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## STAFF ANALYSIS FOR PLANNING COMMISSION

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REPORT DATE: June 11, 2021

RESPONSIBLE STAFF: Jasmine Forbes,  
Planner II

**PUBLIC MEETING DATE**

June 16, 2021

**APPLICATION NUMBER**

SP-8774-2021

**SUMMARY OF REQUEST**

The Applicant is requesting Final Site Plan approval for a new 244-unit multi-family residential building at the corner of Diamondback Drive and Ellington Blvd.

**APPLICANT**

Bryan Condie,  
FRH Realty, LLC.

**SUBJECT PROPERTY ADDRESS**

333 Ellington Boulevard

**ZONE**

MXD (Mixed Used Development)

**EXISTING LAND USE**

Undeveloped

**STAFF RECOMMENDATION**

Please see Staff recommended motions at the end of the report.

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Approve

Approve With Conditions

Deny

Defer

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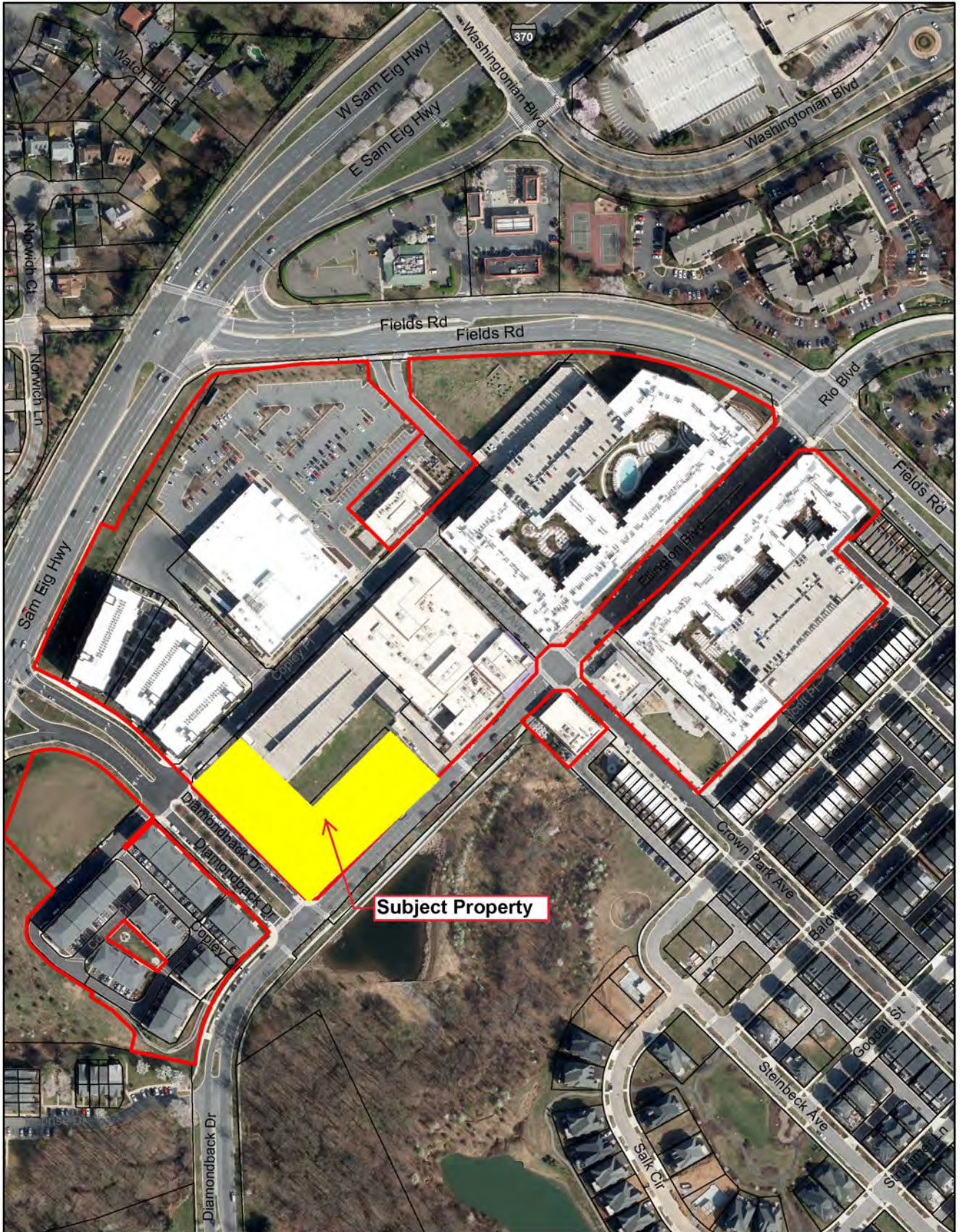
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**Enclosures:**

