

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

March 12, 2024

MCPB No. 24-024

Site Plan No. 820230120

4702 Chevy Chase Drive

Date of Hearing: February 29, 2024

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on September 6, 2023, Winthrop Investment Group, Inc. (“Applicant”) filed an application for approval of a site plan to construct an 82,000 square foot residential building for up to 49 units with 15% MPDUs, including up to 50,913 square feet of Bethesda Overlay Zone density on 0.48 acres of CR -.5, C-0.25, R-1.5, H-70’ and Bethesda Overlay Zone (BOZ), located on Chevy Chase Drive approximately 130 feet east of Bradley Boulevard (“Subject Property”), in the Bethesda CBD Policy Area and 2017 *Bethesda Downtown Sector Plan* (“Sector Plan”) area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820230120, 4702 Chevy Chase Drive (“Site Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated February 15, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on February 29, 2024, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, Commissioners Bartley, Hedrick and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820230120 to construct an 82,000 square foot residential building for up to 49 units with 15% MPDUs, including up to 50,913 square feet of Bethesda Overlay Zone density, on the Subject Property, subject to the following conditions:¹

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

Density, Height & Housing

1. Density

The Site Plan is limited to a maximum of 82,000 square feet of total residential development on the Subject Property, for up to 49 multifamily dwelling units with 15% MPDUs, and 50,913 square feet of Bethesda Overlay Zone Density.

2. Height

The development is limited to a maximum height of 70 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

3. 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 January 17, 2024, 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.
- b) The Applicant must enter into an agreement with DHCA before issuance of any building permit for any residential unit(s).

4. Bethesda Overlay Zone Density & Park Impact Payment

- a) Per Section 59.4.9.2.D.4 of the Zoning Ordinance, the Applicant must have a building permit application accepted by MCDPS that includes the core and shell of the principal building within two (2) years of the date of the Planning Board Resolution approving the Site Plan. Within two (2) years of MCDPS accepting the building permit application, the Applicant must obtain the building permit. The deadlines may not be extended. If the Applicant fails to comply with any of the deadlines in this condition, the entire Site Plan approval is revoked.
- b) The Applicant must pay to the M-NCPPC a Park Impact Payment of \$635,903.37 prior to release of the first above-grade building permit for the allocation of 50,913 square feet of Bethesda Overlay Zone Density. In the event the final allocation of density from the BOZ is less than the approved amount, the Applicant may apply to reduce the allocation of density from the BOZ, and/or modify the PIP through a minor site plan amendment.

5. Green Cover

- a) The Applicant must provide a minimum of 35% Green Cover on the Site comprised of intensive green roof, native canopy tree plantings, and/or bioretention planter boxes, as shown on the Certified Site Plan.
- b) Any green roof installed pursuant to this condition must have a minimum soil depth of eight inches (8 in) or Staff approved equivalent.

Open Space, Facilities and Amenities

6. The record plat must reflect a common use and access covenant for the benefit of the public over all trails, sidewalks and paths not included in a public right-of-way. The covenant must be in a form approved by the M-NCPPC Office of the General Counsel and recorded among the Montgomery County Land Records.
7. Public Benefits
The Applicant must provide the following public benefits and meet the applicable criteria and requirements of the Zoning Ordinance and the *CR Zone Incentive Density Implementation Guidelines* for each one.
 - a) Connectivity between Uses, Activities, and Mobility Options
 - i. Minimum Parking
The Applicant must not construct more than 54 parking spaces.
 - ii. Streetscape Improvement
The Applicant must construct 2,280 square feet of off-site streetscape in the form of sidewalk extensions as shown on the Certified Site Plan currently anticipated to be on Chevy Chase Drive and Nottingham Drive, in addition to any required streetscape improvements along the Subject Property frontage. If approval from the adjacent property owner(s) is not obtained for this work, Staff can approve an alternate location or the Applicant must pursue alternative public benefit points through a Minor Site Plan amendment.
 - b) Diversity of Uses and Activities
 - i. Enhanced Accessibility for the Disabled
The Applicant must construct one (1) dwelling unit as shown on the Certified Site Plan that satisfies the American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard.
 - c) Quality Building and Site Design
 - i. Architectural Elevations
Final elevation design must be shown on the Certified Site Plan. The exterior architectural elements must be substantially similar to architectural elevations as shown on the Certified Site Plan and as determined by M-NCPPC Staff.
 - ii. Exceptional Design

