

# Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-034  
Site Plan No. 820230040  
5500 Wisconsin Avenue  
Date of Hearing: April 13, 2023

MAY 03 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 December 14, 2022, KRE CDP Property Owner, LLC (“Applicant”) filed an application for approval of a site plan for construction of an up to 187-foot-tall mixed use redevelopment of up to 444,605 square feet of density, including up to 308,118 square feet of residential uses for up to 300 dwelling units (which includes up to 55,562 square feet of MPDU bonus density for providing 15% MPDUs) and up to 136,487 square feet of non-residential uses (which includes up to 125,472 square feet of existing non-residential hotel uses to remain) on 1.81 acres of CR-3.0 C-2.0 R-2.75 H-90T zoned-land, located on the northwest quadrant of Wisconsin Avenue and South Park Avenue (designated as Lot 21, Block 1 in the “Friendship Heights” subdivision (“Subject Property”), in the Friendship Heights CBD Policy Area and 1998 *Friendship Heights Sector Plan* (“Sector Plan”) area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. Site Plan No. 820230040, 5500 Wisconsin Avenue (“Site Plan” or “Application”); and

WHEREAS, on September 16, 2022, the Applicant entered into an Agreement (acknowledged hereby but not incorporated herein) with the Friendship Heights Village Council which required certain development restrictions be incorporated into the 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

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[www.montgomeryplanningboard.org](http://www.montgomeryplanningboard.org) | [mcp-chair@mncppc.org](mailto:mcp-chair@mncppc.org)

Approved as to

Legal Sufficiency: /s/ Matthew T. Mills

M-NCPPC Legal Department

Planning Board, dated April 3, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on April 13, 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 Bartley, seconded by Commissioner Pedoeem, with a vote of 4-0; Commissioners Bartley, Hedrick, Pedoeem, and Vice Chair Piñero voting in favor with Chair Zyontz being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820230040 for construction of an up to 187-foot-tall mixed use redevelopment of up to 444,605 square feet of density, including up to 308,118 square feet of residential uses for up to 300 dwelling units (which includes up to 55,562 square feet of MPDU bonus density for providing 15% MPDUs) and up to 136,487 square feet of non-residential uses (which includes up to 125,472 square feet of existing non-residential hotel uses to remain) on the Subject Property, subject to the following conditions:<sup>1</sup>

### **Density, Height & Housing**

#### **1. Density**

The Site Plan is limited to a maximum of 444,605 square feet of total development on the Subject Property, including up to 308,118 square feet of residential uses, for up to 300 multi-family dwelling units with a minimum of 15 percent MPDUs, up to 11,015 square feet of retail/service<sup>2</sup>, and 125,472 square feet of existing non-residential hotel uses to remain.

#### **2. Height**

The development is limited to a maximum average building height of 90 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan. The maximum single-point building height is 187 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan. The average building height is determined as described in Section 59.4.5.2.D of the Zoning Ordinance.

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

<sup>2</sup> The retail/service use space can be changed to other commercial uses if there is no adverse impact on the Site Plan and APF findings and it is approved by Staff.

3. Density Averaging

Before certification of the Site Plan, the Applicant must record an instrument in the County Land records reflecting an intent for density to be transferred for this project as required under Section 59.4.5.2.B of the Zoning Ordinance, and that an amended instrument will be recorded in the County Land records, prior to issuance of an above ground building permit, reflecting that the density has been transferred for this project.

- a) The density to be transferred under this Site Plan is measured in gross square feet and will be from the Sending Property, 4608 North Park Avenue, totaling 32,718 square feet of transferred residential density.

**Open Space, Facilities and Amenities**

4. Public Open Space, Facilities, and Amenities

- a) The Applicant must provide a minimum of 8,900 square feet of public open space (11 percent of net lot area) on-site.
- b) Before the issuance of the final Use and Occupancy certificates for the residential development, the Applicant must construct the streetscape improvements, including the undergrounding of utilities, along the Property's frontage on Wisconsin Avenue, consistent with the *Complete Streets Design Guide Standards*.
- c) Before the issuance of the final Use and Occupancy certificate for the residential development, all public open space areas on the Subject Property must be completed.

