

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OCT 07 2022

MCPB No. 22-075
Site Plan No. 820220150
MHP Nebel Street
Date of Hearing: July 21, 2022

CORRECTED 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 January 27, 2022, Montgomery Housing Partnership (“Applicant”) filed an application for approval of a site plan to transform a vacant and environmentally constrained parcel of land into a 163-dwelling unit affordable housing project with enhancements to pedestrian and vehicular circulation, public open space, and significant stream restoration on 2.66 acres of tract area that is made up of two parcels known as P362 (North Parcel) in the CR-3.0 C-1.5 R-2.5 H-200 zone and P394 (South Parcel) in the CR-4.0 C-2.0 R-3.5 H-250 zone, located on Nebel Street at the intersection of Old Georgetown Road (“Subject Property”), in the White Flint Policy Area and 2010 *White Flint Sector Plan* (“Sector Plan”) area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820220150, MHP Nebel Street (“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 July 11, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 21, 2022, 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 Verma, seconded by Commissioner Patterson, with a vote of 4-0; Chair Anderson, Commissioners Cichy, Patterson and Verma voting in favor with Commissioner Rubin being absent.

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Approved as to

Legal Sufficiency: /s/ Matthew T. Mills

M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. up to 172,720 square feet of residential density for a maximum of 163 multi-family dwelling units, including a minimum of 25% Moderately Priced Dwelling Units; associated public benefits to support incentive density, open spaces, stream restoration, and enhancements to existing pedestrian and bicycle infrastructure. for, the Subject Property, subject to the following conditions:¹

Density, Height & Housing

1. Density

The Site Plan is limited to a maximum of 172,720 square feet of total development for residential uses or up to 163 multi-family dwelling units on the North Parcel of the Subject Property zoned CR-3.0, C-1.5, R-2.5, H-200'.

2. Density Allocation

Building permits may only be issued after a staging allocation is granted under the Staging Allocation Request Regulations (COMCOR 50.35.02.01.A) in the White Flint Sector Plan Implementation Guidelines approved by the Planning Board.

3. Height

The development is limited to a maximum height of 80 feet on the North Parcel, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

Open Space, Facilities and Amenities

4. Public Open Space, Facilities, and Amenities

- a) The Applicant must provide a minimum of 11,584 square feet of public open space (10% of net lot area) on-site, disbursed across four areas:
 - a) an urban pocket park located on the South Parcel,
 - b) a nature overlook,
 - c) a main building entrance plaza, and
 - d) an enhanced streetscape along the Nebel Street and Old Georgetown frontages.
- b) Prior to issuance of the use and occupancy certificate, the Applicant must construct the streetscape improvements, including the undergrounding of utilities, along the Property's frontage on Nebel Street and Old Georgetown Road, consistent with the Advancing the Pike District Streetscape Guidelines.

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

- i. Within the first growing season after the issuance of the Use and Occupancy Certificate, all plant materials associated with the streetscape improvements along all frontages, as shown on the Certified Site Plan, must be provided.
- c) Before the issuance of the use and occupancy certificate for the residential development, all public open space areas on the Subject Property must be completed.

5. 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) Transit Proximity —The Applicant’s requested points are achieved through the Property’s location within 1/4 and 1/2 mile of the WMATA White Flint Metrorail Station on Rockville Pike (Level 1).
- b) Diversity of Uses and Activities
 - i. Affordable Housing/MPDUs
 - a) The development must provide 25.1 percent MPDUs (41 units), or MCDHCA-approved equivalent, consistent with the requirements of Chapter 25A and the applicable Master Plan.
 - b) Before issuance of any building permit for any residential unit, the MPDU agreement to build between the Applicant and the DHCA must be executed.
 - c) The Planning Board has reviewed and accepts the recommendations of DHCA in its letter dated June 1, 2022 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by DHCA provided that the amendments do not conflict with other conditions of the Site Plan approval.
- c) Quality Building and Site Design
 - i. Exceptional Design – The Applicant must implement the architectural elevations provided those satisfy the minimum applicable four design criteria.
 - ii. Structured Parking –The Applicant must provide a minimum of 143 parking spaces within an above-grade and below-grade structure or as required for the total dwelling unit count per Section 59.6.2.4 of the County Code.
- d) Protection and Enhancement of the Natural Environment

- i. **Cool Roof** - The Applicant must provide a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12.
6. **Common Open Space Covenant**
The record plat must reference the Common Open Space Covenant recorded at Book 28045 Page 578 (Covenant).
7. **Recreation Facilities**
Prior to the issuance of the use and occupancy certificate, the Applicant must provide the minimum required recreation facilities as shown on the Certified Site Plan.
8. **Maintenance of Public Amenities**
The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to benches, trash receptacles, interpretive signage, bicycle racks and repair stations.

Environment & Noise

Forest Conservation

8. Prior to recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for this development Application, the Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
9. 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.
10. 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.
11. Prior to the start of any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must record an

M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Rock Creek watershed to satisfy the reforestation requirement for a total of 0.07 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Rock Creek watershed or by making a fee-in-lieu payment if mitigation credits are not available at any bank.

12. Prior to the start of 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 .01 acres of new forest planting, wetland plantings, and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
13. Prior to the initial planting acceptance inspection by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
14. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

Noise

15. Prior to Certification of the [Site or Preliminary] Plan, the location and details for noise mitigation techniques must be approved by Staff. Current noise levels must be attenuated to no more than 65 dBA Ldn for ground level areas of common and individual outdoor activity.
16. Prior to the issuance of the first building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that:
 - a) The installation of the noise mitigation techniques to attenuate the current noise levels to no more than 65 dBA Ldn for the exterior ground level recreation spaces on are adequate.
 - b) 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.

