



PLANNING COMMISSION

Revised Site Plan and Mixed-Use Special Development

Prepared by: Kevin L. Small, AICP, RLA
Date: August 8, 2024
Meeting Date: August 15, 2024, Case No.:08P-24-01-SP/SD
Revision to: 03P-24-03-SD/SP/SB

General Information

Applicant: Belle Air Development Partners

Owner/Operator: Owner of 128 N Bond Street – Standard on Bond JV
Owner of 100 Lester Way – Standard on Bond JV
Owner of 130 N Bond Street – Bakers Hill LLC & Hickory Knoll Rentals
Owner of Gordon Street property – Harford Mutual Insurance Company
Wayne S Goddard (representative)

Location: 128 & 130 N Bond Street and 100 Lester Way (Lester Way address is pending)

Lot/Building Size: 128 N Bond Street – P. 498 – 19,832 sf lot – 4,195 sf structure
100 Lester Way – P. 500 – 34,849 sf lot – no structure
130 N Bond Street – P. 497 – 14,600 sf lot – 7,000 sf structure
Gordon Street – P. 491 – 66,700 sf lot (0.167 acres leased) – no structure
0.355ac + 0.460ac + 0.767ac + 0.167ac (-0.055ac) = **1.674ac total**

Requested Action: Modification of Special Development approval for Mixed-Use Center use
Revision of Site Plan approval for a five-story 20 dwelling unit and 34,350 square foot commercial Mixed-Use Center
Decrease of 10 dwelling units and increase of 8,470sf commercial use

Zoning: A Mixed-Use Center is permitted as a special development in the B-3A General Business Gateway District. This project was reviewed by the Bel Air Board of Appeals for variances to building height, setback, parking waiver and request for a parking drive aisle reduction on October 17, 2023. The variance for a reduction of the parking drive aisle width from 24 feet to 20 feet was approved and the reduction of the setback from Lester Way from 15 feet to 7 feet for a building over 45 feet in height was approved for 128 North Bond Street. A similar setback reduction granted for a building anticipated at the southwest corner of the site is no longer applicable for this project.

Existing Land Use: 128 N Bond Street – House of Worship
100 Lester Way – undeveloped
130 N Bond Street – Shopping Center
Gordon Street – undeveloped

Surrounding Land Use & Zoning: Surrounding properties are zoned B-3A General Business Gateway District to the north/south of the site, B2 Central Business District to the east B2A Central Business Gateway to the south, R2 Medium Density Residential to the southwest and R1 Low Density Residential to the west of the site. Uses include commercial across N Bond Street and to the south/north of the site, single family detached residential to the west and townhomes to the southwest.

Comprehensive Plan: 2022 Comprehensive Plan designates subject properties as Commercial

Zoning History: 128 N Bond Street is an existing single-story House of Worship developed in 1950. 100 Lester Way is undeveloped, and 130 N Bond Street is an existing two-story Shopping Center built in 1992. The Gordon Street property is undeveloped. Variances were granted for parking aisle width and building setback on October 17, 2023.

Applicable Regulations: Chapter 165, Article III (B3A Zoning), Article VII (Mixed Use Center & Outdoor Dining performance standards), Article XII (Special Development). Specific Sections – 165-33.C(4) (Building Height and Setbacks), 165.51.B(5) (Shared Parking); 165-51.F(1)(e) (Stacking of Parking); 165-94 (Special Development for Mixed-Use), and Table of Lot Requirements 165-33 (B3A District).

Public Utilities & Services: The property is served by Maryland American Water Company and Town of Bel Air sewer. Bel Air Police and Bel Air Volunteer Fire Company also provide services to this property.

Transportation: Two properties have a frontage on North Bond Street (State Road) with a single existing driveway servicing 130 N Bond Street. There are three existing access points along Lester Way. One servicing the existing church and the other two providing access to the undeveloped lot. The center access point extends to Parcel 491 and Parcel 495 (commercial shops and parking for Harford Mutual Insurance).

Environmental Assessment/Physical Characteristics: The Site has two existing structures and several large trees. Some of these trees along Bond Street are under an MOU with the State of Maryland and any removal or addition must be approved by Maryland DNR. A majority of the site is pervious with landscape elements along the perimeter.

Landscaping, Lighting & Amenities: A Landscape Plan and Photometric Plan were submitted for review and conditionally approved April 4, 2024. No change is proposed. Open Space is required and shown on the revised plans and notes.

Architectural Review: Elevations and Sections were submitted for review and conditionally approved on April 4, 2024. *No change is proposed by the applicant. However, ceiling heights and overall building height must be provided to*

planning staff prior to the hearing since the typical office use has more than nine-feet of ceiling. A change may require revision to the elevations.

