

**SHOPS AT SUMNER, SUMNER PLACE APARTMENTS:
PRELIMINARY PLAN AMENDMENT NO. 11985202A, SITE PLAN
NO. 820230140 AND FOREST CONSERVATION PLAN NO.
F20240050**



Request to construct a new infill multifamily building of up to 117,608 square feet, with up to 118 multi-family dwelling units, a minimum of 15% MPDUs, with structured parking. A total of 224, 274 square feet of non-residential uses (retail, restaurant, and office) are to remain onsite. Request to amend the Forest Conservation Plan to update the easement boundaries.

Plans No. F20240050,
11985202A, 820230140

Completed: 07-08-2024

MCPB
Item No. [XX]
07-18-2024

Montgomery County
Planning Board
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Summary:

- Staff recommends approval with conditions of the Preliminary Plan Amendment, Site Plan, and Forest Conservation Plan Amendment.
- The Subject Application proposes an infill project in an established shopping center consisting of 118 multi-family dwelling units, including 15.2% MPDUs and private structured parking, private and public streetscape improvements, and amenity open space.
- The new residential building will replace an existing portion of the Site's surface parking lot as well as a bank pad structure.
- The Applicant is seeking additional density beyond the mapped residential Floor Area Ratio (FAR) and additional height by providing more than 12.5% of the gross residential floor area as MPDUs, in accordance with Section 59-4.6.2.C.1 of the Zoning Ordinance.
- The Applicant is seeking approval for a parking waiver for the design of the existing portion of the parking lot, which is outside the proposed Limits Of Disturbance, to remain in its existing condition.

LOCATION/ADDRESS

Located in the southeast quadrant of the intersection of Sangamore Road and Sentinel Drive in Bethesda

MASTER PLAN

1990 Bethesda/Chevy Chase Master Plan

ZONE

NR-0.75 H-45

PROPERTY SIZE

11.88 acres

APPLICANT

W.C. & A.N. Miller Development

ACCEPTANCE DATE

November 29, 2023

REVIEW BASIS

Chapters 50, 59, and 22A

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SECTION 1: EXECUTIVE SUMMARY

The Applicant is proposing to build a new 118-unit multi-family residential building in the existing Shops at Sumner Place shopping center (also referred to as the “Little Falls Mall”), which includes 227,299 square feet of retail, restaurant, and office uses of which 224,274 square feet are to remain. The new multi-family building includes 15% MPDUs instead of the minimum 12.5% to allow for additional building height, from 45 to 57 feet. Additional density is also requested.



Figure 1: Site Vicinity

The Sumner Place Shopping Center was built in the 1960s and has been renovated over the years under the prior C-1 Zone in the 1970s and early 2000's. In 2014 the Site was rezoned Neighborhood Retail, NR-0.75 H-45. It is currently developed with several retail stores and office buildings, and more than 700 surface parking spaces.

The Shopping Center will remain (apart from an existing bank pad Site). The proposed residential building will be located in the rear portion of the underutilized surface parking lot. The building will include a parking garage that will serve the residents. Even with a net reduction in parking on-site there will still be sufficient parking to accommodate peak demand for all uses on the site.

The Subject Application amends Preliminary Plan 119852020 that created Parcel E, to consolidate Parcels E and F into one lot. It will also make a new adequate public facilities finding for the proposed multi-family residential building. The Applications will comply with all prior approvals, including the Preliminary Plan, as amended.

The Previous Forest Conservation Plan is being amended because the current Forest Conservation Easement conflicts with the existing utilities. A new easement will be recorded to address this issue.

This is a standard method project as optional method is not permitted in the NR zone. However, because the Project is proposing new construction that is greater than or equal to 10,000 square feet, a Site Plan is required. Multi-unit residential use is a limited use in the NR zone, and it cannot exceed 30 percent of the total Site density.



Figure 2: Rendering of the northwestern corner of the proposed residential building

SECTION 2: RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN AMENDMENT 11985202A

Staff recommends approval with conditions of the Preliminary Plan Amendment to add up to 118 multi-family dwelling units to an existing shopping center. All site development elements shown on the latest electronic version of Preliminary Plan No. 11985202A as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions. The following new conditions of approval supersede all previous conditions approved under the original Preliminary Plan No. 119852020¹.

GENERAL APPROVAL

1. This Preliminary Plan is limited to one (1) lot for 118 multi-family dwelling units, and 224,274 square feet of existing non-residential uses, to remain^{2,3}.

ADEQUATE PUBLIC FACILITIES

2. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

PLAN VALIDITY PERIOD

3. The Preliminary Plan Amendment will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and before the expiration date of this validity period, a new final record plat for all property delineated on the approved Preliminary Plan Amendment must be recorded in the Montgomery County Land Records or a request for an extension filed.

OUTSIDE AGENCIES

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated June 6, 2024, and incorporates them as conditions of the Preliminary Plan Amendment approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by

¹ It is acknowledged that Parcel F was created by an unnumbered minor subdivision on December 14, 2000. Parcel F was recorded in the Land Records at Plat 21680.

² The Property is improved with 227,299 square feet of non-residential uses. A bank pad site consisting of 3,025 square feet will be removed as part of the project.

³ The retail/service, restaurant, office use spaces can be changed to other commercial/non-residential uses if there is no adverse impact on the Preliminary Plan and APF findings and it is approved by Staff.

MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan Amendment approval.

5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS"), Water Resources Section in its stormwater management concept letter dated May 14, 2024, and incorporates them as conditions of the Preliminary Plan Amendment approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan Amendment approval.

SITE PLAN APPROVAL

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

TRANSPORTATION

Frontage Improvements on Existing Roads

9. Before recordation of the new plat, the Applicant must enter into and record in the Land Records a covenant with the Planning Board for future dedication of five feet (5 ft) of right-of-way along the Sangamore Road frontage. The book/page reference of the covenant must be noted on the plat. Dedication to achieve the full forty-foot (40 ft) from the existing roadway centerline will be required when the portion of the Subject Property along Sangamore Road redevelops.
10. Before recordation of the plat, the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a minimum six-foot wide (6 ft) sidewalk, except where infeasible, along the Property frontage on Sentinel Drive.

RECORD PLATS

11. There shall be no clearing or grading of the Site before recordation of the new plat.
12. The new record plat must show necessary easements.
13. The Applicant will make a reasonable attempt to secure an agreement with the Sumner Village Condominiums property (SVC) to preserve access between the fence dividing the SVC and the Subject Site.
14. The record plat must reflect common ingress/egress and utility easements over all shared driveways.

CERTIFIED PRELIMINARY PLAN

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

SITE PLAN 820230140

Staff recommends approval of Site Plan No. 820230140, for the construction of up to 117,608 square feet of multi-family dwelling uses (up to 118 multi-family dwelling units, including 15.2 percent Moderately Priced Dwelling Units “MPDUs”), 224,274 square feet of non-residential uses to remain, and new streetscape improvements and amenity open space across the entire Site. The development must comply with the conditions of approval for Preliminary Plan Amendment No. 11985202A and supersedes prior Certified Site Plan No. 820200060 with regard to Amenity Open Space and off-street parking. All site development elements shown on the latest electronic version of the Site Plan, as of the date of the Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions.⁴

DENSITY, HEIGHT & HOUSING

1. Density

The Site Plan is limited to a maximum of 341,882 square feet of total development on the Subject Property, including 117,608 square feet of new residential uses, for up to 118 multi-family dwelling units (including the MPDU bonus density), and the existing 224,274 square feet of retail/service, restaurant, office, non-residential uses are to remain.⁵

2. Height

The development is limited to a maximum height of fifty-seven (57) (including the MPDU bonus density) 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 May 29, 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 development must provide 15.2 percent MPDUs or MCDHCA-approved equivalent consistent with the requirements of Chapter 25A and the applicable Master Plan. The Applicant is receiving a twenty-two percent (22%) residential density bonus (21,453 square feet) for providing 15.2 percent MPDUs or MCDHCA-approved equivalent.

⁴ For the purposes of these conditions, the term “Applicant” shall also mean the developer, the owner, or any successor (s) in interest to the terms of this approval.

⁵ The retail/service, restaurant, office use spaces can be changed to other commercial/non-residential uses if there is no adverse impact on the Site Plan and APF findings and it is approved by Staff.

- 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.

OPEN SPACE, FACILITIES AND AMENITIES

4. Amenity Open Space, Facilities, and Amenities
 - a) The Applicant must provide a minimum of 86,256 square feet of amenity open space (16% of net lot area) on-site, as illustrated on the Certified Site Plan.
 - b) Before the issuance of the first use and occupancy certificate for the residential development (excluding core and shell), all public amenity open space areas on the Subject Property must be completed.
5. Amenity Open Space Covenant

Before the new record plat is recorded, the Applicant must record an Amenity Open Space Covenant, in a form approved by the M-NCPPC Office of the General Counsel.
6. Recreation Facilities

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

TRANSPORTATION & CIRCULATION/ADEQUATE PUBLIC FACILITIES (APF)

7. 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 May 16, 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.
8. Pedestrian & Bicycle Circulation
 - a) The Applicant must provide fifty-seven (57) new long-term and six new (6) short-term bicycle parking spaces and maintain the existing thirty (30) spaces for a total of ninety-three (93) total bicycle parking spaces onsite, as illustrated on the Certified Site Plan.
 - b) The new long-term spaces must be in a secured, well-lit bicycle room on the ground floor of the residential building, and the short-term spaces must be inverted-U racks (or approved equal) installed in a location convenient to the main entrance of the residential building (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 in the secure bike parking room in the proposed building, as illustrated on the Certified Site Plan.

- d) The Applicant must show on the Certified Site Plan and before issuance of the first use and occupancy permit (excluding core and shell) for the residential development 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:
 - i. Sentinel Drive: six-foot-wide (6 ft) sidewalk, except where infeasible due to existing grade and retaining walls, with six-foot-wide (6 ft) buffer from traffic.

9. 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 May 29, 2024, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

SITE PLAN

10. Site Design

- a) The exterior architectural character, proportion, materials, and articulation of the new residential building must be substantially similar to the schematic elevations shown on the Certified Site Plan, as determined by M-NCPPC Staff.
- b) There will be no balconies above the second floor, along the northern portion of the east elevation as shown in Exhibit A-01, attached to this staff report.

11. Lighting

- a) Before Certified Site Plan, the Applicant must provide to Staff certification 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 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.

12. Site Plan Surety and Maintenance Agreement

Before issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, whichever comes first, associated with this Site Plan application, 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 right-of-way), including, but not limited to plant material, on-site lighting, indoor and outdoor recreational facilities, site furniture, fences, railings, internal sidewalks, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and street lights. 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.

13. 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.

14. Certified Site Plan

Before approval of the Certified Site Plan, the Applicant must make the following revisions or provide additional information, subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, development program, and Site Plan resolution 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) Include approved Fire and Rescue Access Plan.
 - d) Modify data table to reflect development standards approved by the Planning Board.
 - e) Ensure consistency of all details and layout between Site and Landscape plans.

FOREST CONSERVATION PLAN F20240050

Staff recommends approval of Shops at Sumner, Forest Conservation Plan Amendment No. F20240050 with the following conditions⁶ which supersede all other conditions of approval under Final Forest Conservation Plan No. 11985202.

