

**PLD LOT 44 & 4702 WEST VIRGINIA AVENUE**

**SPEED TO MARKET CONSOLIDATED REVIEW OF MANDATORY REFERRAL NO. MR2024021, SKETCH PLAN AMENDMENT NO. 32019006B, PRELIMINARY PLAN NO. 120240110, SITE PLAN NO. 820240140, & FOREST CONSERVATION PLAN NO. F20240720**



This is a Speed-to-Market project located in downtown Bethesda for the redevelopment of County Parking Lot #44 and adjacent property to allow the construction of a 125,469 square foot mixed-use building for up to 59 dwelling units with 15% MPDUs, including up to 53 multifamily units and up to 5,469 square feet of commercial uses for 6 live/work units, structured parking, and construction and dedication of approximately 5,582 square feet of the Eastern Greenway public park.

Speed to Market  
Completed: 8-30-2024

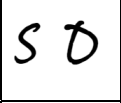
MCPB Item No. 8  
9-12-2024

Montgomery County  
Planning Board  
2425 Reedie Drive, Floor

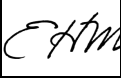
## Planning Staff



Grace Bogdan, Planner III, Downcounty Planning, grace.bogdan@montgomeryplanning.org, 301.495.4533



Stephanie Dickel, Supervisor, Downcounty Planning, Stephanie.Dickel@montgomeryplanning.org, 301.495.4527



Elza Hisel-McCoy, Chief, Downcounty Planning, Elza.Hisel-McCoy@montgomeryplanning.org, 301.495.2115

### LOCATION/ADDRESS

On the south side of West Virginia Avenue approximately 150 feet east of Wisconsin Avenue

### MASTER PLAN

2017 Bethesda Downtown Sector Plan

### ZONE

CR-3.0, C-2.0, R-2.75, H-70; CRT-0.5, C-0.25, R- 0.5, H-70; and Bethesda Overlay Zone (BOZ)

### PROPERTY SIZE

0.74 acres

### APPLICANT

BB 4702 Holding LLC & Montgomery County Department of Transportation

### ACCEPTANCE DATE

May 1, 2024

### REVIEW BASIS

Chapter 22A, Chapter 50, Chapter 59, Md. Land Use Article, Section 20-301, et seq.

## Summary:

- The applications are related to a General Development Agreement with the County to redevelop two County-owned surface parking lots in downtown Bethesda, Lots #25 & #44. Each lot is undergoing redevelopment through separate regulatory review; these applications are related to Lot #44.
- The Speed-to-Market process allows concurrent review of applications for projects that propose to meet high-priority development goals. Planning approved this application for Speed-to-Market for providing MPDUs at deeper levels of affordability and with 2, 3, and 4 bedrooms.
- The project will provide a new mixed-use building with up to 59 for-sale units with 15% MPDUs, including up to 53 multifamily units and 6 live/work units, and will construct and dedicate a portion of the Sector Planned Eastern Greenway to be managed by the M-NCPPC Montgomery County Department of Parks.
- The Applicant requests additional height beyond the mapped 70 feet for provision of the Eastern Greenway, which limits their ability to place parking below the park. The Applicant is requesting a maximum building height of 114 feet.
- No correspondence from the public has been received as of the date of this Staff Report.

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## SECTION 1: EXECUTIVE SUMMARY

### GENERAL DEVELOPMENT AGREEMENT FOR COUNTY OWNED SURFACE LOTS

The County has entered into a General Development Agreement (GDA) with two developers to individually redevelop two County-owned parking lots in downtown Bethesda, Lot #25 and Lot #44, shown in Figure 1 below. In May of this year, the Planning Board approved a Sketch Plan for Lot #25. The current Applications before the Planning Board are for Lot #44, located two blocks south of Lot #25 on West Virginia Avenue. Along with Lot #44, the Subject Property includes 4702 West Virginia Avenue which is adjacent to Lot #44 to the east, and an alley on the south side of the parking lot which will be abandoned. Prior to the GDA, in 2019, the Planning Board approved a Sketch Plan and Site Plan to redevelop 4702 West Virginia Avenue for 19 condominium units. The Applicant seeks to amend these approvals to include Lot #44 in the redevelopment and increase the allowable density.



Figure 1 – Vicinity Map showing locations of General Development Agreement for PLDs #25 and #44

As part of the GDA with the County, the existing parking spaces provided by Lot #44 will be replaced within the Lot #25 redevelopment. Per the terms of the GDA, the Applicant will dedicate and construct 5,582 square feet of land for the Eastern Greenway, as recommended in the 2017 *Bethesda Downtown*

*Sector Plan*, and will provide a minimum of \$300,000 for improvements to the adjacent Chase Avenue Urban Park directly to the south (staff recommends a condition to cap the improvements at \$330,000). The Project will be entirely for-sale units, and the GDA requires that 7 Moderately Priced Dwelling Units (MPDUs) be deeply affordable (50% of Area Median Income) with reduced condominium assessments, and those for sale units will be larger unit types including five 4-bedroom MPDUs, one 3-bedroom MPDU, and one 2-bedroom MPDU. The remaining MPDU requirement will be achieved through a payment to the Housing Initiative Fund (HIF)<sup>1</sup>, per the provisions of Chapter 25A of County Code.

Given that the elements of the GDA include sector planned parkland and will provide for-sale Moderately Priced Dwelling Units, the Applications (Mandatory Referral, Sketch Plan Amendment, Preliminary Plan (including abandonment), Site Plan, and Forest Conservation Plan) are being reviewed by staff and considered by the Planning Board concurrently under the Speed-to-Market Designation.

#### SECTOR PLANNED EASTERN GREENWAY PUBLIC PARK

As envisioned by the 2017 *Bethesda Downtown Sector Plan (Sector Plan)* and described further in the Montgomery Parks Eastern Greenway Framework Concept (Attachment E), the North Section of the Eastern Greenway will function as a single high-quality linear park incorporating sustainable design elements stretching from Maple Avenue to Cheltenham Drive with spaces for recreation and social connection. It will function as a continuous park connecting several existing public parks, newly dedicated parks through redevelopment, and privately owned public open spaces through redevelopment. With the GDA, public parks will be delivered with the Lot #25 and Lot #44 redevelopments. The block between these County parking lots has been approved for redevelopment through a project called 8001 Wisconsin Avenue. That redevelopment will deliver privately owned public open space for the Eastern Greenway and received Sketch Plan and Preliminary Plan approval from the Planning Board in early 2023 (Sketch Plan No. 320210050 and Preliminary Plan No. 120210140).

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<sup>1</sup> The Housing Initiative Fund (HIF) is a locally funded affordable housing tool that provides flexible loans and grants to help create and preserve affordable housing in Montgomery County. The Fund is administered by the County's Department of Housing and Community Affairs, and is used in a number of strategic and significant ways to advance virtually all of the County's affordable housing priorities.

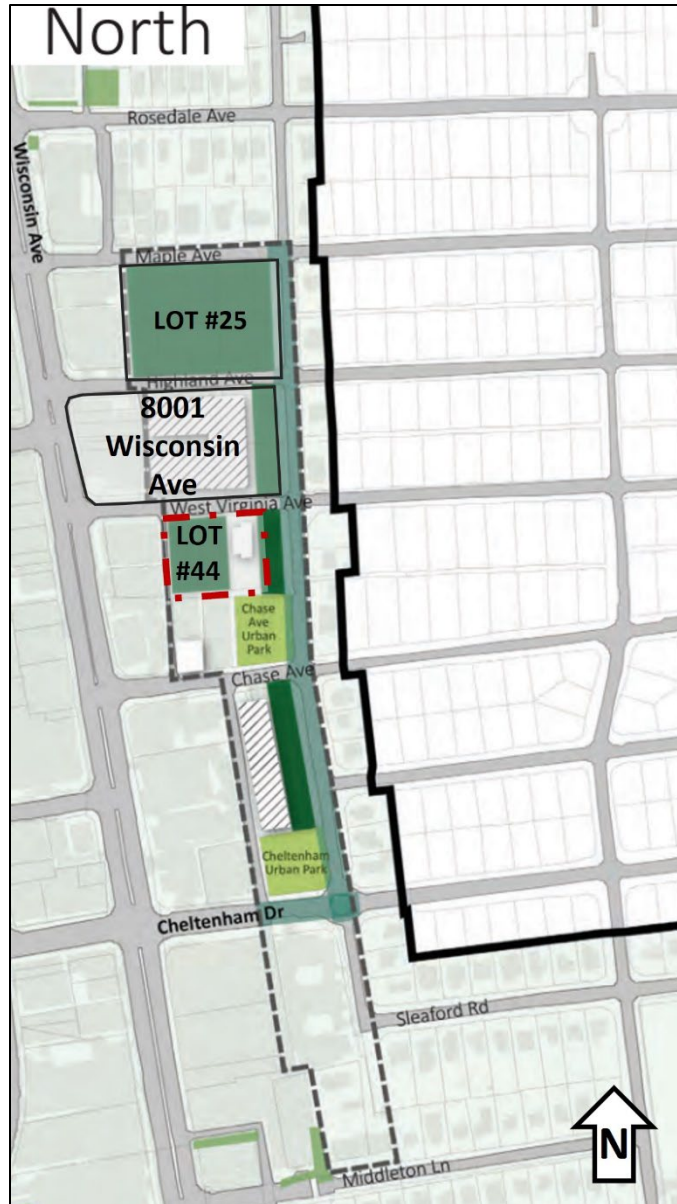


Figure 2 - Northern Segment of Eastern Greenway, Page 137 of Bethesda Downtown Sector Plan

## SECTION 2: RECOMMENDATIONS AND CONDITIONS

### MANDATORY REFERRAL NO. MR2024021

Staff recommends approval of the Mandatory Referral for disposition of County Parking Lot #44 and dedication/construction of a portion of the Eastern Greenway, and transmittal of comments to Montgomery County Department of Transportation including the conditions of the associated regulatory applications for Sketch Plan No. 32019006B, Preliminary Plan No. 120240110, Site Plan No. 820240140, and Forest Conservation Plan No. F20240720.

### SKETCH PLAN AMENDMENT NO. 32019006B

Staff recommends approval of Parking Lot District (PLD) Lot 44 & 4702 West Virginia Avenue Speed-to-Market, Sketch Plan Amendment No. 32019006B, for up to 125,469 square feet of density on 0.74 acres, zoned CR-3.0, C-2.0, R-2.75, H-70, CRT-0.5, C-0.25, R-0.5, H-70 and Bethesda Overlay Zone (BOZ), in the 2017 *Bethesda Downtown Sector Plan* area. The following site development elements shown on the latest electronic version of Sketch Plan Amendment No. 32019006B, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the conditions below. The previously approved Sketch Plan No. 32019006A is subject to seven conditions. Staff recommends modifications to Conditions 1 through 4, 6, and 7, and a new condition (Condition 8) as follows, and all other conditions remain in full force and effect as restated below:

**1. Density**

The Sketch Plan is limited to a maximum of ~~21,500~~ 125,469 total square feet of ~~residential mixed-use~~ development including up to 120,000 square feet of residential uses and up to 5,469 square feet of non-residential uses. The maximum number of dwelling units and use will be determined at Site Plan. The maximum density includes up to ~~16,250~~ 54,594 square feet of density from the Bethesda Overlay Zone (BOZ) with a Park Impact Payment (PIP). The final square footage, including BOZ density and PIP payment, will be determined at Site Plan.

**2. Height**

The development is ~~limited to a maximum height of 35 feet, as measured from~~ eligible for an increase in height from the mapped maximum of 70 feet for the provision of Major Public Facilities to a maximum height of 114 feet, as measured from the building height measuring point to be illustrated on the Certified Site Plan. At the time of Site Plan, the increase in building height will be finalized per the provisions of Section 59-4.5.2.A.2.e based on the final details of Major Public Facilities including public parking and dedication of public parkland for the Eastern Greenway.

**3. Incentive Density**

The development must be constructed with the public benefits listed below unless modifications are made under Section 59.7.3.3.I. Total points must equal at least 100 points



and be chosen from at least 4 categories as required by Section 59.4.5.4.A.2. The requirements of Division 59.4.7 and the *CR Zone Incentive Density Implementation Guidelines* must be fulfilled for each public benefit. Final points will be established at Site Plan approval.

- a) ~~Major Public Facility, achieved through providing a financial contribution to the M-NCPPC for improvements to Chase Avenue Urban Park by dedicating and constructing sector planned parkland. This contribution must be accepted by the M-NCPPC; and~~
- b) ~~Connectivity and Mobility achieved by providing fewer than the maximum parking spaces under the Zoning Ordinance and BOZ; and Quality of Building and Site Design, achieved through exceptional design, and structured parking; and~~
- c) ~~Quality of Building and Site Design, achieved through exceptional design, and structured parking; and Diversity of Uses and Activities, achieved through providing live/work units; and~~
- d) Protection and Enhancement of the Natural Environment achieved through the purchase of building lot terminations.

**4. Park Impact Payment**

The Park Impact Payment (PIP) must be paid to the M-NCPPC prior to the release of the first above-grade building permit. The Project will utilize up to 54,594 square feet of Bethesda Overlay Zone density, which is subject to a Park Impact Payment. The Project may receive a Park Impact Payment Reduction as specified in Section 59.4.9.2.C.2.b.ii.B of the Zoning Ordinance for the proposed Eastern Greenway Public Park dedication, with the final credit to amount be determined at the time of Site Plan.