Analysis:

The Applicant is requesting modification to the approved of the Site Plan and Special Development for a five-story Mixed-Use Center granted on April 4, 2024. The previous approval consisted of 25,880 square feet of commercial space and 30 residential multi-family dwellings. The requested modification proposes to replace the 4th floor residential use with an office use. This request would reduce the proposed residential dwellings by five 2-BR units and five 1-BR units and increase the commercial area by 8,470 square feet. The previous request for shared parking is proposed for modification. A Mixed-Use Center is a special development in the B3A (General Business Gateway) district and has performance standards associated with the use. These standards must be reviewed whenever a revision to the use is proposed. Outdoor Dining/Bar service use associated with an anticipated restaurant on the first floor of the proposed building was approved on April 4, 2024, and appears to remain unchanged. In addition, the consolidation of properties and conveyance of road improvement right-of-way to the Town also remain unchanged.

The request for increased shared parking associated with this proposal must be approved by the Planning Commission separately:

1. The Planning Commission previously approved a request to share 16 parking spaces between the residential and commercial uses. *This application proposes to increase the shared parking from 16 spaces to 28 spaces. This is an increase of 12 shared spaces from the request approved on April 4, 2024.* The concept for the sharing of parking is frequently a benefit of mixing uses, provided these uses have peak periods that do not conflict with each other. This request is based upon the conclusions of the attached letter dated July 1, 2024, from Traffic Concepts. The letter stipulates the proposed revision including 19,800 square feet of office requiring 69 parking spaces, and 20 dwelling units requiring 35 parking spaces. The applicant has provided evidence that the office space and residential units can share parking with a worst-case scenario being weekday use. This request must meet the criteria found in Section 165-51.B(5) attached to this staff report. The applicant must provide an agreement as required within this code section. ***NOTE: The applicant must provide evidence at the hearing on how the stacked parking is addressed within the context of the increase in shared parking. The Site Plan is confusing to staff regarding who will be utilizing the stacked spaces and how this will be enforced. The Site Plan identifies 20 stacked spaces and 10 regular spaces as reserved for residential use and therefore not eligible for sharing. The remaining 40 stacked spaces and 30 regular spaces appear to be available as shared parking based on review***

of the plan legend (leaving 24 existing spaces adjacent to 130 N Bond Street and 2 spaces [counted as 4] for customer pick-up). This may or may not be the intent of the applicant, but the symbology of the plan appears to indicate so. It is the opinion of staff that stacked spaces cannot be shared because the needs of various users at various times will cause conflict. This conflict will likely mean the stacked parking will not be used to its fullest capacity and patrons of the commercial uses will seek off-site sources which will create issues with neighboring properties. The applicant is advised to review the 40 remaining stacked parking spaces for possible assignment to office and restaurant employees and restricted as such. In addition, the applicant is advised to review how the remaining 54 spaces would accommodate patrons of the restaurant and overflow from the residential units in the evenings. The restaurant is currently proposed with a maximum of 116 seats inside and 81 seats outside which requires 39 spaces based on Town code.

Requests associated with stacked parking and parking setback were conditionally approved on April 4, 2024, and remain unchanged on the proposed revised plan:

2. The Planning Commission granted a request to provide 60 stacked (or tandem) parking spaces to service both commercial and residential uses on April 4, 2024. This approval was based upon Section 165-51.F(1)(e) concluding there was no adverse impact on the use or circulation of the parking area.
3. A required 3'-0" setback of commercial parking to an adjacent commercial use in Table 165-59.I was waived by the Planning Commission on April 4, 2024.

SPECIAL DEVELOPMENT

The Mixed-Use Center requires several performance standards to be addressed. These have been annotated in the information attached to the application. The development must provide a unified arrangement of buildings, service areas, parking, signage and landscape. The parking area must minimize through traffic and protect pedestrians from vehicular conflict. The traffic analysis provided by the applicant has been updated by a letter dated June 28, 2024, and the Town does not find any need for additional conditions to the existing approval. Copies of this update have been provided to Harford County and Maryland Department of Transportation. A separate letter has been generated by the Town approving the updated information subject to any conditions recommended by the County of State. A development agreement is required to tie all the property owners under the mixed-use umbrella as a unified scheme of development and allow for zoning enforcement.

SITE & ARCHITECTURE

Renderings of the proposed architecture received conditional approval on April 4, 2024. Selected sections and elevations have been provided for context as part of this review. The proposed

LANDSCAPE

Any proposed installation or removal of trees in the State right-of-way requires MDOT approval. Forest Conservation Plan calculations provided indicate 0.234 acres of afforestation is required and fee-in-lieu is proposed. Site Lighting does not change with this proposed revision.

SUBDIVISION

A Subdivision Plat consolidating parcels was reviewed and approved by the Planning Commission at the April 4, 2024, meeting. Property conveyance is required to widen Lester Way travel lanes to minimum acceptable standard and provide area for a public sidewalk. The Cross Easement Agreement to address the construction of the proposed building across existing property lines to abut the building at 130 North Bond Street cannot be voided or altered without the written approval of the Town.

SECTION 165-51.B(5)

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.

