

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No.22-028

Site Plan No. 820220020

Park Montgomery

Date of Hearing: March 17, 2022

MAR 21 2022

RESOLUTION

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

WHEREAS, on November 3, 2021, Park Montgomery Limited Partnership (“Applicant”) filed an application for approval of a site plan, with request for alternative compliance, for the construction of a new multifamily building of up to 94,481 square feet with up to 76 units and structured parking, alongside an existing 143,256 square foot multifamily building with up to 141 units to remain onsite, with 15.5 percent of the total units as MPDUs on 3.45 acres of CRTF-1.6, C-0.0 R-1.6 H-140’ zoned-land, located at 8860 Piney Branch Avenue approximately 900 feet east of University Boulevard (“Subject Property”) in the Long Branch Policy Area and *2013 Long Branch Sector Plan* (“Sector Plan”) area; and

WHEREAS, Applicant’s site plan application, including request for alternative compliance, was designated Site Plan No. 820220020, Park Montgomery (“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 March 3, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on March 17, 2022, the Planning Board held a public hearing on the application and voted to approve the Application subject to conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820220020 and the request for Alternative Compliance, for the construction of a new multifamily building up to 94,481 square feet with up to 76 units with structured parking, alongside an existing 143,256 square foot multifamily building with up to 141

Approved as to

Legal Sufficiency: Emily Vaias

M-NCPPC Legal Department

units to remain onsite, with 15.5 percent of the total units as MPDUs on the Subject Property, subject to the following conditions:¹

1. Density

The Site Plan is limited to a maximum density of 237,737 square feet of total development on the Subject Property, consisting of 143,256 square feet of residential density for the existing building with up to 141 units and 94,481 square feet of residential density for the construction of a new residential building with up to 76 units, for a total of 217 units, with 15.5% MPDUs based on all units.

2. Height

The development is limited to a maximum building height of 140 feet for the existing building and 90 feet for the proposed new building, as measured from the building height measuring point to be illustrated on the Certified Site Plan.

3. Adequate Public Facilities

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

4. 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 February 1, 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.

5. Affordable Housing

- a. The Planning Board has reviewed and accepts the recommendations of Montgomery County Department of Housing and Community Affairs (DHCA) in its letter dated January 4, 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 DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.

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.

- b. The development must provide a minimum of 15.5 percent Moderately Priced Dwelling Units (MPDUs), or MCDHCA approved equivalent, consistent with the requirements of Chapter 25A.
- c. The final MPDU locations and layouts will be determined at the time of execution of the Agreement to Build.

6. Public Open Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 2,360 square feet of public open space on-site, as illustrated on the Certified Site Plan.
- b. Prior to the issuance of any above-grade building permit, the Applicant must make a payment of \$100,968 to the Long Branch Amenity Fund for the purpose of fulfilling the remaining requirements of Section 59-6.3.6, for Public Open Space.
- c. The Applicant must construct streetscape improvements along the Property's frontage on Piney Branch Road consistent with the Long Branch Streetscape Standards, as shown on the Certified Site Plan.
- d. Before the issuance of the final use and occupancy certificate for the new residential building, all public open space areas and streetscape improvement areas identified on the Certified Site Plan must be completed.
- e. The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to onsite sidewalk.
- f. The Applicant must provide and maintain a mural, or comparable visual amenity that breaks up the mass of the elevator tower façade as delineated on the Certified Site Plan. This visual amenity must be installed prior to the final Use and Occupancy permit and may change over time without amending the Site Plan.

7. 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
 - i. Level II - The Certified Site Plan must demonstrate location and distance from transit.
- b. Diversity of Uses and Activities
 - i. Affordable Housing
 - 1. The development must provide a minimum of 15.5% Moderately Priced Dwelling Units (MPDUs), or MCDHCA

approved equivalent, consistent with the requirements of Chapter 25A and the applicable Sector Plan.

- c. **Quality of Building and Site Design**
 - i. **Structured Parking** - The Applicant must provide 84 of the 206 parking spaces within the above and below-grade structured parking on the Subject Property.

8. 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 minimum required recreation facilities as shown on the Certified Site Plan.

9. Right-of-Way Permitting

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 November 15, 2021 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

10. State Highway Administration

The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration ("MDOT SHA") in its letters dated March 15, 2021 and January 25, 2022 and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MDOT SHA provided that the amendments do not conflict with other conditions of the Site Plan approval.

11. Pedestrian and Bicycle Circulation

- a. The Applicant must provide a minimum of 38 long term and 12 short term bicycle parking spaces.
- b. The long-term spaces must be in a secured, well-lit bicycle room within the garage, and the short-term spaces must be inverted-U racks (or approved equal) installed along the new building's main residential entrances (weather protected preferred). The specific location(s) of the bicycle parking must be identified on the Certified Site Plan.

- c. Before the issuance of the final use and occupancy certificate for the new residential building, the Applicant must install a new 10-foot sidewalk set back 12.5 feet from the curb to provide the space necessary to install the master-planned two-way separated bikeway along the Site frontage on Piney Branch Road. The Applicant must remove the existing 5-foot sidewalk, currently located at the back of the curb.
- d. Consistent with MCDOT's January 26, 2022 letter, the Applicant must participate on a pro rata basis, in the amount of \$172,595 payable prior to issuance of the first above grade building permit or right-of-way permit, whichever comes first, towards the construction of a two-way separated bikeway in the East Purple Line Transportation Policy Area. The payment will be inflated based on the Federal Highway Administration's National Highway Construction Cost Index from the mailing date of the Planning Board resolution to the date of application for the first above-grade building permit or right-of-way permit (whichever comes first).

