



# TOWN OF BEL AIR

## DEPARTMENTS OF PLANNING AND PUBLIC WORKS

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April 4, 2024

The Standard on Bond JV  
c/o Wayne S. Goddard  
515 E. Joppa Road, Ste. 202  
Towson, MD 21286

Re: 03P-24-03-SD/SP/SB, 30 dwelling unit & 25,880 sf commercial Mixed-Use Center  
128 & 130 N Bond Street, 100 Lester Way and P/O Gordon Street

Dear Mr. Goddard:

The Bel Air Planning Commission met on March 7, 2024, and April 4, 2024, to review the Site Plan, Subdivision Plan, Landscape Plan, and Special Development for the requested approval of a five-story, 30 dwelling unit 25,880-sf Mixed-Use Center including Outdoor Dining/Bar service use to be located at 128 & 130 N. Bond Street. The Bel Air Planning Commission approved the request based on the following and as more specifically set forth in the attached findings of fact and conclusions of law:

### 2022 Bel Air Comprehensive Plan

The project as approved is consistent with the 2022 Bel Air Comprehensive Plan as required by Town Code Section 165-19.

### Mixed Use Special Development

At a minimum, the Mixed-Use Special Development is approval is based upon the following findings of fact that the applicant has adequately demonstrated adherence to Section 165-53.1(2)(g):

- a. The applicant has provided a unified arrangement of buildings, service areas, parking, signage, and landscaping.

- b. The architecture, site design, lighting and signage incorporate consistent design and theme elements and materials, massing and facade design for the project that is in harmony with the character of the neighborhood.
- c. The internal circulation system is to be designed to minimize through traffic and traffic conflicts within the project.
- d. Safe pedestrian movement and the provision of pedestrian walks within the parking lot and surrounding the building perimeter is considered in the design.
- e. All proposed establishments have vehicular service access either from an individual service drive, space or from a common service yard. All loading, trash removal, compaction or similar activities are segregated from public areas and screened from public view as practicable.
- f. Signs to identify the use of an occupant will be designed as part of the architectural design of the building. Proposed signage is conditioned for approval of the preliminary plan and is subject to review and approval by the Planning Commission.
- g. Directional and informational signage will be adequately provided, and design coordinated.
- h. Center management is responsible for providing on-site security service.
- i. A traffic and parking study was submitted and approved by the Town.
- j. The owners of all lots will execute a recorded Development Agreement with the Town providing that all owners acknowledge and agree to be bound by performance standards as an overall scheme of development, outlining all shared elements, granting reciprocal easements to permit each owner to access any other owner's lot or parcel of land for the purposes of compliance with the Town Code and for either remediating any zoning violation or to comply with the Town Code for the purposes of any approvals sought by any of the owners of the lot and agreeing that the Town shall permit enforcement of any portion of the Town Code upon one or more owners of any lot or parcel of land contained within the Mixed Use Center scheme of development.

#### Outdoor Dining/Bar service Special Development

Approval of a Special Development for an Outdoor Dining/Bar service use is based upon the following findings of fact that the applicant has adequately demonstrated adherence to performance standards as provided in Section 165-53.1(2)(i):

- a. Amplified music or public address are not permitted between 9pm and 9am
- b. Live entertainment and recreational games are not permitted between 9pm and 9am
- c. Outdoor dining/bar will adhere to the requirements of Chapter 345 of the Town Code
- d. The exterior seating is limited to 81 seats which meets the limit of 75% of the capacity of the principal permitted use. Any temporary enclosure must meet the provisions of Section 165-71.C

- e. No physical bar for the service of alcohol is proposed. Alcohol consumption or service in the outdoor area must be approved by the Harford County Liquor Board.