Recommendations:

The Planning Commission provide a 2022 Comprehensive Plan consistency determination for the proposed revised development as required by Town Code § 165-19.

Mixed-Use Special Development

Each time a Special Development is modified, the Planning Commission must review the associated performance standards. If the Planning Commission finds that no change is needed to the findings of fact provided below, no separate decision is required for the revised proposal.

Approval of the modified Special Development for a Mixed-Use Center is based upon the following findings of fact that the applicant has adequately demonstrated adherence to Section 165-53.I(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/or 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.

Site Plan

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

1. Prior to Building Permit Application, submission of a Final Site Plan for signature incorporating comments from this staff report, and comments from:
 - a. Bel Air Volunteer Fire Company dated March 13, 2024
 - b. Harford County Health Department dated February 16, 2024
 - c. Harford County Soil Conservation District dated February 20, 2024
 - d. Bel Air Public Works comments dated February 20, 2024
 - e. Harford County Public Schools February 28, 2024
2. Prior to approval of utility construction drawings to address comments from Maryland American Water Company.

3. Prior to Building Permit application, approval of revised architectural design exhibits based on the Town staff comments regarding 130 N Bond Street and architectural consultant comments.
4. *Prior to signature of Final Site Plan, submission and approval of a shared parking agreement for 28 parking spaces.*
5. *Because the project proposes to share parking and to provide stacked parking, any future change may create unforeseen challenges to the ability for the patrons to adequately address parking on-site. Restriction of the project to the approved uses and associated areas identified within the Mixed-Use Center and requirement of Planning Commission approval for any future change to the use or area.*
6. *Property must be adequately signed to direct patrons of the restaurant to the Lee Street Parking Lot between 5pm and 6am.*
7. *Seating capacity of the proposed restaurant cannot be revised without approval from the Planning Commission.*
8. Prior to Final Use & Occupancy, approval by the Town of design development plans and details for the proposed public amenity and active open space on Parcel 491.
9. Prior to issuance of the Final Use and Occupancy permit:
 - a. Complete all site work on the Final Site Plan to include:
 - b. Construction of required off-site improvements outlined in the Town Traffic Impact Analysis conditional approval letter dated February 23, 2024.
 - c. Landscape installation.

Landscape Plan

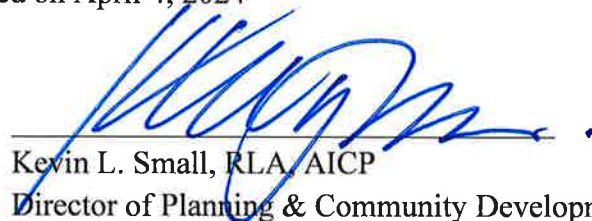
Remains applicable as conditionally approved on April 4, 2024

Subdivision Plan

Remains applicable as conditionally approved on April 4, 2024

Outdoor Dining/Bar service Special Development

Remains applicable as conditionally approved on April 4, 2024



Kevin L. Small, RLA, AICP
 Director of Planning & Community Development

Attachments

- Application including Parking Study
- Performance Standards for Mixed-Use
- Revised Site Plan
- Architectural Sections/Elevations and Landscape Plan (selected)

MORRIS & RITCHIE ASSOCIATES, INC.

ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS,
AND LANDSCAPE ARCHITECTS



February 5, 2024

THE STANDARD ON BOND PERFORMANCE STANDARDS

MIXED USE CENTER

Mixed Use Centers are subject to performance standards and guidelines. These shall be addressed as specified in Article VII, Sections 165-53A & B, and as listed below:

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

Response: The development team has explored numerous layouts for the project. Each element (buildings, parking, circulation, amenities) was carefully evaluated, and its location selected to optimize the experience of both the residents and commercial tenants of the buildings.

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

Response: The project team has visited the site and Downtown Bel Air on numerous occasions to gain inspiration for the project. Specifically, the developers are local community members who are intimately familiar with the local architecture and design elements. In fact, the building design was heavily influenced by the Town's Comprehensive Plan examples.

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

Response: Vehicular circulation is a crucial element to any urban project. The developers were able to secure an agreement with the owners of 130 North Bond allowing for access from both Bond Street and Lester Way. Lester Way will have two full movement access. The layout accommodates the numerous types of vehicles that are anticipated to visit the site, such as delivery trucks, moving trucks, trash trucks, passenger vehicles, etc.

[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.

Response: Pedestrian facilities (i.e. sidewalks, crosswalks, etc.) have been provided along the road frontages and proposed parking, to not only provide easy access to the buildings, but provide connections with the pocket park and Downtown Bel Air.

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Abingdon, MD ♦ Baltimore, MD ♦ Laurel, MD ♦ Towson, MD ♦ Georgetown, DE ♦ New Castle, DE ♦ Purcellville, VA ♦ Raleigh, NC ♦ Orlando, FL
(410) 515-9000 (443) 490-7201 (410) 792-9792 (410) 821-1690 (302) 855-5734 (302) 326-2200 (703) 994-4047 (984) 200-2103 (407) 317-6288

[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.