- c) Before issuance of any Use and Occupancy Certificate or Final Inspection, whichever is relevant, for any of the noise impacted units, a Professional Engineer must certify to the Planning Department and Department of Permitting Services that the noise impacted units have been constructed in accordance with the certification of an engineer that specializes in acoustical treatments.

Transportation & Circulation/Adequate Public Facilities (APF)

17. Transportation

- a) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated May 18, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in its memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- b) Prior to the issuance of any above grade building permit, the Applicant must obtain approval of a Project-based Transportation Demand Management Plan (TDM) from the Montgomery County Department of Transportation (MCDOT).

18. Pedestrian & Bicycle Circulation

- a) The Applicant must provide 78 long-term and 4 short-term bicycle parking spaces, or as required for the total dwelling unit count per Section 59.6.2.4.C of the County Code.
- b) The long-term spaces must be in a secured, well-lit bicycle room on each level of the parking garage, and the short-term spaces must be inverted-U racks (or approved equal) installed at the front exterior of the main building 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 (1) bicycle repair station within the bicycle room and one (1) within the pocket park on the South Parcel.
- d) Prior to the issuance of the final Use and Occupancy Certificate, the Applicant must provide a fee-in-lieu to the Montgomery County Department of Transportation (MCDOT), based on a cost estimate to be provided to MCDOT and subject to MCDOT review and approval, for the future construction of a two-way separated bike lane along the Property's Old Georgetown Road frontage.
- e) The Applicant must provide the following master planned pedestrian and bicycle facilities, the exact location, design and construction of which must comply with requirements set forth by the Montgomery County Department of Transportation, Division of Traffic Engineering and Operations, before right-of-way permit:

- i. Nebel Street: eight-foot-wide (8 ft.) sidewalk with six-foot-wide (6 ft.) green buffer from traffic, and a two-foot (2 ft.) minimum maintenance buffer.
- ii. Old Georgetown Road: one-foot-wide (1 ft.) maintenance buffer, a five-foot-wide (5 ft.) sidewalk, and a five-foot-wide (5 ft.) tree panel buffer.

19. 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 June 17, 2022, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

Site Plan

20. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet A1.0 through Sheet A5.0 of the submitted architectural drawings, as determined by M-NCPPC Staff.

21. Lighting

- a) Prior to certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c) Deflectors will be installed on all proposed fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by street lights within the right-of-way.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
- f) On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

22. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, whichever comes first, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-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, including, but not limited to plant material, on-site lighting, indoor and outdoor recreational facilities, site furniture, trash enclosures, retaining walls, fences, railings, private utilities, paths and associated improvements of development, including but limited to sidewalks, bikeways, storm drainage facilities, street trees and street lights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

23. Development Program

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

24. 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" ("precon"), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan (CSP) conformance and compliance, upon approval of the Certified Site Plan. The precon must occur prior to any site work commencement and prior to any work that is covered by the site plan surety and maintenance agreement. The Applicant along with their representatives must attend the precon with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times.
- c) Fire and Rescue Access plan should be included in the Certified Site Plan.
- d) Modify data table to:
 - i. Reflect development standards approved by the Planning Board.
 - ii. Clarify dedications as previous or proposed.
- e) Ensure consistency of all details and layout between Site and Landscape plans.
- f) Revise public benefit point table including maximum points permitted for each requested category.
- g) Add the required bicycle repair station within the building's bicycle room.
- h) Update the Nebel Street cross-section to include dimensions.
- i) Revise architectural sheets (151) to match the vehicular parking counts provided in the data table (143).
- j) Add note for advance bicycle warning signage for driveways which will be finalized by DPS in accordance with Section 59.6.1.3.A.2 to limit vehicle access across a primary pedestrian, bicycle, or transit route wherever feasible.
- k) Ensure the square foot details shown on the recreation Plan labeled as Sheet L600 are consistent with all other sheets in the plan set.
- l) Revise the location of the required car-share designated parking spaces from the public right-of-way to be within the parking structure.
- m) Revise the label for the public storm drain that overlaps the southern driveway to correspond with applicable private maintenance.
- n) All stream restoration plantings and details must be shown on the FFCP.
- o) The FFCP worksheet must be revised to reflect areas of forest planting and areas of forest clearing in the stream restoration area.
- p) Revise the data table to remove credit for 0.02 acres of landscaping credited towards the reforestation requirements.
- q) All areas cleared for the stream restoration must be replanted.
- r) Detailed and specific tree protection measures must be shown on the FFCP for all trees located within the stream restoration area.
- s) The Applicant must coordinate with Planning Staff during the Certified Site Plan to assess ways to redistribute elements proposed in excess of the Code

requirements and evaluate adequate substitutions associated with the stream restoration improvement.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of the MHP Nebel Street Site Plan No. 820220150, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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

1. *The development satisfies any previous approval that applies to the site.*

The Site Plan demonstrates compliance with the approved Sketch Plan No. 320210110.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

This section is not applicable.

3. *The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

This section is not applicable.