5. Public Benefits

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

- a) Transit Proximity
- b) Connectivity between Uses, Activities, and Mobility Options
  - i. Minimum Parking  
The Applicant must provide a minimum of 315 parking spaces up to a maximum of 340 parking spaces within a parking structure.
  - ii. Through-Block Connection
  - iii. The Applicant must provide the shared street between The Hills Plaza and Wisconsin Avenue, as illustrated on the Certified Site Plan. The through-block connection must include an ADA accessible pathway along the north side that is a minimum of five-feet wide. The through-block

connection must remain open to the public for pedestrian and bicycle access at all times. The through-block connection may restrict access to cars when closed for special events. The Applicant must post and retain signage to notify the public that the shared street is not publicly maintained and to provide contact information to handle complaints, concerns, or questions regarding the shared street.

c) Diversity of Uses and Activities

i. Affordable Housing/MPDUS

- a. The development must provide a minimum of 15 percent MPDUs, or MCDHCA -approved equivalent, consistent with the requirements of Chapter 25A. The Applicant is receiving a 22 percent density bonus for providing 15 percent MPDUs.
- b. Before issuance of any above-grade building permit for any residential unit, the MPDU agreement to build between the Applicant and the Department of Housing and Community Affairs (DHCA) must be executed.
- c. The Planning Board has reviewed and accepts the recommendations of DHCA in its letter dated March 20, 2023 and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by DHCA provided that the amendments do not conflict with other conditions of the Site Plan approval.

ii. Enhanced Accessibility for the Disabled

The Applicant must construct four dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard, as determined by the Department of Permitting Services (MCDPS) at building permit.

d) Quality Building and Site Design

i. Architectural Elevations

Final elevation design must be shown on the Certified Site Plan. The exterior architectural character, proportion and articulation must be substantially similar to architectural elevations as shown on the Certified Site Plan as determined by M-NCPPC Staff.

The Project must adhere to the following design parameters, as illustrated on the Certified Site Plan:

- a. minimum of 60 percent transparency on the ground floor elevations along the three public roads;

- b. minimum of 40 percent transparency on the ground floor of the shared street; and
- c. maximum of 60-foot separation between operable doors on retail frontages and the shared street.

ii. Exceptional Design

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

iii. Public Open Space

The Applicant must provide a minimum of 8,900 square feet of public open space (11 percent of net lot area) on-site.

iv. Structured Parking

The Applicant must provide a minimum of 315 parking spaces up to a maximum of 340 parking spaces within a parking structure.

e) Protection and Enhancement of the Natural Environment

i. Building Lot Terminations (BLTs)

Before issuance of any building permit, the Applicant must provide proof of purchase of and/or payment for 0.7069 BLTs to the MCDPS and M-NCPPC staff.

ii. Recycling Facility Plan

The Applicant must adhere to the Recycling Facility Plan as approved by the Department of Environmental Protection.

6. Recreation Facilities

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

7. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, the shared street and the public open spaces onsite.

**Environment**

8. 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. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
- d. 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 0.33 acres of afforestation/reforestation requirement.

9. Noise Attenuation

- a. Before the issuance of the first above-grade building permit, the Applicant/developer/builder 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 who specializes in acoustical treatments.
- c. If any changes occur to the Site Plan that affect the validity of the noise analysis dated February 24, 2023, 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. Before issuance of any final Use and Occupancy Certificate or Final Inspection for any of the noise-impacted units, a Professional Engineer must certify to the Planning Department and Department of Permitting Services that the noise-impacted units have been constructed in accordance with the certification of an engineer who specializes in acoustical treatments.
- e. 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, and 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.

#### 10. Stormwater Management

The Planning Board has reviewed and accepts the recommendations of the MCDPS Water Resources Section in its stormwater management concept letter dated January 24, 2023 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

#### 11. 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 the memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- b) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its memo dated January 26, 2023 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the memo, which MCDOT may amend if the amendments do not conflict with other conditions of Site Plan approval.
- c) The Planning Board has reviewed and accepts the recommendations of the Maryland Department of Transportation State Highway Administration (MDOT SHA) in its memo dated March 8, 2023 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

- d) Before the issuance of any building permit, the Applicant must obtain approval of a Project-based Transportation Demand Management Plan (TDM) from MCDOT.

12. A common use and access covenant is required for the benefit of the public over all shared streets, sidewalks and paths not included in a public right-of-way or private street parcel. The covenant must be created by a deed acceptable to MNCPPC staff as well as in a form approved by the MNCPPC Office of the General Counsel and must be recorded among the Montgomery County Land Records.