1. 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.
2. 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 Forest Conservation Plan (FCP) may be required by the M-NCPPC Forest Conservation Inspection Staff. Alternate methods of invasive control may be required or permitted by the M-NCPPC Forest Conservation Inspector.
3. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved FCP.
4. The landscape plantings credited toward meeting the requirements of the FCP must consist of trees that are at least 3 inches in caliper size. There must be a minimum of 41 shade trees, 25 ornamental trees, and 48 evergreen trees. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
5. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, the Applicant must:
 - a. Record a new Category I Conservation Easement reflecting the entire easement area excluding the area that is authorized to be removed. The new easement agreement must be approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. Before recordation of the Deed of Release of Conservation Easement for the existing conservation easement. The Book/Page for the easement must be referenced on the record plat.
 - b. Submit a Deed of Release of Conservation Easement for the entirety of the existing Category I Conservation Easement recorded among the County Land Records in Book 17858, Page 208 in a form approved by the M-NCPPC Office of General Counsel. The Deed of Release must be recorded in the Montgomery County Land Records. The entirety of the existing easement remains in full force and effect until the Deed of Release has been approved and recorded in the Montgomery County Land Records. The Deed of Release cannot be approved by M-NCPPC until the new

⁶ For the purposes of these conditions, the term “Applicant” shall also mean the developer, the owner, or any successor (s) in interest to the terms of this approval.

- easement is recorded and the Certificate of Compliance is recorded, or fee-in-lieu is paid.
- c. Must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the Forest Conservation Plan (“FCP”), or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 - d. Must 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 mitigation tree plantings, including variance tree mitigation plantings, landscape plantings credited toward meeting the requirements of the FCP, and invasive plant control measures.
 - e. Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for at least 41 shade trees, 25 Ornamental trees and 48 evergreen trees of landscape plantings credited toward meeting the requirements of the FCP, variance mitigation trees, and maintenance, including invasive management controls.
 - f. Record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Little Falls watershed or Priority Area to satisfy the reforestation requirement for a total of 0.76 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Little Falls watershed or Priority Area or by making a fee-in-lieu payment to M-NCPPC if mitigation credits are not available at any bank.
6. The landscape plantings credited toward meeting the requirements of the Forest Conservation Plan (FCP) must consist of trees that are at least 3 inches in caliper size and must be native to the Piedmont Region of Maryland. There must be a minimum of 41 shade trees, 25 ornamental trees, and 48 evergreen trees.
 7. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the landscape plantings credited toward meeting the requirements of the FCP on the Subject Property as shown on the approved FCP.
 8. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings as shown on the approved FCP.
 - a. The variance tree mitigation plantings must be a minimum size of 3 caliper inches totaling at least 11 caliper inches and must be native to the Piedmont Region of Maryland, as shown on the approved FCP. Adjustments to the planting locations of

these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

- b. The variance tree mitigation plantings must be at least five (5) feet away from any structures, paving, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements.
9. Before certification of the FCP the Applicant must revise the plans per the following:
- a. Update the Invasive Species Control Plan to address long-term measures for controlling invasives within the easement areas. All proposed measures should be chosen with consideration of the proximity to the on-site stream. The use of herbicides should be avoided.
 - b. Make minor corrections/clarifications in coordination with M-NCPPC Planning staff.

SECTION 3: SITE DESCRIPTION

VICINITY

The Subject Site is located within the Shops at Sumner Place Shopping Center (“Shopping Center”), which is zoned NR-0.75, H-45, and lies at the southeast corner of the intersection of Sangamore Road and Sentinel Drive in Bethesda. The Site, which pertains to the entirety of Parcels E and F is generally bounded by R-30 zoned townhouses along Sentinel Drive to the north and the Sumner Village residential community in the R-30 zone to the east. To the west, land uses include the Defense Intelligence Agency’s Intelligence Community Campus-Bethesda and single-family housing in the Brooks Ridge subdivision, both in the R-90 zone, along Sangamore Road and Brookes Lane. Within the Shopping Center, nonresidential uses, and associated surface parking is present throughout the Site. There are no known rare, threatened, or endangered species on site.



Figure 3 – Vicinity Map (Site outlined in red dashed line)

PROPERTY DESCRIPTION

The Property is 11.88 acres. As stated above, it is zoned NR-0.75, H-45, and consists of two subdivided record lots: Parcel E, Block E of the Sumner Subdivision, recorded in the Land Records of Montgomery County Maryland at Plat 16267 and Parcel F, Block E of the Sumner Subdivision recorded in the Land Records at Plat 21680. The Property is improved with 227,299 square feet of non-residential uses (primarily retail, restaurant and office uses), and these improvements were originally constructed in 1966 under the prior C-1 Zone, with renovations and expansions occurring in 1972 and 2001. All existing non-residential uses will remain except for a commercial pad site consisting of 3,025 square feet.

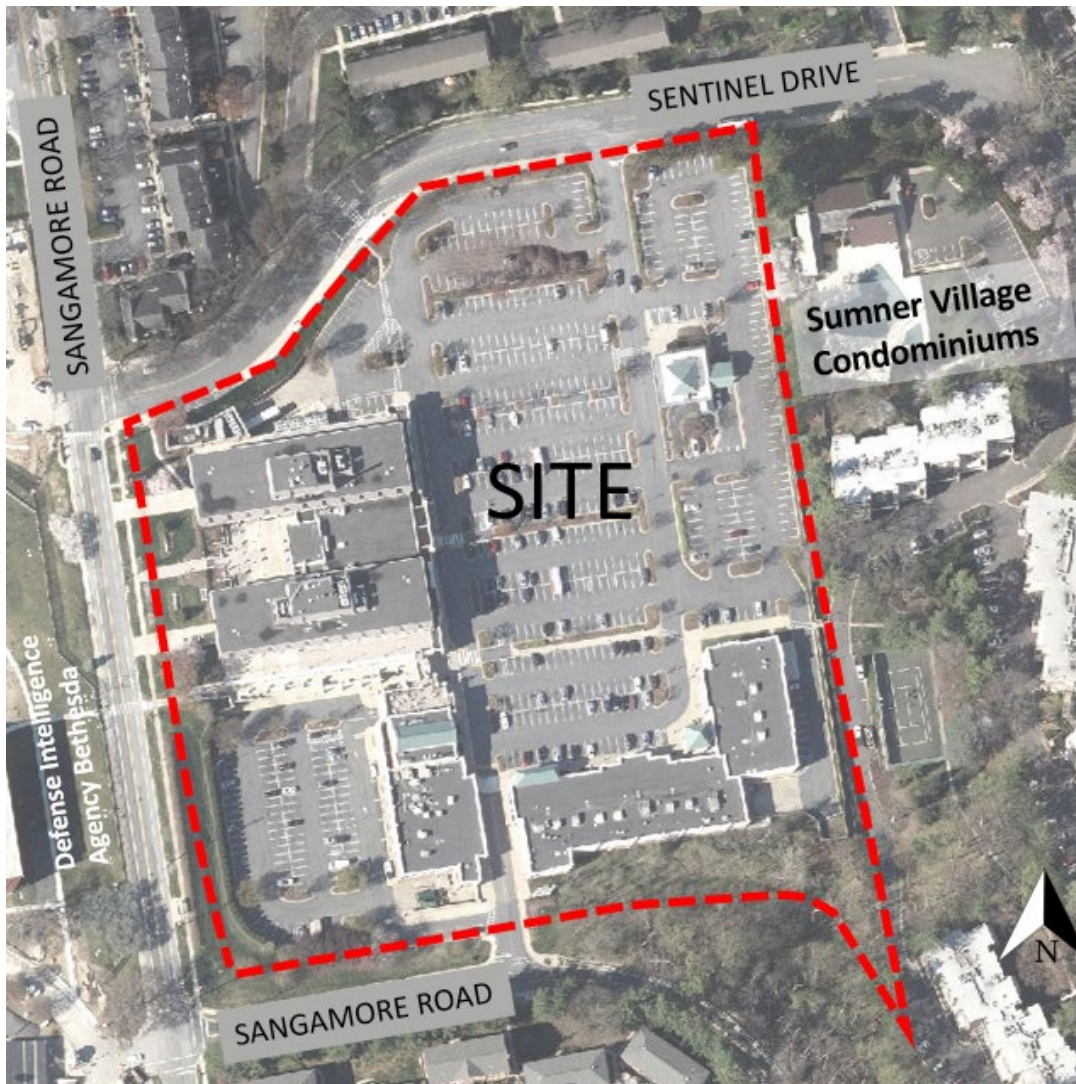


Figure 4 – Subject Property

The Property is located within the Little Falls watershed, which is a tributary of the Anacostia River, designated as a Use-Class I-P.⁷ watershed. The Site includes a small portion of steep slopes, a forested stream, and its associated buffer situated on the southwest part of the Property, which is part of a Forest Conservation Easement Category 1. Onsite, there are three (3) trees measuring 30-inch diameter at breast height (DBH) or greater, and five (5) significant trees with diameters between 24 inches and 30 inches DBH. The Site does not contain hydric or highly erodible soils.

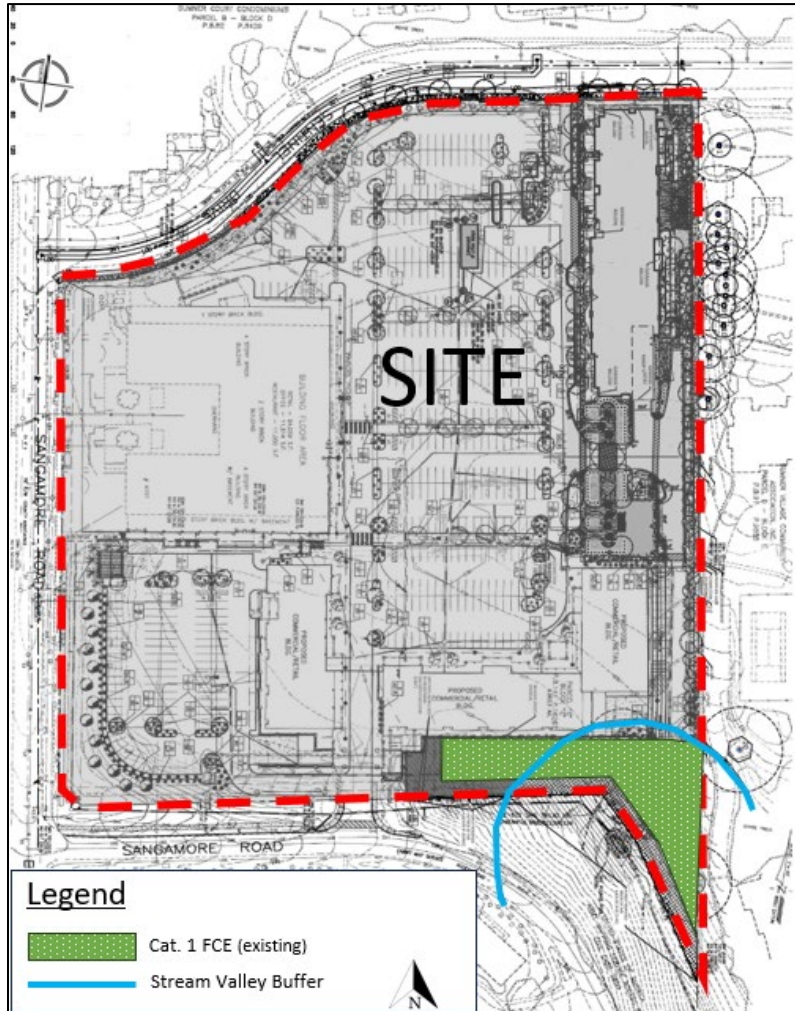


Figure 5: Exhibit showing existing Category 1 Forest Conservation Easement (green dotted shape), and Stream Valley Buffer (solid, curved blue line). Site outlined in dashed red line.

⁷ WATER CONTACT RECREATION & PROTECTION OF AQUATIC LIFE, AND PUBLIC WATER SUPPLY

Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply, industrial water supply, and use as a public water supply.