Staff Comments and Location Map  
Exhibits

- Exhibit #1: Application
- Exhibit #2: Resolution ASDP-8733-2020
- Exhibit #3: Applicant's Statement of Justification
- Exhibit #4: Approved MPDU Plan
- Exhibit #5: RPAI and Westbrook Approval Email
- Exhibit #6: Pepco and Verizon Approval Email
- Exhibit #7: Final Site Plans
- Exhibit #8: Landscape Plans
- Exhibit #9: Truck Turning Exhibits
- Exhibit #10: Sediment Erosion Control Plans
- Exhibit #11: Architecture Plans
- Exhibit #12: Notifications

# LOCATION MAP



## STAFF ANALYSIS

### **I. BACKGROUND:**

The Applicant, Byan Condie of FRH Realty, LLC., has submitted Final Site Plan application, SP-8774-2021, requesting approval for the construction of a 244-unit multi-family residential building (Exhibit #1).

This application is based upon Amendment to Schematic Development Plan, ASDP-8733-2020, approved March 3, 2021 by resolution PCR-ASDP-8733-2020 (Exhibit #2).

### **II. SCOPE OF REVIEW:**

Site plan approval is required pursuant to § 24-168 of the Zoning Ordinance, which states:

*"No building or structure shall be hereafter erected, moved, added to or structurally altered under circumstances which require the issuance of a building permit under this chapter, nor shall any use be established, altered or enlarged under circumstances which require the issuance of a use and occupancy permit under this chapter, upon any land, until a site development plan for the land upon which such building, structure or use is to be erected, moved, added to, altered, established or enlarged has been approved by the city planning commission."*

As part of this application, the Applicant is requesting a parking waiver for parking spaces that cannot meet the required 17 feet in length. The Planning Commission has the authority to approve parking waivers pursuant to § 24-222A, which states:

*"The planning commission may waive any requirement of this article, in whole or in part, which is not necessary to accomplish the objectives of this article. The waiver may be granted, after a public meeting has been conducted, only upon finding by the planning commission that such a waiver would not be detrimental to the public health, safety and general welfare. In conjunction with the granting of any waiver, the planning commission may attach such conditions or safeguards as it deems necessary to protect and enhance the public health, safety and general welfare."*

### **III. SITE PLAN ANALYSIS AND FINDINGS:**

In accordance with § 24-170 and § 24-171, the Planning Commission has the authority to review and make determinations regarding the proposed plan for the purpose of protecting the public health, safety and welfare. The findings are referenced in § 24-170 of the City Code. Accordingly, Staff provides the following comments and findings for Planning Commission consideration:

#### **Location**

The Subject Property is located at 333 Ellington Boulevard, which is at the corner of Diamondback Drive and Ellington Boulevard. The Subject Property is part of the Crown Neighborhood One development.

