rental is allowed as a limited use, it must satisfy the following standards:

- a. Short-Term Residential Rental is prohibited in a Farm Tenant Dwelling or on a site that includes an Accessory Dwelling Unit.***

The Site does not include a Farm Tenant Dwelling or an Accessory Dwelling Unit.

- b. The dwelling unit used as a Short-Term Rental must be the property owner's or owner-authorized resident's primary residence, regardless of dwelling unit type.***

The property owner or owner-authorized resident are not expected to be present at each dwelling unit proposed for Short-Term Rental use. In accordance with the provision below (Section 3.3.3.l.c.), these units use for Short-Term Rental will be limited to a maximum of 120 days in a calendar year, unless the owner or owner-authorized resident occupies the residence during the rental stay.

- c. If the property owner or owner-authorized resident is not present in the residence, the property can be used as a Short-Term Residential Rental for a maximum of 120 days in a calendar year. If the property owner or owner-authorized resident is physically present and occupies the residence during the rental stay, there is no limitation on the number of days the property can be used as a Short-Term Residential Rental.***

The property owner or owner-authorized resident are not expected to be present at each dwelling unit proposed for Short-Term Rental use. Therefore, the 130 units earmarked for Short-Term Rental will be limited to a maximum of 120 days in a calendar year for Short-Term Rental use, unless the owner or owner-authorized resident occupies the residence during the rental stay.

- d. The use must be licensed under Chapter 54.***

The Staff Report includes a recommended condition of approval for Short-Term Rental units to conform to this requirement.

- e. The maximum number of occupants is limited by Chapter 26, Section 5; however, the total number of overnight guests in the Short-Term Residential Rental who are 18 years or older is limited to six, and the total number of overnight guests over 18 years of age per bedroom is limited to two.***

The Staff Report includes a recommended condition of approval limiting the maximum number of occupants of the Short-Term Rentals to be in accordance with Chapter 26.

- f. One off-street parking space must be provided for each rental contract unless the online listing indicates that vehicle parking is prohibited.***

The Staff Report includes a recommended condition of approval for the disclosure of off-street parking provisions to be provided for the Short-Term Rental units.

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 and activating features on the ground-floor level, including a residential lobby and ground floor commercial space. 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.

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 more than 100 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 as outlined in Table 9.

The Site Plan public benefits proposal is consistent with the outline of public benefits approved for the “West Side” development program of the Proposal’s underlying Sketch Plan 32019003A.

Table 9: Public Benefit Calculations- Division 59-4.7

Public Benefit	Maximum Points Allowed	Conceptual Points - Sketch Plan 32019003A	Proposed with Site Plan
Connectivity and Mobility			
Minimum Parking	20	6.8	6.8
Diversity of Uses and Activities			
Enhanced Accessibility	20	20	12.7
Quality Building and Site Design			
Exceptional Design	30	20	20
Historic Resource Protection	20	10	10
Structured Parking	20	20	20
Tower Step-Back	20	5	5
Protection and Enhancement of the Natural Environment			
Building Lot Terminations (BLT)	30	8.4	15.7
Energy Conservation and Generation	25	15	15
Total Points	Minimum of 100	105.2	105.2

The Bethesda Overlay Zone increases the maximum amount of public benefit points available in certain categories. Applicable to this Site Plan are the Overlay Zone’s increase in maximum points available for Minimum Parking (from 10 to 20 maximum points), Exceptional Design (from 10 to 30

maximum points), Tower Step-Back (from 10 to 20 maximum points) and Energy Conservation and Generation (from 15 to 25 maximum points).

CONNECTIVITY AND MOBILITY

Minimum Parking

The Bethesda Overlay Zone increases the maximum amount of public benefit points available for Minimum Parking from 10 points to 20 points within the Overlay Zone. The Applicant requests 6.8 points for providing fewer than the maximum allowed number of parking spaces. Points for this incentive are granted on a sliding scale from no points for providing maximum allowable number of on-site spaces to 20 points for providing no more than the minimum number of spaces on-site. Based on the formula set forth in the Incentive Density Implementation Guidelines, the proposed project is eligible for 6.8 public benefit points in this category.

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

$$(464-261) / (464-165) * 10 = 6.8 \text{ points}$$

The Application provides 261 parking spaces, which is 203 fewer spaces than the maximum, and yields 6.8 public benefit points. Staff supports the allocation of 6.8 public benefit points for Minimum Parking.