**5. Streetscape**

The Applicant must install the Bethesda Streetscape Standard along the Site Frontage.

**6. MCDOT Letter**

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated ~~May 2, 2019~~ August 14, 2024, and incorporates them as conditions of the Sketch Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT provided that the amendments do not conflict with any other conditions of the Sketch Plan approval.

**7. Future Coordination for Preliminary and Site Plan**

In addition to any other requirements for Preliminary Plans under Chapter 50 and Site Plans under Chapter 59, the following must be addressed when filing a Preliminary or Site Plan, as appropriate:

- a) ~~Submit alternative designs that show façade treatments and site layouts for redevelopment scenarios that include the abutting property on the corner of West Virginia Ave and Tilbury Street and those that do not;~~



- b) ~~Explore ways to improve the western façade by adding architectural elements to avoid blank walls;~~
- c) Integrate design improvements as requested by Design Advisory Panel;
- d) Address the SITES and LEED recommendations of the Sector Plan, specifically related to energy efficiency and building design features;
- e) Coordinate with appropriate agencies to determine improvements to the alley at the rear of the Property;
- f) Submit a Tree Save Plan at the time of Preliminary Plan to address impacts associated with the project, with particular emphasis on the trees located to the south of the Subject Property;
- g) At the time of Site Plan address the 35% green cover requirements for the site as described in the Sector Plan and Design Guidelines;
- h) Address Bird-safe Design per the Bethesda Downtown Sector Plan Design Guidelines;
- i) At the time of Preliminary Plan provide a noise analysis, or request a waiver per Section 2.2.2 of the 1983 Noise Guidelines.

**New Condition**

8. **Eastern Greenway Dedication**

- a) The Applicant must dedicate, design, and construct approximately 5,582 square feet for the Eastern Greenway as public parkland on the eastern portion of the subject Site. The final size, design, construction phasing, and operational issues will be addressed at Site Plan. The design must address the following:
  - i) Consistency with the Montgomery Parks Eastern Greenway Framework Concept, the 2017 Bethesda Downtown Sector Plan, Bethesda Downtown Plan Design Guidelines, and the 2019 Designing Public Spaces: Energized Public Spaces Design Guidelines; and
  - ii) Recreational amenities must be included that meet Montgomery Parks’ standards such as, but not limited to, an improved hard surface promenade trail, plantings, signage, seating, and other suitable active and passive amenities.

**PRELIMINARY PLAN NO. 120240110**

Staff recommends approval with conditions of the Preliminary Plan No. 120240110 to create two (2) lots, and to abandon a portion (596 square feet) of an adjoining alley to the south. All site development elements shown on the latest electronic version of the Preliminary Plan No. 120240110 as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions.

## GENERAL APPROVAL

1. This Preliminary Plan is limited to one lot for up to 59 units, including up to 120,000 square feet for up to 53 multifamily units and up to 5,469 square feet of nonresidential uses and one lot for dedication as public parkland. This approval also includes the abandonment of 596 square feet of the adjacent alley to the south for which a portion will be incorporated into one of the recorded lots and a portion conveyed to M-NCPPC pursuant to Condition No. 15 below.

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

## OUTSIDE AGENCIES

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated August 14, 2024, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Water Resources Section in its stormwater management concept letter dated August 2, 2024, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
7. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated July 2, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which

MCDPS may amend if the amendment does not conflict with other conditions of the Preliminary Plan approval.

8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (“DHCA”), in its letter dated June 25, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

#### OTHER APPROVALS

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

#### TRANSPORTATION

##### Frontage Improvements on Existing Roads

11. Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of an eight-foot wide sidewalk along the Property frontage from the western boundary to the abutting park to the east on West Virginia Avenue.
12. Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a five-foot-wide sidewalk extending beyond the Site frontage from the east to Tilbury Street.

#### RECORD PLATS

13. Except clearing and grading associated with the demolition of existing building and paving, there shall be no clearing or grading of the site before recordation of plat(s).
14. The record plat must show necessary easements.

#### OTHER DEDICATIONS

##### M-NCPPC Department of Parks

15. The Applicant must dedicate to Montgomery County the approximately 5,582 square foot lot identified as “New Greenway Lot” on the Certified Preliminary Plan for use as public parkland

to be managed by Montgomery Parks under the 1972 Agreement between the County and the M-NCPPC as per the 2017 Bethesda Downtown Sector Plan and as required by the GDA (Eastern Greenway lot). The land must be dedicated to Montgomery County through notation on the plat and by a deed of dedication approved by the M-NCPPC's Office of General Counsel and the Montgomery County Office of the County Attorney as to form and substance. The deed of dedication must be executed and delivered to Montgomery Parks before the recordation of the plat. Montgomery Parks will hold the deed of dedication in escrow until all other relevant Conditions of Approval and any conditions of the Park Construction Permit have been completed at which time Montgomery Parks will formally accept the dedication and record the deed. At the time of formal acceptance of the dedication, the land to be dedicated must be free of any trash and unnatural debris.

16. Any activity or work on existing parkland or the land to be dedicated for parkland requires an approved Park Construction Permit and is subject to the full Park Construction Permit process as directed by Montgomery Parks staff, including, but not limited to, construction of the Eastern Greenway lot and work in Chase Avenue Urban Park.
17. Before issuance of the first building permit for the multifamily building, M-NCPPC will provide a Free and Clear Fire Access Easement over a 10-foot by 21-foot portion of Chase Avenue Urban Park as shown on the Certified Preliminary Plan to ensure access to the multifamily building in a form and substance approved by the M-NCPPC's Office of General Counsel, as required by the Montgomery County Fire and Rescue Service.
18. Per the GDA and in recognition of the provision of the Free and Clear Fire Access Easement the Applicant must perform the necessary design and work in Chase Avenue Urban Park to connect the Eastern Greenway lot to Chase Avenue Urban Park and extend the Eastern Greenway promenade trail through the park to Chase Avenue. This design and work will be performed in consultation with and under the direction of Montgomery Parks staff and requires an approved Park Construction Permit. The design and work in Chase Avenue Urban Park is estimated to cost approximately \$300,000 and is not to exceed a cost of \$330,000.

#### CERTIFIED PRELIMINARY PLAN

19. The certified Preliminary Plan must contain the following notes:
  - a) *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 site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*
20. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:

- a) Show resolutions and approval letters on the certified set.
- b) Modify plans as needed to show areas, density, units, etc. as approved by the Board.
- c) Revise labels on drawings from proposed Greenway Parcel to Greenway lot.

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#### SITE PLAN NO. 820240140

Staff recommends approval of Site Plan No. 820240140, which will supersede completely the previously approved Site Plan No. 820200100, for the construction of a 125,469 square foot mixed-use building for up to 59 dwelling units with 15% MPDUs, including up to 120,000 square feet for up to 53 multifamily units and up to 5,469 square feet of commercial uses for up to 6 live/work units. The development must comply with the conditions of approval for the associated Sketch Plan No. 320190060, as amended concurrently herewith, and Preliminary Plan No. 120240010, approved concurrently herewith. All site development elements shown on the latest electronic version of the Site Plan, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions.<sup>2</sup>

#### DENSITY, HEIGHT & HOUSING

1. Density

The Site Plan is limited to a maximum of 125,469 square feet of total development on the Subject Property for up to 59 dwelling units with 15% MPDUs, including 120,000 square feet of residential uses for up to 53 multi-family dwelling units, and 5,469 square feet of non-residential uses for 6 live/work units.

2. Height

The development is eligible for an increase in height from the mapped maximum of 70 feet for the provision of Major Public Facilities to a maximum height of 114 feet, as measured from the building height measuring point to be 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 June 25, 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.

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<sup>2</sup> For the purposes of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor (s) in interest to the terms of this approval.



- b) The development must provide 15 percent MPDUs or MCDHCA-approved equivalent consistent with the requirements of Chapter 25A and the applicable Master Plan.
  - c) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the MCDHCA must be executed.
4. Bethesda Overlay Zone Density & Park Impact Payment
- a) Per Section 59.4.9.2.D.4 of the Zoning Ordinance, the Applicant must have a building permit application accepted by MCDPS that includes the core and shell of the principal building within two years of the date of the Planning Board Resolution approving the Site Plan. Within two years of MCDPS accepting the building permit application, the Applicant must obtain the building permit. The deadlines may not be extended. If the Applicant fails to comply with any of the deadlines in this condition, the entire Site Plan approval is revoked.
  - b) In lieu of providing a Park Impact Payment of \$552,495.15 for the allocation of 54,594 square feet of Bethesda Overlay Zone Density, not including 10,359 square feet of MPDU density exempt from the PIP calculation, the Applicant must dedicate approximately 5,582 square feet of public parkland to Montgomery Parks, in accordance with the Park Impact Payment Reduction Methodology, which allows for a reduced Park Impact Payment for dedication of sector planned public parkland. The parkland will be managed by Montgomery Parks under the 1972 Agreement between the County and the M-NCPPC before recordation of the record plat to qualify for the associated Park Impact Payment Reduction. If a future site plan amendment modifies the amount of parkland dedication, the amendment may be subject to a Park Impact Payment for the associated Bethesda Overlay Zone density.
5. Green Cover
- a) The Applicant must provide a minimum of 35% of Green Cover on the Site comprised of intensive green roof, native canopy tree plantings, and/or bioretention planter boxes, as shown on the Certified Site Plan.
  - b) Any green roof installed pursuant to this condition must have a minimum soil depth of six inches (6 inches) or Staff approved equivalent.
  - c) The Certified Site Plan must include a section of the green roof demonstrating depth, soil media, and proposed structure to be built in place.

## OPEN SPACE, FACILITIES AND AMENITIES

6. Streetscape
- a) Before release of the surety bond, the Applicant must construct the streetscape improvements, including the undergrounding of utilities, along the property's frontage on West Virginia Avenue, consistent with the *Bethesda Downtown Streetscape Standards*.

7. M-NCPPC Department of Parks

- a) The Applicant must dedicate the 5,582 square foot lot identified as “New Greenway Lot” on the Certified Preliminary Plan for use as the Eastern Greenway public parkland (Eastern Greenway lot) as per Preliminary Plan No. 120240110 Condition 15; and perform the work in Chase Avenue Urban Park as per Preliminary Plan No. 120240110 Condition 18.
- b) Any activity or work on existing parkland or the land to be dedicated for parkland requires an approved Park Construction Permit and is subject to the full Park Construction Permit process as directed by Montgomery Parks staff, including, but not limited to, construction of the Eastern Greenway and work in Chase Avenue Urban Park.
- c) All work and facilities, amenities, plantings, and furnishings etc on existing or future parkland must be acceptable to Montgomery Parks staff and meet or exceed Montgomery Parks standards.
- d) Tree impacts on existing parkland are subject to Montgomery Parks tree mitigation requirements as directed by Montgomery Parks staff and required under relevant Park Construction Permit(s).
- e) Before issuance of the Final Use and Occupancy permit the Applicant must complete construction of the Eastern Greenway lot, including the connection to Chase Avenue Urban Park, and the Eastern Greenway lot must be open for public use. Minor adjustments to the design may be made at the direction of Montgomery Parks staff under the Park Construction Permit process. The Eastern Greenway lot must be constructed substantially as shown on the Certified Site Plans including but not limited to:
  - i) Three (3) benches
  - ii) One (1) picnic table
  - iii) Landscape trees and other plantings
  - iv) Bioretention stormwater management facility
  - v) Lighting fixtures
  - vi) Privacy fencing on the eastern edge of the Eastern Greenway lot
  - vii) Paved walkways including a main promenade walkway with a minimum width of 10 feet

8. The Maintenance and Management Agreement for Forest Conservation Plan No. F20240720 must include the mitigation trees and all other landscape trees on the Eastern Greenway lot.

9. Before issuance of the first above grade building permit for the multifamily building the Applicant must enter into an Agreement with M-NCPPC that details the terms of maintenance associated with the multifamily building which occurs in or requires access to the Eastern Greenway lot including, but not limited to, landscape and hardscape maintenance, operations such as snow removal, and access for maintenance of the multifamily building and its facilities.

## 10. Public Benefits

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

### a) Major Public Facilities

Based on Condition 7 above, the Applicant must construct and dedicate to Montgomery Parks approximately 5,582 square feet of public parkland for the Eastern Greenway lot.

### b) Diversity of Uses and Activities

#### i. Live-work Units

The Applicant must provide 6 live/work units. The location of the live/work units must be shown on the CSP.

### c) Quality Building and Site Design

#### i. Exceptional Design

The CSP must contain architectural elevations subject to Condition 18 below.

#### ii. Structured Parking

The Applicant must provide all parking spaces within a parking structure, with the distribution achieving the minimum necessary for above and below grade spaces as demonstrated on the Certified Site Plan.

### d) Protection and Enhancement of the Natural Environment

#### i. Building Lot Terminations (BLTs)

Before issuance of any building permit, the Applicant must provide proof of purchase and/or payment of 0.2506 BLTs to the MCDPS and M-NCPPC staff.

## 11. Recreation Facilities

a) Before Certified Site Plan approval, the Applicant must meet the square footage requirements for all of the applicable recreational elements and demonstrate to M-NCPPC Staff that each element meets M-NCPPC Recreation Guidelines.