### Site Plan

At a minimum, approval of the Preliminary Site Plan is conditioned on the following:

- a. Prior to Building Permit Application, submission of a Final Site Plan for signature incorporating comments from the staff report, and comments from:
  - 1) Bel Air Volunteer Fire Company dated February 25, 2024, as amended
  - 2) Harford County Health Department dated February 16, 2024
  - 3) Harford County Soil Conservation District dated February 20, 2024
  - 4) Bel Air Public Works comments dated February 20, 2024
  - 5) Harford County Public Schools dated February 28, 2024
- b. Prior to approval of utility construction drawings, the applicant must address comments from Maryland American Water Company.
- c. Prior to signature of the Final Site Plan, approval of revised architectural design exhibits based on the Town staff comments and architectural consultant comments dated February 23, 2024. Architectural design of 130 North Bond Street must be approved by the Planning Commission prior to Use & Occupancy.
- d. Prior to signature of Final Site Plan, submission, and approval of a shared parking agreement for 16 parking spaces based on Section 165-51.B(5).
- e. Waiver of the three-foot landscape buffer required between the proposed parking and Parcel 491 based on Section 165-59.A(3).
- f. Approval of 60 stacked parking spaces as shown on the Final Site Plan based on Section 165-51.F(1)(e).
- g. Prior to Use & Occupancy, submission, and approval by the Town of design development plans and details for the proposed active open space improvements on Parcel 491.
- h. Prior to issuance of the final Use and Occupancy permit:
  - 1) Complete all site work on the Final Site Plan.
  - 2) Construction of required off-site improvements outlined in the Town Traffic Impact Analysis conditional approval letter dated February 23, 2024.
  - 3) Installation of all Landscape.

### Landscape Plan

At a minimum, approval of the Preliminary Landscape Plan is conditioned on the following:

- a. Prior to Building Permit issuance, submission of a Final Landscape Plan incorporating comments from the staff report and comments from:

- 1) Submission of required Afforestation fee-in-lieu as outlined in the Forest Conservation Plan approval letter.
- 2) Incorporation of changes based upon the revised Landscape Plan submitted on February 23, 2024.

Subdivision Plan

At a minimum, approval of the Preliminary Subdivision Plan is conditioned on the following:

- a. Prior to Building Permit Application, submission of a Final Subdivision Plat for signature incorporating comments from the staff report, and comments from:
  - 1) Harford Health Department comments dated February 16, 2024
  - 2) Bel Air Public Works comments dated February 20, 2024
- b. Prior to Building Permit issuance, recordation of the Final Subdivision Plat along with any easement documents, and any other required documents to be recorded, amongst the Land Records of Harford County.
- c. Conveyance of required Lester Way improvement right-of-way to the Town of Bel Air prior to Use & Occupancy.
- d. Submission of a Development Agreement to the Town for approval and recordation as required in Section 165-53.I(2)(g) prior to Building Permit issuance.
- e. Complete all of the conditions of the Town of Bel Air Traffic Impact Analysis approval dated February 23, 2024, and all conditions of MDOT SHA review regarding State roads/intersections and all conditions of Harford County concerning County roads/intersections prior to use & occupancy.
- f. The Applicant must provide a copy of the recorded Deed of Consolidation consolidating 100 Lester Way, 128 & 130 North Bond Street and removal of the boundary lines.

Should you have questions regarding this approval, please call the Bel Air Planning & Community Development Department.

Sincerely,



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Peter Schlehr, Vice Chair  
Bel Air Planning Commission

The signed original of this letter, indicating concurrence by the owner/developer with the conditions as stated herein and on referenced material, must be returned within sixty (60) calendar days of the date of this approval.

I hereby accept the conditions of this Site Plan, Landscape plan, and Special Development approval.

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Wayne Goddard  
Authorized Agent, Belle Air Development Partners

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Date

cc: Planning Commission  
Kevin Small, Director of Planning & Zoning  
Bel Air Town Commissioners  
Edward Hopkins, Town Administrator  
Elizabeth Thompson, Esquire, Town Counsel  
Belle Air Development Partners  
file

**IN THE MATTER OF:** \* **BEFORE THE**  
**THE APPLICATION OF** \* **TOWN OF BEL AIR**  
**BELLE AIR DEVELOPMENT** \* **PLANNING COMMISSION**  
**PARTNERS** \* **Case No. 03P-24-03SP/SD/SB/LP**