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

- a. Development Standards

The Subject Property includes 2.66 acres of tract area that is made up of two parcels known as P362 (North Parcel) in the CR-3.0 C-1.5 R-2.5 H-200 zone and P394 (South Parcel) in the CR-4.0 C-2.0 R-3.5 H-250 zone. The Application satisfies the applicable development standards as shown in the following data table:

Table 1: Development Standards in the CR Zone, Optional Method

Development Standard	Permitted/ Required	Approved by Sketch Plan	Approved by Site Plan
Tract Area			115,839 sf. (2,659 ac.)
North Parcel	n/a		108,533 sf.
<i>Dedications</i>			0 sf.
South Parcel			7,306 sf.
<i>Dedications</i>			544 sf.
Site Area			115,295 sf. (2,647 ac.)
Total Maximum Density	up to 354,823 sf.		172,720 sf.
North Parcel (building)			
<i>Commercial Density</i>	up to 162,799 sf.		0 sf.
<i>Residential Density</i>	up to 271,332 sf.	188,500 sq. ft.	172,720 sf. ² (1663 units)
<i>Total Density</i>	up to 325,599 sf. (3.0 FAR)		172,720 sf. (1.49 FAR)
South Parcel (open space)			
<i>Commercial Density</i>	up to 14,612 sf.		0 sf.
<i>Residential Density</i>	up to 25,571 sf.		0 sf.
<i>Total Density</i>	up to 29,224 sf. (4.0 FAR)		0 sf.
Moderately Priced Dwelling Units	15%		25.17% (412 units)
Principal Building Height (max.)	200 ft. (North Parcel) 250 ft. (South Parcel)	80 ft. (North Parcel) n/a (South Parcel)	80 ft. (North Parcel) n/a (South Parcel)
Public Open Space (min)³ (Net Site Area)	10% (11,584 sf.)	10% (11,584 sf.)	10% (11,584 sf.)

In accordance with the Zoning Ordinance, Section 59.4.7.1, the Site Plan must provide a minimum of 100 public benefit points across a minimum of four (4) public benefit categories. The Site Plan provides 260.5 public benefit points in four (4) categories to satisfy the requirements: 1) Transit Proximity, 2) Affordable Housing, 3) Exceptional Design, and 4) Structured Parking. Alongside the provision of 25.1% MPDUs pursuant to Section 4.7.3.D.6 of the Zoning Ordinance, the Project puts forth additional public benefit points from other categories and provides more

² Up to 0.5 FAR is permitted under the standard method or a total of 57,920 square feet for the Property. Therefore, the Project includes 114,800 square feet of optional method incentive density, to achieve a total of up to 172,720 square feet of development.

³ Final approved by Site Plan.

benefits than are required and in accordance with the Incentive Density Guidelines.

Table 2: Approved Public Benefit Points

Public Benefits	Incentive Density	
	Max Allowed	Approved
Connectivity and Mobility		
Transit Proximity	70	30
Diversity of Uses and Activities		
Affordable Housing	No limit	188.2
Quality of Building and Site Design		
Exceptional Design	10	10
Structured Parking	20	15.1
Protection and Enhancement of the Natural Environment		
Cool Roof	15	10
TOTAL	-----	253.3

b. General Requirements

i. *Site Access*

The Application provides two new curb cuts along the Nebel Street frontage of the Property, each providing access to separate first and second ingress/egress points as a means of accommodating stacked floorplates for potential future conversion of parking to additional residential units. Below grade, vehicular access including loading, trash service, and access to the parking areas will be accommodated in a proposed 30-foot driveway along the eastern boundary of the Site. Meanwhile, a separate 22-foot ingress and egress access point is proposed to access the at-grade parking area. Staff supports the introduction of the two separate curb cuts given the unique constraints of the Property as existing stream buffers and stormwater infrastructure to the rear prevent the consolidation of access into the two floors of parking.

Pedestrian access to the Property is proposed directly from the existing sidewalks along Nebel Street and Old Georgetown Road, which are each proposed to be improved to meet the Complete Street Design Guide standards for Downtown Streets. Specifically, the proposed streetscape includes a five and a half-foot wide

planting zone and eight-foot sidewalk, which meet the intent of the recommendations for a Downtown Street (i.e., 6- to 8-foot planting zone and 8- to 10-foot pedestrian through zone). Staff supports the narrowed street buffer given the challenges with accommodating the affordable housing development adjacent to an existing wetland and stream along the rear of the Property. Pedestrian crossings across the driveway entrances from Nebel Street will have level movement, with vehicle access points being built at-grade with sidewalks, ramping down to street level.

ii. *Parking, Queuing, and Loading*

Based on the multi-family unit count, a minimum of 143 parking spaces are required pursuant to Section 6.2.4.B of the Zoning Ordinance. The Applicant will provide an at- and above-grade parking garage under the residential floor plates that includes a total of 143 parking spaces. Staff supports the minimum amount of vehicular parking given the abundance of existing and planned transit as well as prevalence of bicycling infrastructure. Furthermore, the White Flint Metrorail Station and future MD 355 Bus Rapid Transit stations are located within a walkable distance from the Site. Additionally, 78 long-term and 4 short-term bicycle parking spaces are required, which will be met via bicycle parking spaces within bike rooms in the parking garage and as bicycle racks adjacent to the entrance plaza and lobby area. The loading dock meets the location and design requirements set forth in Section 59.6.2.8.B of the 2014 Zoning Ordinance.

Table 3: Parking Requirements for Multi-Family Apartments

Standard	Permitted/ Required	Approved
Vehicular Parking⁴		
(8) <i>Efficiency Market – 1 space per unit</i>	<u>Market Rate</u> 122 (min.) 178 (max.)	143 spaces
(42) <i>1-Bedroom Market – 1 space min./1.25 max. spaces per unit</i>	<u>MPDU</u> 21 (min.) 60 (max.)	

