

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-011
Site Plan No. 820220230
Battery Lane District Site C
Date of Hearing: February 16, 2023

FEB 28 2023

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 August 24, 2022, Brown Development LLC (“Applicant”) filed an application for approval of a site plan for the construction of a multifamily building with a maximum density of 367,500 square feet with up to 315 dwelling units including 15% MPDUs, structured parking, and three partial through-block connections on 3.19 acres of CR 3.5, C-0.5, R-3.5, H-120 & Bethesda Overlay Zoned land, located at 4890 & 4900 Battery Lane; located on Battery Lane approximately 350 feet west of the Woodmont Avenue intersection (“Subject Property”), in the Bethesda CBD Policy Area and 2017 Bethesda Downtown Sector Plan (“Sector Plan”) area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820220230, Battery Lane District Site C (“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 February 6, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on February 16, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Piñero, seconded by Vice Chair Presley, with a vote of 5-0; Chair Zyontz, Vice Chair Presley, Commissioners Branson, Hill, and Piñero voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820220230, for the construction of a multifamily building with a maximum density of 367,500 square feet with up to 315 dwelling units including 15% MPDUs,

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Approved as to

Legal Sufficiency: /s/ Allison Myers
M-NCPPC Legal Department

structured parking, and three partial through-block connections on the Subject Property, subject to the following conditions:¹

Density, Height & Housing

1. Density

The Site Plan is limited to a maximum density of 367,500 square feet of residential development with up to 315 dwelling units and a minimum of 15% MPDUs on the Subject Property.

2. Height

The development is limited to a maximum height of 120 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

3. Moderately Priced Dwelling Units (MPDUs)

- a) The Planning Board has reviewed and accepts the recommendations of Montgomery County Department of Housing and Community Affairs (DHCA) in its letter dated January 5, 2023, and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations in the letter, which DHCA may amend provided the amendments do not conflict with other conditions of the Site Plan approval.
- b) The development must provide on-site 15 percent MPDUs or MCDHCA-approved equivalent consistent with the requirements of Chapter 25A and the applicable Master Plan.
- c) Before issuance of any above ground building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the MCDHCA must be executed.

Open Space, Facilities and Amenities

4. Public Open Space, Facilities, and Amenities

- a) The Applicant must provide a minimum of 17,857 square feet of public open space (14% of net lot area) on-site.
- b) Before issuance of the final Use and Occupancy Permit, the Applicant must construct the streetscape improvements, including the undergrounding of utilities, along the Property's frontage on Battery Lane, consistent with the

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.

latest Bethesda Streetscape Standards, or alternative as approved by MCDOT and Staff and illustrated on the Certified Site Plan.

- c) Before the issuance of final Use and Occupancy Permit for the residential development, all public open space areas on the Subject Property must be completed.

5. Green Cover

- a) The Applicant must provide a minimum of 35% of Green Cover on the Site comprised of intensive green roof, native canopy tree plantings, and/or bioretention planter boxes, as shown on the Certified Site Plan.
- b) Any green roof installed pursuant to this condition must have a minimum soil depth of eight inches or Staff approved equivalent.

6. Public Benefits

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

a) Connectivity between Uses, Activities, and Mobility Options

i. Minimum Parking

The Applicant must not provide/construct more than 213 parking spaces.

ii. Through-Block Connection

The Applicant must provide the three through-block connections along the eastern, southern, and western Property Line as shown on the Certified Site Plan. The through-block connections must have a minimum average width of 15 feet with an ADA accessible pathway. The through-block connections must remain open to the public between the hours of 8:00 AM and 9:00 PM. Signage must be posted to indicate hours of operation for public use.

b) Diversity of Uses and Activities

- i. Dwelling Unit Mix –The Applicant must integrate a mix of residential unit types with at least 29 efficiency units, 150 1-bedroom units, 111 2-bedroom units, and 25 3-or-more bedroom units, with the final unit mix approved by the Planning Board shown on the CSP.

- ii. Before issuance of any Use and Occupancy Certificate excluding core and shell, the Applicant must provide final floor plans to M-NCPPC and a copy of the approved layout to DPS Zoning & Site Plan Enforcement.

c) **Quality Building and Site Design**

i. **Exceptional Design**

The Applicant must construct the building in a manner consistent with the architectural elevations included in the Certified Site Plan.

ii. **Structured Parking**

The Applicant must provide a maximum of 80 parking spaces within an above-grade structure and 129 spaces within a below grade structure as shown on the Certified Site Plan.