The Applicant must construct the building in a manner consistent with the architectural elevations included in the Certified Site Plan.
 - iii. Structured Parking
The Applicant must provide all onsite parking within a below-grade structure.

d) Protection and Enhancement of the Natural Environment

i. Building Lot Terminations (BLTs)

Before issuance of any building permit, the Applicant must provide proof of purchase and/or payment of 0.1706 BLTs to the MCDPS and M-NCPPC staff.

ii. Recycling Facility Plan

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Environmental Protection ("MCDEP"), Waste Reduction and Recycling Section in their email dated December 5, 2023 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the memorandum, which may be amended by the MCDEP - Waste Reduction and Recycling Section provided that the amendments do not conflict with other conditions of the Site Plan approval.

8. Recreation Facilities

- 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.

9. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to the pathway connecting Chevy Chase Drive to Nottingham Drive along the eastern property line.

Environment

10. Forest Conservation & Tree Save

- a) The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- b) The Applicant must comply with all tree protection and tree save measures shown on the approved Tree Save Plan. Tree save measures not specified on the Tree Save Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
- c) 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 record an M-NCPPC approved Certificate of Compliance in an M-NCPPC

approved off-site forest mitigation bank to satisfy the required 0.16 acres (7,241 square feet) of mitigation credit or as calculated on the approved Tree Save Plan. If there are no mitigation credits available at any bank, the requirement may be met by making a fee-in-lieu payment to the M-NCPPC Planning Department.

11. Noise Attenuation

- a) Before the issuance of the first above ground building permit, the Applicant/developer/builder must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that:
 - i. The building shell for residential dwelling units affected by exterior noise levels projected at or above 65 dBA Ldn, will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
- b) Before the final inspection for any residential unit in the building, the Applicant /developer/builder must certify to M-NCPPC Staff that the noise impacted units have been constructed in accordance with the certification of the engineer that specializes in acoustical treatments. Any noise impacted units must be identified in the certified Site Plan.
- c) If any changes occur to the plan which affect the validity of the noise analysis dated July 8, 2020, acoustical certifications, and/or noise attenuation features, a new noise analysis will be required to reflect the changes and new noise attenuation features may be required.
- d) 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 and/or leases, any illustrative site plan(s) on display within any sales related offices(s); in Homeowner Association documents; with all Deeds of Conveyance of noise impacted units; and by inclusion on all signature subdivision and site plans. A copy of this notification must be provided to the Planning Department and Montgomery County Department of Permitting Services, Site Plan Enforcement Section prior to the issuance of a Use and Occupancy Certificate or final inspection, whichever is relevant, for any noise impacted residential unit.

12. 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 January 17, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letters, 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

13. Agency Approval

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 January 5, 2024 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.

14. Loading

- a) The Site will be subject to a Loading Management Plan, which will be included with the Certified Site Plan Set.
- b) The Applicant will remove two on-street parking spaces on the north side of Chevy Chase Drive (opposite the Site) to ensure safe access during on-street loading activities.

15. Pedestrian & Bicycle Circulation

- a) The Applicant must provide 24 long-term and 1 short-term bicycle parking spaces.
- b) The long-term spaces must be in a secured, well-lit bicycle room in a parking garage, and the short-term spaces must be inverted-U racks (or approved equal) installed along the building's frontage convenient to the main entrance (weather protected preferred). The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.
- c) The Applicant must provide one bicycle repair station.
- d) The Applicant must provide the following master planned pedestrian and bicycle facilities, the exact location, design and construction of which must comply with requirements of the Montgomery County Department of Transportation, Division of Traffic Engineering and Operations, before issuance of the first Use and Occupancy permit:
 - i. Site frontage along Chevy Chase Drive: six-foot-wide (6 ft) sidewalk with eleven-foot-wide (11 ft) buffer from traffic.
 - ii. Site frontage along Nottingham Drive: six-foot-wide (6 ft) sidewalk with six-foot-wide (6 ft) buffer from traffic.
 - iii. Nottingham Drive between the Site's Property line and Norwood Local Park to the west: a minimum five-foot-wide (5 ft) sidewalk.