⁴ The baseline parking minimum in the parking table under Section 6.2.4.B may be reduced for MPDUs by multiplying the adjustment factor (0.50) times the baseline minimum.

(54) 2-Bedroom Market – 1 space min./ 1.5 spaces max. per unit		
(18) 3-Bedroom Market – 1 space min./ 2 spaces max. per unit		
(2) Efficiency MPDU – 0.5 space min./ 1 space max. per unit		
(15) 1-Bedroom MPDU – 0.5 space min./ 1.25 spaces max. per unit		
(18) 2-Bedroom MPDU – 0.5 space min./ 1.5 spaces max. per unit		
(6) 3-Bedroom MPDU – 0.5 space min./ 2 spaces max. per unit		
Bicycle Parking 0.50 spaces per unit x 163	82 spaces	82 spaces
	<u>Multi-Family</u> <u>Apartments</u> <u>Subtotal</u>	
	143 (min.) 238 (max.)	

iii. *Open Space and Recreation*

Per Section 59.6.3.1 of the Zoning Code, open space must provide adequate light, air, circulation, and recreation and encourages preservation and enhancement of natural resources, including improvement of water and air quality. The Applicant is providing public open space associated with the multi-family building based on requirements for building types within CR zones. The Application also satisfies the Sector Plan vision for public use space specifically located on the Site.

The Site Plan Application exceeds the 10% open space requirement set forth in the Zoning Ordinance by providing 11.2% (13,000 square feet) of the Site Area as public open space disbursed across four areas: 1) an urban pocket park, 2) a nature overlook, 3) a main building entrance plaza, and 4) an enhanced streetscape along all frontages. These spaces have high-visibility, direct access from Nebel Street, and are aimed to provide passive recreation and opportunities for social gatherings and connections with nature within an urban setting. The urban pocket park is located on the west side of Nebel Street, at the intersection with Old Georgetown Road (Southern Parcel). This space will have a low deck nestled within a small grove of trees with seating and a bike repair station.

Section 59.6.3.9 of the Zoning Ordinance requires that any building containing 20 or more dwelling units offer recreational facilities in accordance with M-NCPPC's Recreation Guidelines. The Site Plan will provide a renovated stream area, resident lounge/community room, interior courtyard, picnic/seating areas, and a bicycle support station located within the urban pocket park. The Site Plan Application proposes to provide an interior courtyard that is an outdoor room contained within the building for social engagement and group activities for residents. Via the nature overlook, the interior courtyard will provide access to natural light, views of the newly planted trees along the stream bank and buffer, and connections to the adjacent indoor community room. The Applicant will strive to include inclusionary play features to be a part of the Applicant's Community Life Program for pre-school and after care. This program is provided within the building (multi-purpose rooms) and utilizes the outdoor courtyard space for activities. The South Parcel pocket park will provide immediate benefits to the new multi-family building, patrons of the adjacent grocery store, and residents of the surrounding community.

Under optional method development, the design criteria for public open space must: a) abut a public sidewalk or other public pedestrian route; b) include space for pedestrian circulation, landscaping, seating, shade, water features, artwork, or recreation; and c) be in a contiguous space or spaces that abut other public open space or sidewalks or pedestrian routes and are not so fragmented and disconnected that they do not satisfy the intent of Division 6.3. As indicated by the analysis, the Project will satisfy the residential recreational/amenity space requirements. The Plan meets the necessary design criteria of the Recreation Facility Guidelines.

Therefore, the Planning Board finds that the recreation facilities meet the requirements of the Recreation Guidelines.

iv. *General Landscaping and Outdoor Lighting*

Division 6.4 of Chapter 59 of the Zoning Code provides minimum standards for quantity, size, location, and installation of general landscaping and outdoor lighting on private property. These standards intend to preserve property values, strengthen the character of communities, and improve water and air quality. The

proposed landscaping and lighting satisfy all applicable elements of the White Flint Urban Design Guidelines.

All proposed trees and plant materials meet the minimum required caliper and height at the time of planting, and some of the site landscaping elements contribute to stormwater management measures (where approved by MCDPS).

The Site illumination levels, energy efficiency, and pedestrian scale lighting height meet the minimum standards to ensure visibility and public safety and enhance the building's architecture and pedestrian and bicycle usage. As previously noted, the periphery of the Site and the streetscape will utilize the existing cobra-head light poles located along Nebel Street and continue the row of pedestrian scale lighting that exists on Old Georgetown Road. The 2010 *White Flint Urban Design Guidelines* recommends site buildings to maximize natural lighting and ventilation and minimize thermal loss (page 49). The nature overlook and entrance plaza are oriented within the Site to maximize natural daylight.

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

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

The Stormwater Management Section of the Montgomery County Department of Permitting Services (MCDPS) issued a letter accepting the stormwater management concept dated June 29, 2022. The Application includes environmental site design ("ESD") techniques that will filter and retain stormwater on-site such as micro-bioretenion areas, planters, and a green roof. Plantings approved by MCDPS will also be used in ESD's to the greatest extent practicable.

b. Chapter 22A, Forest Conservation

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

Staff approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) No. 420214300 on August 11, 2020. The 2.66-acre site contains 2.38 acres of forest and 1.898 acres of stream valley buffer, which includes 1.06 acres of floodplains and 0.004 acres of wetlands. The development includes significant encroachments into the stream valley buffer. The Applicant has submitted an environmental enhancement plan, to be approved with the Site Plan, that includes the removal of existing refuse

and management of non-native invasive plants to improve the health and function of the forest and restoration of the stream and adjacent wetlands to mitigate for the buffer encroachment.

