



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

NOV 20 2014

MCPB No. 14-108  
Site Plan No. 820140170  
The Blairs, Phase F1-F2  
Date of Hearing: November 13, 2014

**RESOLUTION**

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on May 29, 2014, The Tower Companies ("Applicant"), filed an application for approval of a site plan for construction of a multi-family building including up to 605,000 square feet of residential uses consisting of a maximum of 507 units on 3.79 gross tract acres of CBD-R2 zoned-land, located at Eastern Avenue in the northwest quadrant of the intersection with Blair Mill Road, encompassing the F1 & F2 Blocks ("Subject Property"), in the 2000 Silver Spring Central Business District ("CBD") Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820140170, The Blairs, Phase F1-F2 ("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 October 31, 2014, setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 13, 2014, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the Hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

Approved as to  
Legal Sufficiency:

  
6787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
M-NCPPC Legal Department  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820140170 for construction of a multi-family building including up to 605,000 square feet of residential uses consisting of a maximum of 507 units, the Subject Property, subject to the following conditions:<sup>1</sup>

### **Conformance with Previous Approvals**

1. Project Plan Conformance

The development must comply with the conditions of approval for Project Plan No. 920130050, as listed in MCPB Resolution No. 13-109 dated December 23, 2013, as amended.

2. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120130220, as listed in MCPB Resolution No. 13-110 dated December 23, 2013, as amended.

### **Environment**

3. Forest Conservation

- a) The Final Forest Conservation Plan approved with this Site Plan, as conditioned below, is limited to the portion of the larger Blairs Master Plan site covered by this Site Plan, and does not cover the remainder of Preliminary Forest Conservation Plan No. 120130220. Future Site Plan approvals for implementation of subsequent phases of the larger site will address the remaining forest conservation requirements associated with future phases and will include a Final Forest Conservation Plan for those phases.
- b) Before Certified Site Plan approval, the Applicant will coordinate with Staff on any necessary minor plan revisions, clarifications and corrections within the Final Forest Conservation Plan signature set.
- c) The Applicant must include three (3) additional 3" caliper native canopy tree plantings in the Final Forest Conservation Plan(s) of the future phase(s).
- d) Before issuance of an associated Sediment Control Permit, the Applicant must receive approval from the M-NCPPC Office of the General Counsel for a Certificate of Compliance for an off-site forest mitigation bank, to satisfy the equivalent credits of 1.17 acres or as established with the Final Forest Conservation Plan for this Site Plan.

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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.



4. Stormwater Management

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (MCDPS) Water Resources Section in its stormwater management concept letter dated September 10, 2014, and hereby incorporates them as conditions of approval for this Site Plan. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of the Site Plan approval. MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

**Public Use Space, Facilities and Amenities**

5. Public Use Space, Facilities, and Amenities

- a) The Applicant must provide a minimum of 48,000 square feet of public use space (29.6% of the 3.71 acres-net lot area of this Site Plan) on-site. This represents 20.6% of the entire 232,000 square feet of public use space required on the Blairs Master Plan site.
- b) Before the issuance of the final use and occupancy certificate for the residential development for each phase of this Site Plan, public use space areas associated with each phase of the must be completed.

6. Recreation Facilities

- a) Before the issuance of the final use and occupancy certificate for the residential development for each phase of this Site Plan, the Applicant must provide the recreational elements associated with each phase in accordance with the approved *Montgomery County Planning Board Recreation Guidelines*, as described below.
- b) The Applicant must provide the following minimum recreation facilities for this Site Plan:
  - i. 16 Picnic/Sitting Areas;
  - ii. Pedestrian System;
  - iii. 1 Swimming Pool;
  - iv. 1 Indoor Community Space for Residents; and
  - v. 1 Indoor Fitness Facility.

7. M-NCPPC Department of Parks

- a) The Applicant must provide clear signage that the Dog Run is available to the public and not just residents of The Blairs.
- b) In conjunction with the next site plan submittal, the Applicant shall provide a survey to the Department of Parks of how the Dog Run patrons are arriving and where they are parking.



8. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to, pedestrian pathways, landscaping, hardscape, recreation facilities, and public use space.