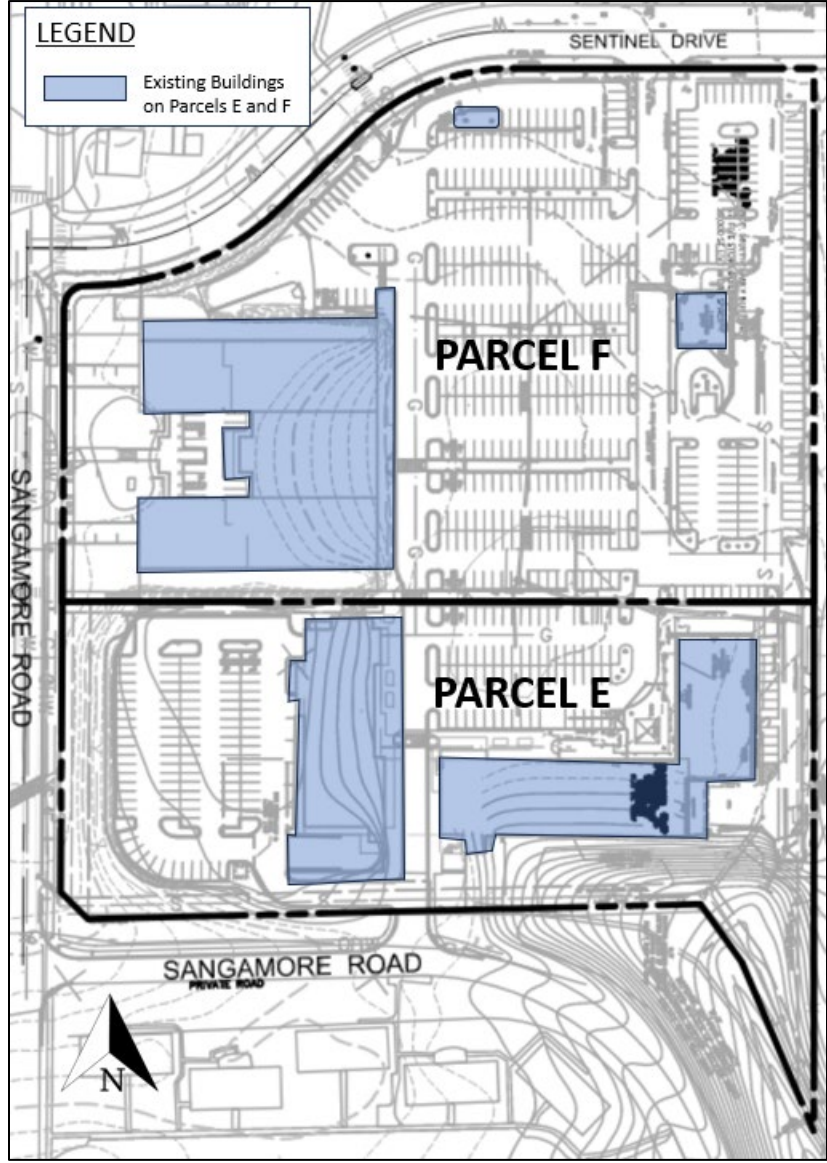


Figure 6: Existing Conditions of the Site. Existing buildings shaded in blue.

SECTION 4: PROJECT DESCRIPTION

PREVIOUS APPROVALS

Preliminary Plan

On May 6, 1986, the Planning Board approved Preliminary Plan No. 119852020⁸ for the creation of one lot on 4.9 acres of land (Parcel E) and authorized development of up to 46,000 square feet of grocery store uses. This is recorded in the Land Records of Montgomery County at Plat No. 16267. The Planning Board approval also included a preliminary forest conservation plan.

The Preliminary Plan was amended by the Planning Board on December 3, 1990, to allow for development of 46,000 square feet of retail uses permitted in the C-1 Zone on Parcel E in lieu of the previously approved grocery store use.

Parcel F was subsequently created through a minor subdivision application on December 14, 2000, and was recorded in Land Records at Plat No. 21680.

Countywide Zoning Rewrite

In 2014, the property was rezoned from the C-1 zone to the NR-0.75, H-45 zone under the comprehensive rezoning of Montgomery County as part of the Zoning Rewrite.

Site Plan

On March 26, 2020, the Planning Board approved Site Plan No. 820200060 (MCPB 20-016) for the Shopping Center property under the NR 0.75 H-45 zone for a drive-thru ATM on 0.09 acres of land (portion of Parcel F). It replaced three parking spaces and a parking island. The approval also required the Applicant to install plantings and downward facing security lighting within the drive-thru ATM structure.

Concept Plan

Before submitting the Subject Applications, the Applicant submitted Concept Plan No. 520230180 to obtain feedback from the surrounding community and the Development Review Committee. Comments were made on the proposed building design, internal access and circulation facilities, location of the loading space, and amenity open space. These comments informed the initial submission of the Subject Applications and changes to the Applications throughout the review process.

⁸ In 1986 the Montgomery County Planning Board did not assign numbers to the final Opinions. The only identifying information are the project number, the date of the public hearing and the date of mailing.

PROPOSAL

The combined Applications includes a Preliminary Plan Amendment, a new Site Plan, and a Forest Conservation Plan (FCP) amending the prior FCP. The Project is proposing to build a 117,608 square foot multi-family residential building on a portion of the underutilized surface parking lot of the Shops at Sumner/Little Falls Mall. The proposed public amenity space will replace an existing bank pad site. The residential building will be comprised of up to 118 units, of which 15.2 percent will be Moderately Priced Dwelling Units (MPDUs). New, buffered sidewalks will surround the perimeter of the proposed building and will connect to newly improved pedestrian connections already internal to the Site. New public and private amenity spaces are also proposed around the multi-family building.

To achieve this proposal, the Applicant submitted a Preliminary Plan Amendment to resubdivide Parcels E and F into a single lot and to update the Adequate Public Facilities (APF) Finding for the entire site, to remove the bank and add a new residential building. A covenant for future right-of-way on Sangamore Drive is also part of the Preliminary Plan Amendment. A new plat will be required to consolidate the lots, record the covenant for future right-of-way dedication, and include the amended Forest Conservation Easement.

The Property is zoned NR-0.75 H-45, which only allows standard method development; however, because the Project is proposing new construction that is greater than or equal to 10,000 square feet or taller than 40 feet in height and abutting a residential zone, a Site Plan is required.

The Forest Conservation Plan resolves issues with an overlapping sewer and Category-1 Forest Conservation Easement in the southeast portion of Parcel E. When the Site was first developed in the 1980s and 1990s the County permitted the two types of easements to overlap. Overlapping Forest Conservation Easements and Sewer or other utility easements is no longer an acceptable practice. Now that the Applicant is proposing improvements to the Site and will therefore disturb the existing sewer connections to accommodate the proposed multi-family residential infill building, it is the appropriate time to disentangle the overlapping easements and establish clear and distinct boundaries. Forest Conservation requirements will be met by on-site reforestation, off-site reforestation, and credit for landscaping.



