

# Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

March 27, 2024

MCPB No. 24-034  
Site Plan No. 820230020  
7126 Wisconsin Avenue  
Date of Hearing: March 7, 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 November 2, 2022, Wisconsin Avenue Properties, LLC (“Applicant”) filed an application for approval of a site plan for a 225-foot tall, 415,000 square foot mixed-use building with a maximum of 406,845 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 minimum of 11,487 square feet of commercial uses, and 277,165 square feet of Bethesda Overlay Zone (BOZ) density with an associated PIP payment, on 1.05 acres of CR-3.0, C-3.0, R-2.75, H-225; CR- 3.0 C- 3.0, R-2. 75, H-200 and Bethesda Overlay Zone zoned-land, located at the southwest quadrant of the intersection of Wisconsin Avenue and Bethesda Avenue (“Subject Property”), in the Bethesda CBD Policy Area and 2017 *Bethesda Downtown Sector Plan* (“Sector Plan”) area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820230020, 7126 Wisconsin Avenue (“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 26, 2024 providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on March 7, 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.

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2425 Reedie Drive, Floor 14, Wheaton, MD 20902 | Phone: 301-495-4605

[www.montgomeryplanningboard.org](http://www.montgomeryplanningboard.org) | [mcp-chair@mncppc.org](mailto:mcp-chair@mncppc.org)

Approved as to

Legal Sufficiency: /s/ Matthew T. Mills

M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No.820230020 for the construction of a 225-foot tall, 418,332 square foot mixed-use building with a maximum of 415,000 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 minimum of 11,487 square feet of commercial uses, and 277,165 square feet of Bethesda Overlay Zone (BOZ) density with an associated PIP payment, on the Subject Property, subject to the following conditions:<sup>1</sup>

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 406,845 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, which will recognize women’s history and the contribution of women to agricultural history in Montgomery County.
    - 1) The general location for the art piece must be illustrated on the Certified Site Plan.

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

- 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 a final use and occupancy permit for the development.
- ii. National Register of Historic Places Application – the Applicant must fund 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.
- b) 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*.
- c) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the MCDHCA must be executed.

5. Live/Work Units

- a) The Applicant may provide up to seven (7) units designated as Live/Work as shown on the Certified Site Plan must be in accordance Section 59.3.5.14.H.
- b) Prior to Record Plat:

- 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.

6. 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.I.2.

7. Bethesda Overlay Zone Density & Park Impact Payment

- a) Per Section 59.4.9.2.D.4 of the Zoning Ordinance, the Applicant must have a building permit application accepted by MCDPS that includes the core and shell of the principal building within two years of the date of the Planning Board Resolution approving the Site Plan. Within two years of MCDPS accepting the building permit application, the Applicant must obtain the building permit. The deadlines may not be extended. If the Applicant fails to comply with any of the deadlines in this condition, the entire Site Plan approval is revoked.
- b) The Applicant must pay to the M-NCPPC a Park Impact Payment of \$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.

8. Green Cover

- a) The Applicant must provide a minimum of 35% (at least 9,236 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.

- b) Any green roof installed pursuant to this condition must have a minimum soil depth of eight inches (8”) or Staff-approved equivalent.

9. 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).
- b) Before final Use and Occupancy certificates for the residential units:
  - 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.

10. 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.
- b) Diversity of Uses and Activities
  - i. Enhanced Accessibility for the Disabled – The Applicant must construct and maintain at all times at least 24 dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard.
- c) Quality Building and Site Design
  - 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
    - 1) Prior to the issuance of the final Use and Occupancy permit, the Applicant must install the visual art piece, per Condition 2a; and

- 2) 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.
- 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 0.709 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.

#### 11. 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.

#### 12. 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.

### 13. Forest Conservation & Tree Save

- a) The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- b) The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
- c) 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.
- d) 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. Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.
  - ii. Submit the forest conservation fee-in-lieu payment to the M-NCPPC Planning Department for the 0.16 acres of afforestation/reforestation requirement.

### 14. Noise Attenuation

- a) Before the issuance of the first above-grade building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that the building shell for residential dwelling units affected by exterior noise levels projected at or above 65 dBA Ldn, will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. Any noise impacted units must be identified on the Certified Site Plan.
- b) 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.