Environment Noise

- 12. Prior to the issuance of the first building permit, the Applicant/developer/builder must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that:
 - a. 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.
 - b. Before the final inspection for any residential unit, the Applicant /developer/builder must certify to M-NCPPC Staff that any noise impacted units have been constructed in accordance with the certification of the engineer that specializes in acoustical treatments.
- 13. If any changes occur to the Site Plan which affect the validity of the noise analysis dated November 19, 2021, 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.

Forest Conservation

- 14. 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.
- 15. 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.

16. Prior to the start of any demolition, clearing, grading or construction, whichever comes first, for this development Application, the Applicant must submit the forest conservation fee-in-lieu payment to the M-NCPPC Planning Department for the 0.13 acres of afforestation/reforestation requirement, or as shown on the certified Final Forest Conservation Plan.
17. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings as shown on the Forest Conservation Plan.
18. The Applicant must plant the variance tree mitigation plantings on the Subject Property, with a minimum size of 3 caliper inches, totaling at least 17 caliper inches, or as shown on the certified Forest Conservation Plan. All trees credited towards variance mitigation must be at least five (5) feet away from any structures, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
19. Prior to any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
20. Prior to any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must execute a five-year Maintenance and Management Agreement ("MMA") in a form approved by the M-NCPPC Office of General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures.
21. As part of the preconstruction activities, the Applicant must enter into a contract with the tree care professional to implement a five-year maintenance and management plan for Tree 17 and Tree 18, to be finalized at time of Certified Forest Conservation Plan. Mitigation plantings will be required if the trees die or severely decline within the five-year timeframe.

22. 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.

23. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit for the proposed development, 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, retaining walls, railings, paths and associated improvements of development, including 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.

24. 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.

25. 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 Sketch Plan resolution on the approval or cover sheet(s).
- b. Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c. Fire and Rescue Access plan should be included in the Certified Site Plan.
- d. Add a note stating that "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."
- e. Modify data table to reflect development standards approved by the Planning Board.
- f. Ensure consistency of all details and layout between Site and Landscape plans.
- g. Revise ADA ramp location to save nearby tree.
- h. Shift generator location to reduce site impacts.
- i. Shift SWM facilities to reduce impact to courtyard area.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Site Plan No. 820220020, Park Montgomery, 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 Property conforms to the following Binding Elements and Development Standards established by LMA H-140 approved by the County Council on March 25, 2021:

- 1. The use of the property will be limited to multifamily residential and associated garage and surface parking.*
- 2. Maximum building height on the Property will be 140' for existing building, however new development will be limited to 98 feet in height.*
- 3. Total residential units onsite will not exceed 217 units.*
- 4. Vehicular access to the Site will be limited to the existing driveway (access point).*
- 5. Fifteen (15) percent of the total units onsite will be regulated as Moderately Priced Dwelling units, per Chapter 25A of the County Code, subsequent to the expiration of the LIHTC restrictions and any other State restricted-use covenants.*

As further described in the findings below, the proposed use, density, height, access, and portion of MPDUs for the Site Plan are within the limits set by the binding elements of LMA H-140. The Project also complies with the accompanying Sketch Plan No. 320220020 as discussed below.

- 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 CRTF Zone

The Property is zoned CRTF, Commercial Residential Townhouse Floating zone, therefore the Project must comply with the optional method development standards of the CRT zone. As demonstrated in the table below, the Project complies with the CRT zone and Binding Elements of the Limited Map Amendment H-140.

Table 1: Park Montgomery Site Plan Data Table for CRTF Zone, Optional Method, Section 59.4.5

Development Standard	Approved per LMA H-140	Proposed
Tract Area	n/a	150,087 sf (3.44 acres)
Prior Dedication	n/a	6,740 sf (0.15 acres)
Proposed Dedication	n/a	0
Site Area	n/a	143,347 sf (3.29 acres)
Mapped Density CRTF 1.6 C-0.0 R-1.6 H-140'		
Residential (GFA/ FAR)	140,139 sf (1.6)	237,737 sf (1.58)
Commercial (GFA/FAR)	0	0
Total GFA/FAR	140,139 sf (1.6)	237,737 sf (1.58)
MPDU requirement	15% ¹	15.5%
Building Height, max average	Existing building: 140 ft Proposed building: 98 ft ²	Existing building: 137 ft Proposed building: 90 ft
Public Open Space (min s.f.)	5%	5% (1.6% or 2,360 sf onsite and remainder by payment of a fee) ³
Minimum Setbacks (ft)		
Front	0 ft	82 ft
Side	10 ft	15 ft
Rear	30 ft	34 ft

¹The MPDU requirement is a Binding Element of H-140

²Binding Element of H-140 states that the height of the existing building is limited to 140' and the new building is limited to 98'

³The Applicant is requesting to pay a fee in lieu for the remainder of required POS per Section 59.6.3.6.C.2 of the Zoning Ordinance.

Parking	Spaces Required	Spaces Provided
Vehicle Parking		
1 Bedroom (73 units)	37 min/91 max	--
2 Bedroom (71 units)	53 min/107 max	--
3 Bedroom (73 units)	55 min/146 max	--
Total Residential Parking	145 min/344 max ¹	206 ²
Bicycle Parking (Long-term/Short-term)	(36/2) 38	(38/12) 50
Loading Spaces	1	1

¹ Minimum parking per market rate unit has been adjusted per Zoning Ordinance Section 59.6.2.3.1.5 to reflect unbundling.