13. Pedestrian & Bicycle Circulation

- a) The Applicant must provide on-site 119 long-term and six (6) short-term bicycle parking spaces, as illustrated on the Certified Site Plan.
- b) The new long-term spaces must be in a secured, well-lit bicycle room within the building, and the short-term spaces must be inverted-U racks (or staff-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 the following master-planned pedestrian and bicycle facilities along the property frontage, the exact location, design, and construction of which must comply with requirements of the Village of Friendship Heights and Maryland State Highway Administration, as applicable, before the final use and occupancy permit.
  - i. Wisconsin Avenue: 15-foot-wide sidewalk with 9-foot-wide buffer from traffic.
  - ii. South Park Avenue: 10-foot-wide sidewalk with six-foot-wide buffer from traffic.
  - iii. The Hills Plaza: 10-foot-wide sidewalk with six-foot-wide buffer from traffic.

14. APF Validity

The Adequate Public Facilities Review (APF) will remain valid for five (5) years from the initiation date of this resolution, as specified in Section 50.4.3.J.5 of the County Code.

15. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated February 19, 2023, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which



MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

## Site Plan

### 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 fixtures to prevent excess illumination and glare.
- d) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
- e) 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, site furniture, trash and loading enclosures, the shared street and sidewalks, private utilities, rooftop amenities, and associated improvements of development, including sidewalks, storm drainage facilities, street trees and street lights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will

be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

**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 on the approval or cover sheet(s).
- b) Add the following notes:
  - i. "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
  - ii. "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
  - iii. "The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan. 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 its representatives, must attend the pre-con with DPS Site Plan Compliance Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times."
- c) Include Fire and Rescue Access plan in the Certified Site Plan.
- d) Modify data table to reflect development standards approved by the Planning Board.
- e) Ensure consistency of all details and layout between Site and Landscape plans.
- f) Include the loading management plan as reviewed and approved by staff.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Site Plan No. 820230040, 5500 Wisconsin Avenue, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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

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

This Site Plan is consistent with the uses, densities, and all other provisions of the Sketch Plan Amendment No. 32022001A.

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

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

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

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

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

- i. Development Standards

- i. *Division 4.5 CR-3.0, C-2.0, R-2.75, H-90T Zone*

*Table 1: 5500 Wisconsin Avenue Site Plan Data Table for CR-3.0, C-2.0, R-2.75, H-90T Zone, Optional Method, Section 59.4.5.3.C.*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Approved</b>
<b>Subject Property Tract Area</b>		
CR-3.0 C-2.0 R-2.75 H-90 T	n/a	118,775 sf (2.72 ac)
<b>Prior Dedication</b>	n/a	39,763 sf (0.91 ac)
<b>Approved Dedication</b>	n/a	0 sf
<b>Site Area</b>	n/a	79,012 sf (1.81 ac)
<b>Sending Property Tract Area</b>		
CR-3.0 C-2.0 R-2.75 H-90 T	n/a	12,349 sf
<b>Prior Dedication</b>	n/a	2,280 sf
<b>Site Area</b>	n/a	10,069 sf
<b>Mapped Density (GFA/FAR)</b>	37,047 sf (3.0)	37,047 sf (3.0)
<b>Mapped Density</b>		
CR-3.0 C-2.0 R-2.75 H-90 T		
<b>Residential (GFA/ FAR)</b>	326,631 sf (2.75)	219,838 sf (1.85)
<b>Commercial (GFA/FAR)</b>	237,550 sf (2.0)	136,487 sf (1.15) <sup>2</sup>
<b>Sending Property Residential (GFA/ FAR)</b>	n/a	32,718 sf (0.28) <sup>1</sup>
<b>Pre-MPDU Bonus Residential Density Subtotal (GFA)</b>	n/a	252,556 sf
<b>MPDU Bonus Density (GFA): 22% of Subtotal</b>		55,562 sf
<b>Total Residential Density (GFA/FAR)</b>		308,118 sf (2.59)
<b>Total (GFA/FAR)</b>	356,325 sf (3.0)	444,605 sf (3.74) <sup>3</sup>
<b>MPDU requirement</b>	15%	15%
<b>Building Height, max. average</b>	90 ft <sup>2</sup>	90 feet <sup>5,6</sup>
<b>Building Height, max.</b>	187 ft	187 ft
<b>Public Open Space (min sf)</b>	10%	11% (8,900 sf)
<b>Minimum Setbacks (ft)</b>		
<b>Front</b>	0	0
<b>Front</b>	0	0
<b>Front Side</b>	0	0

<sup>1</sup> 3,087 square feet of commercial density and 1,242 square feet of residential density to remain at Sending Property.