#### **Zoning and Site Plan History**

##### **Annexation and Zoning**

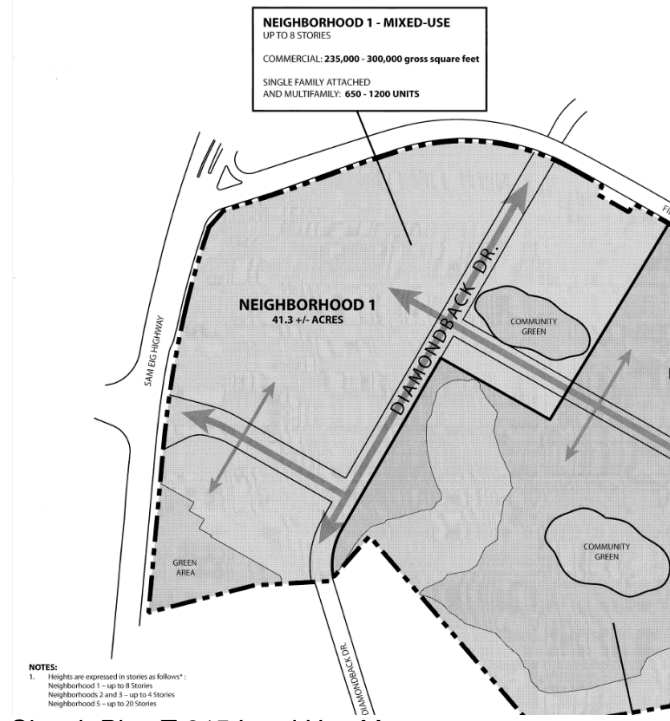
The Mayor and City Council approved the Crown Farm annexation application, X-182, into the City of Gaithersburg on August 7, 2006 by resolution R-82-06. In addition to the annexation approval, the Mayor and City Council also established MXD (Mixed Use Development) zoning for the Crown Farm Development and approved the associated sketch plan by ordinance O-8-06. The approved sketch plan, Z-310, was based upon and further defined by the approved X-182 Annexation Agreement.

The Z-310 sketch plan and agreement established a mix of uses including 2,250 residential units in a variety of dwelling unit types and 320,000 square feet of commercial/retail development, divided among six (6) Neighborhoods. Two (2) of the Neighborhoods would have neither housing nor commercial components; one is a future Montgomery County school site (Neighborhood 6) and other a City Park (Neighborhood 4).

##### **Application Z-315 and 2nd X-182 Annexation Agreement:**

Following the purchase out of bankruptcy, the new owners VII Crown Farm Owner LLC negotiated with the City a second amendment to the X-182 Annexation Agreement and received approval for a new sketch plan. The Z-315 application, approved December 6, 2010 by ordinance O-27-10 proposed a re-distribution of housing units and types, with an increase in single family units, among the original neighborhoods established by the Z-310 Sketch Plan. The boundaries of the six neighborhoods were changed with a noted increase to Neighborhood 2 and a decrease to Neighborhood 5. The maximum cap of 2,250 overall residential units and 320,000 square feet of commercial, a City Park, and future school site on approximately 180 acres of land to be divided into six (6) neighborhoods remained unchanged from the original X-182 annexation and Z-310 Sketch Plan. This Z-315 application reflected the changes that were incorporated into the 2nd Amended X-182 Annexation

Agreement, negotiated between the City and VII Crown Farm Owner, LLC.



Sketch Plan Z-315 Land Use Map

As it relates to SDP-7354-2016, Z-315 approved the following:

**TOTAL MAXIMUM DENSITY**

320,000 GSF OF COMMERCIAL  
2,250 MULTIFAMILY, SINGLE FAMILY ATTACHED  
AND DETACHED UNITS

**NEIGHBORHOOD 1 - MIXED-USE**

UP TO 8 STORIES  
COMMERCIAL: 235,000 - 300,000 gross square feet  
SINGLE FAMILY ATTACHED  
AND MULTIFAMILY: 650 - 1200 UNITS  
ACREAGE: 41+/-

**NEIGHBORHOOD 2**

UP TO 4 STORIES  
SINGLE FAMILY ATTACHED AND DETACHED AND  
MULTIFAMILY : 320 - 420 UNITS  
ACREAGE: 53+/-

**NEIGHBORHOOD 3**

UP TO 4 STORIES  
SINGLE FAMILY ATTACHED AND DETACHED AND  
MULTIFAMILY : 300 - 440 UNITS  
ACREAGE: 46+/-

**NEIGHBORHOOD 4 - CITY PARK**

ACREAGE: 5.7+/-

**NEIGHBORHOOD 5 - MIXED-USE**

UP TO 20 STORIES  
COMMERCIAL: 10,000 - 85,000 gross square feet  
SINGLE FAMILY ATTACHED AND  
MULTIFAMILY: 300 - 900 UNITS  
ACREAGE: 5+/-