**Transportation & Circulation**

9. Transportation

- a) The Applicant must enter into a Traffic Mitigation Agreement (TMAg) with the Planning Board and the Montgomery County Department of Transportation (MCDOT) to participate in the Silver Spring Transportation Management District (TMD). The Applicant must execute the TMAg before the release of any above grade building permit for the development.
- b) The Applicant, as part of the TMAg or separately, must coordinate with the MCDOT Chief of Commuter Services to install a Capital Bikeshare station on the Blairs Master Plan site at a location and at a time mutually agreed upon between the Applicant and the County. The location of the bikeshare station must be finalized in writing by the MCDOT Chief of Commuter Services before the release of any above grade building permit for development on the site within this Site Plan. The access and maintenance agreement for the bikeshare station must be finalized as part of the certified site plan for the project phase that includes a bikeshare station.
- c) The Applicant must construct the private internal street(s) within this Site Plan to applicable Montgomery County MCDOT Road Code Standard 2005.01 Modified: Two Lane Business District Street structural standards and must construct all sidewalks, on the Subject Property within this Site Plan, to applicable ADA standards. Before the release of bond or surety, the Applicant must provide MCDPS Zoning & Site Plan Enforcement (Z&SPE) Staff with certification from a licensed engineer that all streets and sidewalks have been built to the above structural standards and ADA standards.
- d) Before issuance of the first above grade building permit, the Applicant must receive a District of Columbia (DC) Department of Transportation (DDOT) Public Space Permit and DC Public Space Committee approval for all DC right-of-way improvements within Eastern Avenue, NW. A copy of the permit must be provided to M-NCPPC Staff and MCDPS.

10. Pedestrian and Bicycle Circulation

- a) The Applicant must provide a minimum of 136 private and 17 public bicycle parking spaces.
- b) The secure private long-term bicycle parking spaces must be installed internal to the residential building or garage for the residents' use. The public bicycle spaces must be inverted-U racks, or similar approved by M-NCPPC Staff at Certified Site Plan and installed in a location convenient to the main entrance.



The specific locations of the public bicycle racks must be identified on the Certified Site Plan.

- c) The Applicant must provide minimum 5-foot wide sidewalks along the private streets.
- d) The Applicant must provide improvements as approved by the DC Public Space Committee along the frontage of public street Eastern Avenue, NW.

#### 11. Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Services (MCFRS) Fire Code Enforcement Section in its letter dated August 6, 2014, and hereby incorporates them as conditions of approval for this Site Plan. The Applicant must comply with each of the recommendations as set forth in the letter, which MCFRS Fire Code Enforcement Section may amend provided that the amendments do not conflict with other conditions of Site Plan approval.

### **Density and Housing**

#### 12. Moderately Priced Dwelling Units (MPDUs)

- a) The Planning Board accepts the recommendations of the Department of Housing and Community Affairs (DHCA) in its letter dated October 10, 2014, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of Site Plan approval.
- b) Before issuance of any above grade building permit for residential units, the MPDU agreement to build between the Applicant and DHCA must be executed.

### **Site Plan**

#### 13. Building Height

The maximum height for the F1-F2 building is 180 feet, as measured from the building height measuring point located on the eastern corner of the Site along Street C.

#### 14. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the latest approved architectural drawings included in the Certified Site Plan, as determined by M-NCPPC Staff.

15. Landscaping

- a) Before issuance of the final residential use and occupancy certificate for the first phase of the Site Plan, all on-site amenities including, but not limited to, streetlights, sidewalks/pedestrian pathways, hardscape, benches, trash receptacles, bicycle facilities, recreation amenities (including the swimming pool and indoor community space for the residents, pedestrian system and picnic/seating areas), and public use space amenities within the phase must be installed.
- b) Before issuance of the final residential use and occupancy certificate for the second phase of the Site Plan, all on-site amenities including, but not limited to, streetlights, sidewalks/pedestrian pathways, hardscape, benches, trash receptacles, bicycle facilities, recreation amenities (including the indoor community space for the residents, pedestrian system and picnic/seating areas), and public use space amenities within the phase must be installed.
- c) The Applicant must install the landscaping associated with each phase no later than the next growing season after completion of each phase and site work.