² Parking to be finalized at building permit.

Residential Compatibility Standards, Section 59.4.1.8

The Subject Property is adjacent to a single-family detached neighborhood, zoned R-60, to the rear and is therefore required to conform to the residential compatibility standards of the Zoning Ordinance for rear yard setback and height. Section 59.4.1.8.A.2 requires the rear setback of the Subject Property to be 1.5 times the rear setback of the R-60 zone. The rear setback in the R-60 zone is 20 feet, therefore the minimum rear setback for the Project is 30 feet and as proposed, the new building will be located 34 feet from the rear property line. Section 59.4.1.8.B.2 limits the height of the proposed building at the rear setback line to the maximum height of the R-60 zone, which is 35 feet. The proposed new building will be 35 feet in height at the rear setback line and will increase in height at a 45-degree angle to the maximum building height of 86 feet.

ii. Division 4.7 Optional Method Public Benefits

Based on the CRT zone and size of the Subject Property, the Project is required to provide 50 public benefit points from a minimum of 3 categories to achieve the desired incentive density above the standard method limit. This Project will provide an excess of 15% MPDUs, therefore one less category is required per Section 59.4.7.3.D.e, however the Applicant is achieving 50 points from 3 categories. In accordance with the Zoning Ordinance, Section 59.4.7.1, the Site Plan proposes the following public benefits to satisfy the requirements:

Table 2: Park Montgomery Site Plan Public Benefit Calculations

Public Benefits	Incentive Density	
	Requested	Recommended
59.4.7.3B: Transit Proximity		
Level II	10	10
59.4.7.3.D: Diversity of Uses and Activities		
Affordable Housing	36	36
59.4.7.3E: Quality of Building and Site Design		
Structured Parking	6	6
TOTAL		52

Transit Proximity

Level II

The Applicant requests 10 points for locating a project within ¼ to ½ mile of a future Level 2 station, the Piney Branch Road Purple Line Station within the CRT zone. Points for this incentive are granted based on proximity to existing or master-planned transit stops based on the transit service level and zone. The Planning Board approves 10 points for this category.

Diversity of Uses and Activities

Affordable Housing

The Applicant requests 36 points for providing affordable housing beyond the requirements of Chapter 25A. Points for this incentive are granted for every 1 percent of MPDUs greater than 12.5 percent. The Applicant will provide 15.5% MPDUs.

$$15.5\% \text{ MPDUs proposed} - 12.5\% \text{ MPDUs min} = 3 * 12 \text{ points per } 1\% \text{ over min} = 36 \text{ points}$$

The Planning Board approves 36 points for this category.

Quality Building and Site Design

Structured Parking

The Applicant requests 6 points for providing parking in an above grade parking structure. Points for this incentive are granted on a sliding scale based on the percentage of total on-site spaces provided in an above ground parking structure multiplied by 10 points, plus the percentage of total on-site spaces provided in a below-grade parking structure multiplied by 20 points. The Applicant will provide 84 parking spaces in an above and below grade parking structure with a total of 206 parking spaces onsite.

$$(84/206)*10 + (84/206)*20 = 6 \text{ points}$$

The Planning Board approves 6 points for this category.

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

(1) Division 6.1 Site Access

All Site access will occur on Piney Branch Road. The existing driveway will be narrowed to 22.5 feet which complies with the design standards for a driveway within a CRT Zone (Section 59.6.1.4.A), which requires a minimum of 20-feet and a maximum of 32 feet. Pedestrian access will be improved by the new sidewalk to be installed by the Applicant along the Site frontage. The existing 5-foot sidewalk located at the back of the existing curb will be removed and replaced with a 10-foot sidewalk set back 12.5 feet from the curb. Moving the sidewalk back from the curb improves comfort and safety for pedestrians and also provides the necessary space for MCDOT to implement the master-planned two-way separated bikeway along the north side of Piney Branch Road (Site frontage) in the future.

(2) Division 6.2 Parking, Queuing and Loading

The Site meets all requirements for on-site parking and loading. Queuing is not expected to be an issue given the ample storage space for vehicles provided on-site. In compliance with the parking setbacks for the CR zones, the Applicant will remove 5 spaces located in front of the proposed building. The Applicant proposes a total of 206 parking spaces, which is within the range of required spaces based on the number of bedrooms provided (145 minimum, 344 maximum). The Project provides 84 parking spaces within the structured parking facility and 122 within the surface parking spaces.

The Applicant will provide a total of 50 bicycle parking spaces on-site. The 38 long-term spaces will be located within a well-lit secure area located on the first floor of the structured parking facility. In compliance with Section 59-6.2.6.B., the long-term parking spaces will be secured behind a locked door, which residents can access with a card reader. The parking area will be outfitted with a repair station (including air and tools) and power outlets. The 12 short-term parking spaces will be located at the entrances to the two buildings on-site.

All loading and trash collection activities will occur on-site. A new on-site loading area is proposed within the front of the parking structure and will accommodate an SU-30

truck. The design of the loading area meets the design standards of Section 59-6.2.8. and will be accessible to residents moving in and out, for ridesharing, and unscheduled deliveries. Trash collection will occur at the rear of the Site at the existing trash enclosure. The Applicant has demonstrated that the design vehicles can safely access the loading and trash areas on the Site.