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

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

Before issuance of any building Certificate, the Applicant must provide proof of purchase and/or payment of 0.7094 BLTs to the MCDPS and M-NCPPC staff.

ii. **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 as shown on the Certified Site Plan.

iii. **Vegetated Area**

The Applicant must install plantings in a minimum of 12 inches of soil, excluding areas attributed to Stormwater Management, covering a minimum of 5,000 square feet of the site as shown on the Certified Site Plan.

7. **Recreation Facilities**

- a) Before Certified Site Plan approval, the Applicant must meet the square footage requirements for all of the applicable recreational elements and demonstrate to M-NCPPC Staff that each element meets M-NCPPC Recreation Guidelines.
- b) The Applicant must provide the required recreation facilities as shown on the Certified Site Plan (CSP). The CSP must include an exhibit delineating location and detail of recreation facilities, where appropriate, in a manner

that is clear and corresponds to the posted surety and maintenance agreement.

8. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to hardscape, landscape, lighting, and seating along the through-block connections.

Environment

9. Forest Conservation & Tree Save

- a) 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.
- b) 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.
- c) Before the start of any demolition, clearing, grading or construction, whichever comes first, for this development Application, the Applicant must submit the forest conservation fee-in-lieu payment to the M-NCPPC Planning Department for the 0.47-acres of afforestation/reforestation requirement, or as shown on the certified Final Forest Conservation Plan.
- d) Within the first planting season following the release of the first Sediment and Erosion Control Certificate 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.
- e) The Applicant must plant the variance tree mitigation plantings on the Subject Property, with a minimum size of 3 caliper inches, totaling at least 38 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.
- f) Before any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to

the M-NCPPC Planning Department for the mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.

- g) Before any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must execute a five-year Maintenance and Management Agreement ("MMA") in a form approved by the M-NCPPC Office of General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures.
- h) Before certification of the Forest Conservation Plan, the Applicant must make minor updates to the title, notes, and graphics of the plan in order to reflect that this is an amendment of Forest Conservation Plan SC2022015.

10. Noise Attenuation

- a) Before the issuance of the first above-grade building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that the building shell for residential dwelling units affected by exterior noise levels projected at or above 65 dBA Ldn, will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. Noise-impacted units must be illustrated on the Certified Site Plan.
- b) Before the final inspection for any impacted residential unit, the Applicant /developer/builder must certify to M-NCPPC Staff that the noise-impacted units have been constructed in accordance with the certification of the engineer that specializes in acoustical treatments.
- c) If any changes occur to the Site or Preliminary Plan that affect the validity of the noise analysis dated November 29, 2022, 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.
- d) For all noise-impacted residential dwelling units, the Applicant/developer/builder must disclose in writing to all prospective purchasers that those homes are impacted by transportation noise. Such notification may be accomplished by inclusion of this information and any measures to reduce the impacts in brochures and promotional documents and must be included in any noise-impacted unit sales contracts, any illustrative site plan(s) on display within any sales related offices(s); in Homeowner Association documents; with all Deeds of Conveyance of noise impacted units; and by inclusion on all signature subdivision and site plans.

11. Stormwater Management

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Service (MCDPS) Water Resources Section in its stormwater management concept letter dated December 9, 2022, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

Transportation & Circulation

12. 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 December 22, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- b) Before the issuance of any building permit, the Applicant must obtain approval of a Project-based Transportation Demand Management Plan (TDM) from the Montgomery County Department of Transportation (MCDOT).

13. Pedestrian & Bicycle Circulation

- a) The Applicant must provide a minimum 155 long-term and 6 short-term bicycle parking spaces.
- b) The long-term spaces must be in secured, well-lit bicycle rooms on the ground floor of the parking garage, and one bicycle room within the first floor of the building, and the short-term spaces must be inverted-U racks (or approved equal) installed in a location convenient to the main entrance (weather protected preferred). The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.
- c) The Applicant must provide one bicycle repair station.
- d) The Applicant must construct the following pedestrian and bicycle facilities along the Site Frontage, the exact location, design and construction of which must comply with requirements of the Montgomery County Department of

Transportation, Division of Traffic Engineering and Operations, before issuance of the first residential Use & Occupancy Certificate.