\* \* \* \* \*

**DECISION OF THE TOWN OF BEL AIR PLANNING COMMISSION**  
**THE STANDARD ON BOND**

**I. Introduction.**

This matter comes before the Bel Air Planning Commission for subdivision, site plan and landscape plan approval to construct a Mixed-Use Center designed as a five-story building containing 30 multi-family dwelling units and 25,880 square feet of commercial uses pursuant to TOWN OF BEL AIR, MD CODE §§165-53(I)(2)(g) & 165-94. The Applicant also seeks Special Development approval for Outdoor Dining pursuant to TOWN OF BEL AIR, MD CODE §165-53(I)(2)(i). IN addition, the provision of stacked, or tandem, parking pursuant to TOWN OF BEL AIR, MD CODE §165-51(F)(1)(e) and shared parking pursuant to TOWN OF BEL AIR, MD CODE §165-51(B)(5). Lastly, the Department has requested the Commission to review for consideration a reduction of the buffer set-back pursuant to TOWN OF BEL AIR, MD CODE §165-59(A)(3).

*A. Basic Facts Concerning the Site.*

The property subject to this case are three (3) separately subdivided lots as well as a portion of an adjoining parcel. 128 North Bond Street, Tax Map 301, Parcel 498 contains 19,832 square feet and contains a single-story building which formerly housed the Church of the Reconciliation. 100 Lester Way, Tax Map 301, Parcel 500 which is vacant and contains 34,849 square feet. 130 North Bond Street, Tax Map 301, Parcel 497 consisting of 14,600 square feet and contains a 7,000 square foot commercial building built in 1992 that currently houses a hair studio and the Young Chefs Academy. The final parcel is 0.167, more or less which is a part of a 1.43 acre parcel shown on Tax Map 301, Parcel 491. This parcel houses the Harford Mutual Insurance Company’s parking lot. The Harford Mutual parcel is located off of Gordon Street. The portion of this property that is subject to this request is vacant of any structures and intended to be utilized as a “pocket park” for the benefit of the subdivision and surrounding community and adjoins 130 North Bond Street’s parking lot. All of the properties subject to this case are zoned B3A (General Business Gateway). Parcels 498, 500, 497 and the described portion of Parcel 491 are collectively referred to herein as “the Properties.”

The Properties are generally located in the downtown area of Bel Air at the corner of North Bond Street (Maryland Route 924) and Lester Way. North Bond Street is controlled by the Maryland State Highway Administration and Lester Way is owned and controlled by the Town of Bel Air. All of the Properties are either vacant or underutilized. Indeed, 100 Lester Way is specifically identified as “undeveloped commercial” in the Comp Plan. Comp Plan at 137 & Map J. The general area where the Properties are located is identified as “Priority Two – Bond Street and Downtown” in the Land Use Distribution Priorities under the 2022 Comprehensive Plan. TOWN OF BEL AIR, MD. COMPREHENSIVE PLAN (“Comp Plan”), 82 (rev. 2022). Across North Bond Street from the Properties is an asphalt parking lot that services businesses along Main Street and the American Legion Post 55. The Properties are situated just north of the District Court of Maryland for Harford County and the Circuit Court for Harford County. The Properties are situated just south of a small strip, commercial center containing several businesses, including an antique shop and Newberry Café.

The Applicant is proposing to construct a five-story building on the lot known as 128 North Bond Street. According to the Site Plan, the proposed building is to contain the following:

Basement: Storage and Mechanical (4,200 SF)

1<sup>st</sup> Floor: Mixed-Use Center (7,000 SF) – this will include a restaurant with indoor and outdoor dining and a lobby for ingress and egress to service the multi-family units (2,440 SF).

2<sup>nd</sup> Floor to 4<sup>th</sup> Floor: 30 multi-family units, not to exceed two bedrooms.

5<sup>th</sup> Floor: Mixed-Use Center (9,440 SF): This is likely to contain office space.