- iv. Nottingham Drive between the Site's Property line and the Fire Department property to the east: a minimum six-foot-wide (6 ft) sidewalk.
 - v. Chevy Chase Drive between the Site's Property line and the existing sidewalk terminus on Bradley Boulevard to the east: a minimum six-foot-wide (6 ft) sidewalk.
 - vi. A through-block, pedestrian-accessible, connection between Chevy Chase Drive and Nottingham Drive that is a minimum of five-feet (5 ft) wide.
- e) Prior to final use and occupancy permit, the Applicant must install signage at the northeastern portion of the site at the entrance to the sidewalk connection to Nottingham Drive indicating public access to Norwood Local Park. The signage must be approved by the Parks Department.

16. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated January 9, 2024, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letters, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

Site Plan

17. Site Design

- a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet A-07 through A-10 of the submitted architectural drawings, as determined by M-NCPPC Staff.

18. 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).
- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c) Deflectors will be installed on all proposed fixtures to prevent excess illumination and glare.

- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by street lights within the right-of-way.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
- f) On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

19. 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 M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements only for facilities located on the Property (not in the public r.o.w.), including, but not limited to plant material, on-site lighting, indoor and outdoor recreational facilities, site furniture, trash enclosures, retaining walls, fences, railings, and paths and associated improvements of development. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

20. Development Program

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

21. Certified Site Plan

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

- a) Include the stormwater management concept approval letter, development program, and Site Plan resolution and other applicable resolutions on the approval or cover sheet(s).
- b) Add the following notes:

- i. “M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading.”
 - ii. “Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services.”
 - iii. “The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur 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.”
- c) Modify the language on the Coversheet pertaining to the Loading Management Plan so that it says, “The move-in and move-out instructions will include that the driver must remain accessible attend their vehicle at all times, so that they can move the truck from the front of the building in the remote event that area is needed for fire access purposes.”
 - d) Include approved Fire and Rescue Access Plan.
 - e) Modify data table to reflect development standards approved by the Planning Board.
 - f) Ensure consistency of all details and layout between Site and Landscape plans.
 - g) Add a note stating that the 2,280 square feet of streetscape improvements along Chevy Chase Drive and Nottingham Drive can be relocated with MNCPPC staff approval.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of 4702 Chevy Chase Drive Site Plan No. 820230120, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

- 1. When reviewing an application, the approval findings apply only to the site covered by the application.***

The findings herein apply only to the Subject Property.

2. To approve a Site Plan, the Planning Board must find that the proposed development:

a) satisfies any previous approval that applies to the site;

The Site Plan is consistent with the previously approved Sketch Plan No. 30210010 (MCPC Resolution No. 20-131) and Preliminary Plan No. 120210010 (MCPB Resolution No. 20-132), as may be amended.

b) satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;

This section is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

c) satisfies under Section 7.7.1.B.5 any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment;

This section is not applicable as the Subject Property's zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

d) satisfies applicable use standards, development standards, and general requirements under this Chapter;

i. Division 59.4.5

Table 1: 4702 Chevy Chase Drive Data Table for CR-1.5, C-0.25, R-1.5, H-70' Zone, Optional Method, Section 59.4.5

Development Standard	Permitted/ Required	Proposed
Tract Area	n/a	20,725 sf (0.47)
Tract Area - Prior Dedication	n/a	3,455 sf (0.08)
Site Area	n/a	17,270 sf (0.39)
Mapped Density CR-1.5, C-0.25, R-1.5, H-70'		
Residential (GFA/ FAR)	31,087 sf (1.5)	31,087 sf (1.5)
Commercial (GFA/FAR)	5,181 sf (0.25)	0 sf (0)
Total Mapped Density (GFA/FAR)		31,087 sf (1.5)
BOZ Density		50,913 sf (2.45)
Total Density		82,000 sf (3.95)
MPDU Requirement	15%	15%

Development Standard	Permitted/ Required	Proposed
Building Height	70 ft	70 ft ¹
Public Open Space (min s.f.)	n/a ²	n/a ²
Minimum Setbacks (ft) - Front	0	0
Minimum Setbacks (ft) - West Side	0	0
Minimum Setbacks (ft) - East Side	0	14 ft

¹ The building height along the Nottingham Drive frontage is subject to the provisions of Section 59.4.1.8 for residential compatibility.

²Per Section 59.4.5.4.B, given that the tract area is less than an acre with two frontages, no public open space is required.