Figure 7: Illustrated Site Plan

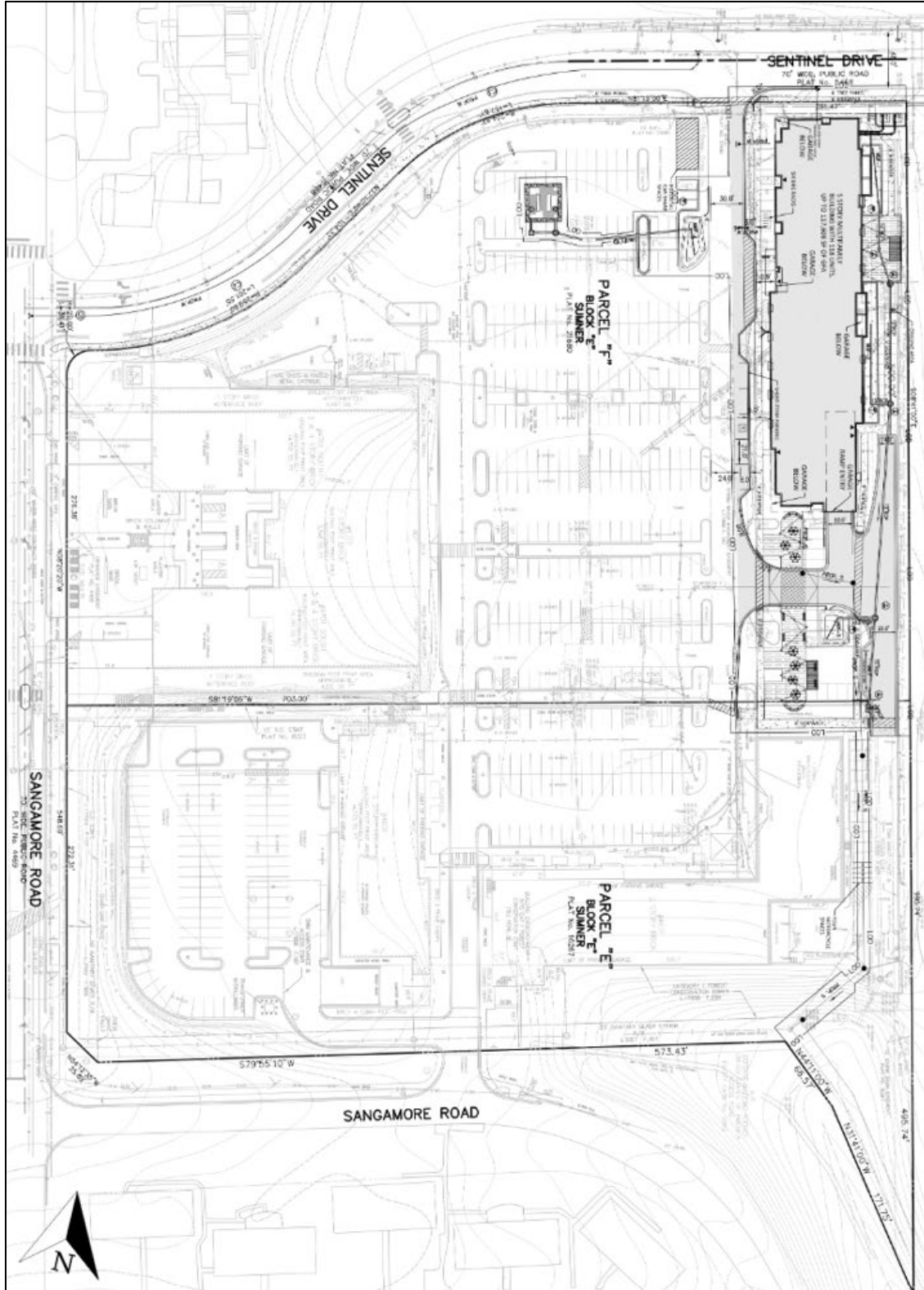


Figure 8: Site Plan

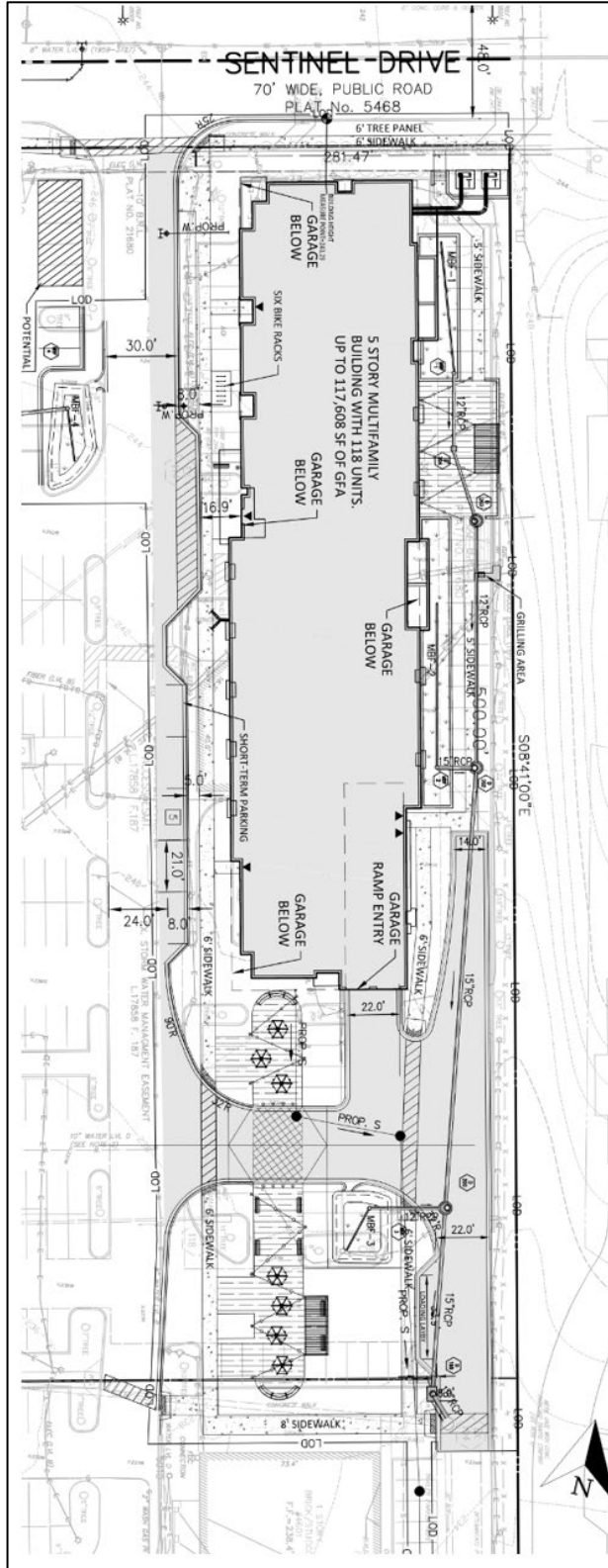


Figure 9: Close up of Residential Building and Pocket Park

BUILDING/ARCHITECTURE (SUMNER PLACE APARTMENTS)

The Project proposes a five-story rectangular building with detailed elevations and highly articulated fenestration on all four sides. The building is oriented in a way that supports the adjacent streets, spaces, and the orthogonal orientation of the retail mall. The long east and west elevations are broken up with intermittent setbacks of up to six feet so that the larger building mass appears as a composition of smaller bays. A shift in the building mass also further sets back a large portion of the eastern elevation from the Sumner Village Condominium to the east, particularly Building No. 6, which is closest to the Site. The building massing has further been broken down through material changes and articulation including brick, light and dark composite panels, and balconies which add visual interest to the architecture. The main entrance is centered between the building bays on the western frontage, facing the retail mall. There will be a combination of recessed and projected balconies throughout the building that add interest and a rhythm to the elevations and enhances the relationship between the units and the public realm of the streets below. Rooftop HVAC units will be screened from view from the streets by parapet walls and will be integrated into the building massing.

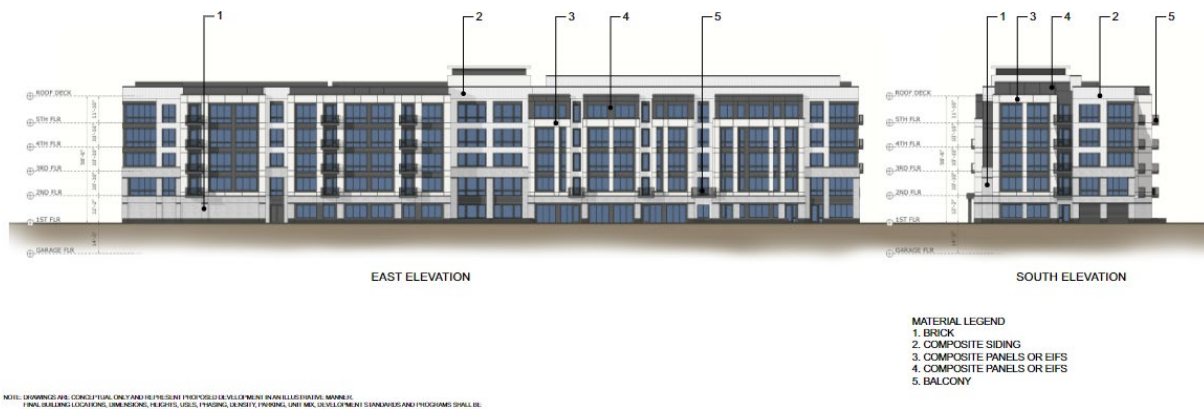


Figure 10: East Elevation (facing Sumner Condominium), and South Elevation (internal to the Site)

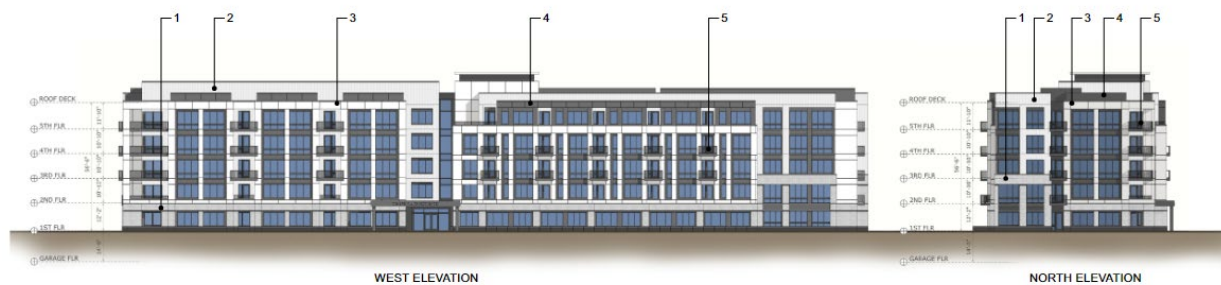


Figure 11: West Elevation (main entrance), and North Elevation (fronting Sentinel Drive)



Figure 12: View from Sentinel Drive along the main internal drive at the entry to the Site



Figure 13: West Elevation, public amenity space in front of the garage entrance

OPEN SPACE

The Application proposes a total of 94,334 square feet (2.17 acres) of amenity open space on the Site. This includes the existing amenity open space and the additional 13,827 square feet, to be provided with the Subject Application. This results in a total of 16 percent amenity open space onsite, which exceeds the minimum requirement of 10 percent of the Site Area.

The Project proposes installation of a pocket park to be located between the proposed residential building and the existing CVS Pharmacy building. Private open space covering 12,954 square feet will be provided on the east side of the residential building. The Applicant will install a streetscape with tree-lined sidewalks that will connect the residential building to the pocket park and the other destinations within the Site to encourage more walking and fewer auto trips between residential and retail uses.

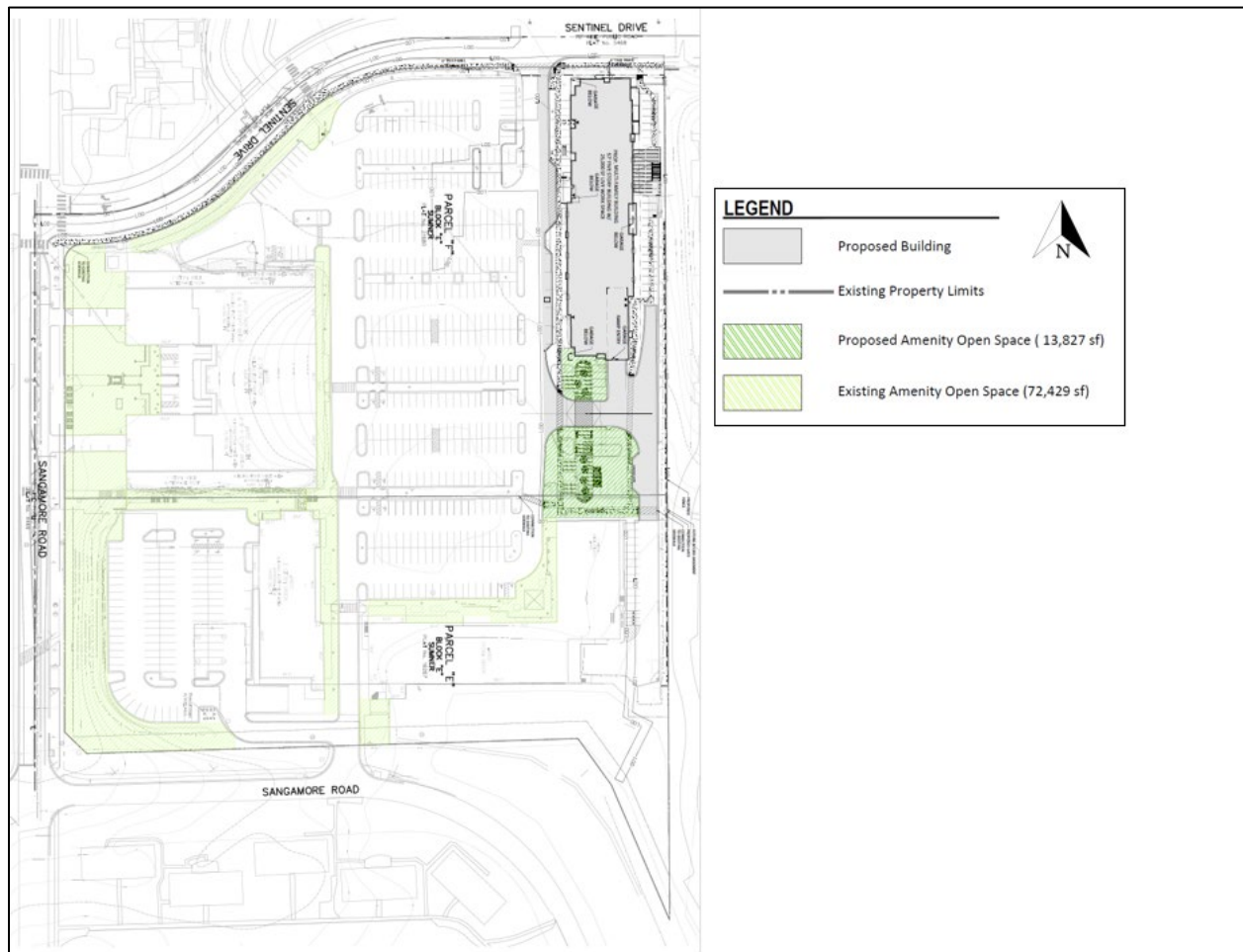


Figure 14: Open Space Exhibit

TRANSPORTATION

Vehicular access to the Site will continue to be provided by the existing curb cuts on Sentinel Drive and Sangamore Road. No new curb cuts are proposed with the Application. The proposed residential building will front directly onto Sentinel Drive; therefore, it is assumed that most residents will use the Sentinel Drive access point. Residents and visitors to the Site will access both the garage and the loading space from the internal drive aisle, accessed from Sentinel Drive.



Figure 15: Site Circulation

The onsite loading space is located internal to the Site but outside the residential building. The loading space will be located east of the pocket park, just north of the CVS Pharmacy. The design of the loading space will accommodate an SU-30 style box truck. Larger trucks serving other non-residential uses on the Site will still be able to navigate the internal network of the Site.