Response: The plan provides a 12'x49' concrete loading area at the rear of 130 North Bond that will be utilized for 128 and 130 North Bond Street. The areas for trash removal have been located at the rear of 130 North Bond as well and has been screened with landscaping as shown on the planting plan.

[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.

Response: The submittal included an architectural rendering of the proposed signage for the project. As users for the commercial portions of the project have not been identified at this time, details for that signage shall be submitted along with the sign permit application.

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

Response: Appropriate pedestrian scale lighting and signage is proposed to direct residents and visitors.

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

Response: Requirement acknowledged. Security will include cameras, alarm systems and secured, keyless entry into the buildings.

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

Response: A traffic study has been prepared and submitted to the Town and SHA for review. Comments have been received, are being addressed and will be resubmitted in short order. A parking study has been enclosed with this submittal and justifies the amount of parking provided.

[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 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.

Response: The owners have no objection to entering into such an agreement. We look forward to working with the Town Attorney to develop this agreement.



TOWN OF BEL AIR

DEPARTMENTS OF PLANNING AND PUBLIC WORKS

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BEL AIR, MARYLAND 21014
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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.l(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,

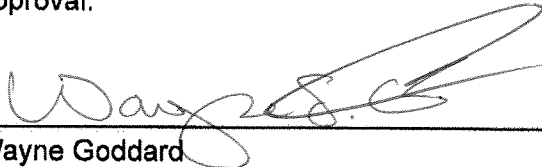


Peter Schlehr, Vice Chair
Bel Air Planning Commission

April 4, 2024

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.



Wayne Goddard
Authorized Agent, Belle Air Development Partners

4/4/24
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)

1st 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).

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

5th 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 5th 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)¹ 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.

¹The 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:

School	Current State Rated Capacity	Three-Year Projected State Rated Capacity
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.² 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

² 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.



TOWN OF BEL AIR

DEPARTMENTS OF PLANNING AND PUBLIC WORKS
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Stephen D. Kline

October 17, 2023

Bradley R. Stover, Esquire
Robinson & Stover
124 North Main Street
Bel Air, MD 21014

RE: The Standard on Bond, JV, et al.
128 & 130 North Bond Street and 100 Lester Way
Case No. 09B-23-01-VA/W

Dear Mr. Stover:

The Bel Air Board of Appeals held its regularly scheduled meeting on October 17, 2023 to render a decision on the above referenced project. The Board has reviewed this application during the previous two meetings on July 25, 2023 and September 19, 2023. Attached supporting documentation identified as Exhibit A is the procedural history, testimony of record, applicable law, and findings of fact made part of this decision of Bel Air Board of Appeals. In summary, the Board of Appeals has concluded the following:

- A. The Applicant's request for a five-foot building height variance from TOWN OF BEL AIR, MD CODE §165-33 (Table), referencing TOWN OF BEL AIR, MD CODE §165-51(C)(4)(b) in the B3A zoning district is **DENIED**.
- B. The Applicant's request for a variance from TOWN OF BEL AIR, MD CODE §165-51(C)(4)(b) to reduce the front yard set-back for buildings over 45' by 8', resulting in a set-back of 7' in the B-3A District for the property known as 128 North Bond Street, Building No. 1, along Lester Way is **APPROVED**.
- C. The Applicant's request for a variance from TOWN OF BEL AIR, MD CODE §165-51(C)(4)(b) to reduce the front yard set-back for buildings over 45' by 6.5', resulting in a set-back of 8.5' in the B-3A District for the property known as 100 Lester Way, Building No. 2, along Lester Way is **APPROVED**.

- D. The Applicant's request for a parking waiver of 91 commercial parking spaces parking spaces as required under TOWN OF BEL AIR, MD CODE § 165-51(H) is **DENIED**.
- E. The Applicant's request for a parking waiver of 40 residential parking spaces as required under TOWN OF BEL AIR, MD CODE § 165-51(H) is **DENIED**.
- F. The Applicant's request for a variance from TOWN OF BEL AIR, MD CODE §165-51(E)(1) to reduce the drive aisle width from 24' to 20' for 130 North Bond Street in the B-3A District is **APPROVED**.

This decision can be appealed to the Harford County Circuit Court within thirty (30) days of the date of this letter. Should there be questions or need for additional information, please contact the Department of Planning & Community Development at 410-638-4540 or email planning@belairmd.org.