<u>Parking</u>	<u>Spaces Required (minimum / maximum)</u>	<u>Spaces Provided</u>
Total Vehicle Parking*	32 min / 74 max	54*
1 Bedroom (0.5 per Unit/1.25 per Unit)	4.5/11.25	
2 Bedroom (0.75 per Unit/1.5 per Unit)	26.25/52.5	
3 Bedroom (1 per Unit/2 per Unit)	5/10	
<u>Loading **</u>	<u>Spaces Required</u>	<u>Spaces Provided</u>
	0	0
<u>Bicycle Parking</u>	<u>Spaces Required (Long Term (95%) / Short Term)</u>	<u>Spaces Provided (Long Term / Short Term)</u>
49 total units 0.50 spaces per unit (max 100 per building)	24 / 1 (25 total)	24 / 1 (25 total)

* Within the Bethesda Overlay Zone, parking minimum is reduced by 80% per the provisions of Section 59.4.9.2.C.6

** Per Section 59.6.2.8.B.1, off street loading is not required for multi-unit living under 50 dwelling units.

The Bethesda Overlay Zone (BOZ) was adopted July 18, 2017, specifically to implement the recommendations of the Bethesda Downtown Sector Plan as it relates to density, building heights, affordable housing, parks, and design. The BOZ set a cap of overall development (32.4 million square feet) whereby the zoning approved for most properties retains the base density but increases the heights on respective sites. An applicant can request an allocation of density over the base density to build to the maximum height permitted by the Zone, as needed. The Applicant is requesting 50,913 square feet above the base density and is thus subject to a Park Impact Payment (PIP) valued at \$12.49/square foot. The PIP money is used by the Parks Department to facilitate acquisition and improvement of parkland in the downtown Bethesda area.

Based on the requested BOZ density, the Applicant is required to pay for 50,913 square feet of BOZ density at a value of \$635,903.37. The amount of density allocated from the BOZ for the Subject Application is deducted from the 32.4 million cap.

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

In accordance with the Zoning Ordinance, Section 59.4.7.1, the Site Plan proposes 100 public benefit points in 4 categories to satisfy the requirements:

Table 2: Public Benefit Calculations- Division 59-4.7

Public Benefit	Maximum Points Allowed	Proposed	Board Approved
Connectivity and Mobility			
Minimum Parking	20	5.75	4.76
Streetscape Improvement	20	13.20	13.20
Diversity of Uses and Activities			
Dwelling Unit Mix	10	6.12	6.12
Quality Building and Site Design			
Architectural Elevations	30	25	25
Exceptional Design	30	20	20
Structured Parking	20	20	20
Protection and Enhancement of the Natural Environment			
Building Lot Terminations (BLT)	30	1.53	1.54
Recycling Facility Plan	10	10	10
Total Points	100 (required)	101.6	100.61

The Bethesda Overlay Zone adjusts the amount of public benefit points available or required 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), architectural elevations (from 20 to 30 maximum points), and exceptional design (must have a minimum of 10 points with a maximum of 30 points).

**Connectivity and Mobility
 Minimum Parking**

The Applicant requests 5.75 point 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 numbers of spaces on-site. Based on the formula set forth in the Guidelines, the Applicant is eligible for 4.76 public benefit points in this category, the reduction from proposed points is a result of a calculation error. The Planning Board approves 4.76 points.

$$\begin{aligned}
 & [((\text{Maximum Allowed Parking}) - (\text{Parking Provided})) / ((\text{Maximum Allowed Parking}) - (\text{Minimum} \\
 & \qquad \qquad \qquad \text{Parking}))] * 10 \\
 & (74 - 54) / (74 - 32) * 10 = \mathbf{4.76 \text{ points}}
 \end{aligned}$$

Streetscape Improvement

The Project requests to implement off-site streetscape improvements along the Chevy Chase Drive and Nottingham Drive frontages to complete sidewalk connections to Bradley Boulevard and Nottingham Drive Park. The Applicant is seeking 13.20 public benefit points for this category, based off the following formula. The Planning Board approves the Applicant's request.

$$\begin{aligned} & (\text{streetscape improvements/net lot area}) * 100 \\ & (2,280 \text{ sf}/17,270 \text{ sf}) * 100 = \mathbf{13.20 \text{ points}} \end{aligned}$$

Diversity of Uses and Activities

Enhanced Accessibility for the Disabled

The Applicant requests public benefit points for constructing one dwelling unit with an interior that satisfies American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard. The Applicant is seeking 6.12 public benefit points for this category, based off the following formula. The Planning Board approves the Applicant's request.