A Final Forest Conservation Plan (FFCP) was submitted with the concurrently submitted Preliminary and Site Plans. The FFCP shows 1.52 acres of forest clearing to construct the development. While there is disturbance shown in the forest for the stream restoration, it will be minimized and replanted. The Applicant will retain 0.86 acres of forest and planting 0.02 acres of forest. A Category I Conservation Easement will be recorded over 0.89 acres of forest and stream valley buffer. The remaining acres of forest conservation requirements will be met through off-site forest banking or payment of fee-in-lieu if banks are not available.

Forest Conservation Variance

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

This Application will require the removal of 14 and CRZ impact to 4 Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance. All trees proposed for impact or removal are located within the existing forest and will be compensated through the forest conservation worksheet.

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

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

Granting this variance will not confer a special privilege on the Applicant as disturbance of the specified trees is a result of the development envelope. The Site is highly constrained by environmental features. The Property is almost completely forested and covered by stream valley buffer and floodplain. It is not possible to develop the

Property without impacting variance trees, therefore, this is not a special privilege.

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

The requested variance is not based on conditions or circumstances that are the result of actions by the Applicant. The Applicant has located the development and designed the footprint to minimize impacts on the forest and stream valley buffer.

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

The requested variance is a result of the location of trees located adjacent to the existing development, not a condition related to either a land or building use on a neighboring property.

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

The Applicant is restoring the deeply compromised stream on the Property, which will improve water quality, and is protecting natural resources to the maximum extent practicable. The Project is also providing stormwater management for the development, using Environmental Site Design to the maximum extent practicable.

All of the variance trees to be impacted or removed are located within forest on the Property, therefore mitigation is not required beyond the planting requirements determined through the forest conservation worksheet.

The Planning Board approves the requested variance.

- 6. The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

Parking and Circulation

The Project will provide two levels of structured parking on the ground level and one level underground within the footprint of the building. The grade change on-site will allow the garage to be substantially buried while providing access from Nebel Street and a gradually sloped ramp on the southern end of the building. Metal mesh screens will conceal the exposed portions of the garage along Nebel

Street to obscure views of the garage from the street. The loading and service areas for the Project will be accessed from the eastern-most curb cutoff Nebel Street and will be primarily concealed from view from Nebel Street.

Open Spaces and Site Amenities

The development will create affordable housing opportunities in a highly amenitized area within the Sector Plan, while also contributing to additional amenities.

The Subject Property is constrained by numerous environmental features on-site, which will result in a somewhat small developable area, and a compact building footprint. Yet, the natural features on-site will provide a unique opportunity to engage with nature. This development will provide diverse public open space offerings that provide opportunities for social gatherings and connections with nature. Open spaces such as "Urban Pocket Park" and "Nature Overlook" will be provided as part of this development for the greater community.

An urban pocket park on the west side of Nebel Street will be a restful space defined by a low deck nestled within a grove of trees. This park will have seating elements as well as a bike repair station.

In the western portion of the site along Nebel Street, a nature overlook will be an elevated boardwalk. The public open space will serve as a more contemplative space, defined by the experience of being within the mid-section of a mature stand of trees. This deck will cantilever over a hillside and into the existing tree canopy.

The building also will provide ample transparency overlooking the natural features at the rear of the residential building. The raised rear outdoor deck will serve as a private outdoor amenity for the residents and provide a uniquely calming connection to nature and a true respite for the residents. This Project will provide various streetscape improvements along Nebel Street. A wide, tree-lined sidewalk will connect the public entrance plaza on the south side to the natural overlook on the north side of the property along Nebel Street. The placement of the proposed building will form a strong edge along Nebel Street. This urban frame and the proposed streetscape improvements will enhance the public realm for pedestrians at the street level along Nebel Street.

Building Massing

The building height, massing, and materials will create an architectural composition that responds to the neighborhood context and activates the street. The building will have six stories, with a maximum proposed height of 80 feet

along Nebel Street. The building massing will present subtle variations in the façade that break down the perceived height of the building. The west end of the building will present an opportunity to terminate the vista with a focal element along the Old Georgetown Road approach. The east end of the building will step up the massing in response to the adjacent towers, punctuate the corner, and respond to the view westbound on Nebel Street. The center portion of the building will serve as the horizontal transition between the ends and utilize vertical bays to help break up the linear nature of the building.

The façades will incorporate balconies primarily on the rear or forested side of the building. These balconies will create varying vertical planes that add visual interest and further break down the building. Furthermore, the balconies will encourage additional connections to nature, as they overlook the environmental features at the rear of the property.

This residential building will incorporate walk-out units with front stoops along the northernmost ground level along Nebel Street with direct unit access to the sidewalk. The stoops will provide architectural variations to help break down the building's façade along Nebel Street and add visual interest. These walk-out units will help conceal the parking garage along Nebel Street.

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

The 2010 *White Flint Sector Plan* ("Sector Plan") provides a blueprint for the future that will transform the White Flint area, including within the Nebel Street District, into a vibrant place served by transit and enhanced by activating uses, open spaces, and amenities. The Planning Board finds that the Site Plan substantially conforms to the recommendations within the Sector Plan regarding land use, density and height, urban form, housing, circulation, and open space.

a) Land Use

The Sector Plan recommends adding more residential capacity near existing transit facilities to balance land uses in the MD 355/I-270 Corridor (page 6). By utilizing the optional method for incentive density, the Project will deliver additional residential density to support a thriving community with a mix of uses along the Nebel Street corridor. The Subject Property is located within the CR Zoning District which allows for a variety of densities and heights, encourages different housing types, transportation infrastructure, and major public amenities, all of which the Project provides.