- i. A two-way separated bikeway (minimum eight feet wide) along the south side of Battery Lane (site side), with an eight-foot concrete buffer from vehicular traffic.
- ii. A floating bus stop to be approved by MCDOT at the time of right-of-way permit.
- iii. A six-foot-wide sidewalk (minimum) along the Battery Lane site frontage with six-foot-wide buffer from traffic.
- iv. The Applicant must construct new publicly accessible pedestrian and bicycle through-block connections on the Site. The minimum average width of the entire through-block connection is 15 feet, with the dimensions of the pathways are listed below:
 - a. Along the western side of the Property, provide a trail that consists of a 10-foot-wide minimum clear path.
 - b. Along the southern (rear) side of the Property, provide an eight-foot-wide minimum path, flanked by a double row of trees.
 - c. Along the eastern side of the Property, provide an eight-foot wide minimum path and a five-foot-wide minimum tree-lined buffer from the Site vehicular access, which connects to 4827 Rugby Avenue (the lot immediately south of the property) to realize the through-block connection envisioned in the 2017 *Bethesda Downtown Sector Plan*. This connector will include seating and signage to identify it as publicly accessible.

e) Offsite Improvements

- i. Before issuance of the first above grade building permit, the Applicant must obtain MCDOT acceptance of plans for the Interim Separated Bike Lane Facility between Old Georgetown Road and Woodmont Avenue.
- ii. Before issuance of the final Use & Occupancy Certificate, the Applicant install the Interim Separated Bike Lane Facility between Old Georgetown Road and Woodmont Avenue.
- iii. Before issuance of the first residential Use & Occupancy Certificate the Applicant must construct and obtain MCDOT acceptance of the protected intersection at Woodmont Avenue and Battery Lane.

- f) Before issuance of Right-of-Way Permit by MCDPS, the Applicant must submit plans for an ADA accessible marked crosswalk across Battery Lane along the Site frontage for connection to 4901 Battery Lane, to be approved by MCDOT Division of Traffic Engineering and Operations. If approved, the Applicant must install the marked crosswalk before issuance of the final Use and Occupancy Certificate. All costs associated with the installation of the crosswalk shall be the responsibility of the Applicant.

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

- 15. The applicant must record a covenant in the Land Records, in a form approved by the Office of General Counsel, which ensures access to the general public over all public connections as shown on the Certified Site Plan, not included in a public right way. The record plat must contain a note referencing the recorded covenant.

Site Plan

16. Lighting

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

17. Site Plan Surety and Maintenance Agreement

Before 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 material, on-site lighting, indoor and outdoor recreational facilities, dog park, site furniture, retaining walls, fences, railings, sidewalks, paths and associated improvements of development, including sidewalks, landscaping and lighting. 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.

18. Development Program

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

19. 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."
- c) "The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur before any site development work commencement and before any work that is covered by the site plan surety and maintenance agreement. The Applicant, along with their representatives, must attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times."
- d) Fire and Rescue Access plan should be included in the Certified Site Plan.
- 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) Update bedroom unit mix as required by DHCA in their letter dated January 5, 2023.
- h) Update public open space exhibit to expand southern public connection to southern property line.
- i) Update site plan to clearly identify public connections to be subject to the open space covenant.
- j) Update public benefit exhibit to reflect details on Cool Roof and Vegetated Area as required by the Bethesda Implementation Guidelines.
- k) Add table to the cover sheet documenting proposed units within Sketch Plan No. 320190080 and include number of MPDUs to track Sketch Plan No. 320190080, Condition #11.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Battery Lane District Site C, 820220230, submitted via ePlans

to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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

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

The findings herein apply only to the Subject Property.

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

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

The Site Plan conforms to all binding elements of Sketch Plan No. 320200070, as amended by Sketch Plan Amendment No. 32020007A, and Preliminary Plan No. 120210130.

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

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

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

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

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

- i. Division 4.5 CR Zone***

Development Standards

The Subject Property is zoned CR-3.5 C-0.5 R-3.50 H-120' and is within the Bethesda Overlay Zone. The proposed use for multi-family dwelling units is permitted in the zone. The total tract area including the Subject Property is 3.19 acres or 139,103 square feet. The following Data Table shows the Application's conformance to the development standards of the zone.

Table 1: Battery Lane Site C Site Plan Data Table for CR Zone, Optional Method, Section 59.4.5

Development Standard	Permitted/ Required	Proposed
Tract Area	n/a	139,103 sf (3.19 acres)
Prior Dedication	n/a	3,237 sf (0.07 ac)
Proposed Dedication	n/a	8,094 sf (0.19 ac)
Site Area	n/a	127,772 sf (2.93 ac)
Mapped Density CR-3.5 C-0.5, R-3.5, H-120'		
Residential (GFA/ FAR)	486,860.5 sf (3.5)	367,500 sf (2.64)
Commercial (GFA/FAR)	69,551.5 sf (0.5)	0 sf (0)
Total Mapped Density (GFA/FAR)	486,860.5 sf (3.5)	367,500 sf (2.64)
Bethesda Overlay Zone Density	n/a	0 sf
MPDU requirement	15%	15% of units
Building Height	120 ft	120 ft
Public Open Space (min s.f.)	5% of site area	14% (17,857 sf)
Green Cover	35% of site area	44% (55,884 sf)
Minimum Setbacks (ft)		
Front (Battery Lane)	0'	5 ft
East Side	0'	61 ft
West Side	0'	35 ft
Rear	0'	47 ft