$$\begin{aligned} \text{Formula} &= (A \text{ (ANSI Units/Total Units)} \times 300 = \text{allowed points}) \\ & (1/49) \times 300 = \mathbf{6.12 \text{ points}} \end{aligned}$$

Quality of Building and Site Design

Architectural Elevations

The Applicant requests 25 points for its location in a Sector Plan area and adhering to architectural elevations included in the certified site plan, showing particular elements on the façades including generous transparency on three of the four façades, a canopy entrance at Chevy Chase Drive frontage, ground floor entries for units on Nottingham Drive and the eastern facade, and design priorities of the applicable sector plan or implementing design guidelines. The Planning Board approves the Applicant's request.

Exceptional Design

The Applicant requests 20 points for designing a project that meets at least four of the six criteria for exceptional design as described in the Bethesda Implementation Guidelines. The Applicant states that the Project will be meeting each of the criteria as described below.

1. *Providing innovative solutions in response to the immediate context.*
2. *Creating a sense of place and serving as a landmark.*
3. *Enhancing the public realm in a distinct and original manner.*
4. *Introducing materials, forms or building methods unique to the immediate vicinity or applied in a unique way.*
5. *Designing compact, infill development so living, working and shopping environments are more pleasurable and desirable on a site.*
6. *Integrating low-impact development methods into the overall design of the site and building, beyond green building or site requirements.*

The Project will provide 49 units in a well-designed, modestly sized building located less than one-half mile from the Bethesda Downtown. The building will enhance the public realm along both the northern and southern street frontages and will enhance access to Norwood Local Park with a through-block access way. Due to the Property's narrow dimensions and small size, the design footprint and frontage is compact and responds to the immediate context on both frontages. To the south, the building relates to the existing single-family dwellings through a three-part façade and scale that matches the height of the R-60 zone. The eastern portion of the Property will be heavily landscaped along the pathway and provide ground floor unit entries.

The materials will be high quality, durable, and unobtrusive to the community to complement the existing residential uses such as light-colored brick, architectural stone and dark metal panels. Additional details such as cornices, plane recesses, banding and edges will provide a well composed, rhythmic look.

The Project was reviewed by the Design Advisory Panel at their October 2022 and January 2023 meetings and the DAP voted (5-0) to support 20 points for exceptional design. The Planning Board approves this category as requested.

Structured Parking

The Applicant requests 20 points for providing all 54 parking spaces within a below grade parking structure. The Planning Board approves the requested 20 points in this category based on the following formula:

$$[(\text{Above Grade Parking} / \text{Total Parking}) * 10] + [(\text{Below Grade Parking} / \text{Total Parking}) * 20] \\ [(0/54) * 10] + [(54/54) * 20] = \mathbf{20 \text{ points}}$$

Protection and Enhancement of the Natural Environment Building Lot Terminations

The Applicant requests 1.54 points for the purchase of 0.1706 BLT easements or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5% incentive density floor area, exclusive of any density allocated for MPDUs. Points are granted by the calculation of BLTs as provided in Section 59.4.7.3.F of the Zoning Ordinance. The Planning Board approves the requested 1.54 public benefit points based on the following calculation:

$$(((82,000 \text{ sf}) - (10,632.5 \text{ sf})) * 7.5\%) / 31,500) * 9 = \mathbf{1.54 \text{ points}}$$

Recycling Facility Plan

The Applicant requests 10 points for providing a recycling facility plan that exceeds the minimum requirements set forth in the Zoning Ordinance. The Applicant is working on an agreement with the Montgomery County Department of Environmental Protection (MCDEP) Waste Reduction and Recycling Section. The Applicant proposes to provide a variety of dedicated containers within the trash/recycling room of the development for the following: composting food scraps, battery

collection, recycling of plastic, textiles, and paper shredding. The Planning Board approves Applicant's request for 10 public benefit points based on MCDEP's review and approval.

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

(1) Division 6.1 Site Access

All vehicular access will be provided by a single curb cut on Chevy Chase Drive, which leads to the below-grade parking garage. Pedestrian access will be significantly improved with the new buffered sidewalks provided on both Site frontages (Chevy Chase Drive and Nottingham Drive), and the new offsite sidewalk connections across adjacent sites to Bradley Boulevard, Norwood Local Park, and the existing sidewalk along the Fire Department property to the east of the Site. Furthermore, the new pedestrian through-block connection along the East side of the Property will further improve pedestrian access to the Site as well as connectivity within the greater Site vicinity.