Figure 16: Site Circulation Around Proposed Building and Pocket Park

Pedestrian access to the Site will be improved with wider, buffered sidewalks on Sentinel Drive, and new pedestrian pathways around the proposed residential building and pocket park. The sidewalks on Sentinel Drive will be widened to six-foot-wide (except where infeasible due to steep grades behind the sidewalk) with six-foot street buffers. The sidewalks around the building will also be six-foot wide, with seven-foot-wide street buffers. The Project proposes new striped crossings across the driveways to match pedestrian desire lines through the Site. This includes improvements to the existing pathway connecting the residential uses to the east with the Site. This pathway is important to both the Applicant and the residents of the Sumner Village Condominiums, abutting the Site. Residents have voiced support for this access point, which provides a convenient walking route to the proposed pocket park and established retail and services uses. The Applicant values the foot traffic from the adjacent residents patronizing businesses and retail established in the shopping center.

A total of 712 vehicular parking spaces will be available in the existing surface parking lot and parking structures onsite, to be used by the employees, visitors and future residents. The new residential building will provide 50 vehicular parking spaces, reserved for the residents in the parking garage.

Residents will also be permitted to park in the surface lot spaces overnight. Five short-term parking spaces will be provided along the building's west façade to be used for ridesharing or unscheduled deliveries. Per Section 59-6.2.3.1.3 the required minimum number of parking spaces can be determined by applying the ULI Shared Parking model. Applying this methodology, a total of 584 spaces would accommodate peak demand for all uses on the Site. Therefore, the Applicant is exceeding the minimum required spaces sitewide.

ENVIRONMENT

The Property is subject to Chapter 22A, the Forest Conservation Law, and all forest conservation requirements are proposed to be met on-site. Onsite, there are three trees measuring a 30-inch diameter at breast height (DBH) or greater, and five significant trees with diameters between 24 inches and 30 inches DBH. A variance is requested for impacts to specimen trees, as well as to remove portions of forested areas within the Stream Valley Buffer, as discussed in Section 8 of the Forest Conservation Plan Findings and Analysis.

SECTION 5: COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements. A pre-submittal public meeting was held virtually on April 13, 2023, related to the Subject Application and the Subject Applications will be filed within 90 days as required by Section 59-7.5.2.B.1⁹. The sign-in sheet indicates that 147 people attended the meeting. Several questions and concerns were raised during the meeting. Among the requests were the following:

- move the building further from the shared boundary with Sumner Village,
- move loading to be internal to the Site,
- provide additional reserved parking for the residents, and
- provide affordable housing (or housing for a mix of incomes).

There were also concerns about the height of the building, potential traffic impacts to the area, and the potential impacts on the Sumner Village Pool (additional shade, lack of privacy, etc.). The complete list of questions, concerns and recommendations are included in Attachment D of this staff report.

The Applicant has since held several meetings with the Sumner Village Condominium (SVC) owners and exchanged letters throughout the review of the Application. The Applicant has made significant changes to the original Project as it was conceived under the Concept Plan, including the following:

⁹ Note that the Applications were not accepted as complete until November 29, 2023, as reflected on the cover sheet of this report.

- reducing the overall size of the project by 28% (or 47,000 square feet),
- reducing the building floor plate by about 9,000 square feet to improve viewsheds for Sumner Village Condominiums,
- increasing the setback that ranges from nine to 15 feet along the property line with Sumner Village Condominiums,
- eliminating a new curb cut on Sentinel Place that was intended for loading, and
- adding amenity open space on site and in locations that are complementary to the existing retail uses adjacent to existing and proposed residences.

NEIGHBORING RESIDENT CONCERN: REDUCTION IN PARKING ON AND ADJACENT TO THE SITE

During review of the Project neighboring residents were concerned that the proposed Project proposed an overall decrease in parking on site. The proposed residential building would remove existing surface parking and the proposed parking garage beneath the residential building provides reserved spaces at a rate of 0.42 per unit. Related to this concern, residents were worried that the improved sidewalks on Sentinel Drive would require removal of the existing on-street parallel parking spaces, which are in frequent use today.

The Applicant elected to use the ULI Shared Parking Model (as permitted by Section 59-6.2.3.1.3.b.) to determine the minimum number of required vehicle parking spaces onsite. To address the concerns of the neighboring residents, the Applicant also conducted a parking usage study. Parking occupancy data was collected on an hourly basis on Saturday, June 3, 2023, and Tuesday, June 6, 2023. Based on the data collected peak parking occupancy on Saturday occurred at 12pm with 41.34% of the parking spaces occupied while peak occupancy on Tuesday occurred at 12pm with 59.58% of the parking spaces occupied. These results demonstrate that there is a significant surplus of parking available on the Site today and after the 131 existing surface spaces are replaced with the multi-family building and amenity open space.

Staff also shared the cross section of Sentinel Drive with the residents showing that the widened sidewalk and construction of a street buffer with street trees would not result in a loss of parking along the Sentinel Drive frontage. The existing street is very wide, wider than master-planned, which provides ample room to reallocate some of the paved area to the sidewalk and street buffer, leaving room for parallel parking spaces.

SECTION 6: PRELIMINARY PLAN AMENDMENT 11985202A FINDINGS AND ANALYSIS

The Planning Board approved Preliminary Plan No. 119852020, Opinion mailed May 28, 1986, to create one lot, Parcel E, on 4.9 acres on the Subject Property with conditions (Plat No. 16267). Parcel F was subsequently created through a minor subdivision application on December 14, 2000, and was recorded in Land Records at Plat No. 21680.

Preliminary Plan Amendment 11985202A requests to consolidate Parcels and F and to add 117,608 square feet of residential uses. The proposed Preliminary Plan Amendment does not alter the intent of the previous findings, which remain applicable, except as modified below.

- 1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.***
 - a) The block design is appropriate for the development or use contemplated***
 - b) The lot design is appropriate for the development or use contemplated***
 - c) The Preliminary Plan provides for required public sites and adequate open areas***

The block design was established when the Site was first developed in the 1960s. The Preliminary Plan amendment will allow for consolidation of the two parcels (and elimination of the internal lot line) resulting in one record lot with frontage on multiple County rights-of-way, which will allow for safe and efficient vehicular, pedestrian, and bicycle access to the Project. The newly consolidated lot will continue to have frontage on two County roadways (Sentinel Drive and Sangamore Road), which will allow for safe and efficient vehicular, pedestrian, and bicycle access to the Site. As discussed in further detail in Section 7 of the report, the Project provides for all required public open areas and satisfies all applicable requirements of the Zoning Ordinance.

i. *Master Planned Sites*

The Site is subject to the 1990 *Bethesda/Chevy Chase Master Plan*. It identifies the Property as PC 13, Little Falls Mall. There are several recommendations that relate to the Site. These are covered in greater detail in Finding 2 of this section of the Staff Report.

ii. *Local Recreation*

The Project includes recreation facilities in accordance with Section 59-6.3.9. of the Zoning Ordinance.

iii. **Transportation and Utilities**

The Subject Application was evaluated for adequate public facilities for both transportation and utilities. Approval letters were provided by MCDOT, MCPS Stormwater, MCDPS Right-of-way, and MCDPS Fire & Rescue.

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

Multi-unit living is a limited use in the NR Zone subject to the requirements in 59-3.3.1.E. It requires that, “the gross floor area of all Household Living uses is limited to 30% of the gross floor area on the subject site”. Further analysis is provided below.

Table 1: Shops at Sumner Preliminary Plan Data Table for NR-0.75 H-45 Zone, Standard Method, Section 59.4.6.3

Development Standard	Permitted/ Required	Proposed
Tract Area	n/a	588,867 s.f., 13.52 ac
Prior Dedication	n/a	71,251 s.f., 1.64 ac
Proposed Dedication ¹	n/a	0 s.f., 0 ac
Site Area	n/a	517,616 s.f., 11.88 ac
Density		
Site total	0.75 FAR (441,650 s.f.)	0.58 FAR (341,882 s.f.)
Principle Building setbacks		
Front	0 ft	Must meet minimum
Side	0 ft	Must meet minimum
Sum of Side	0 ft	Must meet minimum
Rear	0 ft	See Site Plan
Site Plan Required		

¹Note that as conditioned, the Applicant will be required to record a covenant for future right-of-way dedication along Sangamore Road.

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

- a) **Land Use**
- b) **Environment**
- c) **Transportation**

The 1990 *Bethesda Chevy Chase Master Plan* includes recommendations that apply to the Property and Proposal as follows:

**In order to enhance the Mall’s use by the community and its compatibility with adjacent uses, public amenities and additional landscaping are encouraged as part of any new development (page 71)... Enhance the role of the Mall as a “community magnet”.
Improve the economic viability of the Mall (page 72).**

The amenity open space and pedestrian circulation improvements around the new building will improve connectivity for the surrounding residences and will further activate the Property. The Project's inclusion of multi-family dwelling units is intended to expand upon the Property's role as a community magnet by providing additional customers and employees to serve the mix of commercial uses at the Property.

Better pedestrian connections to and through the Mall are needed to improve accessibility and reduce reliance on the automobile (page 76).

The Project includes new sidewalks along the Site frontage on Sentinel Drive and internally through the Site connecting the proposed multi-family building and existing condominiums to the north and east with the retail and office uses to remain. Furthermore, the Project is replacing existing surface parking spaces with residential uses, pedestrian walkways and crossings, a pocket park, and new bicycle parking facilities to encourage walking and biking trips to and within the Site.

There is an opportunity for providing not only community-oriented uses but also outdoor public use space, such as a corner courtyard and promenade, to serve the people who live and work near the shopping center (page 76).

The Subject Application includes the construction of a new pocket park positioned conveniently to the proposed residential building and the existing, adjacent condominiums which will serve both the new and neighboring residents.

Sidewalks should be installed along the sections of Sangamore Road where they are now lacking in order to allow residents of Sumner Highland Apartments and townhouses to the south safe access to the Mall. Pedestrian walkways into the Mall are needed at the southern entrance opposite the apartments and across from the Sumner Court townhouses on Sentinel Drive. A protected pathways should be extended from the Mall across the parking lot to Sumner Village (page 76).

Since the Master Plan's adoption, sidewalks have been constructed along Sangamore Road and Sentinel Drive that provide pedestrian access from Sumner Highland Apartments and townhouses to the south of Property. The existing, unbuffered sidewalks along Sentinel Drive will be widened and buffered from vehicular traffic and on-street parking. The sidewalks on Sangamore Road have street buffers with large, healthy street trees. A pedestrian walkway exists (and will remain) between the Property's southern entrance and the townhouse and multi-family units across Sentinel Drive. The Applicant is also improving internal pedestrian circulation with the construction of new, wide, buffered sidewalks and marked pedestrian crossings to improve pedestrian access and comfort between the proposed and established residential uses and the retail and office uses onsite.

The existing development includes landscaping along the center’s periphery and shade trees in the parking lot. Additional landscaping at the eastern and southern entrances to the building and installation of trees in conjunction with an expanded walkway system would be desirable. As security lighting is installed to enhance nighttime safety, care should be taken that it not disturb residential neighborhoods (pages 25-26).

As conditioned, the Applicant is adding street buffers along Sentinel Drive that will be landscaped with street trees. Additionally, the Project includes amenity open space and pedestrian pathways connecting the proposed residential building and proposed pocket park. All proposed lighting was evaluated for compliance with Section 59-64.4. of the Zoning Ordinance which mandates that footcandles must be 0.5 or less at the lot line.

Bethesda-Chevy Chase is dominated by single-family detached housing, which results in a serious lack of housing choices to meet the needs of people in varied stages of life, lifestyles, or financial situations (page 26).

As described earlier in this report, the Project is proposing a new residential building with up to 118 units, of which 15.2 percent will be Moderately Priced Dwelling Units (MPDUs), exceeding the minimum required. Therefore, the Project is contributing to the varied mix of housing options in both form and cost.

The 2024 *Complete Streets Design Guide* classifies Sentinel Street along the Site frontage as a Neighborhood Residential Street and Sangamore Road as a Neighborhood Connector. The minimum design requirements for these roadway types are described in the subsequent finding.