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

## NOISE

12. Before issuance of the first above-grade building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that the building shell for residential dwelling units affected by exterior noise levels projected at or

above 65 dBA Ldn, will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. Any noise impacted units must be identified on the Certified Site Plan.

13. If any changes occur to the Site or Preliminary Plan(s) which affect the validity of the noise analysis dated June 07, 2024, acoustical certifications, and/or noise attenuation features, a new noise analysis will be required to reflect the changes and new noise attenuation features may be required.
14. Before issuance of any Use and Occupancy Certificate or Final Inspection, whichever is relevant, for any of the noise impacted units, a Professional Engineer must certify to the Planning Department and Department of Permitting Services that the noise impacted units have been constructed in accordance with the certification of an engineer that specializes in acoustical treatments.
15. For all noise impacted residential dwelling units, the Applicant/developer/builder must disclose in writing to all prospective purchasers that those homes are impacted by transportation noise. Such notification may be accomplished by inclusion of this information and any measures to reduce the impacts in brochures and promotional documents and must be included in any noise impacted sales or lease contracts, any illustrative site plan(s) on display within any sales related offices(s); in Homeowner Association documents; with all Deeds of Conveyance of noise impacted units; and by inclusion on all signature subdivision and site plans.

## Transportation & Circulation

### 16. Transportation

- a) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated June 14, 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.
- b) Before the issuance of any building permit, the Applicant must obtain approval of a Project-based Transportation Demand Management Plan (TDM) from the Montgomery County Department of Transportation (MCDOT).

### 17. Pedestrian & Bicycle Circulation

- a) The Applicant must provide thirty-three (33) long-term and four (4) short-term bicycle parking spaces.
- b) The long-term spaces must be in a secured, well-lit bicycle room in a parking garage, and the short-term spaces must be inverted-U racks (or approved equal) installed along the building's frontage, in a location convenient to the main entrance (weather protected preferred). The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.

- c) The Applicant must provide one bicycle repair station.
- d) The Applicant must provide the following master planned pedestrian and bicycle facilities, the exact location, design and construction of which must comply with requirements of the Montgomery County Department of Transportation, Division of Traffic Engineering and Operations, before the first occupancy permit:
  - i. West Virginia Avenue along the Site frontage: eight-foot-wide (8ft) sidewalk with eleven and one-half-foot-wide (11.5ft) buffer from traffic
  - ii. West Virginia Avenue from the east of the Site boundary to Tilbury Street: five-foot-wide (5ft) sidewalk with five-foot-wide (5ft) buffer from traffic
  - iii. A minimum ten-foot-wide (10ft) pedestrian and bicycle pathway within the dedicated Eastern Greenway lot.

18. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated July 2, 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

19. Site Design

- a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheets 14 through 17 of the submitted architectural drawings, as determined by M-NCPPC Staff.
- b) The exterior architectural character, proportion, materials, and articulation of the MPDUs must be substantially similar to the exterior architectural character, proportion, materials, and articulation of the market-rate units.

20. Lighting

- a) Before certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c) Deflectors will be installed on 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.

21. Site Plan Surety and Maintenance Agreement

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

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements only for facilities located on the Property (not in the public r.o.w. or within the Eastern Greenway lot), including, but not limited to plant material, on-site lighting, indoor and outdoor recreational facilities, site furniture, trash enclosures, retaining walls, fences, sidewalks, paths and associated improvements of development, including sidewalks, 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.

22. Development Program

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

23. Certified Site Plan

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

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

- i. “M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading.”
  - ii. “Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services.”
  - iii. “The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur before any site development work commencement and before any work that is covered by the site plan surety and maintenance agreement. The Applicant, along with their representatives, must attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times.”
  - iv. “A Park Construction Permit is required for all work on existing parkland or land to be dedicated as parkland (the Eastern Greenway lot).”
- c) Include approved Fire Department 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.
  - f) Include the Loading Management Plan, showing the approved truck turning movements in and out of the on-street loading facility, and narrative which covers the loading and trash collection operations for the Site. The Loading Management Plan must address the following:
    - i) The condominium association will designate a person to oversee loading and deliveries.
    - ii) Ensure the move-in/move-out activities will be coordinated amongst other units and will be conducted outside peak travel periods.
    - iii) Ensure that ridesharing and unscheduled deliveries use the on-street loading space.

#### FOREST CONSERVATION PLAN NO. F20240720

Staff recommends approval of Forest Conservation Plan No. F20240720, which involves replacing the existing single-family home and parking lot with the construction of a multifamily building. The proposed building will consist of up to 59 dwelling units with 15% MPDUs, including 6 live/work units. The approval is subject to the following conditions:

1. Before any clearing, grading or demolition on the site, the Applicant must submit and receive approval of a Final Forest Conservation Plan, which must be consistent with the approved Forest Conservation Plan and associated conditions.
2. 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.
3. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
4. Before the start of any demolition, clearing, grading or construction, whichever comes first, for this development Application, the Applicant must submit the forest conservation fee-in-lieu payment to the M-NCPPC Planning Department for the 0.12- acres of afforestation/reforestation requirement, or as shown on the certified Final Forest Conservation Plan.
5. 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 certified Final Forest Conservation Plan.
6. The Applicant must plant the variance tree mitigation plantings on the Subject Property, with a minimum size of 3 caliper inches, totaling at least 17.25 caliper inches, or as shown on the certified Forest Conservation Plan. All trees credited towards variance mitigation must be at least five (5) feet away from any structures, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
7. Before any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the mitigation trees and maintenance credited toward meeting the requirements of the FCP.
8. Before any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures.



## SECTION 3: SITE DESCRIPTION

### VICINITY

The Project is located within the northern portion of downtown Bethesda, on a transitional block between the Wisconsin Avenue corridor and the East Bethesda residential neighborhood. Directly west of the Property is a 10-foot-wide public alley, and further west along Wisconsin Avenue are generally mixed-uses with retail, office, and higher-density residential uses. Currently to the north are 1-2 story commercial buildings and single-family homes, and this block recently received Planning Board approval for a Sketch Plan and Preliminary Plan for a new residential building with a 70-foot-wide privately owned public open space for the Sector Planned Eastern Greenway. To the east is a single-family home on the corner of West Virginia Avenue and Tilbury Street, and past Tilbury Street is the single-family neighborhood of East Bethesda. To the south is a 10-foot alley that will be abandoned and incorporated into the Project. To the southeast is Chase Avenue Urban Park and southwest is a two-story commercial building and associated parking lot.



Figure 3 - Vicinity Map



## PROPERTY DESCRIPTION

The Subject Site (“Subject Property”, “Property”, or “Site”) is located east of Wisconsin Ave within the 2017 *Bethesda Downtown Sector Plan* (Sector Plan) which describes the area as a residential edge district. The Property has a tract area of 0.74 acres and is currently improved with PLD Lot #44, containing 55 spaces, and a detached single-family home.

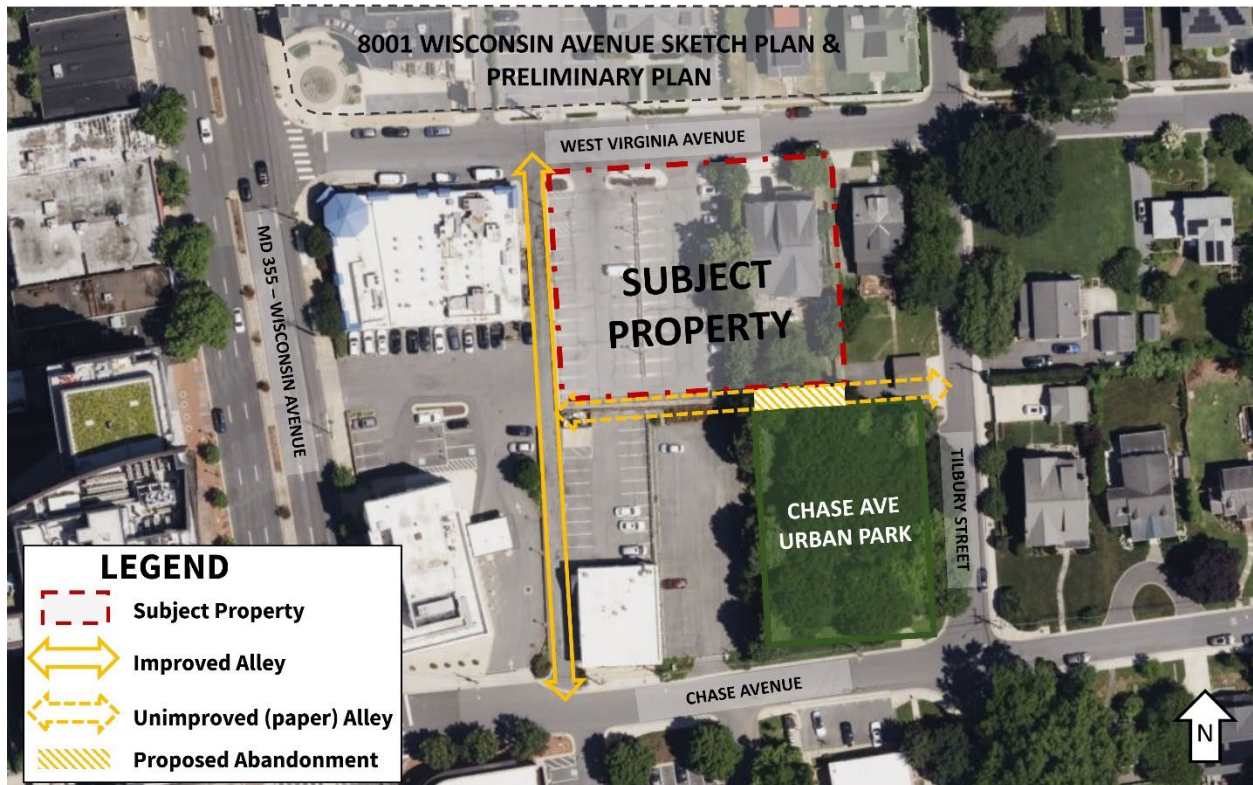


Figure 4 – Subject Property

The Property fronts on West Virginia Avenue which is a two-way street with on-street residential permit parking along the Site frontage and short-term metered parking west of the Site. An unimproved public alley, that runs east to west, is located to the south of the Property, a portion of which will be abandoned. The Property is located within the Rock Creek watershed which is a Use I<sup>3</sup> watershed. The Site is not associated with any areas of forest, or 100-year flood plains, streams, or stream buffers. Soils associated with the Property are classified generally as urban land and are not considered highly erodible or otherwise sensitive; additionally, there are no areas of steep slopes within the project area. There are no historic properties on-site.

<sup>3</sup> Use I:

*WATER CONTACT RECREATION & PROTECTION OF NONTIDAL WARMWATER AQUATIC LIFE*

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

## PREVIOUS APPROVALS

The Subject Property contains two lots, County Parking Lot #44 and 4702 West Virginia Avenue, as well as a portion of an unpaved public alley to the south which will be abandoned. 4702 West Virginia Avenue has two previous approvals from the Planning Board as follows:

### Sketch Plan No. 320190090

The Planning Board approved Sketch Plan No. 320190060 by MCPB Resolution No. 19-057, mailed July 11, 2019, for a new 35-foot-tall multi-family residential building totaling 20,000 square feet with underground parking, including an allocation of Bethesda Overlay Zone density of up to 14,750 square feet, subject to binding elements and conditions.

### Sketch Plan No. 32019009A & Site Plan No. 820200100

On May 14, 2020, the Planning Board approved Sketch Plan Amendment No. 32019009A by MCPB Resolution No. 20-042 and Site Plan No. 820100100 by MCPB Resolution No. 20-043 to increase maximum density by 1,500 square feet from the previously approved Sketch Plan to allow a maximum density of 21,500 square feet for up to 19 multifamily units with structured parking. This approval utilized 16,250 square feet of Bethesda Overlay Zone density.

## SECTION 4: PROJECT DESCRIPTION

### PROPOSAL

The Applicant proposes to redevelop the existing County parking Lot #44 and 4702 West Virginia Avenue through creation of two lots and abandonment of a portion of the public alley to the south, to construct a new mixed-use multifamily building for up to 59 units with 15% MPDUs, including 120,000 square feet of residential uses for up to 53 units, and up to 5,469 square feet of non-residential uses (6 live/work units) on one lot. The Project will also construct and dedicate 5,582 square feet of public parkland for the Sector Planned Eastern Greenway. The Proposal includes structured parking within the building and utilization of up to 54,594 square feet of Bethesda Overlay Zone (BOZ) density. The Applicant is requesting the associated Park Impact Payment for the BOZ density to be reduced given the proposed public parkland dedication.



*Figure 5 – Rendered Site Plan*

The Proposal also includes a request to abandon a portion of the existing, unimproved paper alley and incorporate a portion of that into the multifamily lot and Eastern Greenway lot and the remaining

portion will ultimately be deeded to M-NCPPC and incorporated into Chase Avenue Urban Park as shown in Figure 4 below.