**NEIGHBORHOOD 6 - SCHOOL SITE**

ACREAGE: 32.1

Sketch Plan Z-315 Density Chart

## Site Plan History

Schematic Development Plan (SDP) application SDP-11-001 was submitted in accordance with Z-315 and approved on April 4, 2011 by resolution R-28-11. That SDP approved Neighborhoods 1 and 2 of the Crown development. The following is a list of schematic development plans amendments for Crown Neighborhood One:

- SDP-1842-2013: Neighborhood 1 conversion of a multi-family rental to seventy (70) 2-over-2 condominium units, approved by Resolution R-45-13 on June 17, 2013;
- ASDP-7049-2015 : The Crown Lofts Condominiums approved by Resolution PCR-ASDP-7049-2015 on July 2015; and
- SDP-8069-2018: Four story office building with ground floor retail at 10002 Fields Road, approved on September 3, 2019 by Resolution R-59-19.

Neighborhood 2 and the commercial core of Neighborhood 1 received final site plan approvals as SP-11-0011 (approved September 7, 2011) and SP-11-0012 (approved January 18, 2012) respectively. Since those approvals, all but one parcel in Neighborhoods 1 and 2 have received final site plan approval and are either under or have completed construction.

On March 3, 2021, the Planning Commission approved Amendment to Schematic Development Plan application ASDP-8733-2020, to amend Schematic Development Plan application SDP-11-001 to include an additional story within the overall height allowance for multi-family building located at the corner of Diamondback Drive and Ellington Boulevard. The SDP plan specified the Subject Property as a five-story building with a maximum height of 75 feet.

## **Surrounding Land Use and Zoning**

The following table summarizes the land use and zoning for the surrounding properties:

<b>Direction</b>	<b>Zoning</b>	<b>Land Use</b>
North	MXD (Mixed Use Development)	Commercial
South	MXD (Mixed Use Development)	Residential
East	MXD (Mixed Use Development)	Residential
West	MXD (Mixed Use Development)	Residential



Zoning Map

## **Master Plan**

The Crown development was included in the 2003 Master Plan as Special Area 4. Even though recommendations for this site was not completed, there was public input received at the charrette for the future vision of the Crown Farm development. At the time of the 2003 Master Plan, Crown Farm was not part of the City and the property owners began the process of seeking annexation into the City in 2005. The development was also included as part of the 2009 Land Use Plan as Map Designation 21. The Master Plan recommended that Crown Farm development retain the mixed use designation and zoning remains MXD (Mixed Use Development). The Land Use Element of the 2009 Master Plan designated the land use for the Crown development as Mixed Use.

## **Adequate Public Facilities Ordinance (APFO)**

### **Traffic Impact (§ 24-245):**

The X-182 annexation application included a Traffic Impact Analysis, performed by The Traffic Group Inc. Following annexation, this document continued to be further refined and more data added. The latest Traffic Impact Analysis was completed July 26, 2006. This document defined those intersections that may need mitigation as a result of the proposed development.

As part of the approved Z-315 Sketch Plan, an Off-Site Road Improvement Plan was submitted. This plan is based upon the findings in the July 26, 2006 Traffic Impact Analysis. The plan would mitigate those impacts identified in the analysis. These improvements would occur on both Montgomery County and Maryland State owned and maintained roads and as such, the State Highway Administration and Montgomery County Department of Public Works & Transportation have final review and approval of the proposed improvements and may choose not to perform the actions. The Applicant has bonded the cost of the proposed following improvements in accordance with following X-182 provision:

"Crown Village agrees to provide Gaithersburg with a bond, letter of credit or other security (the "Guarantee") in an amount which covers the design, engineering, and construction costs only of the Off-Site Road Improvement(s) in question and to construct the Off-Site Road Improvement(s) in question within a five (5)-year period from the date Crown Village posts the Guarantee with Gaithersburg but only if the required governmental approvals and rights-of-way are available... Should the approvals and/or rights-of-way not be available within the five (5)-year period, Crown Village shall not be obligated to construct the Off-Site Road Improvements in question but agrees to pay an amount equal to the amount of the Guarantee to Gaithersburg for use by Gaithersburg for the Off-Site Improvement(s) in question or such other transportation improvements related to the Permitted Development as Gaithersburg may determine..."