At the hearing, it was discovered that there was an error on the Site Plan for the 5<sup>th</sup> Floor. The Staff Report, which incorporated Mr. Keeley’s report, states the office use to be 8,600 SF. The Applicant’s engineer advised the Commission that this was based on net square footage. Mrs. DiPietro advised that the higher figure included the square footage needed for stairwells and elevators. The Applicant will be required to submit an updated Site Plan with correct square footages.

The lot adjacent to the proposed building, which is labeled 100 Lester Way is intending to be used as a parking lot to service 128 and 130 North Bond Street. 100 Lester Way runs adjacent to both 128 and 130 North Bond Street. The proposed parking lot on 100 Lester Way is to be connected to the existing parking lot that services 130 North Bond Street. While the Site Plan includes all of the property and the building on 130 North Bond Street, the Applicant, at this time, is not proposing any modifications to that structure or its parking lot.

*B. Relevant Procedural Facts.*

Prior to submission to the Commission, on October 17, 2023, the Bel Air Board of Appeals issued its written opinion granting two (2) set-back variances on 128 North Bond Street and 100 Lester Way. The Board of Appeals also granted a variance to reduce the drive aisle width from 24' to 20' for 130 North Bond Street. See Case No. 09B-23-01-VA/W. No appeal from that decision was filed and it is final. The Zoning Administrator has opined that the site plan submitted for the Commission's review is consistent with the approvals granted by the Board of Appeals. That determination also has never been challenged and is now final.

At the hearing, the Applicant was represented by Bradley R. Stover, Esquire. Wayne Goddard presented the Applicant's proposal along with Amy DiPietro of Morris & Ritchie Associates and Nestor Zabala, AIA of Curry Architects. Mark Keeley of Traffic Concepts addressed the Commission with respect to the parking issues on the property.

Kevin L. Small, Director of the Town of Bel Air Department of Planning and Community Development (hereinafter "the Department" or "Mr. Small") presented on behalf of the Department. Mr. Small submitted the Department's Staff Report dated February 22, 2024 which is a part of the record in this case.

**II. Applicable Law.**

Special Development for the Mixed-Use Center

TOWN OF BEL AIR, MD CODE §165-104 defines a Mixed-Use Center as "[a] building, or group of buildings consisting of two or more uses exceeding 10,000 square feet and developed as an integrated scheme of development containing both commercial and residential floor space, conceived and designed as a single environment in which both commercial and residential amenities are provided."

Mixed-Used Centers are classified as Special Developments under the TOWN OF BEL AIR, MD CODE §165-94 and are required to adhere to the specific Mixed-Use Center Performance Standards under TOWN OF BEL AIR, MD CODE §165-53(I)(2)(g)<sup>1</sup> which provide:

(g) Mixed-use center.

[1] Performance standards.

[a] The applicant shall provide a unified arrangement of buildings, service areas, parking, signage and landscaping.

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<sup>1</sup>The Commission notes that this section of the Code as well as the definition of a Mixed-Use Center was recently amended by the Board of Town Commissioners. Its modifications have not yet been codified on the Town's eCode website nor is it in print. These new provisions are found at: <https://www.belairmd.org/208/Planning-Commission>

[b] The architecture, site design, lighting and signage shall incorporate consistent design and theme elements and materials, massing and façade design for the project shall be harmonious with the character of the neighborhood.

[c] The internal circulation system shall be designed to minimize through traffic and traffic conflicts within the project.

[d] Safe pedestrian movement and the provision of pedestrian walks within the parking lot and surrounding the building perimeter shall be considered in the traffic/parking study.

[e] All establishments shall have vehicular service access either from an individual service drive, space or from a common service yard. All loading, trash removal, compaction or similar activities shall be segregated from public areas and screened from public view.

[f] Signs to identify the use of an occupant shall be designed as part of the architectural design of the building and attached thereto. Proposed signage shall be submitted with the preliminary plan and shall be subject to review and approval by the Planning Commission.

[g] Directional and informational signs shall be adequately provided, and design coordinated.

[h] Center management shall be responsible for providing on-site security service.

[i] A traffic and/or parking study shall be submitted and approved prior to application if required by the zoning administrator.