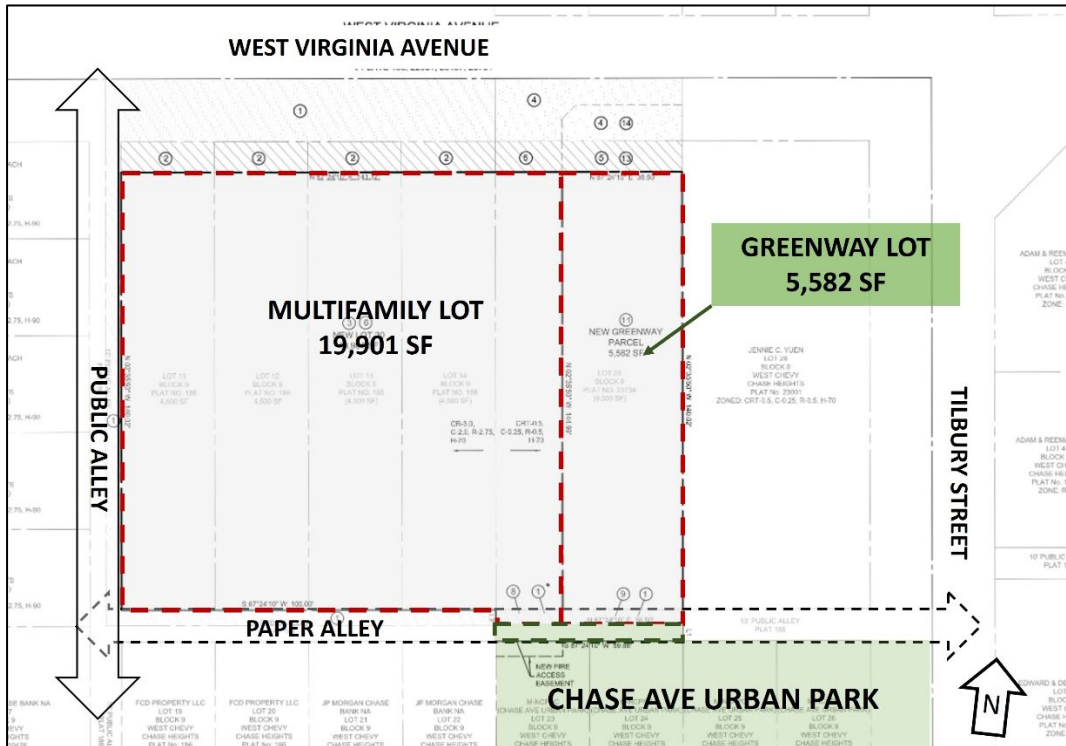


Figure 6 – Rendered Lotting Diagram

## BUILDING/ARCHITECTURE

As proposed, the building will include six townhouses facing directly onto the proposed public Eastern Greenway as recommended in the Sector Plan. Behind the townhouses, the building will increase in height to the maximum 114 feet (11 stories). Each of the four façades will be visible and as such have been architecturally designed with highly articulated and modulated elevations.





*Figure 7 – Rendering from Tilbury Street looking east towards Eastern Greenway and proposed building*

The Applicant proposes a sophisticated material pallet that includes a stone water table base and surround on the garage entry and windows at the base along West Virginia Avenue, with a light masonry façade material. The base is defined with cornices above the third floor, and the upper levels incorporate metal balconies and metal accent paneling into the light masonry. The top of the building is defined with two symmetrical metal shading towers facing the Eastern Greenway.



*Figure 8 – Rendering from West Virginia Avenue looking south, with Eastern Greenway to the left*



The Proposal was presented to the Bethesda Design Advisory Panel (DAP) at their March and May 2024 meetings (Attachment D), and the DAP voted in support of 20 Design Excellence Points as proposed.

## BUILDING HEIGHT

### Major Public Facilities

As further described below, the Project will deliver the Sector Planned Eastern Greenway as a major public facility, and as such the Applicant is requesting the Planning Board approve additional height above the mapped height of 70 feet, for a maximum height of 114 feet. The provision of the public park has limited the Applicant's ability to fully develop the Site, as the dedication for the future Eastern Greenway public park limits the Applicant's ability to construct structured parking for the development beneath the dedication area. The Zoning Ordinance provides "*with Planning Board approval, any Optional Method project in a CR zone that includes the provision of a major public facility ... may add the height of any floor mostly used for above grade parking to the maximum height otherwise allowed, when the major public facility diminishes the ability of the Applicant to provide parking at or below grade.*" The Applicant has provided exhibits detailing the levels of parking within the building that would add four floors, approximately 44 feet above the maximum building height of 70 feet. While the Proposal would contain four floors of above grade parking, the building has been designed to screen that parking from the street. The proposed townhouse units will face towards West Virginia Avenue and the Eastern Greenway, and the building will be highly articulated along the public alley to screen the parking.

As described on pages 11-13 of the Applicant's Statement of Justification (Attachment G) the Applicant states that the Project contains 81 parking spaces within the above grade portion of the building, with 99 spaces total (18 parking spaces to be provided on one below-grade level). This results in 1.67 spaces per unit, and the Applicant acknowledges that while this is a higher parking ratio than many recently approved residential projects within Bethesda, it is necessary for this particular Project given the nature of it containing for-sale units (including MPDUs) that are substantially larger than a typical rental building. The predominant unit types within the Proposal are 3-bedroom and 4-bedroom units, and the Applicant states the market demand for these larger units is at least two parking spaces per unit. The proposed square footage of the building (125,469 square feet) could typically yield approximately 150 rental units of a smaller unit type, in which case providing 99 parking spaces would be satisfactory. This is the only development in Bethesda proposing for sale MPDUs, as required by the GDA, and as such the market rate units must be able to capture market demand to deliver the deeply affordable aspect of the Project.



Figure 9 – Diagram showing above grade parking due to Major Public Facility (public park)

## EASTERN GREENWAY

As envisioned, the North Section of the Eastern Greenway will function as a single high-quality linear park incorporating sustainable design elements stretching from Maple Avenue to Cheltenham Drive with spaces for recreation and social connection. It will function as a continuous park connecting several larger neighborhood greens and will have a cohesive design to ensure the experience of a single park. A wide promenade will physically connect the corridor while unique, enticing features and activity spaces will serve to draw the public into the park and ensure that it serves as more than just a buffer.

Montgomery Parks staff created the Eastern Greenway Framework Concept (Attachment E) and the Applicant has coordinated with Montgomery Parks on the design within the overall framework created for the Eastern Greenway. As conditioned and shown in Figures 5 & 10, the Applicant proposes to dedicate 5,582 square feet and construct the promenade pathway connecting to Chase Avenue Urban Park with activity nodes, which will also tie into the other recent approvals for the Eastern Greenway to the north of the Site.

This is the third project to contribute to the Eastern Greenway, as 8001 Wisconsin Avenue (located directly to the north of this Project) has received Planning Board approval for Sketch and Preliminary Plans and will provide a privately owned publicly accessible portion of the Eastern Greenway of similar size to this Project. Lot #25, which is located one block north of 8001 Wisconsin Avenue, has received Planning Board approval for Sketch Plan which includes a 93-foot-wide dedication to the

Eastern Greenway. Since the Applicant will be dedicating public parkland as recommended in the Sector Plan, they may receive a Park Impact Payment Reduction to the Park Impact Payment require for the associated Bethesda Overlay Zone density. See Site Plan No. 820240140 Finding 1.a for more discussion.

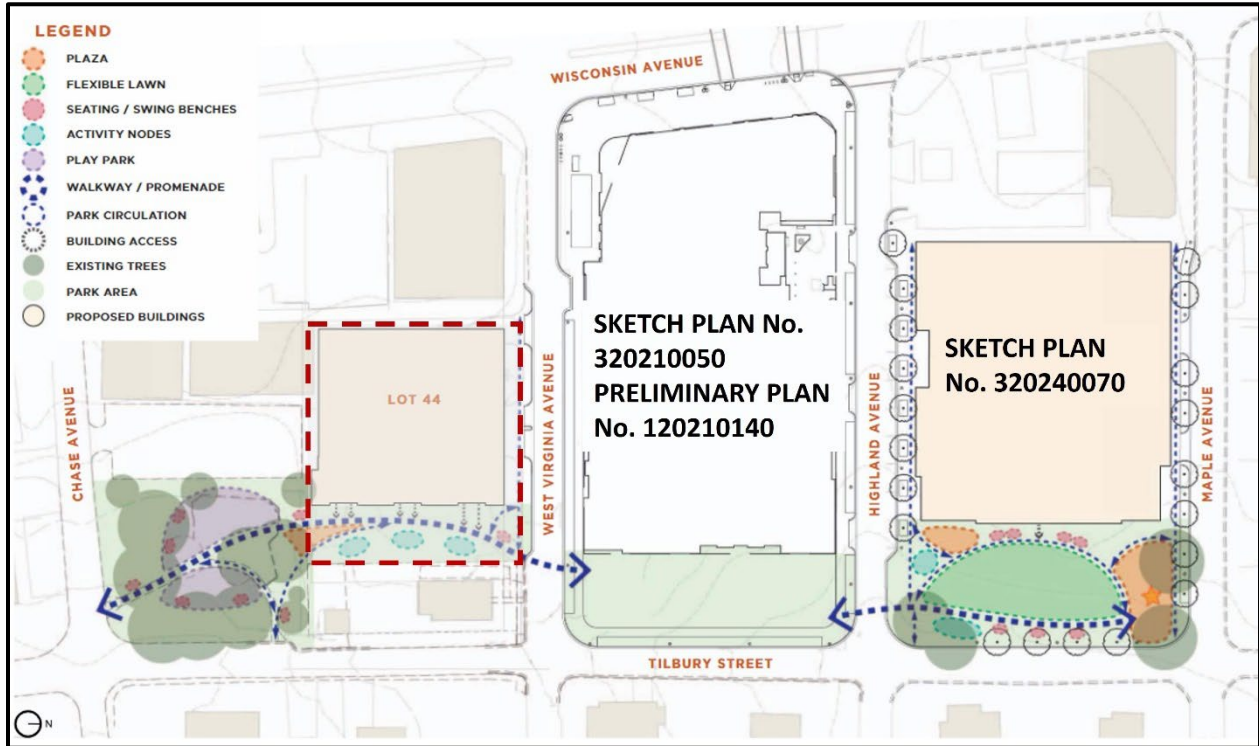


Figure 10 – Proposed Eastern Greenway dedication to be tied into Chase Avenue Urban Park, Lot 25 and 8001 Wisconsin Avenue development approvals with Subject Property shown in red dashed line

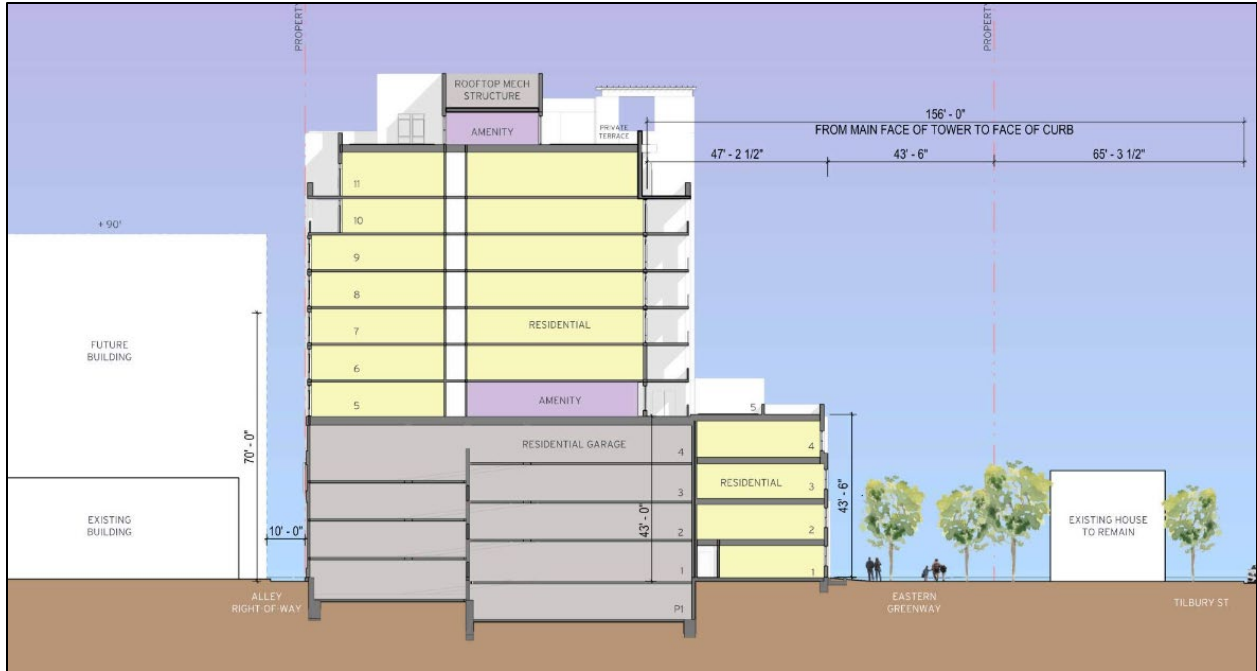


Figure 11 – Section looking north towards West Virginia Avenue showing relationship of building to Eastern Greenway

Figure 11 above shows that the Eastern Greenway area will be approximately 43.5 feet in width, measuring from the proposed building façade to the eastern property line. The *Bethesda Downtown Design Guidelines* states that any building height proposed adjacent to the Eastern Greenway should be proportional to the Eastern Greenway width. The adjacent building height for the townhouses will be limited to 43.5 feet in height, directly proportional to the width from the building façade to the eastern property line. It should be noted that the actual dedication width for the Eastern Greenway lot will be slightly less than the 43.5 feet in width, at 38 feet, as the 5 feet directly adjacent to the building will contain stormwater management facilities for the multifamily building, which cannot be located on the public parkland dedication. Given that there are several constraints on this Site, including the public alley to the west and the existing house on the corner of West Virginia Avenue and Tilbury Street, Staff believes this exception is appropriate. At such time in the future when the corner property redevelops and becomes incorporated into the Eastern Greenway, the functional width of the Eastern Greenway will be significantly wider than the Sector Plan recommendation.