Table 2: Battery District Site C Site Plan Parking Data Table

Vehicular Parking¹	Required (minimum/maximum)	Proposed
Studio: 28 units	29/29	Unbundled parking ³
1 Bedroom: 150 units	25/31	
2 Bedroom: 111 units	111/167	
3 Bedroom: 25 units	71/300	
<u>Parking Reductions</u> BOZ reduction to baseline minimum ² <u>Specialized Spaces⁴</u>	126/527	213 spaces total 7 motorcycle spaces 1 car-share space 14 electric vehicle spaces 2 ADA van spaces 5 ADA passenger spaces
Bicycle Parking	Required (short-term/long-term)	Proposed (short-term/long-term)
	95/5	155/6
	100 total	161 total

Loading	Required	Proposed
	1	2

¹Adjustments under Section 6.2.3.I must not result in a reduction below 50% of the baseline minimum.

²The BOZ reduction is applied to the baseline minimum before all other reductions.

³Unbundling provisions per Zoning Ordinance Section 59.6.2.3.I.5.

⁴Subject to final review by Department of Permitting Services at the time of building permit.

ii. *Division 4.7 Optional Method Public Benefits*

In accordance with the Zoning Ordinance, Section 59.4.7.1, the Site Plan proposes the following public benefits to satisfy the requirements: Connectivity and Mobility, Diversity of Uses and Activities, Quality of Building and Site Design, and Protection of the Natural Environment.

Table 3: Public Benefit Calculations- Division 59-4.7

Public Benefit	Maximum Points Allowed	Proposed	Recommended
Connectivity and Mobility			
Minimum Parking	20	14.4	7.83
Through-Block Connections	30	30	30
Diversity of Uses and Activities			
Dwelling Unit Mix	10	10	10
Quality Building and Site Design			
Exceptional Design	30	20	20
Structured Parking	20	16.2	15.9
Protection and Enhancement of the Natural Environment			
Building Lot Terminations (BLT)	30	6.38	6.38
Cool Roof	15	15	10
Vegetated Area	15	15	15
Total Points		126.98	115.11

The Bethesda Overlay Zone increases the maximum amount of public benefit points available in certain categories. Applicable to this Site Plan are the Overlay Zone's increase in maximum points available for Minimum Parking (from 10 to 20 maximum points), Exceptional Design (from 10 to 30 maximum points), Cool Roof (from 10 to 15 maximum points) and Vegetated Area (from 10 to 15 maximum points).

Connectivity and Mobility

Minimum Parking

The Applicant requests 14.4 point for providing fewer than the maximum allowed number of parking spaces. Points for this incentive are granted on a sliding scale from no points for providing maximum allowable number of on-site spaces to 20 points for providing no more than the minimum numbers of spaces on-site. Based on the formula

set forth in the Guidelines, the Applicant is eligible for 7.83 public benefit points in this category, the reduction from proposed points is a result of a calculation error. The Planning Board approves 7.83 points.

$$\begin{aligned} & [((\text{Maximum Allowed Parking}) - (\text{Parking Provided})) / ((\text{Maximum Allowed Parking}) - \\ & \quad (\text{Minimum Parking}))] * 10 \\ & (527 - 213) / (527 - 126) * 10 = 7.83 \text{ points} \end{aligned}$$

Through-Block Connection

The Applicant requests 30 points for providing three partial through-block connections onsite, two of which are envisioned by the Sector Plan. The Sector Plan envisioned through-block connections along the east and western Property line to provide north/south connections from Battery Lane down to the Woodmont Avenue District.

These partial connections will contribute to the Sector Plan vision to connect to Rugby Avenue in the future as allowed by private redevelopment. The third connection along the southern Property Line will connect the east and west side connections within the Site, allowing the public additional space through a deep site with an eight-foot-wide path, flanked by rows of trees on either side. The eastern connection will consist of an eight-foot-wide path and a tree-lined buffer that varies in width along the Site's vehicular access and will connect to an existing path at the rear of the Bethesda Police Station, allowing access to Rugby Avenue. The western connection will provide a ten-foot-wide path with a tree buffer that will be a total of up to 19 feet in some areas up to the property line with the future connection to Rugby Avenue as future redevelopment occurs. Each of the connections will be improved with lighting, landscaping, and seating to emphasize the public nature of the pathway. The width of all through-block connections will average a minimum of 15 feet as required by the CR and Bethesda Implementation Guidelines and the Project has been conditioned to require a covenant be recorded over these areas to ensure public access.

