

# Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

October 11, 2024

MCPB No. 24-084  
Site Plan No. 820240140  
PLD Lot 44 & 4702 West Virginia Avenue  
Date of Hearing: September 12, 2024

## **RESOLUTION**

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

WHEREAS, on May 1, 2024, BB 4702 Holding LLC, with authorization from Montgomery County Department of Transportation (collectively the “Applicant”) filed an application for approval of a site plan 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 on 0.74 acres of land zoned CRT-0.5, C-0.25, R-0.5, H-70 and CR-3.0, C-2.0, R-2.75, H-70 within the Bethesda Overlay Zone (“BOZ”), located approximately 280 feet east of the intersection of Wisconsin Ave and West Virginia Ave (“Subject Property”) in the Bethesda CBD Policy Area and 2017 *Bethesda Downtown Sector Plan* (“Sector Plan”) area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820240140, PLD Lot 44 & 4702 West Virginia Avenue (“Site Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated August 30, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on September 12, 2024, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Vice Chair Pedoeem, seconded by Commissioner Hedrick, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, Commissioners Bartley, Hedrick, and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820240140 for the construction of a 125,469 square foot mixed-use building for up to 59

---

2425 Reedie Drive, Floor 14, Wheaton, MD 20902 | Phone: 301-495-4605  
[www.montgomeryplanningboard.org](http://www.montgomeryplanningboard.org) | [mcp-chair@mncppc.org](mailto:mcp-chair@mncppc.org)

Approved as to  
Legal Sufficiency: /s/ Emily Vaias  
M-NCPPC Legal Department

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 on the Subject Property, subject to the following conditions:<sup>1</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 (“CSP”).

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.
- 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

---

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

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 PIP of \$552,495.15 for the allocation of 54,594 square feet of BOZ 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 County, in accordance with the PIP Reduction Methodology, which allows for a reduced PIP 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 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 Plan including but not limited to:
    - i) Three (3) benches
    - i) One (1) picnic table
    - ii) Landscape trees and other plantings
    - iii) Bioretention stormwater management facility
    - iv) Lighting fixtures
    - v) Privacy fencing on the eastern edge of the Eastern Greenway lot
    - vi) 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 19 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 CSP.

##### 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 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 CSP.
13. If any changes occur to the Site or Preliminary Plan(s) which affect the validity of the noise analysis dated June 7, 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 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 CSP.
- 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; and
  - 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.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of PLD Lot 44 & 4702 West Virginia Avenue, Site Plan No. 820240140, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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

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

The findings herein apply only to the Subject Property.

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

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

The Site Plan 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 1: Lot 44 & 4702 West Virginia Avenue Site Plan Data Table for CR & CRT Zone, Optional Method, Section 59.4.5*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Proposed</b>
<b>Tract Area</b> <u><b>CR-3.0, C-2.0, R-2.75, H -90'</b></u> Lots 11-14 Prior Dedication Proposed Dedication <b>Subtotal CR-3.0</b>	n/a	16,801 sf 3,875 sf 1,188 sf <b>21,875 sf<sup>1</sup></b>
<u><b>CRT-0.5, C-0.25, R-0.5, H 70'</b></u> Lot 29 Prior Dedication Proposed Dedication Proposed Park Dedication <b>Subtotal CRT-0.5</b>		2,993 sf 1,500 sf 593 sf 5,391 sf <b>10,500 sf<sup>2</sup></b>
Total Tract Area		<b>32,375 sf</b>
<b>Site Area (Square Feet)</b> Prior Dedication Proposed ROW Dedication Proposed Eastern Greenway lot <sup>3,6</sup> + alley abandonment in site  <b>Site Area (Tract Area – Dedications)</b>	n/a	5,375 sf 1,781 sf 5,391 sf <sup>3</sup> + 106 sf  <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' CRT-0.5, C-0.25, R-0.5, H70' <b>Residential Subtotal</b>	60,156 sf (2.75) 5,250 sf (0.5) <b>65,406 sf (2.75)</b>	60,156 sf (2.75) 5,250 sf (0.5) <b>65,406 sf (2.75)</b>
<u>Commercial (GFA/FAR)</u> CR 3.0, C-2.0, R-2.75, H70' CRT 0.5, C-0.25, R-0.5, H70' <b>Commercial Subtotal</b>	43,750 sf (2.0) 2,625 sf (0.25) <b>46,375 sf (2.25)</b>	5,469 sf (0.25) 0 sf <b>5,469 sf (0.25)</b>
<b>Total Mapped Density (GFA/FAR)</b>		70,875 sf (2.19) <sup>7</sup>
<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>Development Standard</b>	<b>Permitted/ Required</b>	<b>Proposed</b>
<b>Principle Building setbacks</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 BOZ 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.