## TRANSPORTATION

The Subject Application proposes to consolidate the two existing access points on West Virginia Avenue into one single full-movement driveway for the parking garage, which reduces conflicts for all modes. The Site frontage was ultimately too narrow for an off-street loading bay, for which the Applicant is requesting a waiver from Section 59.6.2.8, see Site Plan No. 820240140 Finding 2.d.iii.2 for more discussion. Alternatively, the Applicant worked with the Montgomery County Department of Transportation (MCDOT) and Montgomery Parks to design an on-street, public loading facility which is

to be used for move-ins/move-outs, as well as ridesharing, short-term deliveries and other loading activities. As determined by MCDOT, the loading space is sufficient for an SU-30 box truck. The Project is subject to a Loading Management Plan, which stipulates that the condominium association will designate a person to help coordinate moving activities. Residents will also be directed to use the on-street loading facility for short-term deliveries and ridesharing.

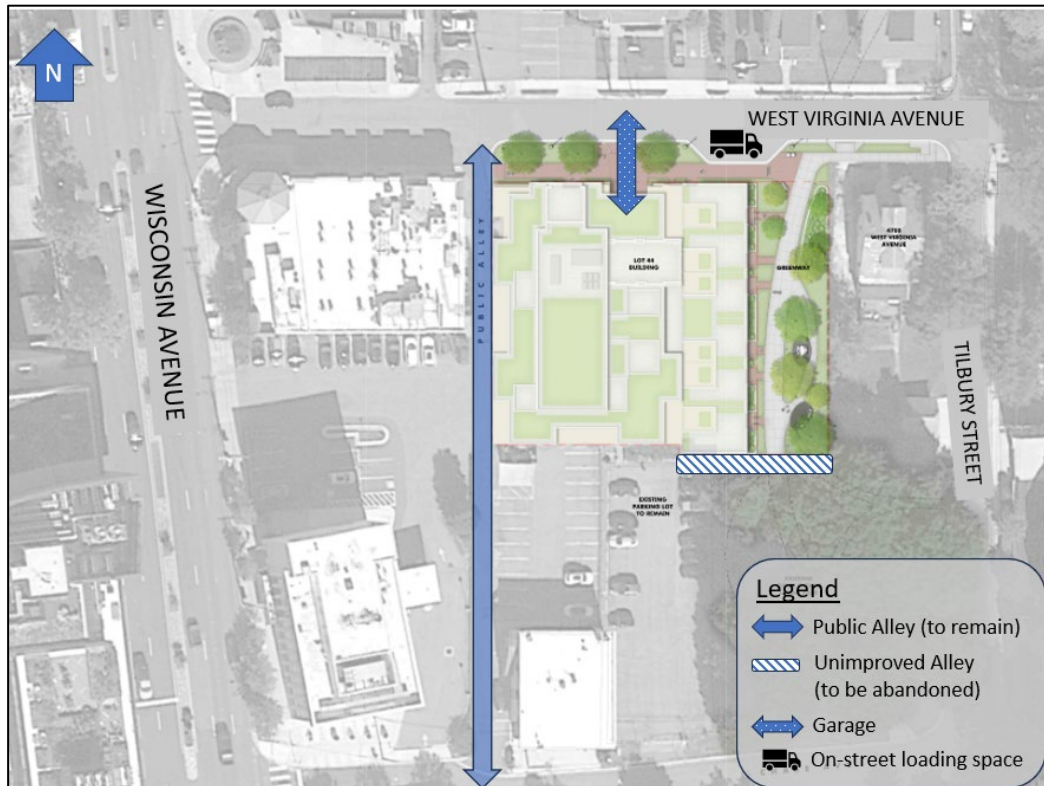


Figure 12 – Access and Circulation Exhibit

Trash will be collected via the public alley that runs north-south along the western side of the Site. This 10-foot-wide public alley is currently in use by the adjacent lots to the east of the Site and is proposed to remain in its current condition. A dedicated, but unimproved (“paper alley”) public alley is proposed to be abandoned with the Subject Application to maximize the dedicated area to the Eastern Greenway on the east side of the Site. This alley has not been improved and is not anticipated for future use, and it would divide up the block into narrower lots if it were to be constructed. The 2017 *Bethesda Downtown Sector Plan* recommended consolidation of lots in this area to promote redevelopment and realization of the Eastern Greenway network in East Bethesda.

The Project proposes to improve pedestrian access through streetscape improvements including an 11.5-foot-wide street buffer and an eight-foot-wide sidewalk on West Virginia Avenue. The Applicant will extend the sidewalk across the adjacent property to the east within the existing right-of-way, where it terminates at Tilbury Street. The Applicant will also be constructing a bicycle and pedestrian pathway through the proposed Eastern Greenway public park.

Per the terms of the GDA, all public parking spaces will be removed from the Site<sup>4</sup>. The proposed building's parking garage will provide 99 private parking spaces for vehicles. A secure bicycle parking room will provide 37 long-term bicycle parking spaces. A total of four short-term bicycle parking spaces (inverted U-racks) will be located near the front of the building.

## ENVIRONMENT

### Forest Conservation

Although there is no forest on-site or adjacent to the Property, a Forest Conservation Plan (FCP) has been submitted as part of this concurrent Mandatory Referral, Sketch, Preliminary and Site Plan submission. Due to tract area, associated offsite work, and the mixed-use designation of this project, the FCP proposes a minor afforestation requirement of 0.12 acres, to be addressed by offsite banking or a payment of fee-in-lieu.

## SECTION 5: COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements, and a pre-submittal public meeting was held on January 8, 2024.

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

## SECTION 6: MANDATORY REFERRAL NO. MR2024021

The Subject Property is comprised of publicly owned land, PLD Lot 44, as well as a privately owned lot, 4702 West Virginia Avenue. A Mandatory Referral is required for the disposition of public land. The Applicant has entered into a General Development Agreement with the County to redevelop the Subject Property with a multifamily building for up to 59 units with 15% MPDUs, including up to 120,000 square feet of residential uses for up to 53 units and up to 5,469 square feet of non-residential uses for up to 6 live/work units and dedication and construction of approximately 5,582 square feet of public parkland to be managed by Montgomery Parks. The Proposal is subject to Sketch Plan Amendment No. 32019006B, Preliminary Plan No. 120240110, Site Plan No. 820240140, and Forest Conservation Plan No. F20240720 and the findings and analysis contained within for each application.

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<sup>4</sup> PLD Lot 25, a companion project to the Subject Application, will replace public parking spaces.



## SECTION 7: SKETCH PLAN 32019006B FINDINGS AND ANALYSIS

The purpose of a Sketch Plan is to identify general land uses, development intensity, and public benefits for the optional method of development in the CR, CRT, EOF or LSC zones. The Sketch Plan is intended to be conceptual in nature with an emphasis on building densities, massing, heights and anticipated uses, the locations of open and public use spaces, the general circulation patterns for all modes of transportation, an estimated range of peak hour trips and relationships between existing or proposed adjacent buildings and rights-of-way. Details of the proposed development are determined during Preliminary and Site Plan review. Section 59.7.3.3.E of the Zoning Ordinance states: “To approve a Sketch Plan the Planning Board must find that the following elements are appropriate in concept and appropriate for further detailed review at Site Plan. The Sketch Plan must:

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

As demonstrated in Findings for Site Plan No. 820240140 below, the Sketch Plan Amendment meets the standards of this Chapter.

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

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

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

The Property is within the Eastern Greenway District designated as sites 211 and 212 on page 135 of the Sector Plan. The Eastern Greenway District is split into two sections, north and south of East West Highway. The Property is in the northern district which is

characterized by low-density, primarily residential development, green open spaces and paved parking lots which provides a transitional area between the commercial structures of the Central Business District (CBD) along the Wisconsin Avenue Corridor and the single-unit houses of East Bethesda. The Project addresses the following goals as outlined in the Overarching Goals and the Eastern Greenway District sections of the Sector Plan:

- *Ensure the stability of the land uses in the transitional area to preserve East Bethesda and the Town of Chevy Chase as single unit residential neighborhoods.*

The Proposal will redevelop an underutilized surface parking lot and one single family home to deliver a multifamily building and a portion of the Sector Planned Eastern Greenway public park and a transition to the residential neighborhood of East Bethesda.

- *Make the best use of land near the Bethesda Metrorail Station and future Purple Line station by promoting redevelopment of underutilized properties and private surface parking lots.*

The Project will transform an underutilized surface public parking lot into a multifamily building with important public facilities such as large unit type affordable housing and the dedication and construction of public parkland.

- *Provide a compatible transition between higher-density development along Wisconsin Avenue and the East Bethesda and Town of Chevy Chase.*

The proposal has located the taller portion of the building towards the western portion of the Property, closer to Wisconsin Avenue. Facing the East Bethesda neighborhood, the building will decrease in height to 43'6" townhouses and provide a 43'6" wide Eastern Greenway as a compatible transition to the single-family neighborhood.

- *Provide a green connector and a transition along the eastern edge of the Sector Plan area.*

The 2017 *Bethesda Downtown Sector Plan* recommends the formation of a linear greenway along the western side of Tilbury Street from Maple Avenue down to Cheltenham Drive linking Cheltenham Urban Park, Chase Avenue Urban Park, and a proposed new park on Maple Avenue (County Parking Lot #25). This Eastern Greenway is envisioned to provide additional open space to the area and buffer the higher-density development along Wisconsin Avenue from the East Bethesda neighborhood. The parcels adjacent to and within this future space were rezoned to increase their development potential, as the Eastern Greenway is envisioned to be created through the redevelopment of these parcels. The Sector Plan and Design Guidelines describe how development adjacent to the Eastern Greenway should be oriented towards the open space and the type of uses on the ground floor should activate the space through

placement of ground floor retail and/or residential unit entryways. To enhance compatibility with the adjacent residential neighborhood, the Sector Plan calls for the Eastern Greenway width to be equal to the amount of building height proposed. In this case, the building will be 43.5 feet in height facing the Greenway, and the proposed Eastern Greenway will be 43.5 feet in width, in conformance with the Sector Plan recommendations. While the actual dedication width for the Eastern Greenway Public Park will be slightly less than the 43.5 feet in width, at 38 feet, as the five feet directly adjacent to the building will contain stormwater management facilities for the multifamily building, which is not appropriate for public parkland dedication. Given that there are several constraints on this Site including the public alley to the west and the existing house on the corner of West Virginia Avenue and Tilbury Street, this exception is appropriate. At such time in the future when the corner Property redevelops and becomes incorporated into the Eastern Greenway, the functional width of the Eastern Greenway will be significantly wider than the Sector Plan recommendation.

- *Increase overall tree canopy cover and subcanopy cover by encouraging the planting of trees on public and private land, along rights-of-ways, and within open space and existing neighborhoods.*

The Sketch Plan proposes tree plantings along the West Virginia Avenue and throughout the Eastern Greenway. These streetscape improvements will be finalized at the time of Site Plan based on conformance with the Bethesda Streetscape and Design Guidelines, as well as final design in coordination with Parks staff for the Eastern Greenway.

- *Bird-Safe Design, to design glass buildings to protect local and migratory birds from deadly strikes. Integrate elements into the building and site design to warn birds before they collide.*

The building has been designed with the primary material of masonry, with only punched glass openings. As such, the building design will be bird-safe, and the glazing is not highly reflective. Due to the modeled façade with projections and glazing within masonry openings, the shadow will often be present that help mitigate against birds being attracted to the structure in flight. Lighting will include full cutoff fixtures with an emphasis on not illuminating the night sky.

- *On private property, provide a minimum of 35 percent green cover, which may include either singularly or a combination of intensive green roof and/or tree canopy cover.*

The green cover may include a consolidated space or a combination of intensive green roof (6 inches or deeper) or tree canopy cover. This Application consists of a Site Area of 20,000 square feet (SF) which results in a green cover requirement of at least 7,000 SF. Currently, the Application proposes to meet this requirement entirely through the installation of a 6-inch-deep green roof at various levels of the proposed development.

## Transportation

West Virginia Avenue is a Neighborhood Local Street, per the 2017 *Bethesda Downtown Streetscape Guidelines*, with a master-planned right-of-way of 60-feet total. There are no designated bikeways master planned along the Site frontage.

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

The Project will redevelop an existing County-owned surface parking lot and single-family dwelling into a multifamily building with structured parking and dedicate a portion of the property for a Sector Planned public park.