Density & Height

The Subject Property was previously rezoned from the I-4 zone to the CR zone to effectuate the vision of additional residential uses within the Nebel Street District. The Project satisfies the increased density via the optional method of development with 1.49 FAR. The required public benefit points were determined to be adequate.

Additionally, the Plan calls for the highest density and tallest buildings at the Metro station. Therefore, based on its location, the Subject Property does not need to achieve the maximum permitted height. The Sector Plan also addresses building height by stating that within each district, signature buildings near the maximum height are allowed and desirable to create gateways or focal points (pg. 19). The Plan notes building height specifically for the Subject Property, as noted: "Signature buildings, between 150 and 200 feet tall, may be located at the terminus of Old Georgetown Road and Nebel Street..." (page 40). The maximum building height proposed is 80 feet, which adheres to the height limit of 200 feet per the mapped zone and adequate to support the recommended signature gateway. The height is also compatible with existing multi-family mid-rise and high-rise residential developments at the northwest intersection of Old Georgetown Road and Nebel Street and on the west side of Nebel Street, including the White Flint Station Condominium, Wentworth House Apartments, and Aurora at North Bethesda Center.

Affordable Housing

White Flint was envisioned as the place to accommodate a substantial portion of the region's projected growth, especially housing (page 6). Under the staging plan, the Sector Plan recommends that the Planning Board assess whether the build out of the Sector Plan is achieving the Plan's housing goals (page 69). The Plan places emphasis on residential development to provide more affordable housing and expand opportunities for economic diversity located near transit and services. To accommodate a variety of households, all new residential development should include different unit types and sizes, including options for the number of bedrooms per unit, and provide choices for all budgets (page 7).

The Project will construct new affordable housing within walking distance of the White Flint Metrorail Station. It includes a mix of bedrooms that can accommodate various household needs within the market, including efficiencies and two- and three-bedroom units. Furthermore, the Project will provide 80% of the units to residents earning 30% to 80% of the Area Median Income, plus a majority of the units will be for rent to those earning less than 60% of the Area Median Income. A minimum of 25.1% of the units will be designated as MPDUs. The accommodation of affordable units that far exceeds the minimum code

requirements within a transit-centered urban center supports economic diversity and addresses the Sector Plan's goal of promoting social equity (page 23).

Urban Form

With the extension of Metrorail service, White Flint was envisioned as an urban, mixed-use community located at the center of North Bethesda. The Project focuses on a strong urban form by pulling the building up to the lot line, orienting the various entrances towards the street, improving the pedestrian experience by a continuity streetscape, and creating viable connections to open spaces on the Subject Property and to other nearby destinations and community amenities.

Considering the Site's surrounding area, the Project for new residential units contributes to a mix of building types that combine to form a single cohesive urban environment. While heights vary between confronting residential and mixed-used buildings, there is height compatibility between the existing and proposed buildings as each is within the maximum height limit for the zoning district and establishes continuity in the urban realm.

The core of White Flint is located between Marinelli Road and Old Georgetown Road and within a ¼-mile of the Metro station, whereas the Subject Property lies outside of the core. To support the urban form, the White Flint Design Guidelines dictates that new development will decline in height and density from the core and Rockville Pike, providing compatible transitions as it approaches the surrounding neighborhoods (page 15).

Community Facilities & Open Space

The White Flint Sector Plan did not recognize the Subject Property as a location for a master-planned community facility or cultural resource such as a library or recreation center. However, the Subject Property is in close proximity to proposed community resources and cultural resources identified in the Sector Plan. A prominent recommendation in the Sector Plan is a new Civic Green that is located outside of the Nebel Street District and to the west of Rockville Pike. The streetscape improvements will deliver safe and adequate infrastructure for pedestrians and bicyclists as they travel west towards the Civic Green. The streetscape improvements would also support convenient access to the Sector Plan's Promenade that is envisioned to traverse Marinelli Road as a connector to unify the western and eastern halves of the plan area.

The Sector Plan proposes a recreation loop that connects all the public use spaces within the plan area and is envisioned as "a continuous signed recreational pathway" that "is intended to link new and existing neighborhoods" (page 18). The Subject Property directly fronts on the recreational loop and the

Project will enhance and activate this recreational loop through the public open spaces provided along Nebel Street and through the building's architecture and design.

The Sector Plan identifies a hierarchy of public use spaces, which on one end of the spectrum includes parks with a regional draw and on the opposite end of the spectrum includes private recreation space. Regarding the latter, the Sector Plan directs residential developments to include common indoor spaces as well as common outdoor recreational facilities. The multi-family apartment building will have different types of open spaces, internal and external to the building, for private and public uses.

The Sector Plan identified the Subject Property as a location for public use space. The Site Plan will accommodate this recommendation via the open space parcel created on the South Parcel at the intersection of Nebel Street and Old Georgetown Road to contribute to a network of existing pockets of urban green space that exist in the area. Overall, the Project's open space elements contribute to the vibrancy of the area and could possibly serve as a catalyst for additional development in the area, which is consistent with the Plan's vision to transform the existing industrial character of this sub-area of the plan.

b) Environment

The 2010 Sector Plan and the accompanying 2010 Design Guidelines affirm that new development must incorporate environmentally sensitive design to conserve and generate energy and make maximum use of resources and minimize disruption of the natural environment. Currently, the Site is constrained by its size and environmental conditions. There are significant grades on-site, an existing stream and associated stream valley buffer, 100-year floodplain, wetlands, and existing forest that significantly constrain the developable area of the Property. There is also a collapsed storm drain which has led to an increased floodplain boundary. However, there are no public capital projects slated to improve the storm drain on this Site. Further, the development includes significant encroachments into the stream valley buffer. The Applicant submitted an environmental enhancement plan that includes the removal of existing refuse and management of non-native invasive plants to improve the health and function of the forest and restoration of the stream and adjacent wetlands to mitigate for the buffer encroachment.