Points for this incentive are granted on criteria such as public access, minimum width, and minimum hours of operation, as determined by the Guidelines. The Planning Board approves 30 points for this category with the condition that the path be ADA accessible and open from the hours of 8am to 9pm. As conditioned, signage must be posted to indicate hours of operation for public use.

Diversity of Uses & Activities

Dwelling Unit Mix

The Applicant requests 10 points for integrating a mix of residential market-rate unit types to encourage a greater social and economic diversity, affordability and economic stability in down markets. The Bethesda Implementation Guidelines awards up to 30 points for dwelling unit mix, with 10 points being appropriate for a mix of units with at least 7.5% efficiency dwelling units, 8% one-bedroom dwelling units, 8% two-bedroom

dwelling units, and 5% three-bedroom dwelling units. As proposed, the Applicant will be providing 8.8% efficiency dwelling units, 47.6% one-bedroom units, 35.2% two-bedroom units, and 7.9% three-bedroom units. The Planning Board approves 10 points for this category.

Quality of Building & Site Design

Exceptional Design

The Applicant requests 20 points for building and/or site design that enhances the character of a setting. As a site located within the Bethesda Overlay Zone, the Project is subject to the Design Advisory Panel review, which will award points based on the quality of the design. The Applicant states that the Project fulfills many recommendations of the *Bethesda Downtown Sector Plan* and Design Guidelines and meets the six criteria listed in both the CR Implementation Guidelines and the Bethesda Implementation Guidelines for exceptional design as follows:

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

The Project elevates a mid-block site into a multi-modal connector for the Battery Lane neighborhood. It provides for the separated bike lane, a new bus stop, two through-block connectors, improved streetscape, and incorporates all vehicular access onsite in a cohesive way with the building architecture of the building front. The strong two-story building base along Battery Lane includes a two-story lobby made up of a composition of metal trellis, glass wall system, and angled front plane which recedes in depth as it moves west to the recessed building front entrance that creates a plaza fronting on Battery Lane. The building design creates two different experiences along the east and west through-block connections by locating a pick up/drop off area and active resident amenity spaces including a bicycle room with bicycle repair on the east, in juxtaposition to the front entry units and landscaped and open lawn areas on the west side.

2. *Creating a sense of place.*

The Project builds on the goals of the Battery Lane District Sketch Plan to transform the street into a distinct district. The Project is a spoke of connectivity in all directions for the neighborhood - providing access to multi-modal transportation options, walkable connections to the goods and services in the Woodmont Triangle as well as to nearby jobs at NIH and downtown Bethesda.

3. *Enhancing the public realm in a distinct and original manner.*

The Project proposes to enhance the streetscape with a double canopy of trees on Battery Lane to support its transformation into a Canopy Corridor street and provide the ultimate condition for the Separated Bicycle Lanes. The Project supports the goal to move Battery Lane from its “car focus” with expanded streetscape and sidewalks emphasizing pedestrians, street trees and connections

to the new buildings and keeping all drop-off, loading, and parking internal to the site keeping Battery Lane free of obstructions.

4. *Introducing materials, forms, or building methods unique to the immediate vicinity or applied in a unique way.*

The size and design of the Property provides the opportunity to create a Project with a feeling of openness, connection to nature, and access to light and air unique in a downtown urban area. The two-story step-back composition of metal trellis and glass wall system front façade with a receding plane leading to a two-story glass lobby entrance, recessed to create a “front porch”, uses both architecture and a mix of materials to uniquely engage with the public realm at a human-scale. Beyond the U-shaped tower, the rear of the site will remain lower in height and allow for a rooftop amenity area, including a community garden, pool, and exterior community spaces.

5. *Designing compact infill development so living, working, and shopping environments are more pleasurable and desirable on a site.*

The Project proposes compact infill development with onsite resident amenities and easy walkability to significant employment opportunities, recreation facilities, shopping, and cultural amenities. The Project proposes significant ground-floor lobby, amenity spaces and common areas, a rooftop amenity space, and a second-floor pool deck with grilling and dining stations, community garden boxes, and multiple active and passive outdoor courtyards and terraces to enhance the living environment for residents.