DIVERSITY OF USES AND ACTIVITIES

Enhanced Accessibility

The Applicant requests 12.7 public benefit points for providing 14 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. Based on the formula set forth in the Incentive Density Implementation Guidelines, the Proposal is eligible for the maximum 20 public benefit points in this category. Staff supports the 12.7 public benefits points for the provision of enhanced accessible residential dwelling units.

$$(\text{ANSI 117.1 Type A Units} / \text{Total Units}) * 300 = \text{number of public benefit points}$$

$$(14 / 330) * 300 = 12.7 \text{ points}$$

QUALITY BUILDING AND SITE DESIGN

Exceptional Design

The Bethesda Overlay Zone increases the maximum amount of public benefit points available for Exceptional Design from 10 points to 30 points within the Overlay Zone. The Applicant requests 20

public benefit points for providing a building and site design that are highly responsive to the goals of both the Wisconsin Avenue Corridor and Bethesda Row District of the *Bethesda Downtown Sector Plan*.

The Project proposes infill redevelopment of a series of low-rise commercial buildings, including one with drive-through service, and surface parking and replaces them with a new landmark building. The Site spans two Downtown districts, the Wisconsin Avenue Corridor and Bethesda Row District, each with its own set of goals and recommendations that influence the form of the design. The design of the building and Site are responsive to existing buildings around it and those that are undergoing or planned for redevelopment. The Project will provide new housing and commercial space within walking distance of the Bethesda Metro Station. The design enhances the public realm on three frontages in a manner that balances multiple design requirements for different street types while also being highly responsive to the Sector Plan's design recommendations Wisconsin Avenue Corridor and Bethesda Row District.

The Site is designed to provide tree-lined streets and wide sidewalks to the Bethesda Streetscape Standards on its three frontages. This design is consistent with streetscape enhancements provided in by other new developments nearby. A new and unique piece of art, incorporating the theme of women's history in the County, is to be provided at a visually prominent location at the Site's northeast corner. This is directly across Wisconsin Avenue from the Farm Women's Market, and next to a pedestrian plaza outside of the entrance to the new building's ground-level commercial area. This is intended to provide a physical, visual, and thematic connection between the Site and Farm Women's Market and its planned civic green. Activating uses will wrap the ground-level of the new building, with commercial uses fronting on Bethesda Avenue and Wisconsin Avenue. The residential lobby, leasing offices and amenity spaces will wrap the building's southeast corner on Wisconsin Avenue and southern frontage on Miller Avenue. Ample fenestration is provided along these active areas to encourage a visual interface between those inside and outside of the building. These elements will help create an attractive and functional streetscape around the Site.

The site design removes multiple existing curb cuts and simplifies vehicular circulation on this portion of the block. Vehicular access is provided at a single point to a subsurface garage at the Site's northwest corner. Loading access is at a single point at the Site's southwest corner. This access arrangement is a significant improvement over existing conditions for pedestrian safety.

The building's massing is well proportioned and utilizes classic rectilinear forms that pull up vertically from a well-defined, six-level base. The building's tower rises to a maximum height of 225-feet at its northeast corner, where it will be highly visible along Wisconsin Avenue and from the Farm Women's Cooperative Market and its future civic green. The height of the building steps down to 200-feet as it moves back from Wisconsin Avenue and transitions from the Wisconsin Avenue Corridor to the Bethesda Row District. In addition to its shape and form, elements such as residential balconies, step backs, changes in material, and strong horizontal and vertical banding throughout help create a unique building that celebrates its prominent location that is in harmony with the changing character

of the neighborhood. Overall, the design of the projects meets many of the goals for development in the Wisconsin Avenue Corridor and Bethesda Row District as is discussed in this report.

Public benefit points for Exceptional Design in the Bethesda Overlay Zone are reviewed by the Design Advisory Panel (DAP). They first reviewed the associated Sketch Plan Amendment in July 2021, followed by review of the Site Plan design twice, at their meetings on April 27, 2022 and October 19, 2022. At each meeting a more refined design was presented by the Applicant that addressed feedback received. The DAP voted 4-0 in support of 20 points for Exceptional Design with no additional comments at their October 19, 2022 meeting. The Site Plan design incorporates the Panel's feedback.

In response to the reconsideration request granted by the Planning Board in October 2023, the Applicant modified the design of floors two through six on the western façade of the building. This change pulls in and flattens the western façade on these levels, allows for additional windows for units along this building face, including MPDUs, and creates a wider, 10-foot step back between these floors and abutting (Seasons Apartments) property to the west. The modified design was reviewed by the DAP at their February 21, 2024 meeting. The DAP was supportive of the minor modifications to the building architecture and remained supportive of awarding 20 points for Exceptional Design for the Proposal.

Staff supports the request for 20 Exceptional Design public benefit points.

Structured Parking

The Applicant requests 20 public benefit points for providing Structured Parking. The proposal includes below-grade structured parking with 261 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 Applicant requests five points for providing Tower Step-Backs greater than six feet in depth at the building's seventh floor (67 feet above the building height measuring point) and twentieth floor. These step backs in the tower reduce bulk and help break up its mass. Staff supports the request for five public benefit points.