A Final Forest Conservation Plan (FFCP) was submitted concurrently with the Preliminary Plan and Site Plan. The FFCP shows 1.52 acres of forest clearing in order to construct the development. While there is disturbance shown in the forest for the stream restoration, it will be minimized and replanted. Additional details are provided in the prior environmental section.

This Project aims to meet a market-demand for affordable housing while also meeting the intent of the Sector Plan by improving the environmental conditions.

c) Transportation

Roads

The segment of Nebel Street along the Property frontage is classified as B-5, a Business District Street with a minimum right-of-way width of 80' (40' from center line), within the Master Plan of Highways and Transitways. The existing right-of-way on Nebel Street is 80-feet. Thus, additional dedication is not required. The Applicant will maintain the existing curb to curb street zone as it presently stands, in anticipation of MCDOT's reconstruction of Nebel Street for the separated bicycle lanes. The capital project will construct the planned configuration identified in the Master Plan of Highways and Transitways. While only a portion of the sidewalk will be within the public right-of-way, additional space for an eight-foot-wide clear pedestrian zone will be built consistently along the entire Nebel Street frontage.

Likewise, the associated Sector Plan and Master Plans also designate Old Georgetown Road, along the Property's frontage, a Business District Street (B-2) with a minimum right-of-way width of 90' (45' from center line). The Applicant will dedicate five feet along the Old Georgetown Road Property frontage to conform to the Master Plan of Highways and Transitways.

Lastly, the White Flint Sector Plan recommends "a transit-focused, multi-modal mobility system that supports the proposed urban center and local neighborhoods" (page 50). The Project will provide infrastructure that facilities safe and adequate access to existing bus and rail services.

Transit

The immediate area is well served by transit that includes the Red Line White Flint Metrorail Station (located within walking distance of the Site), Metrobus, Ride On, and future MD 355 Bus Rapid Transit (BRT) station. The Project includes enhancements to existing sidewalks, bicycle facilities, and pedestrian lighting along both Old Georgetown Road and Nebel Street that will support increased access to nearby existing and future transit service.

Non-motorized Facilities

Per the Sector Plan vision, the Plan Area should 1) provide links to existing and proposed public transit facilities as well as to the outlying bicycle and trails network and 2) should be identified as a Bicycle/Pedestrian Priority Area to

support funding allocations on state roads (Page 56). The Application conforms to this vision.

Bicycle access and safety will be further enhanced with the implementation of the master-planned separated bicycle lanes by MCDOT along both sides of the Applicant's frontage with Nebel Street. As part of a recent restriping of Nebel Street, the width of travel lanes was reduced as a means to accommodate separated bicycle lanes featuring flexible delineators and on-street parking as interim facilities between the bicycle lanes and travel lanes. However, reconstruction of the roadway as part of a recent utility project necessitated in the removal of the temporary bikeway infrastructure. Reinstallation of the separated bicycle lanes, travel lanes, and on-street parking is forthcoming as part of an MCDOT capital project following completion of the neighboring Marinelli Road bikeway capital project (P507596).

Per the Bicycle Master Plan, two-way separated bicycle lanes are planned along the south side of Old Georgetown Road. Therefore, the Applicant will provide a five-foot right-of-way dedication as well as a fee in-lieu contribution, in an amount determined by MCDOT, for the future two-way separated bike lane along the Property's frontage with Old Georgetown Road.

8. *The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

As memorialized in the Preliminary Plan analysis, the Project will be served by adequate public facilities (APF), including schools (students generated do not exceed the adequacy ceilings), police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. As a result of the Applicant participating in the White Flint Special Taxing District, the Project was not required to submit a Transportation Impact Study with the Site Plan to satisfy the LATR.

- a) Utilities

Under the Project, there are a total of six (6) existing utility poles and associated overhead wires along the Site's Nebel Street frontage that will remain. During the time of Sketch Plan, Staff recommended that the Applicant include the undergrounding of existing utilities adjacent to the building to the Project, due to specific recommendations of the 2010 *White Flint Sector Plan*, the 2019 *Fire Department Access Performance Based Design Guide*, and the 2021 *Advancing the Pike District Streetscape Guidelines*. Together, these supplement the high-level, broad-brush national fire code requirements to respond more effectively and efficiently to local conditions and densifying urban environments.

The 2010 *White Flint Sector Plan* recommends the undergrounding of utilities and providing streetscape on all existing public streets, including, but not limited to Old Georgetown Road and Nebel Street.

The 2019 *Fire Department Access Performance Based Design Guide* acknowledges that “in urban areas overhead utility lines can limit and obstruct fire department access, especially to multi-family residential and commercial buildings with windowsills greater than 27 feet from grade. Overhead utility lines are especially vulnerable during high wind events such as severe thunderstorms, resulting in disrupted service and potentially hazardous situations for residents and emergency responders. For new development, utility lines should be undergrounded where aerial operations are anticipated, namely buildings with any windowsill greater than 27 feet from grade” (page 37).