Improvements:

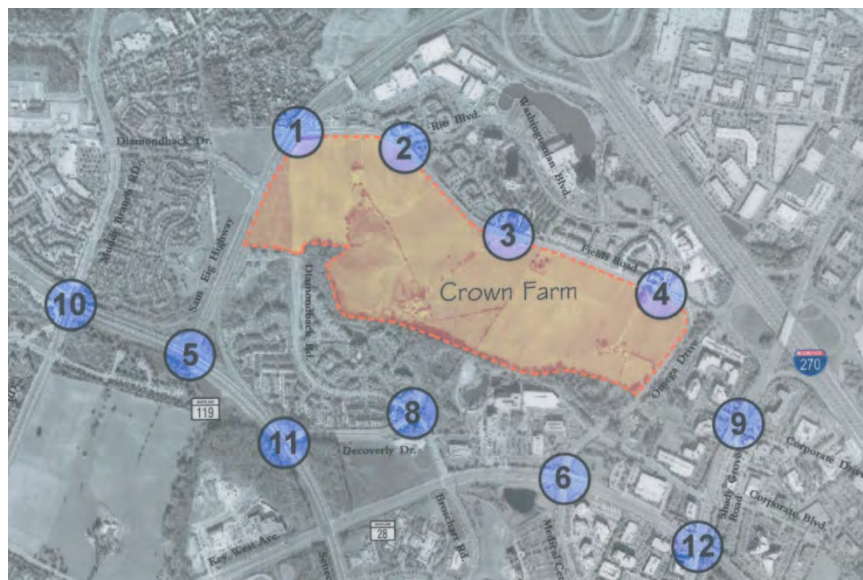
- 1) *The applicant will commence the construction of, or participate in the cost of construction of, the following improvements by the issuance of the 100th residential building permit or the commencement of construction of 50,000 square feet of Commercial Retail Development:*
  - i) *Sam Eig Highway and Fields Road Improvements, including additional turn lanes, lane widening, and installing roundabouts. (Improvements 1-4)*
  - ii) *MD 119 (Great Seneca Highway) and Sam Eig Highway Road Improvements (Improvement 5)*
  - iii) *Shady Grove Road and Darnestown Road Improvements (Improvement 7)*
  - iv) *119 (Great Seneca Highway) and Muddy Branch Road Improvements (Improvement 10)*

2) *The applicant will commence the construction of, or participate in the cost of construction of, by the earlier of the issuance of the 250th residential building permit or the commencement of construction of 100,000 square feet of Commercial Retail Development:*

- i) Diamondback Drive and Decoverly Drive Road Improvements (Improvement 8)*
- ii) MD 119 (Great Seneca Highway) and Decoverly Drive Road Improvements (Improvement 11)*
- iii) Extend auxiliary lane from Sam Eig Highway back to Decoverly Drive (Improvement 11)*

3) *The applicant will commence the construction of, or participate in the cost of construction of, the following improvements by the issuance of the 500th residential building permit or the commencement of construction of 200,000 square feet of Commercial Retail Development:*

- i) MD 28 and Omega Drive – Medical Center Drive Road Improvements (Improvement 6)*
- ii) Shady Grove Road and Corporate Drive Road Improvements (Improvement 9)*
- iii) Extend auxiliary lane from I-270 ramp southerly to Corporate Drive (Improvement 9)*
- iv) MD 28 and Shady Grove Road Improvements (Improvement 12)*



*Sketch Plan Z-310: Off-Site Roads Improvement Plan*

During the Amendment to Schematic Development application ASDP-8733-2020 review, the community had voiced concerns about the existing pedestrian safety on Copley Place and Diamondback Drive. There were also concerns expressed about the traffic volume and road adequacy in the vicinity of the Subject Property. In the

statement of justification letter, the Applicant notes that this final site plan is not required to submit a new traffic impact study due to Annexation Agreement X-182 (Exhibit #3). The approved Annexation Agreement and associated Sketch Plan analyzed the traffic impact of the overall allowed buildout in Crown. The Sketch Plan for Crown permitted up to 2,250 residential units and 320,000 square feet of retail. Currently, Crown is approved for 1,961 residential units and 261,718 square foot of retail space, which is well under the permitted maximum density allowed under the Sketch Plan. Due to roads being under private ownership, cooperation with the developer will be required to address these concerns. The Applicant notes that they will continue to work with City Staff and the developer to determine any appropriate measures should be taken. City Staff and the developer has participated in discussions on how pedestrian safety can be addressed and are still ongoing.