<sup>2</sup> Commercial Density includes 125,472 square feet of existing hotel to remain and up to 11,015 square feet of additional non-residential density for the first floor of the approved development.

<sup>3</sup>Approved Residential and Commercial density reflects 'up to' however the combination of each will not exceed 444,605 square feet.

<sup>4</sup>Section 59.4.5.2.C.1 of the Zoning Ordinance allows residential density to be increased above the mapped residential

<sup>5</sup>Section 59.4.5.2.D of the Zoning Ordinance allows provisions for "T" zones, allowing height on a portion of the building to be increased above the number following the H on the zoning map so long as the average height of the building is no greater than the maximum height allowed by the mapped zone. Final maximum building height to be determined at Site Plan. FAR by 22 percent for any application that includes more than 12.5 percent of the gross residential floor area as MPDUs.

<sup>6</sup>Section 59.4.9.2.C.7 of the Zoning Ordinance eliminates the height requirement to the extent necessary to provide MPDUs beyond 12.5 percent. Final maximum height to be determined at Site Plan.

*Table 2: 5500 Wisconsin Avenue Site Plan Data Table for CR-3.0, C-2.0, R-2.75, H-90T Zone, Optional Method, Section 59.4.5.3.C. Continued*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Approved</b>
<b>Vehicle Parking (min./max)</b>		
Hotel	79/343	
Residential	150/402	
Retail	31/66	
<b>Total</b>	<b>260/811</b>	<b>340<sup>1</sup></b>
<b>Bicycle Parking (short-term/long-term)</b>		
Residential	95/5	
Hotel	23/0	
Retail	1/1	
<b>Total</b>	<b>6/119</b>	<b>6/121</b>
<b>Loading</b>	<b>1</b>	<b>1</b>

<sup>1</sup> Section 59.6.2.3.1.5. permits additional reductions to the minimum parking spaces required (.5 for efficiency, .5 for 1-bedroom, and .75 for 2-or-more-bedroom units) for unbundling residential parking spaces.

*i. Division 4.7 Optional Method Public Benefits*

In accordance with the Zoning Ordinance, Section 59.4.7.1, the Site Plan establishes 150.73 public benefit points in five categories to satisfy the requirements: Connectivity and Mobility, Diversity of Uses and Activities, Quality Building and Site Design, Protection and Enhancement of the Natural Environment.

*Table 3: Public Benefit Calculations- Division 59-4.7*

<b>Public Benefit</b>	<b>Maximum Points Allowed</b>	<b>Approved</b>
<b>Transit Proximity</b>	40	30
<b>Connectivity and Mobility</b>		
Minimum Parking	10	8.63
Through-Block Connections	20	20
<b>Diversity of Uses and Activities</b>		
Enhanced Accessibility	20	4
Moderately Price Dwelling Units	N/A	30
<b>Quality Building and Site Design</b>		
Architectural Elevations	20	15
Exceptional Design	10	7
Public Open Space	20	1.26
Structured Parking	20	18.09
<b>Protection and Enhancement of the Natural Environment</b>		
Building Lot Terminations (BLT)	25	6.36
Recycling Facility Plan	10	10
<b>Total Points</b>		<b>150.34</b>

**Transit Proximity**

Level 1: The Applicant requests 30 points for locating new development near transit stops. Level 1 allows up to 50 points based on proximity to an existing or master planned Metrorail station. The Property is located within ¼-mile from the Friendship Heights Metro Station; therefore, the Board supports the category at this time.

**Connectivity and mobility**

*Minimum Parking*

The Applicant requests 8.63 points 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. The Board supports the category at this time.

*Through-Block Connection*

The Applicant requests 20 points for providing a through-block connection from Wisconsin Avenue to The Hills Plaza. Through-block connections are intended to create safe and attractive pedestrian only connections between streets. While the approved through-block connection would not

be exclusive to pedestrians, the connection will serve as an important access to the Friendship Heights Community Center and is envisioned as a flush curb street that will prioritize pedestrians. The vehicular travel pattern has been restricted to one-way (as opposed to the two-way movements considered during the Sketch Plan) and the vehicular travel lane has been significantly narrowed (from 20 feet, to 12-16 feet, as approved). This, in combination with the activating ground floor uses that line the shared street, will create an inviting space that will draw people through the block. Importantly, the Applicant has also eliminated the previously included arcades, so the shared street will be open aired for the full 55-foot width (with the exception of the small existing arcade at the hotel entrance that is a structural design element and cannot be eliminated). The shared street will be open to the public at all times. Catenary lights have been incorporated overhead to provide a ceiling to this space and facilitate evening use. The Board supports the category at this time.