The 2018 *Bicycle Master Plan* does not recommend any designated bicycle facilities on either Sentinel Street or Sangamore Road.

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

a) Roads and other Transportation Facilities

- i. **Existing Facilities:** The Site has frontage on two County roadways: Sentinel Drive and Sangamore Road. Sentinel Drive is a Neighborhood Street with an existing right-of-way of 70 feet, which exceeds the minimum master planned right-of-way of 60 feet. On-street parking is permitted on both sides of the street and is heavily utilized. Sidewalks are present on both sides of the street, but they lack buffers from the street.

Sangamore Road is a Neighborhood Connector with 70 feet of right-of-way dedicated. It is master planned for a total of 80 feet. Parking is not permitted on either side of the road. Sidewalks are present along the Site frontage. They are five-feet-wide and are buffered by a 10-foot street buffer, landscaped with street trees.

- ii. **Proposed public transportation infrastructure:** Sentinel Drive will be improved by moving the sidewalk back from the existing curb and widening the sidewalk to six feet. New six-foot-wide street buffers will be planted with street trees and grass lawns. On-street parking will remain on both sides of the street.

Sangamore Road has a master-planned width of 80 feet, however only 70 feet total are dedicated today. Currently, there are permanent structures, such as large monument signage, within the five-foot-wide area that would need to be dedicated to public right-of-way. Given the presence of these existing structures and the fact that the Limits of Disturbance (LOD) for the project does not front or touch on Sangamore Road, the Applicant will enter a covenant for future dedication with the Planning Board for the additional dedication required. The interim condition, before the dedication is provided, is acceptable because there are buffered sidewalks that exceed the minimum required per the Public Right Of Way Accessibility Guidelines (PROWAG), and therefore there are adequate public facilities today. As conditioned, five feet of right-of-way dedication will be required when this portion of the Site redevelops. The future streetscape improvements will also be required to comply with the *Complete Streets Design Guide*, or other applicable master plan at that time.

- iii. **Proposed private transportation infrastructure:** No private transportation infrastructure is proposed.

b) Local Area Transportation Review (LATR):

The Site is currently improved with 119,314 square feet of retail uses and 107,985 square feet of office. The Subject Application proposed removing 3,025 square feet of retail uses and constructing a new mid-rise building with 118 units. The Subject Application is estimated to generate a net increase of 48 person trips in the morning peak hour and a net increase of 38 person trips in the evening peak hour. The 2020-2024 *Growth and Infrastructure Policy* requires a transportation impact study for any project that is estimated to generate a net increase of 50 or more person trips in either the morning or evening peak hours. As that is not the case for this Application, the LATR review is satisfied with a transportation exemption statement. A summary of the trip generation analysis is provided in Table 2.

Table 2: Trip Generation Analysis

		ITE Trip Generation Vehicle Rates		Adjusted Vehicle Rates Bethesda/Chevy Chase Policy Area		Total Person Trips	
		AM	PM	AM	PM	AM	PM
Existing	119,314 s.f. retail	421	1,034	358	897	581	1,427
Existing	107,985 s.f. office	179	177	145	143	235	231
	Subtotal	600	1,211	503	1,022	816	1,658
Proposed	116,289 s.f. retail	411	1,011	349	859	567	1,394
Proposed	107,985 s.f. office	179	177	145	143	235	231
Proposed	118 multi-family units	40	46	35	40	62	71
	Subtotal	630	1,234	529	1,042	864	1,696
Net Change						48	38

Source: Transportation Exemption Statement from Vika, July 10, 2023, modified by staff.

c) Schools

The Project proposes a total of 118 multifamily high-rise residential units. The Project will be served by Wood Acres Elementary School, Thomas W. Pyle Middle School, and Walt Whitman High School. Based on the FY25 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following tables:

Table 3. FY2025 Annual School Test Projections (2028-2029 School Year)

	Program Capacity	Enrollment	%Utilization	Surplus/ Deficit
Wood Acres ES	757	603	79.7%	+154
Thomas W. Pyle MS	1,498	1,320	88.1%	+178
Walt Whitman HS ¹⁰	2,218	2,098	94.6%	+120

Table 4: FY2025 School Test Results

	Adequacy Status	Tier 1 Adequacy Ceiling	Tier 2 Adequacy Ceiling	Tier 3 Adequacy Ceiling
Wood Acres ES	No UPP	239	306	419
Thomas W. Pyle MS	No UPP	304	478	703
Walt Whitman HS	No UPP	300	564	897

¹⁰ Projected enrollment is modified to estimate the impact of the Charles W. Woodward High School Reopening (CIP P651908) and the Northwood HS Addition/Facility Upgrades (CIP P651907), reflecting the scope of the boundary study approved by the Board of Education on March 28, 2023.

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school’s adequacy status and ceilings, as determined in the Annual School Test.

Under the FY25 Annual School Test, Wood Acres Elementary School, Thomas W. Pyle Middle School, and Walt Whitman High School do not require any UPP as identified in Table 3. If the Project is estimated to generate more students than the identified adequacy ceilings, then additional UPPs or partial payments at multiple tiers are required.

Calculation of Student Enrollment Impacts

To calculate the number of students generated by the proposed amendment, the number of dwelling units is multiplied by the applicable School Impact Area student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low-rise multifamily unit, or high-rise multifamily unit.

With a net of 118 multifamily high-rise units that are not age-restricted, the Project is estimated to generate the following number of students based on the subject Property’s location within a Turnover Impact Area:

Table 5. Estimated Student Enrollment Impacts

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	0	0.185	0.000	0.102	0.000	0.154	0.000
SF Attached	0	0.218	0.000	0.119	0.000	0.167	0.000
MF Low-rise	0	0.116	0.000	0.061	0.000	0.081	0.000
MF High-rise	118	0.073	8.614	0.042	4.956	0.053	6.254
TOTALS	118		8		4		6

As shown in Table 5, on average, this project is estimated to generate eight elementary school students, four middle school students and six high school students. The estimated number of students generated do not exceed the adequacy ceilings identified for each school in Table 3. Therefore, no additional UPPs are required, and neither are partial payments across multiple UPP tiers.

d) Other Public Facilities and Services

Other utilities, public facilities, and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Growth and Infrastructure Policy currently in effect. Approval letters were provided by MCDOT, MCDPS Stormwater, MCDPS Right-of-way, and MCDPS Fire & Rescue.

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

The Application satisfies all applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and complies with the Montgomery County Planning Department's Environmental Guidelines as further discussed in the findings for Forest Conservation Plan No. F20240050.

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

MCDPS approved a Stormwater Management Concept on May 14, 2024. The plan proposes to meet required stormwater management goals via two microbio retention, one enhanced, and one structure practice.

6. Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.

The Applicant does not have notice of any burial site on the Property and the Property is not included in the Montgomery County Cemetery Inventory.

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

No other provisions apply to the Subdivision.

SECTION 7: SITE PLAN 820230140 FINDINGS AND ANALYSIS

Sections 59.4.6.3.B.1 and 59.7.3.4.A.8 require that Standard Method projects in the Neighborhood Retail (NR) zone receive Site Plan approval for any new construction or expansion of an existing structure that is greater than or equal to 10,000 square feet or taller than 40 feet in height and abutting a residential zone. This Project meets both criteria; therefore, a site plan is required.

- 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 Subject Application amends Preliminary Plan 119852020 that created Parcel E to incorporate Parcel F, to update the Adequate Public Facilities (APF) condition for the removed bank and proposed multi-family residential building. The development must comply with the conditions of approval for Preliminary Plan Amendment No. 11985202A and supersedes prior Certified Site Plan No. 820200060 regarding Amenity Open Space and off-street parking.

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

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

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

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

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

i. Division 4.6.3.C.GR and NR Zone Standard Method Development Standards

Multi-unit living is a limited use in the NR Zone subject to the requirements in 59-3.3.1.E. It requires that, “the gross floor area of all Household Living uses is limited to 30% of the gross floor area on the subject site”. Further analysis is provided below.

Table 6: Sumner Place Apartments Site Plan Data Table for NR-0.75, H-45 Zone, Standard Method, Section 59.4.6.3.C

Development Standard	Permitted/ Required	Proposed
Tract Area	n/a	588,867 s.f., 13.52 ac
Tract Area - Prior Dedication	n/a	71,251 s.f., 1.64 ac
Tract Area - Proposed Dedication¹	n/a	0 s.f., 0 ac
Site Area	n/a	517,616 s.f., 11.88 ac
Mapped Density NR-0.75, H-45		
Base Density Residential (GFA) ²	132,495 s.f./0.3 GFA	96,117 s.f./0.19 GFA
Commercial (GFA/FAR)	441,650 s.f./0.75 FAR	224,274 s.f./0.38 FAR
Total Mapped Density (GFA/FAR)	441,650 s.f./0.75 FAR	320,391 s.f./0.54 FAR
MPDU Requirement	12.5%	15.2%
MPDU Bonus Density³ (GFA/FAR)		21,453 s.f.
Total Residential Density (Base + Bonus)³		117,570 s.f.
Total GFA/FAR with MPDU bonus (GFA/FAR)		341,882 s.f. /0.58 FAR
Building Height	45ft	57 ft ⁴
Amenity Open Space (min s.f.)	10% (51,762 s.f.)	16% (86,256 s.f.)
Minimum Setbacks (ft) – Front (Sentinel Drive)	0 ft	14 ft
Minimum Setbacks (ft) –Side, East	0 ft	37 ft
Minimum Setbacks (ft) –Side, West (Sangamore Road)	0 ft	586 ft
Minimum Setbacks (ft) - Rear	0 ft	446ft
Vehicular Parking (min⁵/max)		
118 Dwelling Units	584 ⁵ /1,160 sp	712 sp
116,289 s.f. retail and restaurant		
107,985 s.f. office uses		
Bicycle Parking (short-term/long-term)		
118 Dwelling Units	2/57	
116,289 s.f. retail and restaurant	2/10	
107,985 s.f. office uses	2/20	
	Total: 6/87 sp	6/87 sp

¹Note that as conditioned, the Applicant will be required to record a covenant for future right-of-way dedication along Sangamore Road.

²Section 59-3.3.1.E and 59-4.6.3.C.1.a. of the Zoning Ordinance requires that, “ In the GR, NR, and EOF zones, the gross floor area of all Household Living uses is limited to 30% of the gross floor area on the subject site.

³ Residential density within the NR zone may receive bonus density for providing more than 12.5 percent MPDUs in accordance with Section 59-4.6.2.C.

⁴Section 59-4.6.2.C.6 permits the Applicant to build an additional floor of building height through the provision of 15.2% MPDU's.

⁵In accordance with Section 59-6.2.3.I.3.a an applicant proposing development with more than one use may submit a shared parking analysis using the Urban Land Institute Shared Parking Model (Second Edition, 2005) instead of using the parking table in Section 6.2.4.B.

ii. ***Division 4.6.2.C. Development with Moderately Price Dwelling Units***

Section 59-4.6.2.C. states that, “For any application that includes more than 12.5% of the gross residential floor area as Moderately Priced Dwelling Units (MPDUs), qualified under Chapter 25A, the following provisions apply:

1. Residential density may be increased above the mapped residential FAR by:
 - a. 0.88% for each 0.1% increase in MPDUs above 12.5%, up to and including 15%;
 - b. 22% plus 0.16% for each 0.1% increase in MPDUs above 15%, up to and including 20%; or
 - c. 30% plus 0.1% for each 0.1% increase in MPDUs above 20%.”

Section 59-4.6.2.C.2 of the Zoning Ordinance states that the “total density may be increased above the number following the zoning classification on the zoning map by an amount equal to the residential density achieved under 59-4.6.2.C.1.”. Section and 59-4.6.2.C.5 says, “the floor counted as MPDU floor area includes a proportional share of the gross floor area not devoted to residential units”.