**Schools (§ 24-246):**

The Crown development is located in the Gaithersburg Cluster of the Montgomery County Public School (MCPS) system. Students generated by this development will attend Rosemont Elementary School, Forest Oak Middle School and Gaithersburg High. No schools are currently in moratorium. (§ 24-246).

**Water & Sewer (§ 24-247)**

The Subject Property is currently served by water and sewer categories W-1 and S-1 respectively and thus satisfies the requirements for water and sewer (§ 24-247).

**Emergency Services (§24-248):**

The City's Adequate Public Facilities Ordinance (APFO) requires that any development project be served by at least two fire stations within a ten-minute response time. The Crown development is located with a ten-minute response time of the following fire stations:

- Station 8 (Gaithersburg/Washington Grove- Montgomery Village Avenue)
- Station 31 (Rockville)
- Station 32 (Travilah)

Therefore, adequate fire and emergency services are provided and satisfy the adequate public facilities requirements for fire and emergency services (§ 24-248).

**Site Plan Analysis**

The Applicant is requesting approval to construct a new 244-unit multi-family building, which consist of 43 studios, 147 one-bedrooms, 50 two-bedrooms and 4 three-bedroom units (Exhibit #7). There will be a total of 27 Moderately Priced Dwelling Units (MPDU) provided in the building. The Applicant has received approval from Louise Kauffmann, Housing & Community Development Chief, for the proposed MPDU units and meets the required units for the overall Crown development (Exhibit #4). The building will be 5-6 stories and have an overall height of seventy feet. The



## Staff Comments

Staff is supportive of the proposed application for the new multi-family residential building. The proposed site plan is in conformance with the approved SDP application ASDP-8733-2020. The proposed plan is the continuation of development within Crown, therefore will not adversely impact the character of Crown and the adjacent properties. While Staff is supportive of the proposed plan, Planning Staff and Department of Public Works (DPW) have provided some minor comments related to the site plan. These minor comments include but not limited to typos and missing labels. While these comments must be addressed prior to final signature of the plans, Staff is of the opinion these changes are minor enough that the plans can still be approved by the Planning Commission with a condition of approval.

## **Parking**

As part of the site plan and in conformance with the approved SDP for Neighborhood 1, the Applicant is building an expansion of the existing garage to accommodate parking for the existing retail uses and the proposed residential building. Pursuant to § 24-219 of the City Code, the proposed residential use is required to provide a minimum of 310 parking spaces and will provide 313 spaces. As part of Final Site Plan application SP-11-0012 for the retail uses, the parking garage is required to provide 303 spaces and the garage with the expansion will provide a total of 429 spaces. Levels 1, 2 and partially 3 of the garage will be dedicated to the retail uses and levels 3-5 will be dedicated to the residential units. The third level will include a security gate to separate the residential parking from the retail.

As part of this application, the Applicant is requesting a parking waiver for parking spaces that cannot meet the required 17 feet in length. Due to structure columns in the parking garage expansion, approximately 29 spaces will be 15 feet in length and will not be able to meet the 17 feet length requirement. In the statement of justification letter, the Applicant notes that this type of condition currently exists in the parking garage and finds that this will not interfere with ingress and egress of the garage.