- c) Before issuance of any Use and Occupancy Certificate or Final Inspection, whichever is relevant, for any of the noise impacted units, a Professional Engineer must certify to the Planning Department and Department of Permitting Services that the noise impacted units have been constructed in accordance with the certification of an engineer that specializes in acoustical treatments.
- d) For all noise impacted residential dwelling units, the Applicant/developer/builder must disclose in writing to all prospective purchasers that those homes are impacted by transportation noise. Such notification may be accomplished by inclusion of this information and any measures to reduce the impacts in brochures and promotional documents and must be included in any noise impacted sales contracts, any illustrative site plan(s) on display within any sales related offices(s); in Homeowner Association documents; with all Deeds of Conveyance of noise impacted units; and by inclusion on all signature subdivision and site plans.

#### 15. Stormwater Management

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Service (MCDPS) Water Resources Section in its stormwater management concept letter dated 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.

#### 16. 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.
- b) 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).



### 17. Pedestrian & Bicycle Circulation

- a) The Applicant must provide 95 long-term and 11 short-term bicycle parking spaces.
- b) 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.
- 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 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: eight-foot-wide (8 ft) sidewalk with six-foot-wide (6 ft) buffer from traffic.

### 18. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated 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.

### 19. 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.

## 20. 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 fixtures to prevent excess illumination and glare.
- d) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
- e) On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

## 21. Site Plan Surety and Maintenance Agreement

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

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant 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.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will

be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

## 22. Development Program

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

## 23. Certified Site Plan

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

- a) Include 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).
- b) 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.
- c) 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 24 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.”
- d) Include the Fire and Rescue Access plan in the Certified Site Plan.
  - e) Modify data table to reflect development standards approved by the Planning Board.
  - f) Show the location of Live/Work Units on applicable architectural plan sheets.
  - g) Ensure consistency of all details and layout between Site and Landscape plans.
  - h) Correct the minimum and maximum vehicle parking quantities shown on the Site Plan parking data table.
  - i) Correct the bicycle parking quantities shown on architectural plan sheets to match the parking data table.
  - j) Revise Green Cover exhibit to show the correct lot area and base green cover requirement.
  - k) 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.
  - l) Correct the public benefits table to show 30 possible points for Exceptional Design.
  - m) Identify the location for the bicycle repair station.
  - n) 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 (PIP) total.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of 7126 Wisconsin Avenue, 820230020, 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. *The development 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 Application 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.

2. *The development satisfies 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 Application.

3. *The development satisfies 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.

4. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

a. Use Standards

*Section 3.3.3.I – 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 Application includes 330 multifamily residential units, of which 15% (50 units) will be MPDUs. Of the remaining 280 market rate units, the Application 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.I.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.***

Short-Term Rental units must 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 maximum number of occupants of the Short-Term Rentals is 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.***

Short-Term Rental units must conform with this requirement.

b. Development Standards

The Subject Property includes approximately 0.60 acres zoned CR-3.0, C-3.0, R-2.75, H-225; CR- 3.0 C- 3.0, R-2. 75, H-200 and Bethesda Overlay Zone. The Application satisfies the applicable development standards as shown in the following data table:

**Data Table**

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Approved</b>
<b>Tract Area</b>	n/a	45,945 sf (1.05 acres)
<b>Prior Dedication</b>	n/a	17,470 sf (0.401 acres)
<b>Proposed Dedication</b>	n/a	2,241 sf (0.051 acres)
<b>Site Area</b>	n/a	26,234 sf (0.602 acres)
<b>Mapped Density CR-3.0 C-3.0 R-2.75 H-225 &amp; CR-3.0 C-3.0 R-2.75 H-200</b>		
<b>Residential (GFA/ FAR)</b>	126,348 sf (2.75)	406,845 sf (8.8)
<b>Commercial (GFA/FAR)</b>	137,835 sf (3.0)	11,487 sf (0.3)