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

The Project proposes a total of 59 units that include townhouses, live/work, and multifamily units with 15 percent of the total units being MPDUs. The Project will also provide a portion of the Sector Planned Eastern Greenway as a major public facility that will connect to the existing Chase Avenue Urban Park.

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

The Project has been designed to be compatible with the adjacent neighborhood to the east, by reducing the height along the eastern façade to 43.5 feet and focusing the taller portion of the building closer to Wisconsin Avenue to the west.

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

The Project will provide additional housing opportunities, specifically affordable housing, at a location that will contribute to the nearby employment opportunities within downtown Bethesda.

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

The Project will provide the required 100 public benefit points from a minimum of 4

categories to achieve the desired incentive density above the standard method limit. Final determination of public benefit points will be determined at the time of Site Plan.

**2. Substantially conforms to the recommendations of the applicable master plan:**

As described in Finding 1.a above, the Project substantially conforms to the *Bethesda Downtown Sector Plan*.

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

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

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

As described in Site Plan No. 820240140 Finding 2.j below, the Project will be compatible with the existing and pending development.

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

As described in Site Plan No. 820240140 Finding 2.f below, the Project as designed will provide safe parking, loading, and circulation for vehicles, pedestrians, and bicyclists.

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

For the proposed development, the Zoning Ordinance requires 100 points in 4 categories. The Applicant proposes to exceed the 100-point requirement as demonstrated below. Although at the time of Sketch Plan review only an outline of public benefits needs to be approved, the following table shows both the categories and points for the public benefits requested at Sketch Plan to demonstrate the project’s ability to meet the requirement to provide sufficient benefit points.

*Table 1: Public Benefit Calculations- Division 59-4.7*

<b>Public Benefit</b>	<b>Maximum Points Allowed</b>	<b>Proposed</b>
<b>Major Public Facilities</b>	70	70
<b>Diversity of Uses and Activities</b>		
Live/Work	15	15
<b>Quality Building and Site Design</b>		
Exceptional Design	20	20
Structured Parking	20	11

<b>Protection and Enhancement of the Natural Environment</b>		
Building Lot Terminations (BLT)	30	2
<b>Total Points</b>	<b>100 (required)</b>	<b>118</b>

Per Section 59.4.9.2.C.4.g of the Zoning Ordinance, the Bethesda Overlay Zone increases the maximum amount of public benefit points available in certain categories. Applicable to this Sketch Plan are the Overlay Zone’s increase in maximum points available for exceptional design (from 10 to 30 maximum points).

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

The Project will be built in one phase.

**SECTION 8: PRELIMINARY PLAN 120240110 FINDINGS AND ANALYSIS**

The Preliminary Plan would create two lots, one lot for up to 59 dwelling units, including up to 120,000 square feet for up to 53 multifamily units and up to 5,469 square feet of nonresidential uses and one lot for dedication as public parkland. This approval also includes the abandonment of 596 square feet of the adjacent alley to the south. This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Application has been reviewed by other applicable State, County and City agencies.

**1. The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.**

The layout of the proposed subdivision is appropriate for the proposed mixed-use building and public park. The 2017 *Bethesda Downtown Sector Plan* recommended that the eastern portion of the blocks between Wisconsin Avenue and Tilbury Street become a linear park, referred to as the Eastern Greenway. The Proposal will include a 5,582 square foot lot for the Eastern Greenway to be dedicated to and managed by Montgomery Parks. The Proposal will locate the higher density and building height towards the western portion of the Property, closer to Wisconsin Avenue.

As demonstrated in Site Plan No. 820240140 Finding 2.d.i, the Proposal complies with the basic requirements of Chapter 59.

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



As discussed in Sketch Plan No. 32019006B, Finding 1.a above, the Project substantially conforms to the 2017 *Bethesda Downtown Sector Plan*.

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

**a) Roads and other Transportation Facilities**

- i. **Existing Facilities:** West Virginia Avenue is a Neighborhood Local Street with a 60-foot right-of-way. No further right-of-way dedication is needed. The street consists of two travel lanes; one in each direction. West of the north-south public alley, short-term parking is permitted on both the north and south sides of the street. East of the alley no parking is permitted. Buffered sidewalks are present along the north side, and unbuffered, intermittent sidewalks are present along the south side.
- ii. **Proposed public transportation infrastructure:** Along the Site frontage the Applicant will install an 11.5-foot-wide vegetated street buffer with an eight-foot-wide sidewalk. The Applicant is extending the buffered sidewalk east of the property within the public right-of-way to complete the sidewalk on the block, ending at Tilbury Street. This streetscape will include a five-foot-wide street buffer and a five-foot wide sidewalk. Within the Eastern Greenway, an area to be dedicated as a public park, there will be a 10-foot-wide paved bicycle and pedestrian pathway which will help to connect to the future dedicated portions of the Eastern Greenway to the north of the Site and to Chase Avenue Urban Park and future extensions of the Eastern Greenway to the south.

Additionally, the Subject Application proposes to construct a public, on-street loading facility located between the Site and the entrance to the Eastern Greenway. The loading space will be carved into the streetscape, so as not to hinder the eastbound travel lane or the improved sidewalk. The design of the loading space has been evaluated and determined sufficient for an SU-30 box truck by the Montgomery County Department of Transportation. The intent of the loading space is to serve many functions for the adjacent land uses including move-in/move-out activities for the proposed residential building (and other residential uses on the street), queuing space for ridesharing, and short-term parking for deliveries. Although the space will be constructed by the Applicant, the space is available to the general public.

- iii. **Proposed private transportation infrastructure:** There is no private transportation infrastructure proposed with the Subject Application.

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

The previous use on the Site was a single-family house and a public parking lot. The proposed 53 mid-rise residential units, and 6 live/work units, are estimated to generate a combined net increase of 26 person trips in the morning peak hour and a net increase of 40 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 below.

*Table 2: Trip Generation Analysis*

		ITE Trip Generation Vehicle Rates		Adjusted Vehicle Rates Bethesda CBD Policy Area		Total Person Trips	
		AM	PM	AM	PM	AM	PM
Existing	1 Single-family unit	1	1	1	1	2	2
Proposed/studied <sup>2</sup>	68 mid-rise multi-family units <sup>1</sup>	18	27	14	21	28	42
<b>Net Change</b>						<b>26</b>	<b>40</b>

*Source: Transportation Exemption Statement from Gorove Slade., March 28, 2024, modified by staff*

<sup>1</sup>The Project studied the potential impact 53 residential units and 15 live/work units. For the purposes of estimating trips, the Institute of Transportation Engineers (ITE) Trip Generation Manual, treats these units the same.

<sup>2</sup> The Project studied the impact of 15 live/work units but ultimately proposes a total of six. As the studied density is higher and therefore more conservative than the proposal, the Applicant was not required to adjust the transportation exemption statement.

**c) Schools**

The proposed Preliminary Plan 120240110 is subject to the FY25 Annual School Test, approved by the Planning Board on June 20, 2024 and effective on July 1, 2024. This Preliminary Plan proposes the development of 59 high-rise dwelling units.

The project is served by Somerset ES, Westland MS and Bethesda-Chevy Chase HS. Based on the FY25 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

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

	Program Capacity	Enrollment	% Utilization	Surplus/ Deficit
Bethesda ES	561	590	105.2%	-29
Westland MS	1,064	865	81.3%	+199
Bethesda-Chevy Chase HS <sup>5</sup>	2,475	2,341	94.6%	+134

<sup>5</sup> 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.

Table 4: FY2025 School Test Results

	Adequacy Status	Tier 1 Adequacy Ceiling	Tier 2 Adequacy Ceiling	Tier 3 Adequacy Ceiling
Bethesda ES	No UPP	261	286	369
Westland MS	No UPP	325	412	572
Bethesda-Chevy Chase HS	No UPP	314	629	1,001

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, Bethesda ES, Westland MS and Bethesda-Chevy Chase HS do not require any UPP as identified in Table 2. If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

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

With the development of 59 high-rise dwelling units that are not age-restricted, the proposed project is estimated to generate the following number of students based on the subject property’s location within an Infill Impact Area:

Table 5: Estimated Student Enrollment Impacts

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	0	0.202	0.000	0.096	0.000	0.141	0.000
SF Attached	0	0.161	0.000	0.087	0.000	0.126	0.000
MF Low-rise	0	0.065	0.000	0.030	0.000	0.040	0.000
MF High-rise	59	0.039	2.301	0.016	0.944	0.018	1.062
TOTALS	59		2		0		1

As shown in Table 3, on average, this amendment is estimated to generate 2 elementary school students, 0 middle school students and 1 high school student. The estimated

number of students generated do not exceed the adequacy ceilings identified for each school in Table 2. Therefore, no additional UPPs are required and neither are partial payments across multiple UPP tiers.

**d) Other Public Facilities and Services**

Public facilities and services are available and will be adequate to serve the proposed development. The Subject Property is proposed to be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service which has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as electrical, telecommunications, gas, police stations, firehouses, and health services are operating according to the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the Property.

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

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines as further discussed in the findings for Forest Conservation Plan F20240720.

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

The Montgomery County Department of Permitting Services Water Resources Section approved a Combined Stormwater Management Concept/Site Development Stormwater Management Plan on August 2, 2024. The plan proposes to meet required stormwater management goals via the use of green roof, micro-bioretenion practices, and a partial waiver.

**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.**

Not applicable to this Property.

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

Pursuant to Section 49-68 County Code, the Preliminary Plan proposes to abandon a large portion of a previously improved and unused 10-foot-wide paper alley that runs east/west at the southern property line from Tilbury Street to the east to an existing north/south alley to the west. The portion of the paper alley proposed for abandonment has never been used or

improved for the purposes for which it was intended or dedicated (such as a service alley for vehicles), and the right-of-way is not necessary for the anticipated public use. The easternmost portion of the paper alley is proposed for abandonment because it is contiguous to Chase Avenue Urban Park and the future Eastern Greenway public park to the north that is proposed for dedication by the Applicant. The westernmost portion of the paper alley, adjacent to the lot proposed for the multifamily building, must be maintained to satisfy fire department access and building code requirements.

The proposed abandonment satisfies Section 49-68€ of the County Code as the right-of-way is not necessary for anticipated future public use given that the Sector Plan does not recommend improving or otherwise putting this paper alley into public use. The Sector Plan does recommend a linear park along the eastern portion of the blocks to the west of Tilbury Street, and the abandonment will ultimately assist in the realization of this public park.

## SECTION 9: SITE PLAN NO. 820240140 FINDINGS AND ANALYSIS

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

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

The findings herein apply only to the Subject Property.

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

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

The Site Plan application is in conformance with the previously approved Sketch Plan, as amended, and the associated Preliminary Plan.

**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 4.5, CR & CRT Zone**

Table 6: Lot 44 & 4702 West Virginia Avenue Site Plan Data Table for CR & CRT Zone, Optional Method, Section 59.4.5

Development Standard	Permitted/ Required	Proposed
<b>Tract Area</b>	n/a	
<b><u>CR 3.0 C-2.0 R-2.75 H -90'</u></b>		
Lots 11-14		16,801
Prior Dedication		3,875
Proposed Dedication		1,188
<b>Subtotal CR 3.0</b>		<b>21,875<sup>1</sup></b>
<b><u>CRT 0.5 C-0.25 R-0.5 H 70'</u></b>		
Lot 29		2,993
Prior Dedication		1,500
Proposed Dedication		593
Proposed Park Dedication		5,391
<b>Subtotal CRT 0.5</b>		<b>10,500<sup>2</sup></b>
Total Tract Area		<b>32,375 sf</b>
<b>Site Area (Square Feet/Acres)</b>	n/a	
Prior Dedication		5,375
Proposed ROW Dedication		1,781
Proposed Eastern Greenway lot <sup>3, 6</sup>		5,391 <sup>3</sup>
+ alley abandonment in site		+ 106
<b>Site Area (Tract Area – Dedications)</b>		<b>19,901 sf<sup>1, 2, 6</sup></b>
<b>Mapped Density</b>		
<u>Residential (GFA/ FAR)</u>		
CR 3.0, C-2.0, R-2.75, H70'	60,156 sf (2.75)	60,156 sf (2.75)
CRT 0.5, C-0.25, R-0.5, H70'	5,250 sf (0.5)	5,250 sf (0.5)
<b>Residential Subtotal</b>	<b>65,406 sf (2.75)</b>	<b>65,406 sf (2.02)</b>
<u>Commercial (GFA/FAR)</u>		
CR 3.0, C-2.0, R-2.75, H70'	43,750 sf (2.0)	5,469 sf (0.25)
CRT 0.5, C-0.25, R-0.5, H70'	2,625 sf (0.25)	0 sf
<b>Commercial Subtotal</b>	<b>46,375 sf (2.25)</b>	<b>5,469 sf (0.25)</b>
<b>Total Mapped Density (GFA/FAR)</b>		70,875 sf (2.19)
<b>Bethesda Overlay Zone Density (GFA/FAR)</b>		54,594 sf (1.34) <sup>3</sup>
<b>Total GFA/FAR</b>		<b>125,469 sf (3.87)</b>
<b>MPDU requirement</b>	15%	15%
<b>Maximum Building Height</b>	70 ft	114 ft <sup>4</sup>
<b>Principle Building setbacks</b>		



<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Proposed</b>
Front (West Virginia Avenue)	0 ft	0 ft
Front (public alley)	0 ft	0 ft
Side (Eastern Greenway)	0 ft	4 ft
<b>Green Cover (% of site area)</b>	35% (6,965 sf)	35% (7,000 sf)
<b>Public Open Space (min)</b>	0%	0%
<b>Vehicular Parking (min<sup>5</sup>/max)</b>		
53 residential units	0 <sup>5</sup> /104 sp	99 sp
6 live/work units		
<b>Bicycle Parking (short-term/long-term)</b>		
53 residential units	28/2 sp	33/4 sp
6 live/work units		

<sup>1</sup>Tract Differential from recorded vs measured totals an additional 11 square feet

<sup>2</sup> Tract Differential from recorded vs measured totals an additional 23 square feet

<sup>3</sup>Projects utilizing Bethesda Overlay Zone Density are subject to a PIP payment and may reduce the square footage associated with MPDUs. This Project is eligible for a PIP reduction based on the dedication of public parkland for the Eastern Greenway per Section 4.9.2.C.2.ii of the Zoning Ordinance. Eastern Greenway lot will total 5,582 sf when alley abandonment (+191 square feet) is added to 5,391 square feet.