6. *Integrating low-impact development methods into the overall design of the site and building beyond green building or site requirements.*

The Project introduces environmental site design for stormwater management in place of an existing large surface parking lot. Stormwater management consists of a combination of green roof filtering, bio-retention areas integrated into the building architecture and landscape design, and open lawn and landscaping at grade. Structured parking replaces surface parking lots. Native plantings will minimize water use while providing benefits to pollinators and wildlife.

The Project was reviewed by the Bethesda Design Advisory Panel (DAP) twice during the Site Plan review process, at the June and July 2022 meeting. At the conclusion of the July meeting, the Panel voted 4-0 in support of 20 points with the Project as proposed. Further design improvements to the building design facing the through-block connections have been incorporated into the Project during the Site Plan review, therefore The Planning Board approves 20 points for Exceptional Design.

Structured Parking

The Applicant requests 16.2 points for providing parking within a parking structure, with 80 spaces above grade and 209 spaces below grade. The Applicant satisfies the requirements because, aside from the four short term parking spaces at the building entry, all other on-site parking is provided in a parking structure. The Planning Board approves 15.9 points in this category based on the following formula:

$$\begin{aligned} &[(\text{Above Grade Parking} / \text{Total Parking}) * 10] + [(\text{Below Grade Parking} / \text{Total} \\ &\quad \text{Parking}) * 20] \\ &[(80/213) * 10] + [(129/213)] * 20 = 15.9 \text{ points} \end{aligned}$$

Natural Environment Protection & Enhancement

Building Lot Termination

The Applicant requests 6.38 points for the purchase of 0.7094 BLT easements or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5% incentive density floor area, exclusive of any density allocated for MPDUs. Points are granted by the calculation of BLTs as provided in Section 59.4.7.3.F of the Zoning Ordinance. The Planning Board approves 6.38 public benefit points based on the following calculation:

$$(((367,500 \text{ sf}) - (69,551.5 \text{ sf})) * 7.5\%) / 31,500) * 9 = 6.38 \text{ points}$$

Cool Roof

The Applicant requests 15 points for proposing to provide any roof area on the tower portion of the building that is not covered by a vegetated roof with 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. As proposed, there are portions of the lower roof area featuring residential amenity space that will utilize light color pavers, but will not meet the cool roof standards. For this reason, The Planning Board approves 10 of the requested 15 points for this category with a condition that the final layout be shown on the Certified Site Plan.

Vegetated Area

The Applicant requests 15 points for installation of vegetated area not already being provided as public open space or within stormwater management areas. The Bethesda Implementation Guidelines awards points if certain criteria are met including soil depth greater than 12 inches, the vegetated area is used as a community garden, and the vegetated area is in excess of 5,000 square feet, among other criteria. Beyond the green area on-site devoted to stormwater management, public open space, and private open space at the ground level, the Applicant is proposing vegetated area within the second floor roof amenity area that will exceed 5,000 square feet and 12 inches in depth. This area will be designed as roof landscaping to improve aesthetics surrounding the pool area and other seating and gathering spaces, as well as in areas that are

designed as a community garden. The Planning Board approves 15 points for this category.

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

(1) Division 6.1 Site Access

Vehicular access is provided from a consolidated curb cut on Battery Lane to reduce exposure to conflicts with pedestrians and cyclists and from other motorists on Battery Lane. The vehicular Site access point was evaluated and approved by MCDOT. Pedestrian and bicycle access to and partially through the Site is improved with three, public through-block connections located on the eastern, western, and southern (rear) sides of the Site. The Applicant will construct the ultimate condition of the two-way separated bike lanes on the south (Site) side of Battery Lane. Other improvements include a wider sidewalk, buffer between the sidewalk and bikeway facility, and a new floating bus stop along the western side of the Site on Battery Lane.

(2) Division 6.2 Parking, Queuing and Loading

The Applicant is providing 213 vehicular parking spaces which exceeds the adjusted minimum (126 spaces) and is less than the maximum (527 spaces). The Applicant exceeds the minimum parking requirements for bicycling with 155 long-term spaces and 6 short-term spaces. The long-term bicycle parking spaces are provided in three secure bike parking rooms on the entry level of the building and on P1 of the garage. The short-term spaces are located near the main lobby entrance of the building. A single onsite loading space is required, and the Applicant is providing two.