#### **Diversity of Uses and activities**

##### *Enhanced Accessibility for the Disabled*

The Application includes a minimum of three units that will meet American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard. As such, the Applicant is seeking 4 points for enhanced accessibility for the disabled, per the calculation below:

$$\begin{aligned} (A/T) * 300 \\ A \text{ (ANSI 117.1 units)} &= 4 \\ T \text{ (total units)} &= 300 \\ (4/300) * 300 &= 4 \text{ points} \end{aligned}$$

##### *Affordable Housing*

The Applicant requests 30 points for providing 15 percent Moderately Priced Dwelling Units. While 15 percent MPDUs is the requirement for areas of the County where 45 percent of the census tracts have a median income of 150 percent of the County's AMI, the Applicant is still eligible to receive public benefit points for the provision of 15 percent MPDUs. Per the Zoning Ordinance, 12 public benefit points are available for every 1 percent of MPDUs greater than 12.5 percent. The Applicant will provide a

total of up to 300 units, of which at least 15 percent must be MPDUS. The Board supports the category at this time.

### **Quality of building and Site Design**

#### *Architectural Elevations*

The Applicant requests 15 points for providing architectural elevations as part of the Certified Site Plan showing particular elements of the design such as minimum amounts of transparency, maximum separation between doors, and other design priorities of the applicable Sector Plan and implementing design guidelines. The Sketch Plan is intended to be conceptual in nature with an emphasis on building densities, massing, and heights. The Board supports the category at this time with further details and refinement to be provided at the time of Site Plan.

#### *Exceptional Design*

The Applicant requests 7 points for building and/or site design that enhances the character of a setting. The design of the future mixed-use development and the relationship to the future shared street responds uniquely to the surrounding context and provides an enhanced space for pedestrians and members of the community. The Board supports the category at this time.

#### *Public Open Space*

Under the Optional Method of Development in the CR Zone (given the Tract area attributable to the Property and number of frontages), the Applicant is required to provide a minimum of 10 percent on-site public use space (or 7,901 square feet). The Project exceeds this requirement and is proposing to provide 8,900 square feet of diverse public open space offerings. As such, per the calculation below, the Applicant is seeking 1.26 points from this category. The Board supports the category at this time.

$(P/N) * 100$

P (public open space) = 999 square feet (above minimum)

N (net lot area) = 79,012 square feet

$999/79,012 * 100 = 1.26$  points

#### *Structured Parking*

All of the parking provided on-site will be located in above- or below-grade structured parking. Since the Site Plan seeks approval of a range of



parking, the Applicant has conservatively calculated the Structured Parking points on the minimum number of parking spaces, given that if more parking were to be provided, on the higher end of the range, that parking would be located below-grade.

$$[(A/T)*10+(B/T)*20]$$

$$A \text{ (above-grade spaces)} = 36$$

$$B \text{ (below-grade spaces)} = 273 \text{ (minimum)}$$

$$T \text{ (total spaces)} = 315$$

$$[(36/315) * 10] + [(267/315) * 20] = 18.09 \text{ points}$$

The Applicant requests 18.09 points for providing structured parking. The Board supports the category at this time.

## **Protection And Enhancement Of The Natural Environment**

### *Building Lot Termination (BLT)*

The Applicant requests 6.36 points for the purchase of BLT easements or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5 percent incentive density floor area. Points are granted by the calculation of BLTs as provided in Section 59.4.7.3.F of the Zoning Ordinance. Based on the density approved for this Project, the Applicant is required to purchase 0.7069 BLTs, based on the following calculation:

- 356,325 square feet total new development approved – (59,387.5 square feet base density) = 296,937.5 square feet of incentive density
- 296,937.5 square feet x 0.075 = 22,270.31/31,500 = 0.7069 BLTs

Since one BLT is equivalent to nine public benefit points, the Applicant is seeking approximately 6.36 points for this category. The Board supports the Applicant's request at this time.