[j] The owners of all lots shall execute a recorded Development Agreement with the Town providing that all owners acknowledge and agree to be bound by these performance standards as an overall scheme of development, outlining all shared elements, granting reciprocal easements to permit each owner to access any other owners' lot or parcel of land for the purpose of compliance with the Town Code and for either remediating any zoning violation or to comply with the Town Code for the purposes of any approvals sought by any of the owners of the lot and agreeing that the Town shall permit enforcement of any portion of the Town Code upon one or more owners of any lot or parcel of land contained within the Mixed-Use Center scheme of development.

Since the Applicant's request involves the installation of a residential feature to a new Mixed-Use Center, this request is subject to review and findings under TOWN OF BEL AIR, MD CODE §165-21(B) for adequate school capacities under the annual growth report which provides, in pertinent part:

(B) Adequacy standards (minimum acceptable level of service). Upon acceptance of the annual growth report by the Board of Town Commissioners, all approvals of...site plans for multifamily development shall be subject to findings of adequate school capacity based on the standards set in this subsection and the current and projected use level described in the annual growth report:

(1) Preliminary approval. Preliminary...site plans for multifamily residential developments exceeding five dwelling units shall not be approved at locations where either of the following conditions exist when impact of proposed development on school enrollment is included:

(a) The enrollment, at the elementary school which then serves the site is greater than 110% of the rated capacity or is projected to be greater than 110% within three years; or

(b) The enrollment of either the middle school or high school which serves the site is greater than 110% of the rate capacity or is projected to be greater than 110% within three years.

Outdoor Dining/Bar Service

TOWN OF BEL AIR, MD CODE §165-53(I)(2)(i) provides in pertinent part:

(i) Outdoor dining or bar service.

[1] Performance standards.

[a] Amplified music or use of a public address system is not permitted between 9:00pm and 9:00am.

[b] Live entertainment or recreational games are not permitted between 9:00pm and 9:00am.

[c] Outdoor dining/bar operations must adhere to requirements of Chapter 345 of the Town Code.

[d] The exterior area is limited to 75% of the fire-rated capacity of the principal permitted use and any temporary enclosure must meet provisions of § 165-71C. Any exterior area above the 75% limit must provide parking based upon Section 165-51.H.

...

Shared and Stacked Parking Spaces

TOWN OF BEL AIR, MD CODE §165-51(B)(5) provides, in relevant part:

Shared parking facilities may be permitted by the Planning Commission for different uses within an individual building or adjacent buildings or properties located within 500 feet of the subject property's boundaries based on a parking impact study provided by the developer(s) or owner(s) establishing that the estimated peak demand for parking required by the users will be satisfied due to differing hours of peak demand. If approved, a shared parking plan shall be enforced through written agreement.

TOWN OF BEL AIR, MD CODE §165-51(F)(1)(e) provides, in relevant part:

...The stacking of parking spaces may be approved in certain circumstances by the Planning Commission if the applicant can demonstrate that there will be no adverse impact on the use and circulation pattern of the parking area.

Additional citations to other sections of the TOWN OF BEL AIR, MD CODE will be included where applicable for review of the Applicant's specific requests.

### **III. Conclusions of Law.**

A. *Review pursuant to Town of Bel Air, MD §165-19 (Compliance with 2022 Bel Air Comprehensive Plan).* The Department's Staff Reports concludes that the proposal is consistent with the 2022 Comprehensive Plan. We agree.

We note that there are multiple references throughout the Comprehensive Plan to encourage development of mixed-use centers to further multiple housing and economic development goals and objectives, such as implementing a more walkable community and integrating residential and commercial designs in one setting. Comp. Plan at 44, 69, 70, 82, 83, 86, 88 & 93. Furthermore, the project furthers the Housing Element's goal of increasing the housing supply. *Id.* at 74, 83, 89 & 94. The Properties are located in the Land Use Distribution Priorities, Priority Two – Bond Street and Downtown. *Id.* at 82 and Map J. Specifically, this project proposes to take two lots – 128 North Bond Street and 100 Lester Way – which are underutilized and replace their uses with a more intensive use that reflect the higher property values in this area and integrate commercial and residential uses into one setting. *Id.* at 82 and 89.