Respectfully,



Richard Gerety, Chair
Bel Air Board of Appeals

Attachment

cc Bel Air Board of Appeals
Bel Air Board of Town Commissioners
Edward Hopkins, Town Administrator
Elizabeth Thompson, Town Counsel
Kevin Small, Zoning Administrator

EXHIBIT A

IN THE MATTER OF:	*	BEFORE THE
THE APPLICATION OF	*	TOWN OF BEL AIR
STANDARD ON BOND, JV,	*	BOARD OF APPEALS
BAKERS HILL, LLC, &	*	Case No. 09B-23-01-VA
HICKORY KNOLL RENTALS, LLC	*	

* * * * *

SUPPORTING DOCUMENTATION FOR THE DECISION OF THE
TOWN OF BEL AIR BOARD OF APPEALS
THE STANDARD ON BOND

I. Procedural History.

On June 27, 2023, Standard on Bond, JV; Bakers Hill, LLC; and Hickory Knoll Rentals, LLC (hereinafter collectively referred to as “Applicant”) filed an application seeking four (4) variances and two (2) parking waivers. On July 25, 2023, the Bel Air Board of Appeals (hereinafter “the Board”) held a public hearing. Prior to the admission of any evidence in the case, the Applicant moved to table the requests and resubmit a revised application and site plan. That request was granted by the Board.

On August 30, 2023, the Applicant resubmitted its application and revised its site plan to remove several of the variances. The Applicant now seeks the following relief from the Board (as adjusted by the Department of Planning & Community Development staff report).

- A. A variance from TOWN OF BEL AIR, MD CODE §165-33 (Table), referencing TOWN OF BEL AIR, MD CODE §165-51(C)(4)(b) to exceed the building height limit by 5’ for a total of 60’ in the B-3A District (128 N. Bond Street, Bldg. #1).
- B. A variance from TOWN OF BEL AIR, MD CODE §165-51(C)(4)(b) to reduce the front yard set-back for buildings over 45’ by 8’, resulting in a set-back of 7’ in the B-3A District (128 N. Bond Street, Lester Way frontage, Bldg. #1).
- C. A variance from TOWN OF BEL AIR, MD CODE §165-33(C)(4)(b) to reduce the front yard set-back for buildings over 45’ by 6.5’ resulting in a set-back of 8.5’ for 100 Lester Way in the B3-A District (100 Lester Way, Bldg. #2).

- D. A waiver of parking requirements in TOWN OF BEL AIR, MD CODE §165-51(H) to reduce the minimum requirements by 92 parking spaces for commercial uses in a Mixed-Use Center for 130 & 128 North Bond Street and 100 Lester Way in the B-3A District.
- E. A waiver of parking requirements in TOWN OF BEL AIR, MD CODE §165.51(H) to reduce the minimum requirements by 40 parking spaces for residential uses in a Mixed-Use Center for 130 & 128 North Bond Street and 100 Lester Way in the B-3A District.
- F. A variance from TOWN OF BEL AIR, MD CODE §165-51(E)(1) to reduce the drive aisle width from 24' to 20' for 130 North Bond Street in the B-3A District.

The Board held an evidentiary hearing on September 19, 2023. At the conclusion, the Board closed the evidentiary hearing and tabled its decision on the Applicant's requests and directed staff to prepare this opinion, based on advice of Town Counsel, and issue its decision at its next regularly scheduled meeting. The Applicant requested permission from the Board to submit Post-Hearing Memorandum to provide the Board legal arguments concerning its requests. That request was granted and all participants, including the Applicant, were invited to submit Post-Hearing Memorandum no later than October 2, 2023. The Applicant submitted its memorandum on September 29, 2023. No other participants at the hearing submitted any Post-Hearing Memorandum for consideration.

The Board notes that the Applicant's Post-Hearing Memorandum contains proffers of additional evidence that the building height will be reduced, an attempt to supposedly withdraw the height variance and an unsubstantiated recalculation of the parking requirements as well as an attempt to amend the Applicant's parking waiver requests. The Board is required to observe the basic rules of fairness to parties. To rely on evidence submitted after the close of the hearing may violate due process if no opportunity is provided to challenge the evidence by cross-examination or rebuttal. *Schultz v. Pritts*, 432 A.2d 1319, 1323 (1981). Based on the Supreme Court of Maryland's holding in *Schultz*, the Board will not consider those portions of the Applicant's Post-Hearing Memorandum containing these provisions and will determine this matter only on the Applicant's written application and the testimony and evidence presented at the public hearing on September 19, 2023.

II. Testimony and Evidence of Record.

The Applicant introduced and the Board accepted into evidence the following documents as Exhibits during the hearing:

1. Exhibit 1 – Curriculum Vitale of Amy DiPietro.
2. Exhibit 2 – “Site Plan to Accompany Variance and Waiver Application,” dated August 18, 2023 which was prepared by Morris & Ritchie Associates, Inc. (hereinafter “the Site Plan”).