### *Recycling Facility Plan*

The Applicant has incorporated a recycling plan and facilities that will meet or exceed the Executive Regulations 15-04AM and 18-04. In accordance with the CR Incentive Density requirements, five points are

appropriate for developments that meet this requirement. The Applicant requests additional points for providing dedicated recycling containers within the shared street, as well as a paper shredder and a cooking oil container in the trash/recycling room. The Applicant will coordinate with the Department of Environmental Protection on the plan. The Board supports the category at this time.

ii. General Requirements

i. *Site Access*

All vehicular access will be provided from the private shared street or “shared street” that will bisect the Site. The onsite parking garage and onsite loading areas will be entered from and exited onto the shared street. Motor vehicle traffic will operate in a one-way only configuration of the shared street, entering from The Hills Plaza and existing southbound onto Wisconsin Avenue. To ensure slow speeds for motorists, the vehicular clear zone will be limited to 12 feet wide, with two-foot-wide shoulders on either side. This through zone for vehicles will be delineated by contrasting paving colors and patterns from the rest of the shared street. Planters will also be used to help distinguish between the vehicular travel zone and the pedestrian clear zone, parallel short-term parking spaces and café seating. Confining all vehicular movements to within the Site significantly reduces potential conflicts with other motorists, pedestrians, and bicyclists on the Site’s three frontages.

In the rare cases when the shared street is closed to through traffic for private events, the Wisconsin Avenue egress driveway will be closed, and motorists will exit the Site onto Hills Plaza. This will be clearly communicated with temporary signage and communications with the residents.

Nonconforming (Existing) Site Access

Section 6.1.4.D allows for “[a] maximum of 2 driveways... for every 300 feet of site frontages along any street.” The existing hotel currently has two driveways in front of the main lobby entrance and a third in the rear of the property that have served the hotel for the past 50 years. These driveways are non-conforming today as an existing site condition but were previously conforming under prior zoning standards. The hotel building and existing access points are approved to remain unchanged by the approved

redevelopment. Section 7.7.1.A.1 allows existing structures, site design, or uses that do not meet the zoning standards on or after October 30, 2014 to be renovated, repaired, or reconstructed so long as the footprint of the structure is not increased. The footprint of the hotel structure on the Site is not approved to increase, which therefore allows the access points to remain as an existing nonconformity without requiring a waiver of the current requirements.

ii. *Parking, Queuing, and Loading*

The existing on-site structured parking for the hotel is approved to remain. The Subject Application includes a new onsite parking structure for residents only, to be accessed from the shared street. The Applicant will provide between 315 and 340 parking spaces onsite.

Access to the hotel parking spaces is provided on existing driveways on Wisconsin Avenue and The Hills Plaza. These parking spaces and access points are approved to remain as-is.

Loading and trash collection for the approved residential tower and ancillary retail will be accessed from the shared street. The Subject Application provided truck turning templates demonstrating there is sufficient space for the design vehicles (SU-30) to enter and exit the shared street without obstruction.

iii. *Open Space and Recreation*

Under the Optional Method of Development in the CR Zone (given the Tract area attributable to the Property and number of frontages), the Applicant is required to provide a minimum of 10 percent on-site public use space (or 7,901 square feet)<sup>3</sup>. The Project will exceed this requirement and will provide approximately 8,900 square feet of diverse public open space offerings that will enhance the pedestrian circulation and create opportunities for social gathering.

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<sup>3</sup> Per Section 4.5.4.B.1 of the Zoning Ordinance, the gross tract area and number of property frontages is used to determine the percentage of open space required. However, "open space is calculated on the net site area." Site is defined in Section 4.1.7.A.2 of the Zoning Ordinance as "an area of land including all existing and approved lots and parcels in one application, except approved and previous dedications and rights-of-way."

The public open space strategy is comprised of two primary components including: (1) the shared street and (2) streetscape improvements. Additionally, café seating is approved along the shared street, Wisconsin Avenue, and South Park Avenue. Although these areas have been conservatively excluded from the public open space calculations (although the CR Zone allows a portion of the public open space to be utilized for café seating), this café seating plays an important role in activating and enhancing the public realm.

The Project will provide ample recreational opportunities for future residents. The Applicant is submitting a recreation and amenity analysis, as required by M-NCPPC's Recreation Guidelines and the CR Zone, concurrently with this Site Plan Application. As shown on the recreation analysis, the Project incorporates amenities including but not limited to a pool, fitness center, dog cleaning station, and indoor community space, and exceeds the residential recreational/amenity space requirement.