B. *Special Development for Mixed-Use Center.* The Commission finds as follows pursuant to the Performance Standards set forth in TOWN OF BEL AIR, MD CODE §165-53(I)(2)(g)(1)(a)-(j):

(a) The Applicant has designed the five story building to be a part of the unified arrangement consistent with the building already on the site and is proposed to be within walking distance from the pre-existing commercial building. The proposed building will utilize a vacant lot and provide adequate landscaping throughout the Properties. The parking proposed on the Properties is proposed to be integrated with each other.

(b) The Commission has reviewed the architectural renderings and believes that the light color scheme and brick provides a cohesive design with the buildings in the downtown area, except as noted herein. The brick accents provide a connection to older buildings in the downtown area. The Commission accepts the Town architect's findings and believes the Applicant's amended renderings comply with the Performance Standards.

However, the Department expressed some concern about the consistency of design between the proposed building and the existing commercial structure located on 130 North

Bond Street. Specifically, the Department noted, "It appears this building may not be consistent with the design of the proposed structure as it relates to materials, roof design and architectural fenestration. The applicant is encouraged to address this issue at the hearing." Staff Rep. at 6. Mr. Goddard agreed at the hearing that the existing building does not cohesively fit with the architecture of the proposed building and he advised that it was his intentions to rehabilitate the existing commercial structure on 130 North Bond Street to make it more cohesive with the proposed building. His time frame for doing so was "if and when there is a turnover in the tenancy" of the pre-existing building. The Commission agrees with the Department's assessment and finds that the architecture between the proposed building and the new building are not cohesive. The Commission rejects the Applicant's asserted timeframe for remediating this lack of cohesiveness. Therefore, the Commission will require that prior to issuance of any Use and Occupancy Permit for the proposed building, the Applicant shall be required to provide architectural renderings, prepared by a Maryland licensed architect, for its proposed modifications to the commercial building at 130 North Bond Street for review by the Department, the Town's architect, and approval by the Commission.

(c) The Commission finds that the internal circulation proposed as depicted on the Autoturn Vehicular Movement Plan is designed to minimize through traffic and traffic conflicts by keeping the traffic generated by the new structure circular around the proposed and pre-existing buildings.

(d) The Site Plan depicts pedestrian walks and movement around the buildings. The Applicant will be required to install a pedestrian sidewalk along Lester Way which is currently absent from the site.

(e) Based on the renderings, the presentation of Ms. DiPetro and the Department's comments, the Commission finds the Properties have appropriate vehicular service access either from individual service drive, space or from a common service yard. With respect to the loading and trash removal and compaction, the Site Plan shows that these facilities are contained in an enclosure, adjacent to the proposed pocket park and significant distance from the entrances and exits to and from the Properties and thus, the Commission finds that they are appropriately screened from the public view.

(f) None of the drawings submitted with the Applicant's application depicts any signage for the building. Any proposed signage, including those for future commercial tenants, shall require Planning Commission approval.

(g) Directional and informational signs have been adequately provided, and design coordinated with the existing commercial building. Directional signs currently provided are adequate for the proposed use.

(h) The Applicant has asserted, and the Commission accepts, that it can provide on-site security service.

(i) The Commission accepts the traffic impact study which was reviewed by the Town's recognized professional transportation planner and approved by the Zoning Administrator. The State of Maryland and Harford County, Maryland have provided additional comments and requirements that the Applicant shall meet. Furthermore, Mark Keeley of Traffic Concepts submitted a parking study to address the shared parking

requests which the Commission accepts and are specifically addressed herein. See Section C, *infra*.

(j) The Commission finds that the owners are ready, willing and able to execute the Development Agreement as required under the TOWN OF BEL AIR, MD CODE.