The Applicant is proposing a total of 118 multi-family dwelling units, including 18 MPDUs, which amounts to 15.2 percent MPDUs. Thus, the Applicant is proposing to provide three additional MPDUs, and a proportional share of gross floor area (common residential space) not devoted to residential units that is beyond the 12.5 percent MPDUs. The total residential floor area proposed for the project is 117,570 square feet with the following breakdown of gross floor area allocated to market rate units and MPDUs:

1. Base residential gross floor area is 96,117 square feet
2. MPDU bonus density (15.2 percent) is .2232 MPDU bonus density, or approximately 21,453 square feet
3. Total residential gross floor area is 117,570 square feet

The height may be increased pursuant to Section 59-4.6.2.C.6. which says, “The height limit of the applicable zone and master plan does not apply to the extent required to provide the MPDUs. The additional height is calculated as the floor area provided for MPDUs above 12.5% divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet.” In this case that means the Project is eligible for 12 feet of additional building height beyond the Property’s mapped height of 45 feet because the Project provides a minimum of 15.2 percent MPDUs. The specific application of the formula described in Section 59-4.6.2.C.6 is detailed in Table 7.

Table 7: Bonus Density Analysis, Section 59-4.6.2.C.1.b

Analysis Factor	Input
Maximum Mapped Height	45 ft
Base Residential GFA	96,117 s.f.
Avg. Residential Floorplate	23,150 s.f.
Avg. Dwelling Unit Size	926 s.f.
Baseline 12.5% MPDU per Section 59-4.6.2.C.6 of the Zoning Ordinance	15 MPDUs (12.5% of 118 units)
MPDUs Proposed	18 MPDUS (15.2% of 118 units)
Additional MDPUs Provided Above 12.5%/GFA	3 MPDUS (approx. 2,788 s.f.)
Allowable Bonus Height	12 ft
Total Allowable Building Height	57 ft

iii. ***Division 3.3.1.E.2.a Multi-unit Living as a Limited Use***

Multi-unit living uses are a limited used in the NR zones (Section 59-3.1.6, Use Table). Section 59-3.3.1.E.2.a.i states, “In the GR, NR, and EOF zones, the gross floor area of all Household Living uses is limited to 30% of the gross floor area on the subject site”¹¹. The gross floor area of the commercial density (restaurant, retail, and office uses to remain) is 224,274 square feet. The base residential density before applying the MPDU bonus density is 96,117 square feet. Therefore, the GFA subject to this provision is 320,391 square feet. The base residential density is 30 percent of the GFA for the Site.

¹¹ The 30 percent limitation on multi-unit living uses only applies to the base density, excluding the bonus density.

Table 8: Residential Density Analysis, Section 59-3.1.6 and 59-3.3.1.E

	Commercial Density	Base Residential Density	Total Density
Gross Floor Area	224,274 s.f. (70%)	96,117 s.f. (30%)	320,391 s.f.

The Applicant is seeking bonus density for providing more than 12.5 percent of the gross residential floor area as Moderately Priced Dwelling Units (MPDUs). Detailed analysis of this proposal is included in the previous finding. It is important to note that Section 59-4.6.2.C.2 states that the “total density may be increased over the number following the zoning classification on the zoning map by an amount equal to the residential density achieved under Section 4.6.2.C1”.

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

(1) Division 6.1 Site Access

The Subject Application does not propose any changes to the overall site access. Vehicular access will continue to be provided from the existing driveway connections on Sentinel Drive and the three driveways on Sangamore Road (two opposite the Defense Intelligence Agency Community Campus of Bethesda, and one opposite the Sumner Highlands Apartments). Given the orientation and proximity to Sentinel Drive, the new residents of the proposed building are likely to favor the Sentinel Drive entrance, which was re-evaluated for both passenger car and truck access.

Pedestrian access to the Site will be improved along Sentinel Drive with a buffered, six-foot-wide sidewalk that will be constructed along the entire frontage, except where some pinch points require a narrower buffer due to steep grades behind the sidewalk. This improved sidewalk complies with the minimum standards of the 2024 *Complete Streets Design Guide*.

Pedestrian access through the Site will be improved with new internal sidewalks around the perimeter of the proposed residential building and proposed pocket park. Pedestrian crossings around the residential building and pocket park will be enhanced with curb extensions, ADA accessible curb ramps, and high visibility crosswalk markings. The existing trail connections between the Site and the condominiums to the east will be preserved to ensure safe and comfortable access to the existing retail and office uses.

(2) Division 6.2 Parking, Queuing and Loading

The proposed multi-family residential building and pocket park will replace an existing portion of the surface parking lot on site. Once constructed, the Site will have 712 total vehicular off-street parking spaces. The residential building will have 50 spaces in the garage for use by the residents only. Five parallel short-

term vehicular parking spaces will be located along the building (interior to the Site) for use by visitors, ride sharing, and unscheduled deliveries. The remaining 657 surface parking spaces will be available for the retail, restaurant, and office uses, as well as overflow parking for the residential building (if needed).

Section 59-6.2.3.I.3. of the Zoning Ordinance permits projects with multiple uses to apply the Urban Land Institute's Shared Parking model (Second Edition) to determine the peak parking demand for the uses when determining the parking minimum for the whole Site. Applying this methodology, the peak parking demand is 584 spaces for the residential and commercial/non-residential uses. The maximum parking demand is 1,160 parking spaces. As stated previously, the Project proposes 712 parking spaces which is higher than the minimum but lower than the maximum.

To address the community concerns that there would be insufficient parking onsite, the Applicant conducted a parking evaluation study (Attachment E). Parking use was evaluated on June 3, 2023 (a Tuesday) and June 6, 2023 (a Saturday). Parking usage was recorded at 41.34 percent and 59.58 percent, respectively. This study confirms the estimates of the ULI Shared Parking Model which demonstrates that the remaining 712 onsite parking spaces will accommodate the peak demand of the multiple uses onsite.

In accordance with Section 59-6.2.10 the Applicant is seeking approval of a parking waiver for a portion of the surface parking lot that is outside the limits of disturbance for the Project. A significant portion of the existing parking lot, which was developed prior to the current zoning standards is proposed to remain in its current condition, with upgrades made to the tree canopy, perimeter planting and pedestrian pathways. In the interim condition, the surface parking lot will comply with most of the design standards set forth in Section 59-6.2.9.C. of the Zoning Ordinance. However, the Applicant is requesting approval for a waiver that would allow more than 20 parking spaces to be located between planting islands on portions of the Property. This represents an existing condition of the Site and that will not be modified. The Planning Board can approve a parking waiver for the design of the lot if the Planning Board finds that, "the alternative design satisfies Section 6.2.1". Section 59-6.2.1. is the Intent statement of Parking, Queuing, and Loading Division of the Chapter, which reads, "The intent of the vehicle and bicycle parking, queuing, and loading requirements is to ensure that adequate parking is provided in a safe and efficient manner. In this case, exceeding the number of parking spaces between planting islands does not create an unsafe or inefficient

condition for motorists or pedestrians. Therefore, the existing conditions are acceptable in the existing condition.

The Project is required to provide six short-term bicycle parking spaces and 87 long-term bicycle parking spaces. Fifty-seven of the long-term spaces are required for the residential building. The Subject Application complies with these requirements. The 57 long-term spaces for the residential use will be in the first level of the parking garage in a secured room.

The Applicant is proposing to co-locate loading facilities for the proposed residential building with the adjacent retail uses (CVS Pharmacy) at the eastern side of the Site (just south of the proposed building) in accordance with Section 59-6.2.8.A. of the Zoning Ordinance. The proposed space can be accessed by an SU-30 (Box style) truck as demonstrated by the size of the space and the truck turning movements, submitted with the Subject Application. There are designated loading spaces throughout the Site to serve the retail, restaurant, and office uses to remain onsite.

(3) Division 6.3 Open Space and Recreation

Section 59-6.3.C.1. of the Zoning Ordinance requires a minimum of 10 percent amenity open space and the Project includes approximately 16 percent of the entire site as amenity open space (86,256 square feet). In addition to the existing hardscape and landscape areas provided within the Property that provide both recreational and natural amenities to the employees and visitors to the Site, the Applicant will construct additional amenity open space along the proposed residential building's ground-floor. Adjacent to the existing retail uses on Parcel E a pocket park is proposed. This is the ideal location on the Site because of its proximity to sidewalks that connect to the mix of uses to the Property. The Project also includes recreational facilities in accordance with Section 59-6.3.9. of the Zoning Ordinance.

(4) Division 6.4 General Landscaping and Outdoor lighting

Landscaping and lighting will be provided to ensure that the Project is safe, adequate, and efficient for residents and visitors of the Project. Lighting was evaluated for the project and complies with requirements of Section 59-6.4.4.B. and Section 59-6.4.4.C.

(5) Division 6.5 Screening

The Subject Project is a Standard Method of Development and therefore is subject to Section 59-6.5. However, Section 59-5.5.2.C.2 states that, "any use in an apartment must provide screening under Section 6.5.3. as indicated in the following table if the subject lot abuts property in an Agricultural, Rural

Residential, or Residential zone that is vacant or improved with an agricultural or residential use.” The Property does not abut a property in any of the listed zones; however, the Applicant has included additional amenity open space in the setback area between the Sumner Village Condominium and the proposed residential building to create a compatible buffer.

(6) Outdoor Displace and Storage

This finding is inapplicable because the Project does not propose any outdoor display or storage.

(7) Signs

The Applicant will obtain all necessary approvals for signage from MCDPS.

e) Satisfies the applicable requirements of:

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

DPS approved a Combined Stormwater Management Concept/ Site Development Stormwater Management Plan on May 14, 2024. The plan proposes to meet required stormwater management goals via the use of two microbioretentions, one enhanced, and one structural practice.

ii. Chapter 22A, Forest Conservation

The Application satisfies all applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and complies with the Montgomery County Planning Department’s Environmental Guidelines as further discussed in the findings for the accompanying Forest Conservation Plan No. F20240050.

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

The existing and proposed modifications to the parking and site circulation are safe, efficient, and well-integrated into the overall Site Plan. As conditioned, the Applicant is improving the sidewalks along the Sites frontage on Sentinel Road, and the existing sidewalks on Sangamore Road are adequate. The Project will improve pedestrian connections throughout the Site. Specifically, the Applicant will provide new pedestrian walkways around the perimeter of the proposed residential building and will provide new marked crossings and crossing islands connecting the building to the other uses onsite. The existing trails between the adjacent residential uses and the Site are to remain. Motor vehicles will continue to access the Site from the existing driveways on Sentinel and

Sangamore Road. These access points are sufficient for the design vehicles (trucks and passenger vehicles) and have adequate sight lines. The building massing meets the requirements of the NR-0.75 H-45' zone, and bonus density made allowable to projects providing MDPUs beyond the minimum required. The Project exceeds the minimum required space dedicated to amenity open space and meets the requirements for site amenities and recreation.

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

As covered in Section 6 above under the Preliminary Plan Amendment 11985202A findings, the Subject Application conforms with all applicable master plans including the 1990 Bethesda-Chevy Chase Master Plan, the 2024 Complete Streets Design Guide, and the 2018 Bicycle Master Plan.

h) *will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;*

As covered in Section 6: Preliminary Plan Amendment 11985202A there are adequate public facilities to serve the Project including transportation, schools, police, fire protection, water, sanitary sewer, public roads, storm drainage and other facilities. The following agencies reviewed the Project and issued approval letters with conditions: MCDPS ROW, MCDOT, MDPS Stormwater, MCDPS Fire & Rescue, and DHCA.

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

This finding is not applicable because the Property is not located within a Rural Residential or Residential zone.