<sup>4</sup> The Applicant is requesting the Planning Board allow additional height based on the provision of Major Public Facilities per Section 59.4.5.2.A.2.e of the Zoning Ordinance.

<sup>5</sup> 4702 West Virginia Avenue is located within the Bethesda Parking Lot District and therefore can provide as few as 0 spaces onsite.

<sup>6</sup> Lot size is approximate and may be adjusted during final record plat review.

### Bethesda Overlay Zone & Reduced Park Impact Payment

The Bethesda Overlay Zone (BOZ) was adopted July 18, 2017, specifically to implement the recommendations of the Bethesda Downtown Sector Plan as it relates to density, building heights, affordable housing, parks, and design. The BOZ set a cap of overall development (32.4 million square feet) whereby the zoning approved for most properties retains the base density but increases the heights on respective sites. An applicant can request an allocation of density over the base density to build to the maximum height permitted by the Zone, as needed. The Applicant is subject to a park impact payment valued at \$12.49/square foot based upon the density requested and facilitates acquisition of parkland in the downtown Bethesda area.

Based on the requested 54,594 square feet of BOZ density, reduced by 10,359 square feet of MPDU density<sup>6</sup>, the Applicant is required to pay for 44,235 square feet of BOZ density at a value of \$552,495.15. The amount of density allocated from the BOZ for the Subject Application, totaling 54,594 square feet, is deducted from the 32.4 million cap.

<sup>6</sup> Section 59.4.9.2.C.3.c.i. of the Zoning Ordinance exempts MPDU density from the Park Impact Payment.

The Applicant is proposing to dedicate a public park as recommended in the Sector Plan and therefore is requesting a reduction of the associated Park Impact Payment per Section 4.9.2.C.2.ii of the Zoning Ordinance.

The Project has been evaluated to determine if a PIP is required based on the following methodology. As shown below, based on a public park dedication of 5,582 square feet and the associated Adjusted Dedicated Land Value of \$1,286,651, no PIP is required.

*If: Adjusted Dedicated Land Value  $\geq$  Park Impact Payment (PIP)*

*Then: No PIP Required*

*If: Adjusted Dedicated Land Value  $<$  Park Impact Payment (PIP)*

*Then: Park Impact Payment (PIP) – Adjusted Dedicated Land Value = Reduced PIP*

A. **Park Impact Payment:** The amount of BOZ density requested (excluding density of MPDUs) multiplied by the current PIP rate.

$$54,594 - \text{MPDU density } (10,359) * 12.49 = \$552,496$$

$$\text{PIP} = \$552,496$$

B. **Adjusted Dedicated Land Value:** The value of the land to be dedicated for a public park recommended in the Sector Plan minus the value of the mapped density taken from the dedicated land and the value of any portion of the dedicated land counted toward required public open space.

- **Dedicated Land Value:**  
 $\$2,400,000$  (4702 West Virginia Ave) +  $\$4,300,000$  (PLD Lot 44)/29,000 sf =  $\$231$  per square foot  
 $\$231 * 5,582$  sf =  $\$1,289,442$
- **Value of the Mapped Density:**  
 $(5,582$  sf \* 0.5) \*  $\$12.49$  =  $\$2,791$
- **Value of the Public Open Space:**  
No public open space required by Zoning Ordinance for this Property

*Adjusted Dedicated Land Value = Dedicated Land Value – Value of the Mapped Density – Value of the Public Open Space*

$$\$1,289,442 - \$2,791 = \$1,286,651$$

$$\text{Adjusted Dedicated Land Value} = \$1,286,651$$

When the PIP reduction formula is applied to this project, the value of the adjusted dedicated land is greater than the PIP, therefore no PIP would be required.

**\$1,286,651 ≥ \$552,496 = No PIP Required**

**Section 59.4.5.2.A, Height Limits for Major Public Facilities**

The Applicant is requesting the Planning Board approve additional height on the Project site based on the provision of Major Public Facilities, including replacement of surface parking within a structured garage within the building and the dedication of land for the Eastern Greenway Public Park. Per Section 59.4.5.2.A.2.e of the Zoning Ordinance, “with Planning Board approval, any Optional Method project in a CR zone that includes the provision of a major public facility ... may add the height of any floor mostly used for above grade parking to the maximum height otherwise allowed, when the major public facility diminishes the ability of the Applicant to provide parking at or below grade.”

By delivering the public park facility, the Applicant is limited in providing parking under the land to be dedicated for the public park given issues with fully dedicating the land, thereby requiring the parking to be fully contained within the building footprint. The Applicant has provided an exhibit demonstrating how the public parking provided within the building meets the criteria contained in the Zoning Ordinance and the additional height associated with this parking is approximately 43’6”. Therefore, the Applicant is requesting additional height beyond the 70-foot mapped height for this parking. Staff is recommending a maximum building height of 114 feet.

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

In accordance with the Zoning Ordinance, Section 59.4.7.1, the Site Plan proposes 118 public benefit points in 4 categories to satisfy the requirements:

*Table 7: Public Benefit Calculations- Division 59-4.7*

<b>Public Benefit</b>	<b>Maximum Points Allowed</b>	<b>Proposed</b>
<b>Major Public Facilities</b>	70	70
<b>Diversity of Uses and Activities</b>		
Live/Work	15	15
<b>Quality Building and Site Design</b>		
Exceptional Design	20	20
Structured Parking	20	11
<b>Protection and Enhancement of the Natural Environment</b>		
Building Lot Terminations (BLT)	30	2
<b>Total Points</b>	<b>100 (required)</b>	<b>118</b>

Per Section 59.4.9.2.C.4.g of the Zoning Ordinance, the Bethesda Overlay Zone increases the maximum amount of public benefit points available in certain categories. Applicable to this Sketch Plan are the Overlay Zone’s increase in maximum points available for exceptional design (from 10 to 30 maximum points).

## MAJOR PUBLIC FACILITIES

The Applicant requests 70 points for providing a Major Public Facility within the proposal. The Applicant proposes to construct and dedicate approximately 5,582 square feet of public parkland for the Sector Planned Eastern Greenway. The Commercial Residential Zone and Employment Guidelines (CR guidelines) provide the following formula:

$$\{(((\text{Land area conveyed} + \text{Floor area conveyed})/\text{Net lot area}) * 2) + [(\text{Constructed area of facility}/\text{Net lot area}) * 4]\} * 100$$

$$\{(((5,582 + 0)/20,000) * 2) + [(5,582/20,000) * 4]\} * 100 = 167 \text{ points}$$

Staff recommends 70 points for this category, as the CR guidelines limit 70 points for projects located in the CR zone.

## DIVERSITY OF USES AND ACTIVITIES

### Live/work units

The Applicant requests 15 points for providing live/work units within the multifamily building. Based on the CR Guidelines, Incentive Density of 15 points is appropriate for providing 10 percent of the total units as live/work units for projects with a mapped FAR of 2 or greater. The Property is split zoned CR 3.0, C-2.0, R-2.75, H70' and CRT 0.5, C-0.25, R-0.5, H70'. Based on FAR averaging in the development standards table (Table 6 in Finding 2.d above) the mapped FAR is 2.02. The Applicant proposes 6 of the 59 units as live/work units, which is 10% of the total units. Staff recommends 15 points for this category.

## QUALITY BUILDING AND SITE DESIGN

### Exceptional Design

The Applicant requests 20 points for designing a project that meets the 6 criteria contained in the CR Guidelines. Projects within the Bethesda Overlay Zone, such as this one, may achieve up to 30 points for this category. The Applicant presented the design to the Bethesda Design Advisory Panel in March and May of 2024, at the conclusion of their May meeting, the DAP voted in support of 20 points for Exceptional Design based on the following criteria.

1. *Providing innovative solutions in response to the immediate context*

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

The Proposal responds to the challenges of the immediate context given the Sector Plan recommendations for an Eastern Greenway, yet the significant property at the corner of Tilbury Street and West Virginia Avenue poses difficulties given the property owner shows no interest in redevelopment. The Applicant actively worked with the County to move forward a General Development Agreement to allow the County Parking Lot to redevelop with 4702 West Virginia Avenue to create this Proposal with a multifamily building and portion of the Eastern Greenway dedication. While the building proposes a height of 114 feet, it has been designed and sculpted in a way that reduces bulk facing the Eastern Greenway with compatible townhouse fronts that will further activate that space. The Eastern Greenway contribution will create a sense of space along the eastern side of Bethesda with the linear park that will be distinguishable from the rest of the downtown. The Greenway will not only provide a transition to the East Bethesda neighborhood, it will become a destination of itself, connecting existing urban parks such as Chase Avenue Urban Park and Cheltenham Urban Park, and bringing larger public spaces into the Greenway.

The building methods and proposed units will provide needed for sale MPDUs and townhouses that are currently very limited in downtown Bethesda and in high demand. The redevelopment will bring more housing and more housing options to an area that currently is limited to single family homes, but rich with resources such as transit, businesses, and parks. The overall building design and material palette will be of a high quality that will be compatible and of a similar character of the area.

### Structured Parking

The Applicant requests 11.8 points for providing parking within the building that will contain 81 spaces above grade and 18 spaces below grade. Staff supports 11.8 points in this category based on the following formula:

$$[(\text{Above Grade Parking} / \text{Total Parking}) * 10] + [(\text{Below Grade Parking} / \text{Total Parking}) * 20]$$

$$[(81/99) * 10] + [(18/99)] * 20 = 11.8 \text{ points}$$

## PROTECTION AND ENHANCEMENT OF THE NATURAL ENVIRONMENT

### Building Lot Terminations



The Applicant requests 2 points for the purchase of 0.2506 BLT easements or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5% incentive density floor area, exclusive of any density allocated for MPDUs. Points are granted by the calculation of BLTs as provided in Section 59.4.7.3.F of the Zoning Ordinance, however given that the Property is split zoned CR and CRT, and only CR zoned properties are required to purchase BLTs, the density attributed to the CRT zone has been removed from the calculation based on the formula below.

*Overall project density – CRT mapped density – % BOZ attributed to CRT (Mapped CRT density / Mapped Overall density) = CR incentive density*

$$125,469 - 5,250 - ((5,250/70,875) * 54,594) = 116,175$$

*CR Incentive Density – CR standard method density = Incentive Density used for BLT calc*

$$116,175 - 10,938 = 105,238$$

$$((105,238 * 0.075) / 31,500) = 0.2506 \text{ BLTs}$$

$$0.2506 * 9 = 2.26 \text{ points}$$

Staff recommends 2 points for this category.

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

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

The Subject Application will consolidate the Site’s two access points into a single, full-movement driveway for the parking garage. Trash Collection will occur within the public alley, located along the western side of the Site. Loading will occur within the public right-of-way, but outside the travel lanes, in the designated public loading space to be constructed by the Applicant. Pedestrian access will be improved by the new street buffers and wider sidewalks to be installed by the Applicant along the Site frontage. Improved, buffered sidewalks will continue eastward beyond the Site frontage to the intersection with Tilbury Street to complete the sidewalk network along the southern side of the block. Bicyclists will access the Site from West Virginia Avenue and from the proposed 10-foot-wide pedestrian and bicycle pathway to be constructed within the Eastern Greenway, to be dedicated and built by the Applicant.

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

The Site is located within the Bethesda Parking Lot District, which does not require any vehicular parking on-site. For 53 residential units and 6 live/work units, the maximum number of vehicular parking spaces permitted is 104 spaces. The Applicant is proposing 99 total spaces for all units, unbundled. A total of 30 bicycle parking spaces are required for the Site. Of these 30 spaces, 28 are required to be long-term spaces, located in a secure room onsite and at

least two must be located near the building. The Applicant is proposing 33 long-term spaces located within a secure room of the parking garage and four short-term spaces (inverted-U racks) located near the front entrance of the building.

Section 59.6.2.8 of the Zoning Ordinance requires one off-street loading space for residential buildings with more than 50 units. The proposed building will contain up to 59 units, requiring one off-street loading space. The Applicant is requesting a waiver from this standard per Section 59.6.2.10 and has alternatively proposed one loading space within the public right-of-way on West Virginia Avenue, but outside of the adjacent travel lanes. This type of on street loading space has become commonly referred to as a “PUDO” or pick-up/drop off space, which have become increasingly common in urban areas where there is competition for the curbside space.