<b>Total Mapped Density (GFA/FAR)</b>	137,835 sf (3.0)	137,835 sf (3.0)
<b>Bethesda Overlay Zone (BOZ) Density</b>	n/a	277,165 sf
<b>MPDU requirement</b>	15 percent	15 percent
<b>MPDU Bonus Density (GFA/FAR)</b>	n/a	45,000 sf (0.98)
<b>Total GFA/FAR with MPDU bonus (GFA/FAR)</b>	418,332 sf (9.1)	415,000 sf (9.0)
<b>Building Height</b>	225 ft	225 ft
<b>Public Open Space (min s.f.)</b>	2,623 sf (10 percent)	3,069 sf (11.7 percent)
<b>Minimum Setbacks (ft)</b>		
<b>Front (Bethesda Ave.)</b>	0	6
<b>Front (Wisconsin Ave.)</b>	0	8
<b>Front (Miller Ave.)</b>	0	0

	<b>Required</b>	<b>Provided</b>
<b>Parking Spaces</b>		
Vehicular	(Min/Max Spaces)	
115 market rate 1 bedroom <sup>1, 2,3</sup>	37/144	
120 market rate 2 bedroom <sup>1,2,3</sup>	58/180	
45 market rate 3 bedroom <sup>1,2,3</sup>	22/90	
50 MPDU <sup>1,2,4</sup>	16/50	
<b>Total</b>	<b>132/464</b>	<b>261</b>
Bicycle (Long-Term/Short-term)	95/5	95/11
<b>Loading Spaces</b>		
Residential use with 50 or more units	1	1
Commercial use up to 25,000 SF of GFA	1	1
<b>Total</b>	<b>2</b>	<b>2</b>

- 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. 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 be reduced for MDPU's by 0.5.



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. The Applicant is subject to the 2024 PIP rate because the Site Plan application was accepted as complete prior to July 1, 2023 and approved by the Planning Board prior to July 1, 2024.

Based on the requested 277,165 square feet of BOZ density, reduced by 45,000 square feet of MPDU density<sup>2</sup>, 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 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.

#### **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 are consistent with the outline of public benefits approved for the “West Side” development program of Application’s underlying Sketch Plan 32019003A.

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<sup>2</sup> Section 59.4.9.2.C.3.c.i. of the Zoning Ordinance exempts MPDU density from the Park Impact Payment.

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

Connectivity and Mobility

Minimum Parking

The Bethesda Overlay Zone increases the maximum amount of public benefit points available for Minimum Park 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 numbers 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. The Planning Board approves 6.8 public benefit points for Minimum Parking.

### Diversity of Uses and Activities

#### Enhanced Accessibility

The Applicant requests 20 public benefit points for providing 24 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 Application is eligible for the maximum 20 public benefit points in this category. The Planning Board approves 20 public benefits points for the provision of enhanced accessible residential dwelling units.

$$\begin{aligned} (\text{ANSI 117.1 Type A Units} / \text{Total Units}) \times 300 &= \text{number of public benefit points} \\ (24 / 330) \times 300 &= 21.8 \text{ points} \end{aligned}$$

### 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.

Public benefit points requests for Exceptional Design in the Bethesda Overlay Zone are reviewed by the Design Advisory Panel (DAP). The DAP provided comments on the Site Plan on April 27, 2022 and October 19, 2022. At each meeting, a more refined design was presented by the Applicant that addressed previous 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. The Planning Board approves 20 Exceptional Design public benefit points for Exceptional Design.

### Structured Parking

The Applicant requests 20 public benefit points for providing Structured Parking. The Application 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. The Planning Board approves 20 public benefit points for Structured Parking.

### 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 8.4 points for the purchase of 0.709 BLT easements or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5 percent incentive density floor area, exclusive of any density allocated for MPDUs. Points are granted by the calculation of BLTs as provided in Section 59.4.7.3.F of the Zoning Ordinance. The Planning Board approves 8.4 public benefits points requested based on the following calculation:

$$\begin{aligned} &(((418,332 - 22,973)) \times 0.075) / 31,500 = 0.94 \text{ BLTs} \\ &0.94 \text{ BLTs} * 9 \text{ points/BLT} = 8.4 \text{ points} \end{aligned}$$

#### 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 Planning Board approves 15 points for this public benefit.

c. General Requirements

i. *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 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.

ii. *Parking, Queuing, and Loading*

Parking and loading will be provided on-site internal to 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 is subject to a Loading Management Plan, to be included with the Certified Site Plan.