16. On-Site Lighting

- a) Before issuance of any above-grade building permit, the Applicant must provide certification to M-NCPPC 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) 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).
- b) Deflectors must be installed on all up-lighting fixtures to prevent excess illumination and glare.
- c) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at any property line abutting public roads and residentially developed properties.
- 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 above grade building permit within each relevant phase of this Site Plan, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board. The Agreement must include a performance bond(s) or other form of surety as required by Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:



- a) A cost estimate of the materials and facilities, which, upon M-NCPPC Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads, paths and associated improvements within the relevant phase of development.
- 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 inspection and potential reduction of the surety.
- d) The bond or surety for each phase shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific Certified Site Plan sheets depicting the limits of each phase.

#### 18. Development Program

Before approval of the Certified Site Plan, the Applicant will provide a development program that will be reviewed and approved by M-NCPPC Staff. The development program must include the following items in the phasing schedule:

- a) The Applicant may apply for and obtain demolition and associated rough grading permits at any time; however, no clearing or grading may occur prior to completion of the requirements in condition 18.c below.
- b) Demolition of the existing buildings prior to approval of the Final Forest Conservation Plan may only occur if a Sediment Control Permit is not needed. The Applicant will coordinate tree protection measures with Staff for tree #17 prior to demolition.
- c) Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur before approval of the Final Forest Conservation Plan, Sediment Control Plan, and Staff inspection and approval of all applicable environmental protection devices.
- d) Providing on-site amenities including, but not limited to, streetlights, sidewalks/pedestrian pathways, private internal streets, hardscape, benches, trash receptacles, bicycle facilities, recreation amenities, and public use space amenities located within each phase of the Site Plan.
- e) Installation of on-site landscaping and lighting located within each phase of the Site Plan.
- f) Dedications, stormwater management, sediment and erosion control, afforestation, and other features, as applicable, located within each phase of the 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 M-NCPPC Staff review and approval:



- a) Include the Final Forest Conservation Plan approval letter, stormwater management concept approval letter, development program, and the Project, Preliminary, and Site Plan Resolutions on the approval or cover sheet(s).
- b) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading".
- c) Modify data table to reflect development standards as approved by the Planning Board.
- d) Ensure consistency of all details and layout between Site and Landscape plans.

20. Permit Filing and Processing

- a) The Applicant may file the application for record plat approval at any time after filing the Certified Site Plan Application for approval with M-NCPPC Staff.
- b) The Applicant may apply for foundation-to-grade and sheeting and shoring permits with MCDPS at any time after both the Certified Site Plan application and record plat application have been filed with M-NCPPC Staff.
- c) DPS is authorized by the Planning Board to issue foundation-to-grade and sheeting and shoring permits at any time after the Applicant obtains Certified Site Plan approval and the new record plat application has been filed, regardless of whether the new record plat application has been approved or the plat recorded. The Applicant may commence work under those permits once they are issued.
- d) Any above grade building permit may not be issued until after the record plat has been approved and recorded.
- e) The Applicant shall pay the full building permit fee for each phase as part of the foundation-to-grade permit for that phase.

BE IT FURTHER RESOLVED, that all site development elements as shown on the latest electronic version for The Blairs, Phase F1-F2, as of the date of the Staff Report submitted via ePlans to the M-NCPPC shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and 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 Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with*



*an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

The Application is subject to the approved Project Plan. The Application conforms to all of the conditions of the approved Project Plan as shown in the following table. The Application is consistent with the Project Plan findings.