## Staff Comments

Staff is supportive of the proposed parking layout. In Staff's opinion, the parking garage will provide adequate parking and vehicle circulation for the retail and residential uses. Staff is also supportive of the parking waiver request for the 29 spaces that are 15 feet in length. The number of parking spaces requested for the waiver is minimal and will not impact vehicle circulation within the garage. A condition has been included to require the cost of parking spaces be included in resident's lease rather than being purchased separately. There has been several examples in the City where separated parking was priced too expensively and, rather than pay for it, residents parked on the street. When this situation arises, parking issues are created in the neighborhood and the parking that is dedicated to the development is not

utilized as heavily as it is designed to be. This has been a City policy for several years and a similar condition was approved with the multi-family residential building in Crown Neighborhood Five. The developer has ensure Staff that one parking space will be provided as part of the lease, but this condition was included as a reminder of the requirement.

## Landscape Plan

The plan will maintain the existing street trees along Diamondback Drive and nine new Willow Oak trees will be planted along Ellington Boulevard. The Applicant plans to incorporate a variety of landscaping along the southeast and southwest side of the building such as shrubs, ground cover, annuals, perennials and ornamental grass. The Applicant also plans to incorporate landscape within the two courtyards. The courtyards will incorporate a variety of deciduous trees, evergreen trees, ornamental trees, shrubs, ground covers, perennials and ornamental grasses.

### Staff Comments:

Staff supports the proposed landscape plan. The combination of shrubs and trees along the front of Diamondback Drive and Ellington Boulevard will create divers and interesting streetscape.

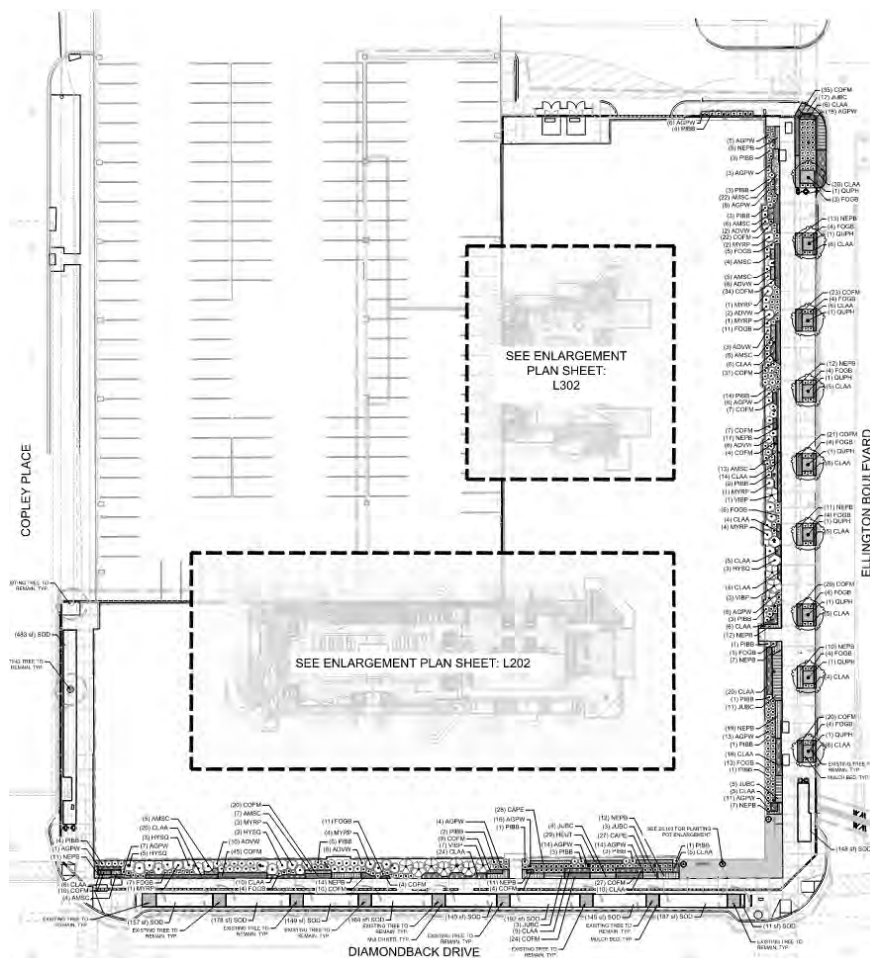


Exhibit #8- Landscape Plan (Sheet L-103)