(3) Division 6.3 Open Space and Recreation

Open Space

The Project is required to provide 5% of the total site area as public open space, totaling 7,168 square feet. The Applicant proposes to provide a portion of the public open space onsite totaling 2,360 square feet, which will be located along the Piney Branch Road frontage and will include a stairway/ramp seating area. Given the significant slopes onsite, the public open space will provide a seating area near the public right-of-way within the difficult grade, and the Applicant requests to pay a fee in lieu for the remaining portion of the required public open space (4,808 sf).

The calculation methodology as outlined in Section 59-6.3.6.C.2², which includes the fair market land value and the construction costs per square foot for the remaining 4,808 sf of open space, would require a fee in lieu payment of \$187,992.80. The Applicant has requested Alternative Compliance to only pay the portion of the fee in lieu attributed to the construction costs, which totals \$100,968.

Alternative Compliance

Per Section 59.6.8, an alternative method of compliance may be approved if the Planning Board determines that there is a unique site, use characteristic, or development constraint such as grade, visibility, existing building or structure that precludes a safe or efficient development under the requirements of the applicable Division, in this case Section 59.6.3. Accordingly, the ability to make a payment of \$100,968 satisfies the alternative design standards as follows:

- i. ***Satisfy the intent of the applicable Division;***

² Section 59.6.3.6.C: The Planning Board may find that the requirement for public open space is satisfied in whole or in part by: 2) paying all or part of the cost to design, construct, renovate, restore, install, or operate a public open space located within or near the applicable master plan area if the payment: a) equals the cost of constructing the same amount of public open space and any associated amenity on-site per square foot plus the fair market value of the land per square foot; b) implements the open space, recreation, and cultural goals of the applicable master plan; and c) is made within 30 days after the release of any building permit for the subject application.

The intent of Division 6.3, Open Space, is to provide adequate light, air, circulation, and recreation and encourage preservation and enhancement of natural resources. The Division's intent will be met through the alternative payment as the portion of provided public open space will serve residents and neighbors in the vicinity. The design, as proposed, will provide a public seating area along the Site's frontage along Piney Branch Road. To the east of the proposed public open space, the grade of the Site increases significantly and contains significant trees that are to be preserved, fulfilling the Division's intent to preserve and enhance natural resources. Other areas of the Site would not be easily accessed by the public and therefore would not benefit the public.

ii. ***Modify the applicable functional results or performance standards the minimal amount necessary to accommodate the constraints;***

The alternative payment modifies the requirement of the minimal amount necessary in order to accommodate the aforementioned constraints. Given the proposed new building will provide entirely low- and middle- income housing units, the reduced payment is the minimum necessary to allow successful project financing. The Applicant will provide as much public open space onsite as practicable and feasible given the physical grade. The reduced fee in lieu is equal to the construction costs for the remaining required open space onsite. The payment will fund offsite open space and future Park improvements within the Long Branch Sector Plan vicinity.

iii. ***Provide necessary mitigation alleviating any adverse impacts;***

The Applicant's request to provide a portion of the required open space onsite and pay a reduced fee in lieu for the remaining portion will entirely avoid potential adverse impacts to the Property's steep grade along the frontage and avoiding impacts to the existing trees in this area. There are opportunities for the County or Parks to use the payment to create or improve other public facilities in the Long Branch area as identified by the Sector Plan. The ability to use these funds for these purposes will better serve the surrounding community. Further, bundling these funds with other private and public funds will allow for completion of needed projects in a more coordinated and efficient manner.

iv. ***Be in the public interest.***

The request for Alternative Compliance is in the public's interest, as the Project will provide infill development for 76 new affordable housing units near the future Purple Line Station. The Alternative Compliance will allow the Applicant to make best use of the Project's financing to support affordable housing and physical space closest to Piney Branch Road frontage as public open space and provide \$100,968 towards the Long Branch Amenity Fund for open space and future Park improvements within the Long Branch Sector Plan vicinity.

The Planning Board approves the Applicant's request for Alternative Compliance to reduce the fee in lieu payment to \$100,968 based on the existing physical constraints of the Site, the affordable housing component of the Project, and the ability of the County to better use the funds for community improvements beyond the Property.

Recreation Guidelines

The Application is in conformance with the *Recreation Guidelines*, as demonstrated in the Recreation Facilities Data table provided with the Application (Scenario ID 9709). The Applicant is providing an interior courtyard including two pedestrian bridges, picnic seating, and a playground for ages 2-5, and an indoor community space including a resident lounge. Final locations and quantities of each of these amenities will be shown on the Certified Site Plan.

(4) Division 6.4 General Landscaping and Outdoor lighting

Landscaping and lighting, as well as other site amenities, will be provided to ensure that these facilities will be safe, adequate, and efficient for year-round use and enjoyment by residents and visitors. The proposed public open space and interior courtyard will be newly landscaped with a mix of plantings and ornamental trees. The Project will improve the existing sidewalk along Piney Branch Road and install the Long Branch streetscape standards. The on-site lighting will limit the necessary light levels to streets and sidewalks.

e) Satisfies the applicable requirements of:

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

This Application has satisfied the applicable requirements of Chapter 19 through obtaining a stormwater management concept plan from the Montgomery County Department of Permitting Services. The approval dated September 1, 2021, states that all required stormwater management goals will be met through the implementation of micro-bioretenment planters.

ii. Chapter 22A, Forest Conservation.

With this Site Plan Application, the Applicant has provided a Final Forest Conservation Plan and Variance Request.