The PUDO space included in the Subject Application is nestled within a segment of the 11.5-foot-wide street buffer. In this location it eliminates conflicts with pedestrians. The loading space will be used for move-in/move-outs of residences, queuing for ridesharing, and short-term parking for deliveries. The proposed building will be subject to a loading management plan, which will be included with the Certified Site Plan. Per the Loading Management Plan, the future condominium association will be required to designate a person to schedule and manage moving activities to ensure that moving activities are scheduled one and a time, and outside peak travel hours. Residents will be directed to use the loading space for ridesharing and for all deliveries.

Given that the PUDO space and the Loading Management Plan will mitigate the need for an off-street loading space, these alternatives better meet the intent of Section 59.6.2, and Staff recommends approval of the waiver for one off-street loading space.

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

Given the size of the tract area, the Project is not required to provide any public open space but will be dedicating approximately 5,582 square feet of public parkland for the Sector Planned Eastern Greenway. As conditioned, the Project will comply with the recreational requirements of the Zoning Ordinance and will identify the amenities on the Certified Site Plan.

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

The Project will provide appropriate landscaping at the base of the building fronting on West Virginia Avenue as well as along the Eastern Greenway. The landscaping within the Eastern Greenway has been designed in coordination

with Montgomery Parks. As conditioned, the proposed lighting is in conformance with the Zoning Ordinance.

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

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

The Montgomery County Department of Permitting Services Water Resources Section approved a Combined Stormwater Management Concept/Site Development Stormwater Management Plan on August 2, 2024. The plan proposes to meet required stormwater management goals via the use of green roof, micro-bioretenion practices, and a partial waiver.

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

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines as further discussed in the findings for Forest Conservation Plan F20240720.

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

The Subject Application improves site circulation by reducing conflicts with the consolidation of two access points into one driveway for the parking garage. The on-street loading facility is incorporated into the street buffer and therefore will not create any new conflict points for pedestrians. The public loading space was evaluated and determined to be sufficient for an SU-30 box truck by the Montgomery County Transportation Department. Continuous, wider, buffered sidewalks will be provided along the Site frontage and beyond to complete the sidewalk network along the south side of the block.

**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 discussed in Sketch Plan No. 32019006B, Finding 1.a, the Project substantially conforms to the 2017 *Bethesda Downtown Sector Plan*.

**Noise Guidelines**

The Subject Application includes public open space as well as residential units near an arterial roadway. The Applicant has requested a waiver for the exterior noise guidelines under Section 2.2.2 of the Noise Guidelines to address noise mitigation. Strict compliance with the guidelines to maintain 65 dBA throughout all Public Open Spaces would

significantly compromise the design of the project's open space; a sector plan recommended greenway. The necessary changes, which would include walls, fencing, and/or berms, would conflict with the recommendations of the Bethesda Downtown Plan to provide a functional and welcoming area for public use. Staff recommends approval of the waiver for exterior noise. However, standard building construction should appropriately mitigate any noise impacts, keeping interior noise levels below 45 dBA Ldn. Supplemental measures such as windows/doors with increased noise mitigation ratings will be required. As conditioned, the Project complies with the Montgomery County Noise Guidelines.

- 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 discussed in Preliminary Plan No. 120240110, the Project as designed will be safe, adequate, and efficient.

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

The Property is not located in a rural residential or residential zone.

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

The proposed building will be compatible with the existing, approved and pending adjacent development. The block directly north of the Subject Property has been approved for Sketch Plan (No. 320210050) and Preliminary Plan (No. 120210240) to allow a residential building up to 90 feet in height along Wisconsin Avenue, stepping down to 70 feet along the eastern side of the block near Tilbury Street. That development will provide a 70-foot-wide public open space for the Eastern Greenway. This building, which will be a maximum 114 feet in height on the western side, will be of a similar height to the approved development to the north, and the proposed Eastern Greenway has been designed to connect into the approved public open space to the north. The proposed building will step down to 43'6" in height towards the eastern portion of the block and

provide the Eastern Greenway of the same width to be compatible with the single-family neighborhood east of Tilbury Street.

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

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

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

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

## SECTION 10: FOREST CONSERVATION PLAN F20240720 FINDINGS & 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 Forest Conservation Plan complies with the Montgomery County Environmental Guidelines and the Forest Conservation Law, as conditioned and described below.

The Applicant has submitted a Final Forest Conservation Plan with this Application. The Forest Conservation Worksheet shows a calculated afforestation requirement of 0.12-acres associated with the Application due to the tract area, associated offsite work, and the mixed-use designation of the project. This minor afforestation requirement is anticipated to be addressed by offsite banking or a payment of fee-in lieu.

### Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The

Law requires no impact to trees that measure 30 inches DBH or greater; are part of a historic site or designated with a historic structure; are designated as national, state, or county champion trees; are at least 75% of the diameter of the current State champion tree of that species; or to trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

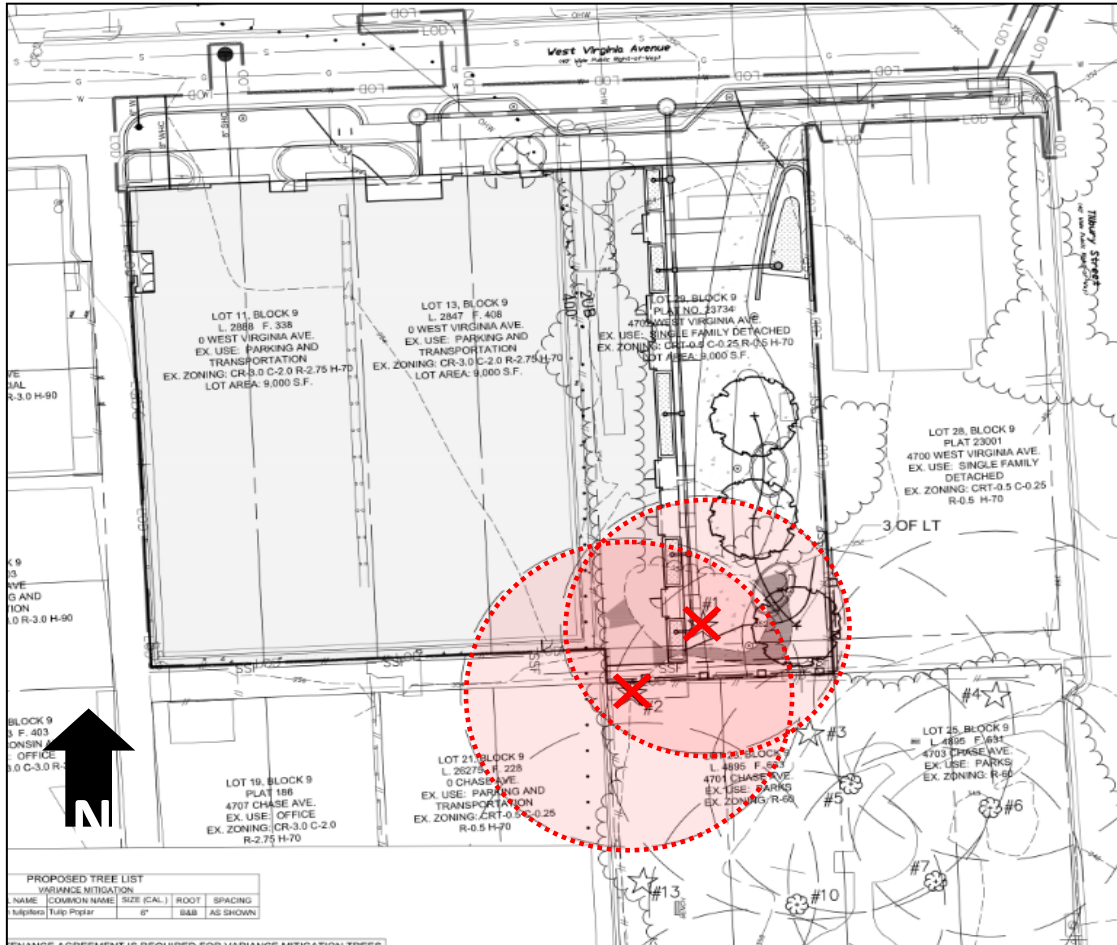


Figure 13 – Specimen Tree Removals

The Application includes disturbance/removal of trees that are  $\geq 30''$  DBH, therefore a variance is required. The Applicant submitted a variance request dated March 13, 2024, for impacts to six protected trees and the removal of two protected trees that are considered high-priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

Table 8: Variance Tree Removals

TREE ID#	DBH	SPECIES	% PROPOSED IMPACT	Disposition
1	39	White Mulberry	100%	Remove
2	30	Tulip Poplar	100%	Remove



Table 9: Variance Tree Impacted

TREE ID#	DBH	SPECIES	% PROPOSED IMPACT	Disposition
3	36	Zelkova	19%	Save
4	32	Red Cedar	0.4%	Save
8	40	Silver Maple	23%	Save
14	45	Red Maple	5%	Save
15	49	Silver Maple	6%	Save
16	38	Silver Maple	5%	Save

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has determined that the Applicant has demonstrated that enforcement of the variance provision would result in an unwarranted hardship because:

The impacts to variance trees are necessary for the implementation of a Sector Plan recommended Eastern Greenway in this location. Any level of disturbance within the Subject Property would impact the critical root zones of the subject trees. Additionally, the creation of an enjoyable green space will need extensive grading and disturbance. This is due to the current state of the designated greenway location, which comprises of a single-family lot and a parking lot. In order to incorporate the development program, demolition of the existing structures is required, which in turn necessitates impacts and removals to variance trees. As conditioned, the proposed layout, which has been coordinated between the Applicant and M-NCPPC Staff, will minimize CRZ impacts to existing specimen trees where possible. Further, the Applicant will coordinate with the M-NCPPC Forest Conservation Inspector to utilize specialized construction techniques, provide tree protection, and minimize the limits of disturbance as feasible in the field. Based on the existing circumstances and conditions on the Property, Staff agrees that there is an unwarranted hardship.

**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 Applicant’s proposal to demolish the existing structures and construct a mixed-use development, which includes multi-family dwelling units (15% MPDUs) with structured parking and provide a Sector Planned greenway. This proposal will provide much needed housing while also increasing parks/open space and environmental innovation in this urban area. With these factors considered, Staff concludes the variance request would be granted to any applicant in a similar situation and does not represent a special privilege granted to this Applicant.

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

The requested variance and associated tree impacts are due to concerns related to the existing layout of the Subject Properties in relation to specimen trees onsite and on the Site's perimeter. Implementing the Eastern Greenway and constructing a new multi-family building necessitates variance tree impacts. The Applicant's variance request demonstrates efforts to minimize overall site impacts and preserve mature trees where feasible. Therefore, this variance request is not based on circumstances which are the result of actions by the Applicant.

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

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

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

The proposed Eastern Greenway, which includes lawn, landscape plantings of shrubs and trees in addition to canopy tree mitigation plantings will help maximize the permeability of the soil, which serves to reduce runoff. The planting of these trees will also help water quality goals by maintaining, and increasing, the level of shading, and water retention and uptake. As part of this proposal, the Applicant must also meet the 35% green cover requirements of the Sector Plan which will provide further water capture. Additionally, the Subject Property does not currently contain any stormwater management features while the Applicant proposes a development which will meet current State and local stormwater management standards. This Application reduces impervious surfaces and implements areas of green roof and landscape plantings within the design. Thus, the Application will ultimately result in an improvement of water quality, rather than cause measurable degradation.

Mitigation for Trees Subject to the Variance Provisions

There are two subject trees proposed for removal in association with this Application. Planting mitigation for the removal should be at a rate that approximates the form and function of the trees removed, at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" caliper. As a result of the proposed removal of three subject trees, for a total of 69" DBH removed, which results in a mitigation requirement of 17.25 caliper inches of native canopy trees sized at least 3 caliper inches each. As conditioned, this application will fulfill the variance mitigation planting requirements, with the final location of the plantings within the Greenway as shown on the Final Forest Conservation plan.



Figure 13: Proposed tree mitigation

Recommendation on the Variance

As a result of the above findings, Staff recommends approval of the Applicant’s request for a variance from the Forest Conservation Law to impact but retain six protected trees and to remove two protected trees associated with the Application.

**SECTION 11: CONCLUSION**

As conditioned, the Mandatory Referral, Sketch Plan, Preliminary Plan, Site Plan, and Forest Conservation Plan applications each satisfy the findings of the Zoning Ordinance, Subdivision Ordinance, and Forest Conservation law, and substantially conform to the recommendations of the

2017 *Bethesda Downtown Sector Plan*. Therefore, Staff recommends approval of the Lot 44 & 4702 West Virginia Avenue Speed to Market Project with the conditions specified at the beginning of this report.

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## ATTACHMENTS

*Attachment A: Mandatory Referral Plan, Sketch Plan, Preliminary Plan, Site Plan, FCP Plan*

*Attachment B: Prior Approvals*

*Attachment C: Agency Letters*

*Attachment D: Bethesda Design Advisory Panel Meeting Minutes*

*Attachment E: Montgomery Parks Eastern Greenway Framework*

*Attachment F: Affidavit Regarding Community Meeting and Meeting Minutes*

*Attachment G: Applicant's Statement of Justification*