<sup>7</sup> The Application utilized the FAR Averaging provisions of Section 59.4.5.2.B.3 of the Zoning Ordinance.

### **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>2</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. The Applicant is proposing to dedicate a public park as recommended in the Sector Plan and therefore is requesting a reduction of the associated PIP 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:

$$\begin{aligned} & \$2,400,000 \text{ (4702 West Virginia Ave)} + \$4,300,000 \text{ (PLD Lot 44)} / 29,000 \text{ sf} \\ & = \$231 \text{ per square foot} \end{aligned}$$

$$\$231 * 5,582 \text{ sf} = \$1,289,442$$

- Value of the Mapped Density:

---

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

$$(5,582 \text{ sf} * 0.5) * \$12.49 = \$34,860$$

- 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*

$$\$1,289,442 - \$34,860 = \$1,254,582$$

$$\text{Adjusted Dedicated Land Value} = \$1,254,582$$

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.

**$\$1,254,582 \geq \$552,496 = \text{No PIP Required}$**

#### **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. The Planning Board approves 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 2: Public Benefit Calculations- Division 59-4.7*

<b>Public Benefit</b>	<b>Maximum Points Allowed</b>	<b>Approved</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 Site 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 *CR Zone Incentive Density Implementation Guidelines* (CR Guidelines) provide the following formula:

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

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

The Planning Board approves 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 2.0 or greater. The



Property is split zoned CR-3.0, C-2.0, R-2.75, H-70' and CRT-0.5, C-0.25, R-0.5, H-70'. Based on FAR averaging in the development standards table (Table 1 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. The Planning Board approves 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 BOZ, 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.

The Planning Board approves 20 points for exceptional design.

#### 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. The Planning Board approves 11.8 points in this category based on the following formula:

$$[(Above\ Grade\ Parking / Total\ Parking) * 10] + [(Below\ Grade\ Parking / Total\ Parking) * 20]$$
$$[(81/99) * 10] + [(18/99) * 20] = 11.8\ points$$

### **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.

$$Overall\ project\ density - CRT\ mapped\ density - \%\ BOZ\ attributed\ to\ CRT\ (Mapped\ CRT\ density / Mapped\ Overall\ density) = CR\ incentive\ density$$

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

$$CR\ Incentive\ Density - CR\ standard\ method\ density = Incentive\ Density\ used\ for\ BLT\ calc$$

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

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

$$0.2506 * 9 = 2.26\ points$$

The Planning Board approves 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 at 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 the Planning Board approves 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 the accompanying 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 Department of Transportation. 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;***

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 provide 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 Project 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 substantial 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 Site Plan proposes tree plantings along the West Virginia Avenue and throughout the Eastern Greenway. As conditioned, these streetscape improvements will conform 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 helps 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.

### **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 approves 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 approved in the accompanying Preliminary Plan No. 120240110, the Project has been studied per the *2020-2024 Growth and Infrastructure Policy* and has been found to be served by adequate public services.

- 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.

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

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

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

October 11, 2024

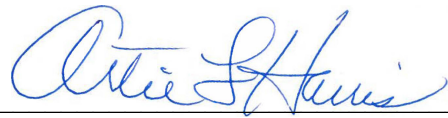
(which is the date that this resolution is mailed to all parties of record); and

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

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of **5-0**; Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, at its regular meeting held on Thursday, October 3, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair  
Montgomery County Planning Board