iii. *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 Application must provide a minimum of 10 percent (2,623 square feet) of that area as public open space. The Application includes 3,069 square feet of public open space, which equates to approximately 11.7 percent of the site area. This public open space is concentrated along the Site's Bethesda and Wisconsin Avenue frontages, which contributes to the creation of attractive streetscapes at a highly visible and heavily trafficked location in Downtown.

iv. *General Landscaping and Outdoor Lighting*

Landscaping and outdoor lighting are provided. These elements are designed to the Bethesda Streetscape Standards along the Site's Bethesda and Wisconsin Avenue frontages. Along Miller Avenue, these elements are provided to the same

standard, with the exception of street trees. There are existing subsurface public utilities in the Site's Miller Avenue planting zone that precludes the installation of tree planting. Smaller flowering shrubs and ornamental plantings, with less extensive root systems, are provided in the Miller Avenue planting zone to meet the intent of the Streetscape Standards. The Planning Board approves of the alternative planting solution for the Site's Miller Avenue frontage given the unique circumstances present at that location.

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

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on August 17, 2023. The plan will meet stormwater management requirements using green roof and micro-bioretenion planter boxes.

b. Chapter 22A, Forest Conservation

The Board finds that as conditioned the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

Natural Resources Inventory / Forest Stand Delineation No. 420221760 was prepared for the Overall Property and approved by M-NCPPC on April 7, 2022. It demonstrated that there are no forests, no protected soils, and no endangered species associated with the Property. There is one specimen tree (45" DBH White Mulberry Tree) in poor condition located in the center of the Site.

Preliminary/Final Forest Conservation Plan 820230020 is included with the Site Plan. 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 removal of the single specimen tree.

*Forest Conservation Variance*

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law identifies certain individual trees as a high priority for retention and protection (“Protected Trees”). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree’s critical root zone (“CRZ”), requires a variance under Section 22A-12(b)(3) (“Variance”). Otherwise, such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to one (1) Protected Trees (45” DBH White Mulberry Tree). In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance. The specimen tree is centrally located in the developable area of the Site and identified in “poor” condition. Retention of the tree would greatly reduce the Site’s buildable area and preclude redevelopment from occurring in line with the recommendations of the Sector Plan and Zoning Ordinance.

The Board makes the following findings necessary to grant the Variance:

- i. Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The specimen tree proposed to be impacted by this work is in poor condition and is located within a highly urbanized environment. Critical root zone impacts are unavoidable in order to implement any work on the Site. Rather than limit the full scope of the Project, removal of the specimen tree allows for the development to proceed, and for healthy tree canopy to be established in place of a single tree in declining health. The variance request would be granted to any applicant in a similar situation. Therefore, the granting of this variance is a not special privilege that would be denied to other applicants.

- ii. The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*



The variance is based upon the existing Site conditions and necessary design requirements of the Project. The variance is not based on conditions or circumstances that are results of actions by the Applicant.

- iii. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The variance is the result of an existing condition on the Property and the redevelopment requirements of this Project. The variance is not based on a condition related to land or building use on a neighboring property.

- iv. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The specimen tree requested for removal is not located in an environmental buffer or special protection area. The entirety of the area proposed for redevelopment is covered by buildings and parking lots with no existing stormwater management. While This approval is conditioned on mitigation for the removal of the specimen tree. The Application will also provide eight new street trees and add stormwater management facilities to the Site. Therefore, the removal of the single specimen tree will not violate State water quality standards or cause measurable degradation in water quality.

- 6. *The development 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 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 garaged 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 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.

7. *The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Preliminary Plan substantially conforms with the 2017 Bethesda Downtown Sector Plan and associated guidelines. The Property is in two of the Plan defined Downtown Districts, the Bethesda Row District and Wisconsin Avenue Corridor. 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 promotes 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 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 recommendation regarding the scope and scale of development desired for this location. The Application 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 Application 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 Application 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 (50 units) will be MPDUs, and up to 130 units (non-MPDUs) 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, and its western portion is designated as Map 163 within the Bethesda Row District. 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 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 attention to the Market and its associated history.
- Funding of a study and application for the 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. The Planning Board approves the Applicant's contributions for the benefit of the Farm Women's Cooperative Market and approves the associated request to achieve the maximum building height of 225 feet for portions of the development 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 the 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 the proposed development to exceed energy efficiency standards for the building type. This Application seeks to exceed energy efficiency standards for its building type by 17.5 percent.