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

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

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on January 24, 2023. The plan will meet stormwater management requirements using green roof and planter boxes to treat stormwater runoff; due to limitations of the Subject Property, a partial waiver was granted by MCDPS. 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 Board finds that as conditioned the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

A Natural Resources Inventory/ Forest Stand Delineation No. 420220270 ("NRI/FSD") was prepared for the Overall Property and approved by M-NCPPC on September 14, 2021. The NRI/FSD demonstrates that there is no forest on-site, the Property contains no protected soils, endangered species, or other natural features that would impact development.

A combined Preliminary/Final Forest Conservation Plan has been submitted concurrently with this Application, which demonstrates the Project's conformance with the Forest Conservation Law. The Project will provide the 0.33 acres of afforestation requirement through a fee-in-lieu payment. This Application is also subject to the Variance provisions of Chapter 22A Forest Conservation Law.

*Forest Conservation Variance*

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

This Application will require the removal or CRZ impact to one Protected Tree as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance. In this case, the unwarranted hardship results from the necessary sidewalk/curb enhancements approved as a part of this development. Tree #4, a 36" Willow Oak, is a right-of-way tree located on the opposite side of the road from the limits of disturbance. The Subject Property is currently developed and is approved for redevelopment on half of the Property while maintaining the adjacent hotel portion of the Property. As such, the project is carefully designed to limit disturbance to nearby features to remain. In order to implement master planned sidewalk enhancements, which consist of 10-foot-wide sidewalks and 6-foot-wide street buffers along The Hills Plaza, this minor impact, resulting in a less than 1% disturbance, to the critical root zone of Tree 4 is necessary. Therefore, the Applicant has demonstrated a sufficient unwarranted hardship to justify a variance request.

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

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

Granting the variance will not confer a special privilege on the Applicant. The specimen tree approved to be impacted by this work is

located within a developed area along the public right-of-way; such a location causes this tree to be subject to periodic disturbance from roadway maintenance and nearby development such as the work approved by this Application. Critical root zone impacts are unavoidable in order to implement the full scope of the project as described above, however the Applicant will provide appropriate measures to avoid unnecessary impacts to the specimen tree. The variance request would be granted to any applicant in a similar situation. Therefore, the granting of this variance is not a special privilege that would be denied to other applicants.

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

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary design requirements of this project which, among other things, includes the requirement to bring the right-of-way into compliance with the recommendations found within the 2021 Complete Streets Design Guide.

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

The requested variance is a result of the existing conditions on the Property and the associated requirements of the approved development; the request is not a result of land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. The site is not located in the vicinity of a stream buffer, wetland, or special protection area. The entirety of the area approved for redevelopment is presently developed with existing buildings and parking infrastructure. The existing conditions have considerable impervious areas with no existing stormwater management. As part of this project, the Applicant is required to meet current MCDPS Stormwater

management goals; the approved stormwater management concept has addressed these requirements through the use of green roof and planter boxes. Additionally, the development includes numerous street tree plantings along vegetated buffers which serve to increase the amount of pervious surfaces as compared to the minimal landscaping currently found onsite. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. As there are no protected trees approved for removal in association with the Application, there is no required planting mitigation for this project.

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

The Site Plan is designed to ensure the adequacy, safety and efficiency of the overall development. The Project greatly improves pedestrian circulation both through the streetscape improvements along The Hills Plaza, South Park Avenue, Wisconsin Avenue, and the shared street, which creates an additional connection between The Hills Plaza and Wisconsin Avenue on what is otherwise an oversized block which must be traversed around. The shared street will provide shared pedestrian and vehicular access with appropriate design elements to moderate pace and circulation for the benefit of the pedestrian.

The Applicant has limited circulation within the shared street to one-way vehicular movements (entering off The Hills Plaza and existing onto Wisconsin Avenue) and restricted access to the garage to resident ingress only. This controlled garage access will limit the amount of vehicular activity in the shared street; further, through coordination with The Village, all long-term/scheduled loading will be accommodated outside of the shared street in the two dedicated concealed loading bays.

The shared street is also a place where pedestrians can move through. The Applicant has designed the building massing, as well as vertical elements within the shared street, to maximize the open feeling of the space provided by appropriate stepbacks. The shared street will have generous pedestrian-only areas on both sides of the street that will be clearly distinguished through paving patterns/textures and physical separations like raised planters. The shared street's generous size accommodates these various components and

ensures there is ample space for vehicular movements and a safe pedestrian environment.