As stated previously, given the inclusion of a multi-family residential feature to this Site Plan, the Commission is required to make findings with respect to Adequate Public Facilities pursuant to TOWN OF BEL AIR, MD CODE §165-21(B). The Commission notes two key legislative events that set the perimeters for the Commission’s review. On March 4, 2024, just prior to the hearing in this case, the Board of Town Commissioners passed Ordinance No. 824-24 which removed “abutting schools” from the Commission’s consideration. In all other respects, TOWN OF BEL AIR, MD CODE §165-21(B) has remained the same. Based on the representations of Town Counsel, Ordinance No. 824-24 went into effect on March 25, 2024. Furthermore, on February 20, 2024, the Board of Town Commissioners passed Resolution No. 1223-24 which accepted the 2022 Amended Harford County Annual Growth Report dated December 14, 2023. The updated enrollment figures and projections set forth in Resolution No. 1223-24 are applicable to this case.

These Properties are serviced by Bel Air Elementary School, Bel Air Middle School and Bel Air High School. The enrollment figures and projections for these schools are set forth below:

<b>School</b>	<b>Current State Rated Capacity</b>	<b>Three-Year Projected State Rated Capacity</b>
Bel Air Elementary School	106%	105%
Bel Air Middle School	87%	88%
Bel Air High School	80%	75%

The Commission finds that because all three schools are below and projected to remain below the 110% threshold that there is adequate elementary, middle and high school capacity pursuant to TOWN OF BEL AIR, MD CODE §165-21(B).

In conclusion, the Commission accepts the Department’s recommendations and finds that the Applicant has satisfied the Performance Standards, subject to the conditions set forth herein and in the attached letter and herein.

The Applicant, as part of its Mixed-Use Center request, has also sought permission from the Commission to have outdoor dining facilities. Based on the Site Plan, the outdoor dining is proposed to wrap around the new building from North Bond Street to Lester Way which will contain 81 seats in the outdoor dining area. The interior of the proposed first floor restaurant is proffered to have 116 seats. Based on the representations of the Applicant and the comments of the Department, the Commission finds the following with

respect to the Applicant's compliance with the Performance Standards under TOWN OF BEL AIR, MD CODE §165-53(I)(2)(i)[1][a]-[d]:

[a] The Applicant has asserted that that no amplified music or use of a public address system will be permitted between the hours of 9:00 p.m. and 9:00 a.m.

[b] The Applicant has asserted that no live entertainment or recreational games will be permitted between the hours of 9:00 p.m. and 9:00 a.m.

[c] The Applicant has asserted that it can comply with Chapter 345 of the Town Code and no conduct described therein will be tolerated.

[d] There is a discrepancy between the calculation of the 75% limit between the indoor dining area and the outdoor dining area. The Department calculates this limit based on seating and states that the Applicant has proffered that the indoor dining area will contain 116 seats while the outdoor dining will contain 81 seats, or approximately 70% of the indoor dining area.<sup>2</sup> The Applicant has calculated this standard based on square footage – 3,317 square feet of indoor dining area to 1,970 square feet of proposed outdoor dining area, or 59.4% of the indoor dining area. The Commission accepts the Department's calculation of the indoor dining based on seats, not square footage.

The Commission notes that subsection [e] is not applicable to Mixed-Use Centers.

In conclusion, the Commission approves the Applicant's request for 81 seats of outdoor dining for the proffered 116 indoor seats.

### *C. Shared and Stacked Parking Spaces.*

The Applicant provided a detailed analysis from its recognized professional transportation planner, Mark Keeley concerning the Applicant's request for approval of shared parking pursuant to TOWN OF BEL AIR, MD CODE §165-51(B)(5). Mr. Keeley's report is a part of the record in this case. Based on his report, as adopted by the Department, the Commission finds that the required number of parking spaces is 144 pursuant to the calculation of the various uses of the buildings on the Properties and number of bedrooms for the multi-family units. The Site Plan depicts a total number of parking spaces provided as 128. The Site Plan further states that the Applicant is seeking 79 shared parking spaces while Mr. Keeley and the Department have calculated the shared parking spaces to be a minimum of 16 spaces (144 required minus 128 provided on the Site Plan). The Commission rejects the assertion set forth on the Site Plan that the Applicant seeks approval of 79 parking spaces and accepts the Department's and Mr. Keeley's conclusions of 16 shared parking spaces to make up the difference between the 144 required parking spaces on site and the 128 parking spaces provided. Based on the Commission's review of the