Forest Conservation

This Application is subject to Chapter 22A Forest Conservation Law and has included a Final Forest Conservation Plan with this Application. Planning Staff previously reviewed a Preliminary Forest Conservation Plan associated with the approved Local

Map Amendment Application for the Subject Property. The submitted Final Forest Conservation Plan shows that within the 3.3-acre site area, there is approximately 0.28-acres of forest, as most of the surrounding forest lies outside of the Property. Of that 0.3-acres of forest, approximately 0.08-acres are proposed to be cleared; the Forest Conservation Worksheet included in the Forest Conservation Plan shows a calculated Afforestation Requirement of 0.13-acres, which will be met through fee-in-lieu given the limited onsite area.

Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The Law requires no impact to trees that measure 30 inches DBH or greater; are part of a historic site or designated with a historic structure; are designated as national, state, or county champion trees; are at least 75% of the diameter of the current State champion tree of that species; or to trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The subject Application includes disturbance/removal of trees that are ≥ 30 inches DBH, therefore a variance is required. Following an initial variance request submitted with the Preliminary Forest Conservation Plan, the Applicant provided an updated variance request, dated March 2, 2022, with the Final Forest Conservation Plan for the impacts to nine (9) subject trees and proposed removal of two (2) subject trees that are considered high-priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. Both the Preliminary Forest Conservation Plan and Variance Request, detailing impacts proposed to subject trees, are consistent with the submitted Final Forest Conservation Plan as detailed below.

Table 3: Trees to be Removed

TREE #	TYPE	DBH	Percent of CRZ Impacted by LOD	CONDITION	PROPOSED STATUS
10	White Oak	34"	60%	Fair	REMOVE
13	Scarlet Oak	33"	41%	Fair	REMOVE

Table 4: Trees to be Impacted but Retained

TREE #	TYPE	DBH	Percent of CRZ Impacted by LOD	CONDITION	PROPOSED STATUS
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3	Scarlet Oak	30"	21%	Good	SAVE
4	Scarlet Oak	36"	41%	Good	SAVE
5	Scarlet Oak	33"	17%	Good	SAVE
7	White Oak	33"	12%	Fair	SAVE
8	White Oak	35"	1%	Not listed (off-site tree)	SAVE
11	White Oak	32"	16%	Not listed (off-site tree)	SAVE
16	Red Maple	33"	17%	Fair	SAVE
17	White Oak	37"	43%*	Fair	SAVE
18	Tulip Poplar	49"	66%*	Fair	SAVE

*Although the impacts proposed for Tree-17 and Tree-18 are large, much of the root zones are constrained by existing buildings/paving. The impacts proposed will consist of surface work which limits the actual impact for these trees.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. In addition to the required findings outlined numerically below, the Applicant has demonstrated that enforcement of the variance provision would result in an unwarranted hardship due to a number of distinct, yet related reasons: In order to provide Fire & Rescue access to the Site along with adequate parking and stormwater management that do not conflict with the existing Site improvements, unavoidable issues arise. Due to the Site's grading as well as height limits associated with the development, providing increased underground, rather than surface, parking is not feasible without variance tree impacts. The proposed underground parking helps to limit the overall footprint of this additional development for the site but does not eliminate all impact to subject trees. As conditioned, the proposed layout, which has been coordinated between the Applicant and M-NCPPC Staff, minimizes CRZ impacts to existing specimen trees. Further, the Applicant will be required to coordinate with an Arborist as well as the M-NCPPC Forest Conservation Inspector to utilize specialized construction techniques, provide tree protection, and minimize the limits of disturbance as feasible. Due to the extensive impacts related to construction around Tree-17 and Tree-18, two of the largest trees onsite, the project has been conditioned to require a five-year maintenance and management plan for these particular trees. Although trees with such impacts would typically be candidates for removal and mitigation, limiting proposed impacts to surface work, rather than excavation and major grading offers the chance for these mature trees to remain. Based on the existing circumstances and conditions on the Property, there is an unwarranted hardship that would prevent the reasonable and significant use of the Property for 76 additional affordable dwelling units and on-site parking with sufficient recreation and open space.

Variance Findings

The required findings for granting of the requested variance are as follows:

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

The Applicant's proposal to construct an additional multi-family building with structured parking for affordable housing, improve site access/circulation for Fire & Rescue, and improve onsite stormwater management greatly reduces the impacts that would otherwise occur if the Applicant proposed demolition of the existing building or proposed construction of a new building and infrastructure elsewhere on the Site. Further, the Applicant's proposal will provide environmental benefit via proposed mitigation plantings. With these factors considered, the variance request would be granted to any applicant in a similar situation and does not represent a special privilege granted to this Applicant.

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

As stated above, the requested variance and associated tree impacts are due to the concerns related to the improvement of site access and minimizing the stormwater impacts related to the proximity of steep slopes within the limited Site area. The variance request submitted by the Applicant reflects efforts to lessen overall site impacts and retain mature trees which provide shade and buffering from adjacent uses. Without this flexibility in the proposed design and construction, far greater subject tree impacts would be expected. Therefore, this variance request is not based on circumstances which are the result of actions by the Applicant.