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

The Project, as conditioned, will be compatible with adjacent development. The height

and bulk of the building has been evaluated for compliance with the Montgomery County Zoning Ordinance and for architectural compatibility with the surrounding buildings. The residential use will complement and support the established retail, restaurant and office uses on the Site. As recommended in the Master Plan the project will contribute to the varied housing options in the surrounding area in form, size, and price. It will replace an under-utilized surface parking lot with an active use that contributes to the surrounding community. Although not required, the building is set back and provides screening from the adjacent Sumner Village Condominium with landscape and hardscape improvements.

- 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.**

The Property was zoned C-1 on October 29, 2014 and was rezoned NR-0.75-H45'. The Proposed development proposes a reduction in 3,025 square feet of retail uses (removal of the bank pad site) but the Subject Application will not have an adverse impact on the surrounding area. The Project proposes an infill residential building within an established shopping center which is developed with retail, service, and office uses. Increasing housing units and unit diversity on this specific Site is recommended in the 1990 *Bethesda/Chevy Chase Master Plan*. Adding residential uses aligns with a larger County goal to increase housing stock countywide. The Project has been evaluated for potential impacts to the transportation network, public schools, stormwater management infrastructure and environmentally sensitive areas, and the Subject Application, as conditioned, satisfies all applicable tests and evaluations and mitigates for deficiencies.

SECTION 8: FOREST CONSERVATION PLAN F20240050 FINDINGS AND ANALYSIS

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

The Property is subject to the Montgomery County Forest Conservation Law, Chapter 22A of the County Code, and requires a Forest Conservation Plan. The current Forest Conservation Plan, No. F20240050, will update the previous Forest Conservation Plan no. 119852020. FCP No. F20240050 will preserve 0.67 acres of forest in a Category I Conservation Easement, recorded on the record plat. FCP No. F20240050 proposes to remove the existing Category I Forest Conservation Easement and record a new Category I Forest Conservation Easement, removing an existing sewer easement and allowing for a new sewer line and easement in the easement area. There will be mitigation for the easement removal. The Project includes a request for a tree variance to account for impacts and the removal of trees.

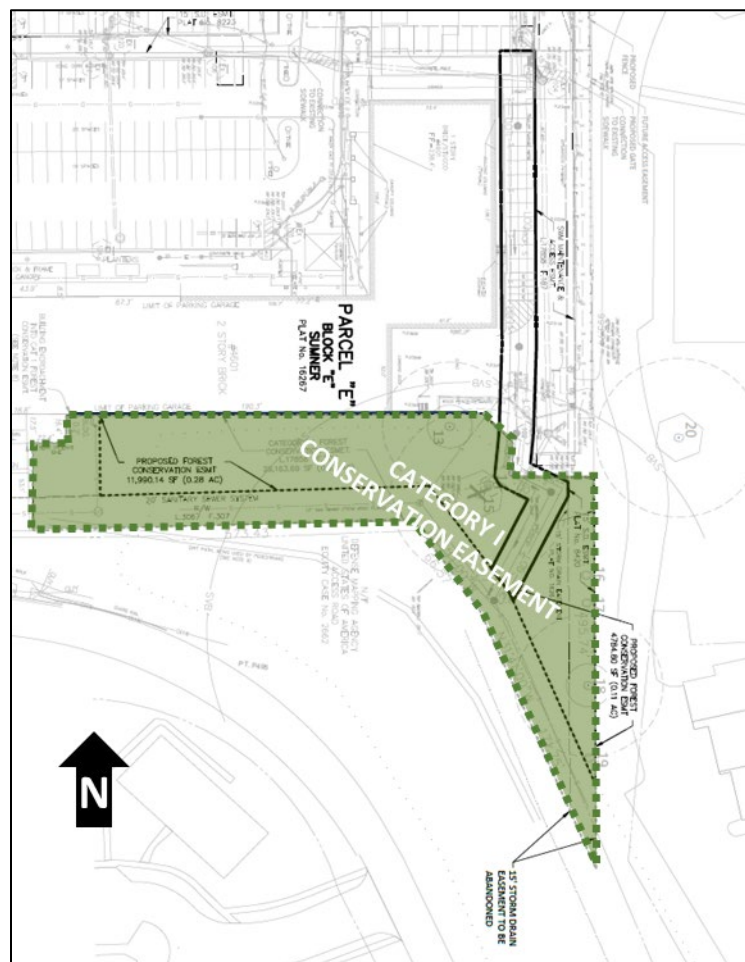


Figure 17: Existing Category I Forest Conservation Easement

Environmental Guidelines

The proposed plan will protect the stream buffer and allow for the use of a sewer line, which is necessary for development. It is important to note that the Property is within the Little Falls watershed, a tributary to the Anacostia River, classified as a Use-Class I-P watershed. The FCP No. F20240050 will comply with the current Forest Conservation Law and the Environmental Guidelines.

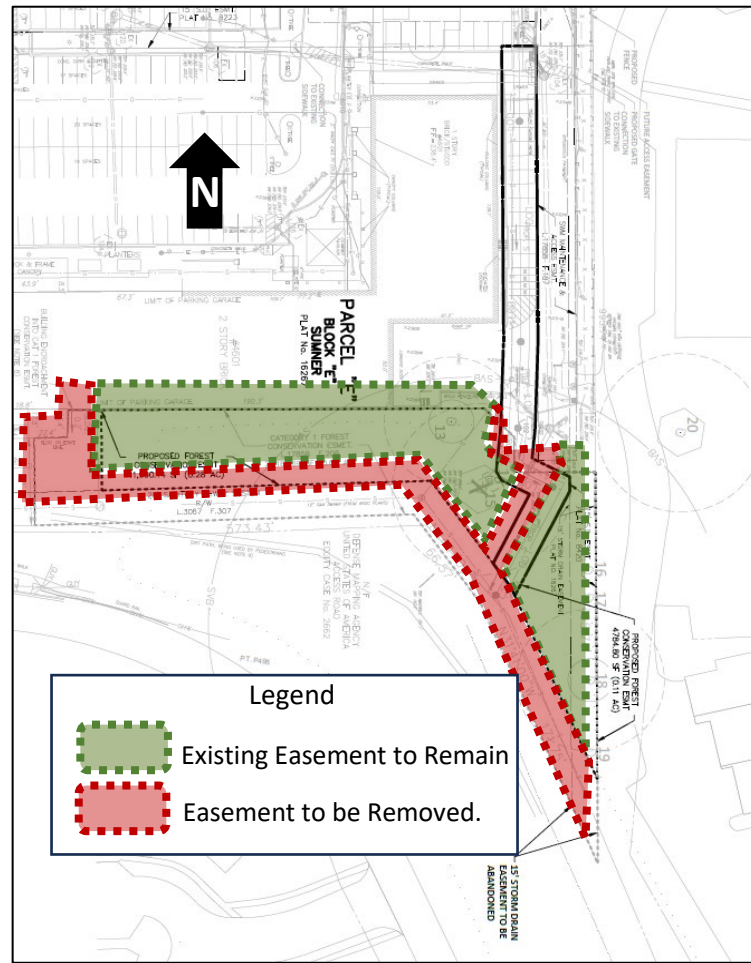


Figure 18: Proposed Easement Areas

Forest Conservation Plan

The current Forest Conservation Plan, No. F20240050, will amend the previous Forest Conservation Plan no. 1-85202 and proposes the removal of 0.25 acres of Category I Forest Conservation Easement, while preserving 0.42 acres of Category I Forest Conservation Easement. The new easement areas will preserve the existing vegetation. A 0.28-acre area from the old easement is now considered cleared, even though these areas will also retain vegetation. However, the new layout of the easement will result in decreased protection of the stream valley buffer. The proposed FCP No. F20240050 results in

a smaller easement that partially lies within the stream valley buffer and partially outside of it. An adjustment is needed to upgrade the sewer line and remove overlapping easements. A new, smaller Category I Forest Conservation Easement will be recorded, and mitigation for the removed easement areas totaling 0.76 acres will be required. The proposed FCP No. F20240050 will comply with the current Forest Conservation Law and the Environmental Guidelines.

Variance Requests

A variance request is for the impacts and removal of Protected Trees under Section 22A-12(b)(3)(C) which identifies certain individual trees as 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-21 (“Variance”). Otherwise, such resources must be left in an undisturbed condition.

This Application will require the removal of one (1) Protected Tree and impacts to one (1) Significant tree’s CRZ as identified in Table 9. Additionally, some of the tree impacts/removals of otherwise subject trees were previously approved within the limits of disturbance and/or previous variance requests and are not included in the current variance request. Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made for a Variance to be granted.

Table 9 – Variance Tree Removals and Impacted

TREE ID#	DBH	SPECIES	% PROPOSED IMPACT	Disposition
2	36.5	Japanese Cherry	17%	Save
15	34.6	Tulip Poplar	100%	Remove

Unwarranted Hardship

In accordance with Section 22A-21(a), the Applicant has requested a variance (see Attachment F). Denying the variance would impose an unwarranted hardship on the Applicant, preventing reasonable and significant use of the Property for the new multifamily residential building and associated amenities. The Variance is required to allow for the connection of a new sewer line to the existing sewer line. Denying the Variance would lead to unwarranted hardship, as the Applicant will not be able to connect to the sewer line without impacting the protected trees.

Variance Findings

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

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

The impacts on the Protected Trees resulting from this redevelopment are minimal and necessary. The development cannot proceed without disturbing or removing Specimen Trees. The proposed redevelopment requires specific infrastructure improvements, including upsizing and rerouting the sewer line and site access, which will lead to the removal of Specimen Trees. Therefore, the granting of this request is not a special privilege that would be denied to other applicants.

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

The sewer line's location is determined in a way that minimizes impact on protected trees, demonstrating conscientious efforts to protect the environment and uphold regulatory standards.

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

The requested variances are a result of the proposed improvements on the Property and not a result of land or building use on a neighboring property.

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

The Variance will not violate state water quality standards or cause measurable degradation in water quality. Although the protected tree that is being removed is located within a stream buffer, the proposed mitigation tree will be planted within the Stream Valley Buffer.

Mitigation for Resources Subject to the Variance Provisions

The FCP amendment includes the removal of a protected tree of 34.6 inches in diameter at breast height. Per Section 22A-21(e), the Applicant is planting mitigation trees at a ratio of one caliper inch replaced for every four inches of trunk diameter removed (in addition to other forest plantings). The Applicant is proposing to plant three (3) native canopy trees, using a minimum size of 3-inches caliper tree, which will total at least 11-inch caliper inches.

Recommendation on the Variance

As a result of the above findings, Staff recommends that the Board approve, with conditions, the Applicant's request for a variance from the Forest Conservation Law to remove one protected tree and to impact but retain one other protected tree associated with the site (affecting a total of 2 protected trees).

SECTION 9: CONCLUSION

As conditioned, the Preliminary Plan Amendment No. 11985202A, Site Plan No. 820230140 and Forest Conservation Plan No. F20240050 applications each satisfy the findings under Sections 59.7.3.3 & 7.3.4 and the applicable standards of the Zoning Ordinance, substantially conform to the recommendations of the 1990 *Bethesda-Chevy Chase Master Plan* and satisfy the findings of the Subdivision Regulations (Section 50-4.2.D) and Chapter 22A of the County Code. Therefore, staff recommends approval of the Preliminary Plan Amendment No. 11985202A, Site Plan No. 820230140 and Forest Conservation Plan No. F20240050 with the conditions specified at the beginning of this report.

ATTACHMENTS

Attachment A: Sketch/Preliminary/Site/FCP Plan

Attachment B: Prior Approvals

Attachment C: Agency Letters

Attachment D: Affidavit Regarding Community Meeting and Meeting Minutes

Attachment E: Parking Demand Study

Attachment F: Variance Request

Attachment G: Exhibit A-01, Balcony exclusion exhibit