(2) Division 6.2 Parking, Queuing and Loading

For 49 units the Applicant is required to provide between 40 and 73 vehicular parking spaces. The Application proposes 54 total spaces within the below-grade garage. A total of 25 bicycle parking spaces (24 long-term and 1 short-term space) are required to be provided on site. The Applicant has located two short-term bicycle parking spaces near the lobby entrance on Chevy Chase Drive. Long-term bicycle parking spaces will be provided within two separate secured areas on both levels of the below grade garage.

Projects with fewer than 50 residential units are not required to provide off-street loading facilities. As conditioned, the Site will be subject to a Loading Management Plan, which requires the Property management representative to coordinate moving activity, trash collections, and deliveries. Moving activities will be scheduled for one unit at a time, between the hours of 10 AM and 4 PM, and no more than two per day. Moving truck drivers will be required to stay within the truck to ensure that the truck can be moved in case fire trucks need to navigate the street. Additional restrictions and considerations are included in the Loading Management Plan, which will be included in the certified plan set.

(3) Division 6.3 Open Space and Recreation

The Project is not required to provide public open space per the standards of Section 59.4.5.4.B.1 given it is less than one acre in size with two frontages. However, the Applicant is providing the publicly accessible pedestrian pathway along the eastern Property line, which will require recordation of a public access easement. The Applicant will provide recreational facilities in accordance with the Recreational Guidelines including a through block

connection, rooftop amenities, and bicycle parking within the parking garage, which will be shown on the Certified Site Plan.

(4) Division 6.4 General Landscaping and Outdoor lighting

The Project proposes a mixture of shrubs and groundcover and perennials along the perimeter of the building on the Chevy Chase Drive and Nottingham Drive frontages as well as along the eastern frontage. As conditioned, the lighting will be required to meet the standards of Chapter 59 to ensure there is adequate lighting for safe residential entry and that all fixtures face down to avoid glare and excessive illumination beyond the Property.

e) Satisfies the applicable requirements of:

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

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 January 24, 2024. There are no known stormwater management facilities existing on the Property. The Application will meet stormwater management goals through the proposed green roof and with a partial quality and quantity waiver due to site constraints. 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.

ii. Chapter 22A, Forest Conservation

This Application is subject to Chapter 22A Forest Conservation Law, but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(S(2)). As stated above, this exemption application was accepted prior to April 2023 and confirmed on August 15, 2023 under plan No. 42023101E.

The Project meets the particular requirements of the exemption because the proposed activity is conducted on a tract of land less than 1 acre that will not result in the clearing of more than a total of 20,000 square feet of existing forest, or any existing specimen or champion tree, and not result in reforestation requirements more than 10,000 square feet. No forest or champion trees will be cleared during the project and this Application does not trigger forest planting requirements; however, specimen trees that are proposed to be impacted have been addressed in the included Tree Save Plan.

The Tree Save Plan requires mitigation for the removal of two (2) specimen trees and two (2) significant trees located offsite to the east. Because Staff policy requires that on-site mitigation planting be prioritized whenever possible, the Applicant was required to explore a letter of authorization for the removal and replanting of mitigation trees on the neighboring property. While the neighboring

property owner has agreed to the tree removals, numerous overlapping factors make planting the proposed mitigation trees an unfeasible endeavor. Due to the highly restricted setting of the Subject Property combined with the required through-block connection to the east and a required storm drain easement along the through-block connection, which precludes the planting of trees, the mitigation trees would need to be placed much deeper into the neighboring property in order to be protected and provided with ample soil volume as they mature. The neighboring property owner did not consent to this encroachment despite their approval of the removal of the existing trees during the previously approved Sketch Plan and Preliminary Plan and during the current Site Plan review.

Without an ideal location for replacement trees, the Applicant has revised their tree save plan in order to incorporate an offsite mitigation formula which considers the 33.25 caliper inches of mitigation requirement and an offsite mitigation rate of 100 two-inch trees per acre; as such, the Applicant is now responsible for 0.16 acres (7,241 square feet) of offsite afforestation requirement. Given that this requirement is below the 0.5-acre threshold, the Planning Board supports the Applicant's request that this requirement be met via off-site forest mitigation bank or via fee-in-lieu if no off-site mitigation credits are available and has added a condition of approval to this effect. The submitted plans satisfy all applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines.