PROTECTION AND ENHANCEMENT OF THE NATURAL ENVIRONMENT

Building Lot Terminations (BLTs)

The Applicant requests 15.7 points for the purchase of 1.7434 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. The Applicant is required to purchase a minimum of 0.9334 BLTs. The Applicant proposes to purchase an additional 0.8100 BLTs, for a total of 1.7434 BLTs. Points are granted by the calculation of BLTs as provided in Section 59.4.7.3.F of the Zoning Ordinance. Staff supports the 15.7 public benefits points requested based on the following calculation:

$$(((415,000 - 22,973)) \times 0.075) / 31,500 = 0.9334 \text{ BLTs minimum required}$$

$$1.7434 \text{ BLTs} \times 9 \text{ points/BLT} = 15.7 \text{ points}$$

Energy Conservation and Generation

The Bethesda Overlay Zone increases the maximum amount of public benefit points available for Energy Conservation and Generation from 15 to 25 points in the Overlay Zone. The Applicant requests 15 points for providing a design that exceeds the energy efficiency standards for the building type by greater than 17.5 percent. The Applicant provided a preliminary energy use and generation model with comparisons to the average use and generation for the building type based on the Department of Energy Standards. The final model with specific methods used to achieve this reduction will be determined by MCDPS prior to the issuance of a Building Permit. As conditioned, the Applicant will meet the minimum reduction standards for this category and Staff recommends 15 points for this public benefit.

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

(1) Division 6.1 Site Access

Vehicular access to the Site's subsurface parking structure is from Bethesda Avenue, with loading and service bays located along Miller Avenue. Both Site access points were evaluated and approved by MCDOT with Preliminary Plan 120230020. Access to the secure bike room is provided via a push-button door on Miller Avenue. Pedestrian access will be provided along all three Site frontages. The pedestrian experience along all three frontages will be improved by widening the existing sidewalks on Bethesda and Miller Avenues to a minimum of nine feet (9 ft) of clear width and 12-foot minimum on Wisconsin Avenue. All sidewalks will be buffered by a street tree and furniture zone measuring at least six-and-one-half-feet on all three of the Site's frontages.

(2) Division 6.2 Parking, Queuing and Loading

Parking and loading will be provided on-site internal the building. Vehicles will enter and exit the parking garage from the full-movement driveway on Bethesda Avenue. Two loading spaces are required and two are provided with access on Miller Avenue. The loading bay will be closed with a roll-top door when not in use. As conditioned, the Site will be subject to the Loading Management Plan, to be included with the Certified Site Plan.

(3) Division 6.3 Open Space and Recreation

In accordance with Section 59.4.5.4.B.1, with a site area of 26,234 square feet and frontages on three existing rights-of-way, the Proposal must provide a minimum of 10 percent (2,623 square feet) of public open space. The Project includes 3,069 square feet of public open space, which equates to approximately 11.7 percent of the site area. This public open space area is concentrated along the Site's Bethesda and Wisconsin Avenue frontages which contributes to the creation of attractive streetscape areas at a highly visible and heavily trafficked location in downtown.

(4) Division 6.4 General Landscaping and Outdoor lighting

Landscaping and outdoor lighting are proposed as part of the Project. These elements are generally designed to the Bethesda Streetscape Standards along the Site's Bethesda and Wisconsin Avenue frontages. Along Miller Avenue, these elements are provided except for street trees. There are existing subsurface public utilities in the Site's Miller Avenue planting zone where potential conflict between tree roots and the utility precludes tree planting in this location. To meet the intent of the Streetscape Standards, smaller flowering shrub and ornamental plantings, with less extensive root systems are proposed in the Miller Avenue planting zone. Staff finds the alternative planting solution for the Site's Miller Avenue frontage to be appropriate and acceptable given the unique circumstances present.

Outdoor lighting is provided in appropriate locations around the Site and building to ensure safe and attractive nighttime illumination. Landscaping, planted stormwater features, and green roofs are provided on outdoor building terraces and rooftop areas where feasible and appropriate.

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 August 17, 2023 with a partial waiver of stormwater management requirements due to the site's constraints. The plan proposes to meet required stormwater management goals to the maximum extent practical using micro-bioretenion planter boxes and green roof. In an email dated February 13, 2024 (Attachment Q), DPS confirmed the architectural modifications made in response to the reconsideration request would not require a revision to the Proposal's previously approved stormwater management concept.

Chapter 22A, Forest Conservation.

The Property is subject to the requirements of Chapter 22A of the Montgomery County Code (the "Forest Conservation Law"). A Natural Resources Inventory/ Forest Stand Delineation No. 420221760 ("NRI/FSD") was prepared for the Overall Property and approved by M-NCPPC on April 7, 2022. The NRI/FSD demonstrates that there is no forest on-site, the Property contains no protected soils, endangered species, but does contain one specimen tree.