Approved Project Plan Conditions:	Approved Site Plan conforms:
<p>1. <u>Development Ceiling</u></p> <p>The development is limited to a maximum 2.89 FAR, and a maximum 3,825,400 gross floor area consisting of a maximum 450,000 square feet of commercial uses and a maximum 2,800 residential units (new and existing).</p>	<p>This is the first phase of the Blairs Master Plan site and the Applicant will comply with the development ceiling. A total of 605,000 square feet of residential uses are proposed bringing the total remaining for development in future phases to 3,220,400 square feet.</p>
<p>2. <u>Housing</u></p> <p>The Applicant must provide a minimum of 12.5% of the total number of newly constructed units as Moderately Priced Dwelling Units on-site, consistent with the requirements of Chapter 25A, in accordance with the Department of Housing and Community Affairs letter dated August 13, 2013.</p>	<p>The Applicant will provide a minimum of 12.5% of the total number of newly constructed units as Moderately Priced Dwelling Units on-site. (Site Plan Condition 12)</p>
<p>3. <u>Architecture, Building Height, and Mass</u></p> <p>a) The buildings within the upper escarpment (Parcels A, E, and F) and lower escarpment, Parcel H, are limited to a maximum building height of 200 feet as determined by the Department of Permitting Services applicable building height measurement point.</p> <p>b) The buildings within the lower escarpment, Parcel G, are limited to a maximum building height of 180 feet as measured from their respective fronts as determined by the Department of Permitting Services applicable building height measurement point.</p> <p>c) Buildings in Block G of Parcel G must maintain a minimum setback from the current northerly right-of-way line of Blair Mill Road of 16 feet (townhouse building face; 0 feet to courtyards). The maximum height for these buildings will be further reviewed at the site plan stage for compatibility. Maximum building height permitted will be based upon</p>	<p>The maximum height for Blocks F1 &amp; F2 is 180 feet and will maintain the minimum setbacks set forth in the Project Plan. (Application Data Table and compatibility finding)</p>



<p>building step backs, materials, massing, and architecture.</p> <p>d) Buildings in blocks F1 and F2 of Parcel G must maintain a minimum setback from the current northerly right-of-way line of Eastern Avenue of 18 feet for townhouse building face (as to F-1), and 16 feet for townhouse building face (as to F-2). The maximum height for these buildings will be further reviewed at the site plan stage for compatibility. Maximum building height permitted will be based upon building step backs, materials, massing, and architecture.</p>	
<p>4. <u>Public Use Space, Facilities, and Amenities</u></p> <p>a) With the submittal of the final site plan for the development, the Applicant must demonstrate a minimum of 20% of the net lot area as public use space on-site. A variable amount of public use space is permitted with each phase and will be approved with each site plan.</p> <p>b) The Applicant must provide public art on-site, integrated into the overall site design. The public art components must be commensurate with the size of the public use space in which the art will be located.</p> <p>i. The Applicant must present final public art concepts to the Art Review Panel for review and comment that will be available to the Planning Board prior to scheduling the Planning Board hearing for the site plan application which contains the public art associated with each building or public use space area to be completed in the same phase.</p> <p>ii. Final detail and design of the public art must be determined by the applicable Certified Site Plan.</p> <p>c) As a public amenity, the Applicant must provide streetscape improvements per the Silver Spring CBD Streetscape Standards, or as amended (or as approved by Staff), including the undergrounding of public utilities along the property's frontage on Blair Mill Road, Colesville Road, and East-West Highway, with the phasing of the streetscape</p>	<p>With the submittal of the final site plan for the development, the Applicant will demonstrate a minimum of 20% of the net lot area as public use space on-site. This phase of development is providing 20.6% of the entire 232,000 square feet of public use space required on the Blairs Master Plan site.</p> <p>The Applicant must provide public art on-site, as part of future Site Plans, integrated into the overall site design.</p> <p>The Applicant will provide the streetscape improvements as required.</p> <p>All record plats that include public use space will include a note that all public use spaces as illustrated on the certified Site Plan(s) must be maintained in perpetuity by the property owners and access must be provided to the general public.</p>