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

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

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

The proposed tree plantings, which includes mitigation plantings, will help maximize the permeability of the soil, which serves to reduce runoff. The planting of these trees, as well as the retention of mature trees onsite, will also help water quality goals by maintaining, and increasing, the level of shading, and water retention and uptake. Additionally, the Subject Property does not currently contain any stormwater management features. The Applicant proposes a development which will meet current

State and local stormwater management standards; this will be verified by the submission of a Stormwater Management Plan to the Department of Permitting Services. A measurable degradation in water quality is not anticipated as the development will provide Best Management Practices (BMP) areas to meet ESD requirements for the Site in order to achieve water quality standards. This Application does not increase impervious surfaces, as the proposed building falls mainly on the existing surface parking lot. This development will also provide stormwater management on-site, where there are currently no such measures. Thus, the Application will ultimately result in an improvement of water quality, rather than cause measurable degradation.

Mitigation for Trees Subject to the Variance Provisions

There are two subject trees proposed for removal in association with this Application. Planting mitigation for the removal should be at a rate that approximates the form and function of the trees removed, at a ratio of approximately 1-inch DBH for every 4-inch DBH removed, using trees that are a minimum of 3-inch caliper. As a result of the proposed removal of two subject trees, for a total of 67 inches DBH removed, which results in a mitigation requirement of at least 17 caliper inches of native canopy trees sized at least 3 caliper inches each. The Applicant has also included additional native canopy tree plantings for environmental enhancements within the site. This inclusion results in mitigating a total of 119 caliper inches of trees planted in association with this development. This approach which will greatly enhance the natural features onsite and compliment the adjacent forest canopy.

Maintenance & Monitoring for Impacted Trees Subject to the Variance Provisions

It is important to disclose additional information regarding the proposed significant impact on Tree 17 and Tree 18. These trees are centrally located on the Property, situated between existing surface parking and an existing courtyard area. Although the work proposed at this location is shown to be limited to the edges of the critical root zones of both trees, the trees will be subject to a significant amount of disturbance as indicated by the 43% and 66% CRZ impacts. The Applicant will work with an ISA Certified Arborist who is also a Maryland Licensed Tree Care Expert to prepare a tree-save plan which includes protective measures for Trees 17 and 18. Further, the Applicant will enter into a contract with an appropriate tree care professional to implement a five-year tree care program to ensure the long-term health and prevent the potential decline of two large and centrally featured specimen trees. This level of care is needed due to the combination of impact proposed and the location of the trees; both trees have canopy that extends over the courtyard and outdoor play areas for the existing and proposed buildings. The detailed terms of the program shall be determined in coordination with the tree care professional and M-NCPPC at the certified Forest Conservation Plan.

Planning Board action on the Variance

As a result of the above findings, the Planning Board approves the Applicant's request for a variance from the Forest Conservation Law to impact, but retain, nine subject trees and to remove two subject trees associated with the Application.

With the findings as described above and as conditioned by this report, the Applicant will satisfy all applicable requirements of Chapter 22A Forest Conservation.

Noise

The Subject Application proposes residential units near an arterial roadway and is therefore subject to the noise regulations associated with residential development. To address development standards regarding noise mitigation, the Applicant coordinated with EA Engineering, Science, and Technology Inc, an engineer specializing in acoustics. The analysis dated November 19, 2021, states that all residential units proposed will be subject to exterior traffic noise levels of 65 dBA, however interior noise levels will be 42 dBA or lower which is in the acceptable range, without the need for architectural upgrades. As conditioned, all areas will meet the requirements of the Montgomery County Noise Guidelines.

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

The Site access and on-site circulation were evaluated by MDOT SHA, MCDOT and Planning staff. All reviewing agencies agreed that as proposed and conditioned, the Project demonstrates safe and efficient access and circulation for the Site for all travel modes (motorists, pedestrians, bicyclists and transit users) and for all on-site activities (parking, loading, trash collection, etc.). The building massing, open space, and site amenities are safe and adequate. As previously mentioned, the new 90-foot building will be located within the same footprint as the existing parking structure and will be lower in height than the existing building onsite and neighboring condominium building to the west. The Applicant proposes to create a private interior courtyard area between the two buildings which will provide picnic seating, playground and landscaping for the residents. The Project will also provide a portion of public open space along the Site frontage which will be integrated into the existing grade, providing a new entrance with stairs, ADA ramps, and seating area along Piney Branch Road.

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 Site Plan substantially conforms with the recommendations of the 2013 *Long Branch Sector Plan* (Sector Plan). The Sector Plan identifies four goals (p. 24):

- **Community:** Creating a strong sense of place and identity through design, parks, and public facilities;
- **Land Use and Zoning:** Addressing compatibility issues and providing redevelopment incentives;
- **Sustainability:** Creating a place for people that also supports and enhances natural systems; and
- **Mobility:** Providing options for getting around and integrating connections.

The proposed redevelopment will allow reinvestment in the Property and community with an increase in low- and middle-income housing, without displacing any existing residents, and will be in proximity to the future Purple Line, allowing future residents a wide range of mobility options.

The Sector Plan encourages reinvestment and new development while minimizing potential displacement of residents. Therefore, the Sector Plan intentionally limited rezonings and specifically, this Property was not rezoned nor recommended for a floating zone. However, given the nature of this proposal being an affordable housing project, the Planning Board and County Council found that the LMA to rezone the Property from R-H to CRTF was consistent with the intent of the Sector Plan for the purposes of the proposed Project.