3. Exhibit 3 – Curriculum Vitale of Nestor Zabala, AIA.
4. Exhibit 4 – Architectural Rendering prepared Curry Associates, Baltimore, Maryland.
5. Exhibit 5 – The Standard on Bond, JV, Schematic Design, Interior Layouts, prepared by Curry Associates, Baltimore, Maryland and dated May 16, 2023
6. Exhibit 6 – "Parking and Land Use Regulation Opportunities to Support Redevelopment" prepared by Mead & Hunt, April, 2023.
7. Exhibit 7 – Burrier Letter of Support.
8. Exhibit 8 – "Real World" Drawings.
9. Exhibit 9 – Aerial Renderings depicting proposed Building No. 1, its proposed terrace and North Bond Street.

Kevin L. Small, Director of the Town of Bel Air Department of Planning and Community Development (hereinafter "the Department" or "Mr. Small") testified on behalf of the Department. Mr. Small submitted the Department's Supplemental Staff Report dated September 11, 2023 which is a part of the record in this case.

The Applicant called the following witnesses to testify on its behalf and the testimony is summarized as follows:

1. **Amy G. DiPietro, P.E.** Ms. DiPietro is a Maryland licensed engineer with Morris & Ritchie Associates and testified as an expert in engineering. Ms. DiPietro testified that she prepared the Site Plan and is familiar with the three (3) properties which are the subject to the Applicant's requests as described on the Site Plan. She identified the neighborhood as R1 Low Density Residential along Wallace Street which abuts the common lot line with 100 Lester Way; at the juncture of Wallace Street and Lester Way, is a portion of R2 residential; across the street from 100 Lester Way is a portion of B-2A and the bulk of the properties running south along North Bond Street are B-3A. Across North Bond Street (Maryland Route 924), the properties are predominantly B2.

She further testified that the interior road access will be on North Bond Street and Lester Way. An exit only on Lester Way to along the southwest side of Building No. 2 was also depicted. She testified that dumpsters will be located on the north from the drive aisle and are proposed to be screened. She further advised that existing landscape will be kept, and additional landscaping would be added. A buffer along the Wallace Street residential would be installed. She testified that there are no environmentally sensitive features on these properties. Ms. DiPietro testified that, in her expert opinion, the Applicant's proposed project would not adversely affect the public health, safety, security or general welfare, it would not result in any dangerous traffic conditions, nor jeopardize the lives or property of people living in the neighborhood.

2. **Nestor Zabala, AIA.** Mr. Zabala is a Maryland licensed architect. He has been an architect for 13 years and works for Curry Architects in Baltimore. Mr. Zabala was offered and accepted by the Board as an expert in architecture. Mr. Zabala testified and authenticated that the architectural renderings, which were offered as Applicant's Exhibit 4, were prepared by him. Mr. Zabala's testified to the height levels of each of the floors in each of the buildings which were designed as follows:

Building No. 1 – 128 N. Bond Street

First Floor – Commercial Uses, likely retail and access to upper floors – 15 feet

Second & Third Floors – Residential Uses – 10.6 feet

Fourth Floor – Residential Uses – 10 feet, 7 7/8 inches

Fifth Floor – Residential Uses – 10 feet, 8 1/8 inches

Fifth Floor to Roof – 2 feet, 8 inches

The total height for Building No. 1 is proposed to be 60 feet.

Building No. 2 – 100 Lester Way

Garage – Structured Parking with 14 spaces – 12 feet

Second & Third Floor – Commercial, likely office space - 12 feet

Fourth Floor – Residential - 11 feet, 3 inches

Fifth Floor – Residential - 10 feet, 1 inch

Fifth Floor to Roof – 2 feet, 8 inches.

The total height for Building No. 2 is proposed to be 60 feet.

Mr. Zabala stated that the design was conceived through a similar rendition of a building depicted in the Town of Bel Air Economic Development Plan. He testified that the buildings were unique as to anything currently existing within the Town of Bel Air. He testified that the 15' ceilings proposed on the first floor in Building No. 1 were to satisfy the market needs of upscale restaurants, who seek higher ceilings to utilize various implements needed for these businesses, such as cooking hoods and ventilation systems. He testified that the market for upscale residential units, in general, demands at least 9-foot ceilings where in years past, the market was accepting of lower ceiling heights, such as 8 feet. Mr. Zabala testified that this "market power dynamic" is propelling the ceilings higher and thus creates the need for higher buildings.

3. **Wayne Goddard - 719 Glenangus Drive, Bel Air, MD 21015.** Mr. Goddard is the owner of the Standard on Bond JV and the authorized agent for the owner of 130 N. Bond Street and testified that he received a letter of support from the Buerriers on Wallace Street which was admitted into evidence as Exhibit 7. Mr. Goddard testified that the penthouses would get 2 parking permits; the rest of the apartments would only receive 1 parking permit. He testified that he is willing to pursue other off-site parking leases. He testified that he believes that the project will revitalize the Town's downtown area and,

specifically, the Bond Street corridor. He advised that it is his intention to move his residence to one of the penthouse apartments and move his company, The Goddard Companies, into the office suites in Building No. 1, 100 Lester Way.