<p>improvements determined at the time of the applicable site plan which adjoins the particular frontages.</p> <p>d) All record plats that include public use space must include a note that all public use spaces as illustrated on the certified Site Plan(s) must be maintained in perpetuity by the property owners and access must be provided to the general public.</p>	
<p>5. <u>Parks and Recreation</u></p> <p>a) The site plans that include construction and completion of the public dog parks must include details for design, operations, and management that insure performance as a public dog park.</p> <p>b) The site plans that include construction and completion of the playgrounds must include details for design to insure the playgrounds (collectively) meet the needs of various age groups.</p> <p>c) At a minimum, a multi-use court for residents that accommodates a variety of uses, including half-court basketball, must be identified prior to the first site plan submission for the development.</p>	<p>Block F1 (Phase 1 building) includes the construction and completion of a public dog park, Dog Run, and include details for design, operations, and management that ensure performance as a public dog park. Department of Parks has approved the details of the Dog Run.</p> <p>Two possible locations for a multi-use court for residents have been identified on the submitted Phasing Plan.</p>
<p>6. <u>Staging of Amenity Features</u></p> <p>a) The development must be completed in accordance with the preliminary phasing plan and development program dated September 17, 2013 unless modified at the time of each site plan.</p> <p>b) The Applicant must complete the on-site public use space improvements associated with each phase prior to issuance of the final use and occupancy permit for that phase.</p> <p>c) The Applicant must install the landscaping associated with each phase no later than the next growing season after completion of the building and site work.</p>	<p>The development will be completed in accordance with the preliminary phasing plan and development program dated September 17, 2013 unless modified at the time of each site plan. The Applicant will complete the on-site public use space improvements associated with each phase before issuance of the final use and occupancy permit for that phase. The Applicant will install the landscaping associated with each phase no later than the next growing season after completion of the building and site work.</p>
<p><b>Environment</b></p>	
<p>7. The Applicant must achieve a LEED Certified rating certification at a minimum, or energy and environmental design standards that the Department of Permitting Services identifies as equivalent to a certified-level</p>	<p>Before issuance of the final use and occupancy certificate, the Applicant will inform M-NCPPC Staff of the LEED Certification Level that they</p>



<p>rating in the appropriate LEED rating system. The applicant must make good faith efforts to achieve a LEED Silver rating, or energy and environmental design standards that the Department of Permitting Services identifies as equivalent to a Silver-level rating in the appropriate LEED rating system. Before issuance of the final use and occupancy certificate, the Applicant must inform MNCPPC staff of the LEED Certification Level that they are qualified for. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate the Applicant must provide to staff a written report for the public record purposes only from the Applicant's LEED consultant, analyzing the feasibility of achieving a LEED-Silver rating (or equivalent), to include an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating (or equivalent), including their associated extra cost. Submission of this report constitutes compliance with this condition.</p>	<p>are qualified for, for Blocks F1 &amp; F2.</p>
<p>8. The Applicant must obtain approval of a Final Forest Conservation Plan from the Planning Department prior to issuance of a Sediment Control Permit from the Department of Permitting Services for new construction. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan.</p>	<p>The Applicant will obtain approval of a Final Forest Conservation Plan from the Planning Department before issuance of a Sediment Control Permit from the Department of Permitting Services for new construction. The Final Forest Conservation Plan will be consistent with the approved Preliminary Forest Conservation Plan.</p>
<p>9. The Applicant must plant twenty-four (24) three-inch caliper native canopy trees as mitigation for the removal of specimen trees. The species and location of plantings must be identified on the Final Forest Conservation Plan.</p>	<p>The Applicant will plant twenty-four (24) three-inch caliper native canopy trees as mitigation for the removal of specimen trees. The species and location of plantings will be identified on the Final Forest Conservation Plan (s).</p>
<p>10. An International Society of Arboriculture certified arborist must certify tree protection measures on Final Forest Conservation Plan.</p>	<p>An International Society of Arboriculture certified arborist will certify tree protection measures on the Final Forest Conservation Plan.</p>



2. *The Site Plan meets all of the requirements of the zone in which it is.*

The Property is subject to the CBD-R2 zoning standards. The CBD-R2 zone is intended for use in areas of a central business district designated to accommodate high density residential development. The purposes of the CBD zone include:

- a) To encourage development in accordance with an adopted and approved master or sector plan, or an urban renewal plan approved under Chapter 56 by permitting an increase in density, height, and intensity where the increase conforms to the master or sector plan or urban renewal plan and the site plan or combined urban renewal project plan is approved on review by the Planning Board.
- b) To permit a flexible response of development to the market as well as to provide incentives for the development of a variety of land uses and activities in central business districts to meet the needs and requirements of workers, shoppers and residents.
- c) To encourage designs which produce a desirable relationship between the individual buildings in the central business district, between the buildings and the circulation system and between the central business district and adjacent areas.
- d) To promote the effective use of transit facilities in the central business district and pedestrian access thereto.
- e) To promote improved pedestrian and vehicular circulation.
- f) To assist in the development of adequate residential areas for people with a range of different incomes.
- g) To encourage land assembly and the most desirable use of land in accordance with a sector plan.