(3) Division 6.3 Open Space and Recreation

Given the Site's tract area of 3.19 acres and one frontage, the Applicant is required to provide 5% of the Site Area as public open space. The Applicant is exceeding this requirement with 14% of the Site being proposed as public open space along the east, west and southern partial through-block connections. Each of these connections will be an average of 15 feet in width, with the western partial through-block connection being as wide as 19 feet in some locations. These areas are designed with appropriate lighting, landscaping, and benches to enhance the public, pedestrian nature of the space.

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 bicycle amenities in the form of constructing the master planned separated bicycle lanes along the Battery Lane frontage as well as partial through-block connections of a width that can accommodate bicyclists, indoor parking garage and a bicycle support station; indoor community spaces, including a fitness room; and interior courtyards with picnic seating, grilling areas, and open grass lawn

areas. 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 Applicant will provide the streetscape improvements including street trees and street lighting as required by the Bethesda Streetscape Standards along the Site frontage. The proposed landscaping interior to the site will be located along the building entry plaza, the partial through-block connections, and the rooftop amenity areas which will be a mixture of canopy and understory trees as well as shrubbery. The Applicant proposes pole lighting along the through-block connections to ensure safety, which will be full cut-off fixtures to ensure compatibility and no spillover to adjacent properties.

As shown in the Development Standards table, the Site Plan meets all general requirements and development standards of Section 4.5 of the Zoning Ordinance, the optional method public benefits provisions of Division 4.7 of the Zoning Ordinance, and the general development requirements of Article 59-6 of the Zoning Ordinance.

e) Satisfies the applicable requirements of:

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

This Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Division on December 9, 2022. There are no known stormwater management facilities existing on the Property. The Application will meet stormwater management goals through green roof and micro-bioretenion planter boxes to treat stormwater runoff without the use of waivers. A detailed stormwater management review will occur at the time of detailed plan review and all facilities will be designed using the latest MCDPS guidelines.

ii. Chapter 22A, Forest Conservation.

The Application meets the forest conservation requirements of Chapter 22A of the County Code. Preliminary Plan No. 20190240 (MCPB Resolution No. 20-033) approved the Preliminary Forest Conservation Plan for the entire subdivision. Subsequently, a Final Forest Conservation Plan (SC20220150) was approved administratively in December of 2022 to finalize the requirements for Site C, which includes afforestation totaling 0.47 acres that will be met through fee-in-lieu payment. The Preliminary Forest Conservation Plan also approved a variance for the removal of 10 specimen trees for the entire subdivision, four of which are located on Site C. This Site Plan application amends the approved Final Forest Conservation Plan to show the final location of the

mitigation plantings totaling 38 inches, which will be planted along the southern property line in the form of thirteen 3-inch caliper canopy trees adjacent to the southern through block connection.

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

As described in Finding 2.d above for the General Development Standards, the parking, circulation patterns, open spaces and amenities are safe and have been designed to be well-integrated to the Site. The building massing design is compatible with the surrounding development. While the existing development to the east and west is currently developed with smaller buildings three and four stories in height, the 2017 *Bethesda Downtown Sector Plan* recommended these sites to be rezoned for future development with a mapped height of up to 120 feet. The Property to the east is also part of the Battery Lane District Sketch Plan. Until such time that these properties redevelop, the Project has provided generous setbacks beyond the requirements of the CR zone from the east, west and southern Property lines which will be further buffered with tree lined public partial through-block connections.

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

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

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

The Property is located in the Battery Lane District, designated as sites 9 and 11 on page 130 of the Sector Plan, which recommends rezoning to the CR zone to promote enhanced redevelopment opportunities to foster a quality mix of housing options. This District consists of a range of housing types including garden style apartments along Battery Lane as well as single unit homes and low- to high-rise buildings. Within this district are over 1,000 units in 16 building complexes that provide one of the major sources of market-rate affordable housing in Bethesda. These buildings were mostly built in the 1950s and 1960s and lack amenities found in newer residential development. Battery Lane Park and the North Bethesda Trail are located in the center of the District and are heavily utilized, however wider buffered sidewalks and connections through long blocks are needed to make this neighborhood a truly walkable area. Specifically, the Project addresses the following applicable goals as outlined in the Sector Plan:

- *Preserve existing market-rate affordable housing.*

The Project will include a total of 315 multi-family dwelling units, of which 15% (48 units) will become Moderately Priced Dwelling Units (MPDUs). These units will replace the existing 147 market-rate affordable housing on-site. The new development will include a mix of units ranging from studio to 3-bedroom with government regulated MPDUs, and replace the existing buildings that generally lack modern conveniences and do not provide for any MPDUs.