The following members of the public testified during the public comment portion of the hearing and a summary of their comments is set forth below:

Dean Holmes, 141 Wallace Street, testified that he is concerned about parking in this area and he opined he doesn't want 100 cars lined up on Wallace Street and these cars have to be parked somewhere.

Jen Rill, 157 Wallace Street, testified that she has lived on Wallace Street for almost 29 years. She is concerned about construction noise and equipment adjacent to her residential dwelling. She complained about issues with people cutting through the neighborhood and expressed concern about overburdening the hospital, fire and EMS services with an additional 75 more people and is concerned about the size of the buildings "looming" over the residences.

Doug Corselius, 137 Williams Street, identified the back of the Circuit Court of Harford County as a point of reference and expressed his opinion about the undesirability of having such large buildings around his home. He has concerns about traffic and parking and advised that he wouldn't have a problem with a 3-story building but believed that 4 or 5 story building is too much in that area.

Amy Corselius, 137 Williams Street, advised the Board of her involvement with a local nonprofit organization that sought permission to utilize Harford Mutual's parking lot and stated it has been very particular about the use of their parking spaces. She is concerned about parking in the area and concerned about Mr. Goddard's statement that parking "shakes itself out." She works at the Bel Air Library and attempts to walk to work when she can and believes that she is risking her life doing so and expressed concerns about the safety of the crosswalk at Lee Street and Bond Street.

Bill Coningsby, 110 Wallace Street, testified about his concerns about parking along Wallace Street. He advised that the permit parking is not enforced.

Nathan Booth, 135 Wallace Street, supports the project and understands everyone's concerns. He testified he would rather see something like this than the developments on Alice Ann Street.

Renee Kuhn, 121 Wallace Street, lives directly next to where 100 Lester Way is anticipated to be built. She is not opposed to progress and vacant structures could be remediated. She believes that the buildings are beautiful, but they are far too large for the area and does not believe they line up with the surrounding buildings. She believes that the project does not meet several sections of the Code, including parking. She does not believe there was any justification for the parking waiver. She testified that her property does not have a driveway and she utilizes a Town parking permit along with the guest passes.

John Kane, 33 E. Broadway, testified that parking is “atrocious”, and he does not believe there will never another parking garage. He believes that the Applicant’s proposed per unit parking spaces are unrealistic.

III. Applicable Law.

TOWN OF BEL AIR, MD CODE §165-92(B) sets forth the mandated legal standards the Board is required to follow, which states as follows:

B. Special Regulations.

(1) In order to grant a variance, the Board of Appeals...must find, by clear and convincing evidence, each of the following:

(a) Uniqueness. The subject property has an inherent characteristic or condition not generally shared by other surrounding properties, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, practical restrictions imposed by abutting properties or the uses thereon, or other restrictions.

(b) Practical difficulty.

[1] Strict compliance with the Town of Bel Air Development Regulations would unreasonably prevent the applicant from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome; however, that the granting of the variance would make the property more profitable is not sufficient reason to grant a variance.

[2] Granting the variance would do substantial justice to the applicant, as well as to other property owners in the area.

[3] The variance can be granted in such a way that the spirit of the Town of Bel Air Development Regulations will be observed and public safety and welfare secured.

[4] The practical difficulty is caused by the property's uniqueness and is not personal to the applicant nor the result of acts of the applicant, the property owner, or his/her predecessor in title.

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.

IV. Findings of Fact.

A. A variance from TOWN OF BEL AIR, MD CODE §165-33 (Table), referencing TOWN OF BEL AIR, MD CODE §165-51(C)(4)(b) to exceed the building height limit by 5’ for a total of 60’ in the B3-A District (128 N. Bond Street, Bldg. #1).

The Department is recommending that the Applicant's request for a variance from TOWN OF BEL AIR, MD CODE §165-33 (Table), referencing TOWN OF BEL AIR, MD CODE §165-51(C)(4)(b) be approved. Mr. Small testified that buildings in the B3-A zoning district are limited to 45' in height. Mr. Small testified that buildings at 45' in height or less have a zero set-back, however, any building over 45' must have a 15' set-back. The reason for requiring a 15' set-back for buildings taller than 45' is to alleviate a "tunnel effect" for individuals on the ground. Mr. Small identified the majority of the buildings in the area are one-story. Mr. Small testified and his staff report made note of the following structures in the downtown area, outside the defined neighborhood, which exceed the height restriction:

1. Harford Mutual Insurance Company building – 2 ½ stories.
2. Mary E. Risteau Building – 3 ½ stories. This building is owned by the State of Maryland and houses state offices and the District Court of Maryland for Harford County.
3. Circuit Court for Harford County (S. Bond Street side) – 4 stories.

The Applicant's expert, Ms. DiPietro also identified these buildings as examples in the downtown area of comparable buildings in height.