The CBD-R2 zone is intended for use in areas of a central business district designated to accommodate high density residential development. The purposes of the CBD-R2 zone is to foster and promote the orderly development of the Central Business Districts of the county so that these areas will enhance the economic status of the county as well as providing an expanding source of employment and living opportunities for its citizens in a desirable urban environment.

The entire Blairs Master Plan development will provide a maximum of 3,825,400 square feet of gross floor area, comprised of 450,000 square feet for commercial uses (including retail, office, and hotel) and 3,375,400 square feet for residential uses. As approved, the residential component will provide a total of up to 2,800 residential dwelling units, of which 1,690 will be newly constructed units.



The Application will accomplish the residential and commercial densities recommended for the Property in the Sector Plan; maintain building heights within the limits of the zone, and in a compatible manner with adjoining uses; and promote a walkable environment with multiple public use spaces and amenities accessible to users of the Property and to the surrounding community. The Application meets the purposes of the CBD-R2 Zone.

Nearly the entire Blairs Master Plan site is located within ¼ mile of the Silver Spring Metro Station. The F1-F2 Application will provide a significant increase in multi-family residential units in close proximity to public transit, as well as providing an additional dwelling type: apartments with private stoops. The new residential units in the F1-F2 Building are intended to be rental units, and will vary in price depending on their sizes and amenities. For all new units constructed, the Applicant will be providing MPDUs. With the Application, up to 507 new residential units with 64 new MPDUs are required and will be provided.

The multi-family building and circulation system create a desirable relationship with adjacent buildings and surrounding neighborhoods through comparable or compatible building heights and existing access connections. The Application will promote improved pedestrian and vehicular circulation through its design of interconnected private streets, sidewalks, and public use spaces. The Applicant will provide the minimum five-foot wide sidewalks on the perimeter of the site, The Mews area, Dog Run, and other elements of the on-site public use space areas.

The Property is located within the Parking Lot District and is permitted to provide a reduction of required parking spaces on site. A tax is required for all spaces not accommodated on-site to provide assistance to maintain the public parking facilities that residents and patrons use in lieu of on-site parking facilities. As submitted, the Application proposes 348 parking spaces with garage access from Portal Drive, which equates to 51% of the number of parking spaces required by the Zoning Ordinance. The Applicant is required to pay a tax to the Parking Lot District for the remaining 49% of the requirement and will be assessed by the Parking Lot District at the time of use and occupancy permit.

There is no applicable Urban Renewable Plan for this area.

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the CBD-R2 Zone.



Application Data Table for the CBD-R2 Zone

Development Standard	Zoning Ordinance Permitted/ Required	Approved by Project Plan and Preliminary Plan (entire site)	Approved & Binding on Applicant-F1 & F2 Site Plan
<b>Site Area (square feet)</b>			
Existing Net Lot Area		1,188,115 sf	161,918 sf (3.71 acres)
Existing Gross Tract Area		1,322,792 sf	165,255 sf (3.79 acres)
Net Lot Area Total	18,000 sf	1,157,500 sf	161,669 sf (3.71 acres)
<b>Density</b>			
Maximum Total FAR	5.0 (F1-F2)	2.89	3.66
Maximum Floor Area (GFA)	826,275 sf	3,825,400 sf	605,000 sf <sup>2</sup>
GFA, Max. Non-Residential	NA	450,000 sf	NA
GFA, Min. Retail/Service	NA	3.27% (125,091 sf)	NA
GFA, Residential	NA	3,375,400 sf	605,000 sf
Maximum Total Dwelling Units	NA	2,800	507
<b>Min. Public Use Space</b>			
On-Site	20% (32,334 sf)	20% (232,000 sf)	29.7% (48,000 sf)
Off-Site Amenity Space	n/a	4% (46,000 sf)	9% (14,500 sf)
<b>Min. Building Setbacks (ft)<sup>3</sup></b>			
From right-of-way line of Eastern Avenue	NA	18 ft (F1) 16 ft (F2)	18 ft (F1) 16 ft (F2)
<b>Max. Building Height (ft)</b>			
	200	200	180
<b>Vehicle Parking (number of spaces)</b>			
Residential (507 units)	687	NA	348 <sup>4</sup>
<b>Bicycle Parking</b>			
Number of spaces: 1 space for every 20 auto spaces, but not more than 20 in any 1 lot	17	NA	17
<b>Motorcycle Parking</b>			
Number of spaces 2% of auto spaces, but not more than 10 in any 1 lot	7	NA	7

<sup>2</sup>This represents 15.8% of the entire GFA on the Blairs Master Plan site, and 3,220,400 square feet of GFA remains for future phases.