- *Promote enhanced redevelopment opportunities to foster a quality mix of housing options.*

The Project will provide a wide variety of unit types and sizes to expand the mix of housing options available in the Battery Lane District. The Battery Lane District currently contains condominium units, garden units, townhomes, senior housing, and with the approval of this Application, will include newer high-rise apartment options with units ranging from studio to 3-bedroom with MPDUs in each unit type.

- *Improve pedestrian and bike connectivity through the district and along the park.*

The Application will provide the construction of the interim condition for the Separated Bicycle Lanes from Old Georgetown Road to Woodmont Avenue and will build the ultimate condition for these Bicycle Lanes along the Site frontage, and the protected intersection at Woodmont Avenue and Battery Lane. The Site frontage will be further improved to the Bethesda Design Guidelines and Streetscape Standards to enhance the pedestrian experience along Battery Lane.

- *Create public through-block pedestrian grid from Woodmont Triangle. Install bump-outs to facilitate pedestrian crossings at all proposed through-block connections- subject to adequate site distances.*

Additionally, the Applicant will provide two Sector Planned north/south partial through-block connections within the Site along the east and western Property lines.

These connections will ultimately contribute to the District wide pedestrian network, specifically the recently approved through-block connections on 4901 Battery Lane, directly north of the Site. As conditioned, the Applicant will install a marked crosswalk on Battery Lane to connect with the through-block connection on 4901 Battery Lane to the north, subject to approval by MCDOT staff, to be evaluated at the time of signage and marking stage of the right-of-way permit.

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

The Application consists of a Site Area of 127,767 square feet (SF) which results in a green cover requirement of at least 44,718 SF. Currently, the Application proposes to meet this requirement through tree canopy as well as an 8-inch-deep green roof. The green cover provided by tree canopy is proposed at 29,480 SF while the proposed green roof provides an additional 26,404 SF. These figures exceed the required amount, totaling to 55,884 SF of green cover (44%). As shown in the green cover exhibit, this project aligns with the Sector Plan's Urban Green Goals.

- *Widen sidewalks along Battery Lane and provide amenities such as a planting buffer, stormwater management opportunities, urban agriculture and seating.*

The sidewalk along the Site frontage will be widened from the existing four-feet to a variable six-feet to 7.5 feet wide pedestrian zone, buffered by a streetscape planting zone. The front of Site between the Property line and building façade has been designed as an entry plaza with stormwater management areas that provide low seating walls, and ornamental trees.

- 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;*

An analysis of the Local Area Transportation Review was conducted as part of the approved Preliminary Plan No. 120190240. A Transportation Impact Study dated May 31, 2019 was reviewed and approved by Planning, MCDOT and MDOT SHA staff. No further transportation impact analysis is therefore required for the Subject Site Plan or other Site Plans for other Sites identified and analyzed as part of the Preliminary Plan,

as long as the density mixes are consistent with what was previously studied. The Subject Application did not deviate from the densities studied and therefore the transportation analysis remains valid. In addition, the Preliminary Plan determined that other public facilities, including schools, fire and rescue, electrical, telecommunications, gas, police stations, firehouses, and health services were also 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 Subject Property is zoned CR and the surrounding properties are also zoned CR. The Site Plan Application is compatible with the existing, approved and pending nearby development. The Project proposes a 120-foot tall multifamily residential building and the property confronting the Site, 4901 Battery Lane, was recently approved for a 120-foot tall residential building. The property to the east is currently developed with four-story garden apartments and is within the Battery Lane Sketch Plan (Site B) for future redevelopment. The property to the west is improved with four garden apartment buildings approximately three-stories in height with surface parking. The 2017 *Bethesda Downtown Sector Plan* rezoned several properties including the property to the west, to CR with a height of 120 feet to allow property reinvestment and foster a mix of housing options. The proposed Project will provide a Sector Planned partial through-block connection along the west side and has setback the building and designed the façade along this shared property line with two story units with entries to be compatible with the existing development to the west. The Project will also provide through-block connections and generous setbacks along the eastern and southern property lines to allow pedestrian connections through 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 was not zoned C-1 or C-2 on October 29, 2014.

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

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

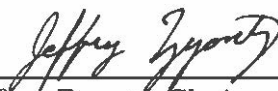
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB 28 2023 (which is the date that this resolution is mailed to all parties of record); and

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 Hill, seconded by Commissioner Piñero, with a vote of 4-0; Chair Zyontz, and Commissioners Branson, Hill, and Piñero, voting in favor of the motion, Commissioner Presley was necessarily absent, at its regular meeting held on Thursday, February 23, 2023, in Wheaton, Maryland and via video conference.



Jeffrey Zyontz, Chair
Montgomery County Planning Board