Master-Planned Bikeways and Bicycle Parking

The 2013 *Long Branch Sector Plan* specifically recommends right-of-way (ROW) improvements for Piney Branch Road, including upgraded sidewalks and bicycle lanes, and the 2018 *Bicycle Master Plan* envisions two-way separated lanes located on the north side of Piney Branch Road along the Site frontage. The Subject Property has previously dedicated to the 120-foot master planned ROW, and the Applicant has committed to participate in the master planned vision for Piney Branch Road. The Applicant will construct the interim condition, which consists of removing the existing 5-foot sidewalk located at the back of the existing curb, installing a 10-foot sidewalk set back 12.5 feet from the road, with a retaining wall to clear the space needed for future implementation of the two-way separated bike lane.

- 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;

Local Area Transportation Review (LATR)

Although Adequate Public Facilities are generally evaluated at the time of Preliminary or Site Plan, the facilities were considered for the project when the Applicant pursued a Local Map Amendment in the fall of 2020. The Application was subject to the 2016-2020 *Subdivision Staging Policy (SSP)* and 2017 *Local Area Transportation Design Guidelines*³. Because the Project is estimated to generate more than 50 new person trips in the evening peak hour, the Applicant was required to submit a Transportation Impact Study (TIS). The TIS submitted with the Application demonstrates that there is adequate capacity on the adjacent roadways to accommodate the additional vehicle traffic estimated to be generated by the Project. The Project is estimated to generate 42 total new person trips during the morning peak hour and 51 total new person trips in the evening peak hour.

The Project is estimated to generate 22 new vehicle trips in the morning peak hour and 28 in the evening peak hour and was therefore required to study one tier of intersections, as approved by Planning, MCDOT and MDOT SHA staff. The identified intersections were studied in November of 2020 and shown in Figure 10 below. In accordance with the Planning Department's adjusted policy for conducting traffic counts during the COVID 19 pandemic, the Applicant applied a growth rate of 1.07 to the evening peak hour traffic volumes.

Table 5: Summary of Site Trip Generation

Trip Generation	Morning Peak Hour			Evening Peak Hour		
	ITE	Policy Area Adjustment	Person Trips	ITE	Policy Area Adjustment	Person Trips
Proposed 76 units	27	22	42	33	28	51

Source: Transportation Impact Study conducted by Traffic Concepts, Inc., dated November 2020, modified by staff.

³ The 2021-2024 *Growth and Infrastructure Policy* applies to new Preliminary Plan Applications filed after January 1, 2021. As this project does not require a Preliminary Plan, adequate public facilities must be evaluated at either Site Plan or building permit. A general Adequate Public Facilities review was found to be within the established standards at the time of the Local Map Amendment, and a determination was made that the Application was not subject to the 2021 LATR and could be evaluated based on the 2017 LATR.

Table 6: Net New Person Trips by Travel Mode

Peak Travel Period	Auto Driver	Transit	Pedestrian ¹	Bicycle	Total Person Trips
AM	22	4	10	6	42
PM	27	5	13	8	51

¹ Pedestrian trips subtotal represents the combined total of transit trips and non-motorized trips, as required by the 2016-2020 SSP.

Source: Transportation Impact Study conducted by Traffic Concepts, Inc., dated November 2020, modified by Staff.

Table 7: Summary of Transportation Impact Study

Intersection	Operating Condition	Policy Area Congestion Standard	AM Peak Period (Avg. vehicle delay in seconds)		PM Peak Period (Avg. vehicle delay in seconds)	
			Existing	Future	Existing	Future
1. Piney Branch Road/ University Blvd	Signalized	80 sec.	46.2	46.3	49.7	49.7
2. Piney Branch Road/ Carroll Avenue	Signalized	80 sec.	9.5	9.5	11.5	11.6
3. Piney Branch Road/ Site Driveway	Unsignalized	80 sec.	0.3	0.6	0.2	0.5

Source: Transportation Impact Study conducted by Traffic Concepts, Inc., dated November 2020.

All intersections studied show an average vehicle delay that is fewer than 80 seconds in both the morning and even peak hours. Therefore, a finding can be made that the adjacent network has adequate capacity today and can accommodate the vehicle trips estimated to increase by the Project. As per the 2017 LATR, no mitigation will be required by the Applicant.

School Adequacy

The FY22 Annual School Test, approved by the Planning Board on June 17, 2021 and effective July 1, 2021 is applicable to this application.

The project is served by Montgomery Knolls/Pine Crest ES, Eastern MS and Montgomery Blair HS. Based on the FY22 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 8: Applicable FY2022 School Adequacy.

School	Projected School Totals, 2025				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/ Deficit		Tier 1	Tier 2	Tier 3
Montgomery Knolls/Pine Crest ES	1,315	948	72.1%	+367	No UPP	452	630	828
Eastern MS	1,012	1,030	101.8%	-18	No UPP	108	185	337
Montgomery Blair HS ⁴	2,889	2,693	93.2%	+196	No UPP	376	774	1,208

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school's adequacy status and ceilings, as determined in the Annual School Test. Under the FY22 Annual School Test, Montgomery Knolls/Pine Crest ES and Eastern MS and Montgomery Blair HS do not require any UPP as identified in Table 8. If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

Calculation of Student Enrollment Impacts

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

With a net of 76 multifamily high-rise units that are not age-restricted, the proposed project is estimated to generate the following number of students based on the subject Property's location within an Infill Impact Area:

Table 9: Estimated Student Enrollment Impacts.

⁴ Projected enrollment reflects the estimated impact of CIP P651908, which will reassign students between the Downcounty Consortium, Walter Johnson HS and Woodward HS in 2025.