<sup>3</sup>The setback requirements were determined at Project Plan, condition 3d. The CBD-R2 zone does not have setback requirements.

<sup>4</sup>The site is located within the Silver Spring Parking Lot District; therefore, the Applicant has the option to provide no on-site parking or fewer parking spaces per unit. The Applicant must however pay a tax for any parking not provided on-site. Total number of spaces will be determined at Certified Site Plan.



Section 25A-MPDUs	
Required	Approved & Binding on Applicant
12.5% minimum	12.5% (64 units)

3. *The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Buildings and Structures

The locations of the building and structure are adequate, safe and efficient and consistent with the approved Preliminary Plan and Project Plan. The building located on Blocks F1 & F2 has been designed with sufficient setbacks from one building wing to another to provide ample passage space between them for light, air, and views, with extensively landscaped, wide sidewalks and private yard spaces, which allow for safe and efficient pedestrian circulation within the Property. The Application also meets the setbacks for Blocks F1 & F2 approved at Project Plan.

b. Open Spaces

The locations of open spaces are adequate, safe, and efficient and include smaller private courtyard spaces and a centralized public space that will provide spaces for sitting, relaxing, strolling, and social engagement. The open space areas and the sidewalk connections are landscaped to provide shaded spaces along the walkways, while maintaining functional passive recreational spaces. The Blairs Master Plan will provide several distinct, interrelated, public use spaces with an array of active and passive recreational opportunities, and two of these spaces, The Mews and Dog Run, will be provided with the F1-F2 development. Additionally, interim spaces are being provided as part of the Application for un-programmed recreational uses.

c. Landscaping and 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 Application provides streetscape along the new private streets that will be constructed in accordance with the Silver Spring Streetscape Plan Technical Manual, and will transform existing streetscape segments along the frontage adjacent to Eastern Avenue NW, in the District, with new street trees, improved sidewalks, and street lighting. The on-site lighting will limit the necessary light levels to streets and sidewalks and will prevent light spillover to adjacent areas. Site furnishings will be integrated within



the site to create a unique and interesting place and ensure accessibility and comfort.

d. Recreation Facilities

The on-site recreation amenities are dispersed throughout the site, and include 16 bench/picnic seating areas, pedestrian circulation system, a swimming pool, indoor community space and an indoor fitness facility. The development meets the required supply of recreation facilities based on the Planning Board's Recreation Guidelines. The portions of the Blair Towers development (proposed future Blocks G & E) that fall outside of the F1-F2 Application will provide interim uses including unimproved outdoor space that can accommodate a variety of temporary and unplanned functions or amenities, such as farmers' markets, festivals, and other informal active recreation. They will remain until future phases of the Blairs Master Plan are redeveloped. The development will provide adequate, safe, and efficient recreation facilities.

e. Vehicular and Pedestrian Circulation

The Application's vehicular circulation system has been designed to promote safe and efficient accessibility within the Subject Property for residents and visitors. The Blairs Master Plan will provide a network of private streets. Portions of Portal Drive and Street C will be constructed in connection with the Application, to provide access to the parking and loading areas for the F1-F2 Building. The loading and service areas for the building have been designed in an efficient way to provide adequate areas for these functions that are away from prime pedestrian areas and building entrances, but close to private and public street access points. The Application also proposes to provide its portion of the pedestrian circulation system, intended to provide numerous accessible pathways for residents, visitors and surrounding community members to destinations within the Blairs Master Plan development and to areas in close proximity, such as Silver Spring Metro. The private street system provides access for emergency vehicles and other public services, and allows the installation of public utilities.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The F1-F2 Application is compatible with the existing and potential development in the general neighborhood and within the Blairs Master Plan Property. The Project Plan stated the maximum height for these buildings to be further reviewed at the Site Plan stage for compatibility and the maximum building height permitted will be based upon building step backs, materials, massing, and architecture. The