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

Vehicular access to the Site will be provided from Chevy Chase Drive, via a single garage access point on Chevy Chase Drive for all onsite parking and bicycle parking. For Projects that are less than 50 units, the Zoning Ordinance does not require dedicated onsite loading, therefore the Project has alternatively provided a Loading Management Plan that details how loading and trash removal will occur offsite while mitigating impacts to the surrounding neighborhood and circulation patterns. The Project will be required to have an on-site loading manager responsible for scheduling deliveries, move-in, move-out and addressing issues related to the loading operations. The Applicant has included a Loading Management Plan which restricts moving activity to one unit at a time, to occur on weekdays after 10:00 AM and before 4:00 PM. No more than two moves a day will be scheduled. Moving truck operators will be required to stay in the vehicle at all times so they can make way for fire access in the event of an emergency. Routine deliveries will also be scheduled outside of peak hours to minimize disruptions to Chevy Chase Drive. Additionally, two on-street parking spaces on the north side of the street will be removed to ensure that motor vehicle traffic can move safely on Chevy Chase Drive, in the event that a car or truck is standing on the south (Site) side when loading or making deliveries. The Loading Management Plan and modifications to the on-street parking on Chevy Chase Drive opposite the Site was reviewed and modified

based on feedback from MCDOT, MCDPS Fire & Rescue and Planning staff and as conditioned was determined to be adequate for safe site access, emergency access, and on-street loading.

The Project will construct the Bethesda streetscape on its Chevy Chase Drive and Nottingham Drive frontages and extend the sidewalk network on Chevy Chase Drive to the east connecting to Bradley Boulevard, and on Nottingham Drive extending the sidewalk east to an existing sidewalk on the Bethesda Fire Department Property, and west connecting to Norwood Local Park. Each of these improvements will greatly improve access, mobility, and pedestrian safety, completing missing sidewalks that currently exist in the network. Additionally, the Applicant is providing a sidewalk connection through the Site from Chevy Chase Drive to Nottingham Drive, allowing new pedestrian access to Norwood Local Park.

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

The Project substantially conforms to the recommendations for the Property included in the 2017 *Bethesda Downtown Sector Plan*. Specifically, this Sector Plan builds on the past successes of Downtown Bethesda to create a truly sustainable downtown by focusing on components that will bolster the elements most in need of enhancement. These components include:

1. **Parks and open spaces**, including new civic greens at Veteran's Park, Bethesda Farm Women's Cooperative Market, Capital Crescent Trail and new urban parks, pathways and gateways.
2. **Affordable housing**, including the preservation of existing market-rate affordable housing, providing a mix of housing options and the provision of Moderately Priced Dwelling Units in exchange for development incentives.
3. **Environmental innovation**, including more energy-efficient buildings, better stormwater management, improved sidewalks and bicycle routes, and other measures to enhance community health and quality of life.
4. **Economic competitiveness**, based on new development, public amenities and proximity to public transit to attract businesses and visitors from throughout the region, and foster entrepreneurship and innovation.

The Property is designated as site 187 on page 140 of the Sector Plan. The Property is located in the South Bethesda Residential Edge District, which has a garden character with tree lined streetscaped and planted setbacks and offers several opportunities to create better connections for pedestrians and bikes within the district. It is characterized by garden apartments and townhouses. Specifically, the Project addresses the following goals as outlined in the Overarching Goals and the South Bethesda District sections of the Sector Plan:

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

The Project proposes to redevelop an underutilized Property currently used as a medical office into a luxury multifamily condominium building in an area of Bethesda that lacks condominium housing and has seen very little redevelopment activity.

- *Improve connectivity throughout the district and between Downtown Bethesda and Norwood Local Park.*

The Proposal includes several enhancements to the pedestrian network including sidewalk extensions along both the Chevy Chase Drive and Nottingham Drive frontages, as well as a paved, public connection on the eastern side of the Property, linking Chevy Chase Drive to Norwood Local Park. The sidewalk improvements along Chevy Chase Drive and Nottingham Drive frontage comply with the recommendations of the 2017 *Bethesda Downtown Streetscape Guidelines*. Additionally, the through-block connection achieves a recommendation in the 2017 Bethesda Downtown Sector Plan to break up the long blocks and improve access to Norwood Local Park.