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

The Application is in substantial conformance with the goals and recommendations contained in the 1998 *Friendship Heights Sector Plan*. There are no site-specific recommendations for the Property, and thus no height or density limitations recommended by the Sector Plan. Nonetheless, the Project promotes many of the overall goals and recommendations of the Sector Plan. The orientation of the residential building component and shared street provides visual porosity between Wisconsin Avenue and the Village of Friendship Heights. This design, in combination with the three rights-of-way that surround the Property (and provide additional separation from the confronting buildings), preserves the views from existing high-rise apartment buildings.

Importantly, the Project will encourage economic activity in Friendship Heights by providing a mix of uses on-site, additional residential units to support the existing/approved retail within the Village, and diverse open space offerings on-site. The Application will preserve and enhance the confronting Hubert Humphrey Park, as demonstrated by the Applicant's shadow studies, the approved residential building component will not cast any shadows on the Park. Importantly, although no entrance doors are located along The Hills Plaza, the ground floor façade has been designed to help engage the Park and provide a more compatible edge (as compared to the existing, long, blank wall). The Application also promotes the environmental goals of the Sector Plan through this transit-oriented development and provision of stormwater management, on a site where there currently is none.

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

The public facilities will be adequate to accommodate the approved development. The location of the Project, in close proximity to the Friendship Heights Metro Station and other transit facilities, ensures that a significant portion of the Project's users will rely upon transit for purposes of accessing the site.

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

The previous use on the Site was a retail store measuring 49,292 square feet. The approved 300 high-rise residential units with 11,015 square feet of retail are



estimated to generate a net increase of 48 person trips in the morning peak hour and a net decrease of 95 person trips in the evening peak hour. The 2020-2024 *Growth and Infrastructure Policy* (GIP) requires a transportation impact study (TIS) for any project that is estimated to generate a net increase of 50 or more person trips in either the morning or evening peak hours. The Site is located within a Red Policy Area, which means that if a TIS is required, the Application is exempt from providing a motor vehicle adequacy study.

The submitted transportation exemption study complies with the trip generation analysis methodologies as outlined in the GIP and the LATR Guidelines. The Project estimates an increase of 48 net new person trips in the morning peak hour, which is fewer than 50. Therefore, the LATR review is satisfied with a transportation exemption statement.

### **Overview and Applicable School Test**

The Subject Application is scheduled to come before the Planning Board on April 13, 2023. Therefore, the FY23 Annual School Test, approved by the Planning Board on June 16, 2022 and effective July 1, 2022 is applicable to this application. This plan includes 300 multifamily high-rise units.

#### School Adequacy Test

The project is served by Westbrook Elementary School, Westland Middle School, and Bethesda-Chevy Chase High School. Based on the FY23 Annual School Test results, the student enrollment for those schools is 546 for Westbrook Elementary School, 782 for Westland Middle School, and 2,356 for Bethesda-Chevy Chase High School.

The capacity projections for these schools is 615 for Westbrook Elementary School, 1,105 for Westland Middle School and 2,457 for Bethesda-Chevy Chase High School.

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 FY23 Annual School Test, Westbrook Elementary School, Westland Middle School, and Bethesda-Chevy Chase High School do not require any UPP as identified in Table 5. 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 approved 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.

On average, this Application for 300 multifamily high-rise units that are not age restricted, is estimated to generate 10 elementary school students, four middle school students and four high school students. The estimated number of students generated do not exceed the adequacy ceilings identified for each school. Therefore, no additional UPPs are required, and neither are partial payments across multiple UPP tiers.

9. *The development is compatible with existing and approved or pending adjacent development.*

The Applicant has worked to ensure that the Subject Application is physically compatible with, and not detrimental to, existing and future development surrounding the Property. The Project uniquely responds to its various contexts. The approved building massing, refined by the Subject Site Plan, has been designed to preserve views from the Village to Wisconsin Avenue. The Project incorporates ground floor retail and other street activating uses, which in combination with the shared street and streetscape improvements, will help encourage economic activity in Friendship Heights. Additionally, the approved residential development will help support and ensure the success of the approved retail, as well as other retail/restaurant uses within Friendship Heights.

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 MAY 03 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 Hedrick, seconded by Commissioner Bartley, with a vote of 4-0-1; Vice Chair Piñero, and Commissioners Bartley, Hedrick, and Pedoeem, voting in favor of the motion, Chair Zyontz abstaining, at its regular meeting held on Thursday, April 27, 2023, in Wheaton, Maryland and via video conference.

  
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Jeffrey Zyontz, Chair  
Montgomery County Planning Board



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