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<sup>2</sup> The Zoning Administrator has previously interpreted, and the Commission has accepted, the use of the term "area" would mean and relate to the number of seats for outdoor spaces. Indoor spaces are calculated based on fire-rated capacity by the Fire Marshal. However, no such capacity calculation is made for outdoor dining. *See in re: Independent Brewery Company*, Case No. 06P-18-03-SP/SD.

Site Plan, the Commission finds that the proposed building on 128 North Bond Street and the existing commercial building located at 130 North Bond Street are within 500 feet of the boundaries. Based on Mr. Keeley's report, the estimated peak demand for parking will be satisfied due to the differing hours of peak demand. His analysis is incorporated herein as if fully set forth.

The Department has recommended that the Commission require the parking spaces allocated for the residential portion of the project be marked "reserved." Indeed, the Site Plan anticipates that 45 parking spaces for the multi-family units are to be reserved. We decline to make this a requirement and leave the matter to the Applicant to decide based on the dictates of the demand of its tenants.

In conclusion, based on the information supplied, the Commission finds that the Applicant has satisfied the requirements of TOWN OF BEL AIR, MD CODE §165-51(B)(5) and approves the utilization of 16 shared parking spaces on the Properties. The Applicant is required to comply with the express requirements under TOWN OF BEL AIR, MD CODE §165-51(B)(5)(a)[1]-[8].

In tandem with the Applicant's request for shared parking on site, it has requested approval to utilize stacked parking pursuant to TOWN OF BEL AIR, MD CODE §165-51(F)(1)(e).

The Applicant's expert, Mark Keeley of Traffic Concepts verified at the hearing that it was his expert opinion that there will be no adverse impact on the use and circulation pattern of the parking area based on his review of the Site Plan and parking depicted.

Based on the representations of the Applicant's expert, the Commission finds that the Applicant has met its burden under TOWN OF BEL AIR, MD CODE §165-51(B)(5) and approves 60 stacked (or tandem) parking spaces as depicted on the Site Plan.

Lastly, the Department requested, in its Staff Report that the Commission address the issue of a reduced buffer (set-back) of the commercial parking to adjacent commercial use located on the north side of the subject parcel. The Department notes, "This waiver appears necessary since the exiting parking associated with 130 North Bond [Street] was built against the property line and the new parking would need to align with the existing parking lot." Staff Rep. at 4.

TOWN OF BEL AIR, MD CODE TABLE 165-59(I) requires nonresidential parking to have a three-foot buffer between it and adjoining commercial uses but delineates, "no buffer required." TOWN OF BEL AIR, MD CODE 165-59(A)(3) states, "The Planning Commission may approve a lesser buffer width...in the B-2, B-2A and B-3A Districts based upon mitigating factors such as walls, fencing, elevation or existing vegetation."

Based on a review of the landscape plan, it appears that the Applicant is intending on installing three trees along the northern perimeter of 100 Lester Way and the entire northern boundary of 130 North Bond Street will contain the 0.167 acre pocket park, even though TOWN OF BEL AIR, MD CODE TABLE 165-59(I) does not require a buffer. These items will provide significantly more buffering than the Code requires. The Commission finds that this buffering proposal will mitigate any impacts in permitting a lesser buffer. For the reasons set forth herein, the Commission approves the reduction of the three-foot buffer set forth in TOWN OF BEL AIR, MD CODE TABLE 165-59(I) AND §165-59(A)(3) to zero feet for the nonresidential parking on the northern portion of 100 Lester Way and 130 North Bond Street to the adjacent commercial use on Gordon Street.

For the reasons set forth herein and subject to the conditions stated herein and in the attached approval letter, the Commission hereby approves all of the requests submitted by the Applicant or identified by the Department.