- *Promote infill development and increased lot coverage*

The Project will provide an infill development that increases lot coverage and proposes up to 49 residential units.

- *Balance development with transitions to single-unit residential neighborhoods surrounding the Sector Plan area in residential and edge districts, such as . . . South Bethesda*

The massing has been designed to be respectful of the single-family residential neighborhood to the south. The building along the Chevy Chase Avenue frontage will be the maximum height of 70 feet and will step down towards Nottingham Drive to be 35 feet in height, matching the maximum building height of the residential neighborhood to the south. Aside from height, the materials, articulation and landscaping has been designed to enhance the pedestrian environment and be inviting to those surrounding the Site.

Environmental Recommendations

The Project has been designed to meet the Sector Plan's green cover requirement of 35% of the site area. This can be achieved through a singular or a combination of intensive green roof (6 inches or deeper) or tree canopy cover. This Application consists of a net Site Area of 17,270 square feet (SF) which results in a green cover requirement of at least 6,044 SF. The Application proposes green coverage in the form of 4,220 SF of green roof atop the building and across its terrace levels. This results in a total of 6,194 SF of green cover which exceeds the 35% requirement. The green roof will also contribute to the stormwater management requirements of the Site. Additionally, although not part of the green cover requirement, the Applicant is also proposing trees along the east side of the proposed building which will run parallel to the proposed through-block connection. The addresses Bird-Safe Design by including low reflective glass, integrating architecture features in the façade such as recessed areas, canopies, overhangs, balconies and cornices

to create shadows and block some window reflections, providing architecture features such as pillars or wall areas to create interruptions in the façade, and avoiding extensive glass areas and by eliminating unnecessary building lighting.

- 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;***

The associated Preliminary Plan No. 120210010 (MCPB Resolution No. 20-132) found that the proposed development would be adequately served by public services and facilities and approved an Adequate Public Facilities period of five years from the date of the initiation date, expiring on February 7, 2026, which included schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities . The Preliminary Plan Amendment to extend the validity period for record plat does not affect the existing APF validity period.

With this Site Plan application, the Applicant updated their stormwater management and fire access plan. Per the latest approvals dated January 17, 2024 and January 9, 2024, the development will be adequately served for fire and emergency protection and stormwater.

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

The Property is not located within a residential zone; however it does confront a residential detached zone to the south across Nottingham Drive, and is therefore required to comply with the Residential Compatibility Standards of Section 50.4.1.8.B for height. The standards of this section limit the height of the proposed development at the Property Line to equal the height of the confronting zone. The Project conforms to this requirement by providing a maximum building height of 35 feet at the Property Line on Nottingham Drive, the maximum building height of the R-60 zone to the south. The building height increases incrementally at a 45-degree angle to the maximum building height of 70 feet towards Chevy Chase Drive, per the standards of Section 59.4.1.8.B. The building facades and materials have been designed to a high quality with a generous amount of transparency on all floors and will be compatible with the character of the

surrounding neighborhood.

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

The surrounding area was rezoned during the 2017 *Bethesda Downtown Sector Plan* and increased maximum height to 70 feet, this is the first project to redevelop. Directly west of the Site is Chevy Chase Condominiums, a five-story building, and to the north across from Chevy Chase Drive is the Barclay Apartments, which are four stories in height. The building has been designed to respond to the surrounding environment, in conformance with the Bethesda Design Guidelines and is compatible with the adjacent development.

- 3. To approve a Site Plan for a Restaurant with a Drive-Thru, the Planning Board must also find that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood.***

Not applicable, this Site Plan does not include a restaurant with a drive-thru.

- 4. For a property zoned C-1 or C-2 on October 29, 2014 that has not been rezoned by Sectional Map Amendment or Local Map Amendment after October 30, 2014, if the proposed development includes less gross floor area for Retail/Service Establishment uses than the existing development, the Planning Board must consider if the decrease in gross floor area will have an adverse impact on the surrounding area.***

Not applicable, the Subject Property was not zoned C-1 or C-2 on October 29, 2014.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is

March 12, 2024

(which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on the motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 5-0, Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick, and Linden voting in favor at its regular meeting held on Thursday, March 7, 2024, in Wheaton, Maryland.



Artie L. Harris, Chair
Montgomery County Planning Board

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Preliminary Plan Amendment No.
120210010A & Site Plan No. 820230120