approved Project Plan limited the height for buildings within the lower escarpment to a maximum of 180 feet as measured from the respective fronts as determined by DPS. The taller portions of the F1-F2 Building have been designed to ensure compatibility with high and low rise neighbors. The existing Blair House, to the west of the Phase 1 Building, reaches a height of 12 stories (approximately 120 feet). This compares well with the wider seven-story and narrower 14 story elements of the Phase 1 Building. The lower and middle building volumes nearest Eastern Avenue have been designed for compatibility with the single-family houses across Eastern Avenue and Blair Mill Road. These portions of F1-F2 Building present a narrower seven-story face and a wider five-story façade that gives the appearance of four stories from the street to Eastern Avenue and the residences in the District. Additionally, the Application proposes to set back the five story wings of Building F1-F2 at least 24 feet from the Eastern Avenue right-of-way, exceeding the minimum setbacks required by the Planning Board at Project Plan to ensure compatibility. The F2 building addition steps up as it moves away from Eastern Avenue and presents its wider seven-story element and narrower 18 story element to the adjacent Block G portion of the Blairs Master Plan site, but will be separated by the triangular green area of Fitness Green. The heights within the building are used to address conditions adjacent to each area and are comparable to existing building heights. Per Section 59-C-6.235(b), the Planning Board approves a height of 180 feet for this Site Plan. The Site Plan conforms to the density limitations of the Sector Plan and the height limits set forth in the approved Project Plan.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

- A. Forest Conservation

The entire site is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code). A Preliminary Forest Conservation Plan (PFCP) for the entire Blairs Master Plan site was submitted on December 6, 2013, and conditionally approved on December 30, 2013. The PFCP established a net tract area of 27.28 acres for forest conservation purposes. Based on the associated forest conservation worksheet, there is a 4.09-acre afforestation requirement for the entire site.

As typical with other phased projects, the forest conservation requirements for any particular phase must be satisfied before any clearing or grading occurs within that phase. For forest conservation purposes the current F1-F2 phase



includes the 3.71 net lot acre Property area associated with the Application plus all the additional offsite limits of disturbance (LOD). Since the current phase includes LOD for the demolition of structures in Block E & G and LOD for significant utility work within the right-of-way (described further below), the current Application and its associated offsite LOD occupy 8.34 acres and result in an afforestation requirement of 1.17. The afforestation requirements will be met by the purchase of equivalent credits in a forest bank. The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

#### B. Forest Conservation Variance

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

This Application will require the removal or CRZ impact to one (1) 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.

The Board made 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.*

The impact to the tree along Blair Mill Road is associated with utility tie-ins within the right-of-way where such impacts are anticipated. Therefore, the variance request would be granted to any Applicant in a similar situation.

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 based on development allowed under the existing zoning and the need to achieve adequate utility connections. The variance can be granted under this condition if the impacts are avoided or minimized and that any necessary mitigation is provided. In



this case, the impacts are within the center of the existing roadway where there would be few if any actual roots of the subject tree.

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 WSSC requirements for upgrading the water line in the right-of-way that included within the net tract area of this project and not as 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.*

Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality. The DPS review and ultimate approval of the sediment and erosion control and stormwater management plans will ensure that appropriate standards are met. The subject area is not directly associated with any streams, wetlands or related buffers. Furthermore, there would be few if any actual roots of the subject tree within the center of the existing roadway and the canopy of the tree will not be affected. Therefore, the temporary impacts to the right-of-way will not violate State water quality standards or cause measurable degradation in water quality.

No mitigation is required for Protected Trees impacted but retained.

C. Stormwater Management

A Stormwater Concept Plan was accepted by the Montgomery County Department of Permitting Services (DPS) on Date September 10, 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-D-3.8; 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 NOV 20 2014 (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 Fani-Gonzalez, seconded by Commissioner Dreyfuss, with Chair Anderson, and Commissioners Dreyfuss and Fani-Gonzalez voting in favor, and Vice Chair Wells-Harley and Commissioner Presley absent, at its regular meeting held on Thursday, November 13, 2014, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board