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	0	0.195	0.000	0.096	0.000	0.139	0.000
SF Attached	0	0.166	0.000	0.091	0.000	0.116	0.000
MF Low-rise	0	0.059	0.000	0.023	0.000	0.032	0.000
MF High-rise	76	0.034	2.584	0.015	1.140	0.016	1.216
TOTALS	76		2		1		1

As shown in Table 9, on average, this project is estimated to generate 2 elementary school students, 1 middle school student and 1 high school student. The number of students generated does not exceed the adequacy ceilings identified for each school in Table 10, therefore no additional UPPs are required and neither are partial payments across multiple UPP tiers.

Analysis Conclusion and Condition of Approval

No UPP condition required.

Other Public Facilities

Public facilities and services are available and will be adequate to serve the proposed development. The Subject Property is proposed to be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service which has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as electrical, telecommunications, gas, police stations, firehouses, and health services are operating according to the *Subdivision Staging Policy* resolution in effect when the related LMA H-140 was approved will be adequate to serve the Property.

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

The Subject 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 Proposal is compatible with existing and pending nearby development. The new 90-foot tall building will be located between the existing 140-foot building onsite and the existing 13-story condominium building located just to the west of the Site. The

Property is adjacent to an existing single-family detached neighborhood in the rear and therefore must meet the residential compatibility standards of Section 59.4.1.8 of the Zoning Ordinance. The new building is proposed to be a maximum 90 feet in height, which will step down in the rear to conform to the residential compatibility standards. Additionally, the existing slope onsite increases towards the rear, further reducing the perceived height from the single-family neighborhood. The proposed public open space along the frontage of the Property will provide a public plaza with seating options for those along Piney Branch Road near the existing bus stop at the southwest corner of the Site.

- 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 is not zoned C-1 or C-2.

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 MAR 21 2022 (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 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 Rubin, seconded by Vice Chair Verma, with Chair Anderson, Vice Chair Verma, and Commissioners Cichy and Rubin voting in favor of the motion, and Commissioner Patterson absent at its regular meeting held on Thursday, March 17, 2022, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

MR. RICHARD BRUSH, MANAGER
MCDPS-WATER RES. PLAN REVIEW
255 ROCKVILLE PIKE
2ND FLOOR
ROCKVILLE, MD 20850

By email rick.brush@montgomerycountymd.gov

MS. LISA SCHWARTZ
DHCA
100 MARYLAND AVENUE
4TH FLOOR
ROCKVILLE, MD 20850

By email lisa.schwartz@montgomerycountymd.gov

MR. MARK BEALL
MCDPS-ZONING
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MD 20850

By email mark.beall@montgomerycountymd.gov

MR. CHRISTOPHER ANDERSON
MPDU MANAGER, DHCA
100 MARYLAND AVENUE, 4TH FLOOR
ROCKVILLE, MD 20850

By email
Christopher.anderson@montgomerycountymd.gov

Louis Kiang
Park Montgomery LTD Partnership
875 Hollins Road Ste 202
Baltimore, MD 21201

Michael Loe
CPJ and Associates
1751 Elton Road Suite 300 Silver Spring,
MD 20901

Mark Keeley
7525 Connelley Drive Ste B
Hanover, MD 21076

Sean Suhar
7226 Lee DeForest Drive Ste 102
Columbia, MD 21046

Denise D. Monroe
Pineway Towers Condominium
8830 Piney Branch Road
Silver Spring, MD 20903

MR. GREG LECK
MCDOT
101 MONROE ST
10TH FLOOR
ROCKVILLE, MD 20850

By email greg.leck@montgomerycountymd.gov

MR. ATIQ PANJSHIRI
MCDPS-RIGHT-OF-WAY
PERMITTING
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MD 20850

By email
atiq.panjshiri@montgomerycountymd.gov
MS. CHRISTINA CONTRERAS
MCDPS-LAND DEVELOPMENT
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MD 20850
By email
christina.contreras@montgomerycountymd.gov

MR. ALAN SOUKUP
MCDDEP-WATER & WASTEWATER POLICY
255 ROCKVILLE PIKE, SUITE 120
ROCKVILLE, MD 20850
By email alan.soukup@montgomerycountymd.gov

Roame McWain
875 Hollins Street Ste 202
Baltimore, MD 21201

Matt Bender
1348 T St NW, Suite 200
Washington, DC 20009

Heather Dihopolsky
Wire Gill LLP
4800 Hampden Ln Ste 200
Bethesda, MD 20814

Robert Nicholson
1300 Mercantile Ln Ste 146
Largo, MD 20774

Kathleen Hill
kathleenhill@verizon.net

MR. MARK ETHERIDGE, MANAGER
MCDPS-SEDIMENT/STORMWATER
INSPECTION & ENFORCEMENT
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MD 20850

By email mark.etheridge@montgomerycountymd.gov

MR. EHSAN MOTAZEDI
MCDPS-SITE PLAN ENFORCEMENT
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MD 20850

By email ehsan.motazedi@montgomerycountymd.gov

MR. GENE VON GUNTEN
MCDPS-WELL & SEPTIC
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MD 20850

By email gene.vonguntent@montgomerycountymd.gov

Fernando Bonilla-Verdesoto
1348 T Street NW Ste 200
Washington, D.C. 20009

Matthew Hogan 1751 T Street N.W.
Ste 200
Washington, D.C. 20009

Phillp Hughes
CPJ and Associates
1751 Elton Road, Ste 300
Silver Spring, MD, 20901

820220020

320220030