# Architecture

The height of the residential building will be 5-6 stories and will measure seventy feet. The north, south, east, and west elevations will include vinyl windows and be clad in brick, cementitious panels, and siding. The main entrance is located at the corner of Diamondback Drive and Ellington Boulevard and include a metal canopy over the entrance. The western and southern elevations will contain metal balconies along the top four levels. The balconies will overhang a public storm drain easement and public utility easement. Department of Public Works staff has reviewed and approved the balcony encroachments into the public storm drain easement. Additionally, the Applicant has received approval from PEPCO and Verizon, but is currently awaiting approval for Washington Gas (Exhibit #6). If the Applicant does not receive approval from Washington Gas, then the balconies will be converted to Juliet balconies. A condition of approval has been included requiring approval from Washington Gas prior to issuance of any permits.

The new garage expansion will be clad in materials similar to the existing garage. The expansion will also contain a cornice and an indentation design to match the existing garage.

While the plans include signage, they are only shown for illustrative purposes. The final signage for the building will be handled as separate sign permit applications and must be in conformance with the City Code and the adopted Crown Guidelines.





Exhibit #11: Building Elevations (Sheet A4-01)



Exhibit #11: Building Elevations (Sheet A4-01)

Staff Comments

Staff is supportive of the proposed architecture and is of the opinion that the design of the building will be compatible with the existing buildings within the Crown development. Overall, the proposed building will not adversely affect the character of the adjacent buildings. By incorporating high-quality and durable materials such as brick, cementitious panel, and cementitious siding in a variety of colors the project will create an interesting pedestrian scaled building in conformance with the approved design guidelines for Crown Neighborhood 1 and 2. The corner of the building and the main entry of the building will be emphasize by incorporating a metal canopy and two levels of aluminum store front windows, which will create an interesting streetscape and entrance.

## **IV. SUMMARY OF FINDINGS:**

Staff is supportive of the submitted Final Site Plan application, SP-8774-2021. The proposed plan is in conformance with approved Amendment to Schematic Development Plan, ASDP-8379-20219, and Sketch Plan, Z-315, which permits a maximum of 1,200 units within Neighborhood One. There are currently a total of 787 residential units in Neighborhood One. This plan will bring a grand total of units in Neighborhood 1 to 1,031 units. Sketch Plan Z-315 also established a maximum cap of 2,250 units within the overall Crown Development. Per the provisions of the Annexation Agreement, two (2) multi-family residential units in Neighborhood Five for additional office space in Neighborhood One. This conversion reduced the maximum cap of residential units to 2,248. The proposed residential building will bring the overall Crown development to 2,204 residential units. Therefore, the amendment is consistent with approved Sketch Plan and Annexation Agreements. The plan is the continuation of development with Crown, and will not adversely impact the character of Crown and the adjacent properties. Additionally, the proposed plan furthers the vision and goals of the Crown development by providing a vibrant and walkable mixed use community.

## **V. STAFF RECOMMENDATION**

Staff recommends **THAT THE PLANNING COMMISSION BASED ON THE EXHIBITS SUBMITTED, THE APPLICANT'S TESTAMONY, AND THE STAFF REPORT, FINDINGS AND RECOMMENDATION, GRANT SP-8774-2021, FINAL SITE PLAN APPROVAL AND PARKING WAVIER, FINDING IT COMFORMANCE WITH §§ 24-170 AND 24-171 OF THE CITY'S ZONING ORDINANCE, WITH FIVE (5) CONDITIONS:**

1. Applicant must submit revised plans to address Staff comments, to be approved by Planning and Department of Public Works Staff, prior to issuance of a site development permit;
2. Applicant must include and enforce a parking addendum, approved by Planning Staff, for each lease requiring all residents vehicles to be registered with the property management with parking to be provided in the associated on-site parking garage for all registered vehicles;
3. If the Applicant cannot receive approval from Washington Gas for the balcony encroachment into the Public Utility Easement, then an amendment to final site plan application must be submitted to modify the balconies to Juliet balconies, prior to the issuance of a building permit;
4. Applicant must record a temporary construction and maintenance agreement/easement with RPAI and Westbrook, prior to issuance of a site development permit; and

5. Applicant to work with Public Works staff to finalize maintenance of traffic plans, prior to the issuance of a site development permit.