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

The Application will upgrade the streetscapes on Wisconsin, Bethesda, and Miller Avenues in the Site's frontage areas. This will include wider sidewalks, plantings, and furnishings. Streetscapes on Wisconsin and Bethesda Avenue will be brought up to the Bethesda Downtown Streetscape Standard. The streetscape on Miller Avenue will be brought to the same standard, but will not include new street trees, to avoid subsurface utility conflicts.

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

The mix of uses proposed consist 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 along this major corridor.*

The Application allows for implementation of streetscape improvements, generally to the Bethesda Streetscape Standard in full, on the Site's frontages on Wisconsin, Bethesda, and Miller Avenues. Public open space provided 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 Application will reduce points of conflict between vehicles, pedestrians, and bicyclists. The Application provides required right-of-way dedications, including along the Site’s Wisconsin Avenue frontage, to allow 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 Bethesda Row District.*

The Site serves as a bridge between the Wisconsin Avenue Corridor and Bethesda Row District. The Project is 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 prominent northeast corner of the Site, which confronts the Market. This art piece will create a visual and interpretive connection between the Bethesda Row District at Bethesda Avenue and Farm Women’s Cooperative 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.*

The proposed building is designed with a maximum height of 225 feet proximate to Wisconsin Avenue on its east side. The building 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 highlight significant points with increased height.*

The proposed building is designed with increased height along the Wisconsin Avenue Corridor, reaching its apex of 225 feet adjacent to the intersection of Bethesda and Wisconsin 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 Application 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 further discussed in Finding 7.iii. for the Wisconsin Avenue Corridor above. Additionally, the Application provides 9,240 square feet of green cover, 3,069 square feet of public open space, and 50 MPDUs where none currently exist.

#### Bethesda Row District

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

This Application 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 northside of Bethesda Avenue, confronting the Site. There are no other master-planned recommended bicycle enhancements on or adjacent to the Site.

Regardless, the Application 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 Application 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 i. and ii. above for the Bethesda Row District, the Application 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.

8. *The development 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.*

Associated with this Site Plan, Preliminary Plan 120230020, was concurrently reviewed and approved by the Planning Board. Analysis provided with the Preliminary Plan concluded that the development will be served by adequate public services and facilities.

9. *The development is compatible with existing and 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 Application implements the western portion of the larger project envisioned with the Bethesda Market Sketch Plan.

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 27, 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 of the motion, at its regular meeting held on Thursday, March 21, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair  
Montgomery County Planning Board



Agnes Mindy Schwarcz  
7111 Woodmont Avenue  
#404  
Bethesda MD 20815

Sara Gerstl  
Crescent Plaza  
No Mailing Address Listed

Farhad Moayyad  
7111 Woodmont Avenue  
Bethesda MD 20815

Carolyn Weiss  
7111 Woodmont Avenue  
Bethesda MD 20815

Mark Bernstein  
  
No Mailing Address Listed

Jean Salemmé  
7111 Woodmont Avenue  
Unit 615  
Bethesda, MD 20815

Heather Dlhopsky  
4800 Hampden Lane, Suite 200  
Bethesda, MD 20814

Josh Etter  
12435 Park Potomac Avenue, Suite 200,  
Potomac, MD 20854

Andy Czajkowski  
4600 East-West Hwy  
Bethesda, MD 20814

Valerie Hochman  
4600 East-West Hwy  
Bethesda, MD 20814

Jami Milanovich  
650 Massachusetts Avenue, NW  
Suite 600  
Washington, DC 20001

Brian Bolen  
101 N Union St Fiber,  
Alexandria, VA 22314

Bob Kyte  
9711 Washingtonian Blvd  
Suite 375  
Gaithersburg, MD 20878

Brandon Rowe  
901 Dulaney Valley Road  
Suite 801  
Towson, Maryland 21204

Matthew Pohlhaus  
901 Dulaney Valley Road  
Suite 801  
Towson, Maryland 21204

Sketch Plan No. 32019003A  
Preliminary Plan No 120230020  
Site Plan No 820230020

7126 Wisconsin Avenue