Additionally, the 2021 *Advancing the Pike District Streetscape Guidelines* states that all new optional method development projects are generally expected to relocate underground all existing utilities within and along their property frontages. It further states that the feasibility of undergrounding existing above-ground utilities should be evaluated in coordination with the utility provider and on a case-by-case basis.

Nebel Street is not included in the list of approved projects to be completed from the White Flint Special Taxing District funds, of which a portion of the Project would apply. Additionally, there is no Capital Improvements Program (CIP) project planned to address these utilities. In response, the Applicant has cited financial costs and proportionality as the prohibitable factors. Importantly, the *Pike District Streetscape Guidelines* underscore that the final decision should not be limited to proportionality, cost, and the extent of the improvements funded by the White Flint Special Taxing District or through a Capital Improvements Program (CIP) project. The Guidelines highlight the exploration of context-specific factors.

The Applicant proposes to accommodate a 2-foot minimum maintenance buffer, an 8-foot-wide sidewalk, and a 6-foot-tree panel buffer without having to underground the existing utilities along Nebel Street. However, this requested major public improvement extends far beyond the accommodation of the streetscape and aesthetics of the public realm. The Applicant’s submittal only allows two stories of the six-story building to be reached from the ground and prohibits aerial access to several floors. This forces emergency responders to reach the impacted units by traveling

indirectly using alternative building entry points or via the roof in order to descend several floors. Because the rear of the building is environmentally constrained and used for stormwater management areas, points of access for rescue are further reduced.

Undergrounding the existing utility poles and associated overhead wires along the Subject Property's frontage on Nebel Street will substantially improve the efficiency of emergency operations for the affordable, multi-family building Project⁵. With the improvements, the Property will have an enhanced designated area on the ground for operational access, while also allowing aerial access to upper stories, and will substantially improve emergency response time.

The undergrounding of utilities in this major residential project is supported by Montgomery County's Fire and Rescue Service. Furthermore, this improvement will address compliance with the *Fire Department Access Performance-Based Design Guide*. These improvements are expected to eliminate what is recognized as a potentially imminent public safety hazard.

Maintaining the status quo with the utilities in their current state does not achieve substantial conformance with the Sector Plan, Fire Access Guide, or the Pike District Streetscape Guide.

The Planning Board finds that the Applicant must underground the existing utility poles and associated overhead wires along the Nebel Street frontage. Furthermore, the Applicant will provide the minimum 10% requirement for public open space instead of 11% of the net lot area proposed, potentially allowing additional space for on-site plantings associated with the Final Forest Conservation Plan. As conditioned under the Site Plan, the Applicant will also coordinate with Planning Staff during the Certified Site Plan to assess ways to redistribute elements proposed in excess of the Code requirements and evaluate adequate substitutions associated with the stream restoration improvement.

9. *The development is on a property in a Rural Residential or Residential zone and compatible with the character of the residential neighborhood.*

The Subject Property is not located in a Rural Residential or Residential zone.

⁵ The Building Code does not require the undergrounding of overhead utilities for fire access; however, the undergrounding of utilities at this Site will make fire rescue less complicated and more efficient.

10. The Subject Property, in all other zones, is compatible with existing, approved or pending adjacent development.

The Project is compatible with existing, approved, and anticipated development in the vicinity. The character of the surrounding neighborhood is mixed, but largely of a non-residential character. The Subject Property is surrounded by various commercial, residential, and industrial uses that are also zoned Commercial Residential (CR) with a permitted mix of 3.0 FAR or 4.0 FAR in order to spur densification near existing transit services. Confronting the Property across Nebel Street, are several residential condominiums, including the White Flint Station Condominium, Wentworth House Apartments, and Aurora at North Bethesda Center. The North Bethesda Center includes visible and accessible urban green spaces, and its structured parking is concealed from the public realm. These similar features deployed in the Proposal help to create continuity in the urban environment while also prioritizing mobility and human interactions that activate space and create a sense of community. The heights of these existing buildings are also compatible to the Proposal. This collection of newer buildings within the Nebel Street District reflect design fit. There is also pending development at the North Bethesda Center that would support the Sector Plan's goal for new, high-density residential units near existing bus and rail service.

West of the intersection of Nebel Street and Old Georgetown Road are two high-rise residential buildings, one of which contains the Harris Teeter Grocery Store, and associated surface parking that are also part of the North Bethesda Town Center development. Opposite of this intersection is a condominium development where the structured parking garage is lined with development to activate the ground level. Abutting the Property to the north are several single-story strip commercial buildings and associated surface parking. Located immediately south of the Subject Property is a Washington Gas facility where redevelopment in the near future is unlikely.

Compatibility with existing abutting land uses is also achieved via multi-modal connections between the two parcels the comprise the Subject Property and future infrastructure improvements defined by the Sector Plan. The Site Plan includes reconstructed sidewalks, enhancements to the existing Nebel Street bikeway, and dedication on Old Georgetown Road for public use. These improvements are connected to the Sector Plan's Recreation Loop and the Promenade that links key properties and public use spaces on the west and east sides of Rockville Pike.

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 remains August 10, 2022 (which is the date that the original resolution was 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 within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

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 Cichy, seconded by Vice Chair Verma, with a vote of 4-0-1; Chair Anderson, Vice Chair Verma, and Commissioners Cichy and Patterson, voting in favor of the motion, Commissioner Rubin abstaining at its regular meeting held on Thursday, October 6, 2022, in Wheaton, Maryland and via video conference.



Casey Anderson, Chair
Montgomery County Planning Board