A combined Preliminary/Final Forest Conservation Plan has been submitted currently with this Application, which demonstrates the Project's conformance with the Forest Conservation Law, as

detailed in this Report's Findings for the Proposal's Preliminary Plan. This Application is also subject to the Variance provisions of Chapter 22A Forest Conservation Law and is required to provide 0.16 acres of afforestation which is proposed to be met via fee-in-lieu payment. See discussion above in Section 7 Preliminary Plan Findings.

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

Pedestrian access will be enhanced with the wider through zones within the new buffered sidewalks. The widest sidewalks will be along Wisconsin Avenue, which will experience the highest volume of pedestrian traffic. Vehicular access will be consolidated down to two curb cuts. The parking garage entrance will be on Bethesda Avenue and all loading and service access will occur on Miller Avenue. To ensure pedestrian and bicyclist safety on Miller Avenue, the Applicant will be subject to a Loading Management Plan. The larger of the two onsite, long-term bicycle storage rooms will be visible and accessible from Miller Avenue. All access points and frontage improvements have been approved by MCDOT, MCDPS, and MDOT SHA as appropriate.

Minor architectural revisions to floors two through six on the western building façade submitted in response to the reconsideration request of October 2023 make no alterations to the Proposal's parking, circulation, open space and site amenities, and a de minimis revision to the overall massing of the building.

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 120230020 in this report, the Project substantially conforms with the recommendations of the 2017 *Bethesda Downtown Sector Plan*. The Project will redevelop a series of existing low-density, single-use buildings and surface parking and replace them with a mixed-use, high-rise building with distinctive architectural character at a location the Sector Plan specifically recommends this should occur. The Proposal incorporates elements that are in-line with the Sector Plan's goals and recommendations for the Wisconsin Avenue Corridor and Bethesda Row District and fulfills the site-specific recommendation for the Property to redevelop in a manner that benefits the Farm Women's Cooperative Market.

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 of public facilities analysis is included under the findings of Preliminary Plan 120230020 in this staff report. Public facilities including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage are adequate to serve the proposed development.

As determined with review of the transportation exemption statement included with the Preliminary Plan, the Subject Application is not estimated to generate more than 50 net new person trips in the morning or evening peak hour, when compared to the trip generation estimates for the existing uses. Therefore, in compliance with the 2020-2024 *Growth and Infrastructure Policy* the adjacent public transportation network is adequate to support the proposed 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; therefore, 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 Property is located in downtown Bethesda and the proposed high-rise, mixed-use building that is unique in character, in proportion with the scale of development in its neighborhood, and compatible with existing, approved, or pending adjacent development. The proposed building is responsive to the changes in allowable maximum building heights across the Site, stepping down from 225 feet adjacent to Wisconsin Avenue, to 200 feet at its western side. The second through sixth floors of the western façade are stepped back to respect the single abutting property to the west (the Seasons). The Proposal implements the western portion of the larger project envisioned with the Bethesda Market Sketch Plan.

g. 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 the Site Plan does not include a restaurant with drive-through service.

h. 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 9: CONCLUSION

As conditioned, the Sketch Plan Amendment, Preliminary Plan and Site Plan applications each satisfy the findings under Sections 59.7.3.3 & 7.3.4, Forest Conservation Law (Chapter 22A), 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. Therefore, Staff recommends approval of the Sketch Plan Amendment, Preliminary Plan, and Site Plan, including the Forest Conservation Plan, with the conditions specified at the beginning of this report.

ATTACHMENTS

- Attachment A: Sketch Plan No. 32019003A*
- Attachment B: Preliminary Plan No. 120230020*
- Attachment C: Site Plan No. 820230020*
- Attachment D: Specimen Tree Variance Request*
- Attachment E: Prior Approvals*
- Attachment F: DPS Stormwater Approval Letter*
- Attachment G: SHA Approval Letter*
- Attachment H: MCDOT Approval Letter*
- Attachment I: DHCA Approval Letter – Sketch Amendment*
- Attachment J: DHCA Approval Letter – Preliminary Plan*
- Attachment K: DHCA Approval Letter – Site Plan*
- Attachment L: DPS ROW Approval Letter*
- Attachment M: Fire Access Approval*
- Attachment N: Community Correspondence September 2023*
- Attachment O: Abutter Reconsideration Request Letter*
- Attachment P: Applicant Reconsideration Request Letter*
- Attachment Q: DPS Stormwater Confirmation Email*
- Attachment R: 7126 Wisconsin Avenue Staff Report 9/14/2023*
- Attachment S: Abutter Letter Supporting Plan Modification*