Mr. Small testified and his Supplemental Staff Report provided further specifications of these buildings in comparison to the height of proposed Building No. 1. Mr. Small details that based on the plans and elevations provided by the Applicant, the roof of Building No. 1 will be at or near elevation 432, assuming a 372 elevation at the ground floor. Mr. Small explained that elevation is calculated with sea level at 0. Mr. Small compared Building No. 1's elevation and height requests to a survey of the height of notable buildings made by the Town in 2017. He noted that the height of the Mary E. Risteau building, at 3 ½ stories, was approximately 55' in height. Furthermore, the Circuit Court for Harford County (S. Bond Street side), at 4 stories, was approximately 76' in height.

Notwithstanding, the Department's recommendation that the Board approve this height variance, the Department's Supplemental Staff Report notes that:

While the applicant has proposed several variances to the code, the specific uniqueness of the properties have not been addressed. Section 165-92 requires clear and convincing evidence of an inherent characteristic or condition not generally shared by other surrounding properties as an integral part of the required criteria to permit a variance and the applicant is encouraged to provide this argument at the hearing.

Supp. Staff Report at 8.

The Department's Supplemental Staff Report fails to identify any specific characteristic, such as "...shape, topography, subsurface condition, environmental factors, historical significance, practical restrictions imposed by abutting properties or the uses thereon, or other restrictions." See TOWN OF BEL AIR, MD CODE §165-92(B)(1)(a).

Mr. Zabala testified that his firm prepared interior architectural renderings of the buildings as outlined previously in this opinion. He described the 1 and 2 bedroom units as well as the penthouse levels that were anticipated to be 2 bedroom units. He further testified that for Building No. 2, TOWN OF BEL AIR, MD CODE §165-24(L) permits a 55' building height. However, since Building No. 2 provides for structured parking within the lower level of the building, it is entitled to an approximately 5' increase in height, making the full height of Building No. 2, 60' as a matter of right.¹

Mr. Zabala testified that the Circuit Court for Harford County and the Mary E. Risteau building exceeds the building heights set forth in the Town of Bel Air Code. Mr. Zabala testified that merchants require higher ceiling heights for commercial uses, including "quality" restaurants for various mechanical elements such as cooking hoods, HVAC systems. Mr. Zabala testified that the "quality" tenant market has changed to a demand from 8' ceilings in residences to more current market expectations of 9'. Mr. Zabala testified these market demands, or the "market power dynamic" make this property unique. He further testified that there would be no adverse impacts on neighboring properties, public safety, individuals living or working in Mr. Zabala testified that the floors to utilize the commercial uses the ceiling heights were designed at 15' ceiling and the fifth floor will have 10' ceilings. Floors two through four floors will have 9' ceilings.

On cross-examination, Mr. Zabala explained that the market which he is referring to expands beyond Harford County and, thus, outside the Town of Bel Air. Mr. Zabala testified that in comparison to the other buildings in the Town of Bel Air, this building was unique as it was a new building design in the Town of Bel Air. Mr. Zabala admitted on cross-examination that there were no unique features on the subject properties upon which the new buildings were intended to be constructed.

Upon review of all of the evidence, the Board concludes that the Applicant has failed to meet its evidentiary burden by clear and convincing evidence. There was no evidence or testimony submitted, either by the Department, Ms. DiPietro, nor Mr. Zabala that identified any unique inherent characteristic or condition that currently exists upon the property known as 128 North Bond Street. In fact, on cross examination, Mr. Zabala admitted that there was nothing unique about the property located at 128 North Bond Street. The Applicant and Department have failed to identify any uniqueness of the shape of 128 North Bond Street which sets it apart from other properties in the area, there was no

¹ The Board takes judicial notice of this fact. However, the increased height of Building No. 2 pursuant to TOWN OF BEL AIR CODE §165-24(L) is neither a part of the Applicant's requests and is subject to the approval by the Planning Commission, not the Board of Appeals.

evidence introduced to support any topography conditions, subsurface condition, environmental factor, any historical significance, or practical restrictions imposed by abutting properties or uses, or other restrictions.

The Applicant's entire case for uniqueness can be summarized as the property is *currently unique* because of the building that is *intended to be constructed* on that property will be unique to any other building in the neighborhood. A future prospect does not satisfy the requirements set forth in TOWN OF BEL AIR, MD CODE §165-92(B)(1)(a).

As a result, the Board is hereby denying the Applicant's request for a variance from TOWN OF BEL AIR, MD CODE §165-33 (Table), referencing TOWN OF BEL AIR, MD CODE §165-51(C)(4)(b).

B. A variance from TOWN OF BEL AIR, MD CODE §165-33(C)(4)(b) to reduce the front yard set-back for buildings over 45' by 8', resulting in a set-back of 7' in the B-3A District (128 N. Bond Street, Lester way frontage, Bldg. #1).

The Department recommends approval for the variance of 8' for Building No. 1, 128 N. Bond Street. The Department testified that the Town would be requiring a right-of-way from the owner to expand the width of Lester Way from 20' wide to 24' wide, for the installation of pedestrian sidewalks along Lester Way, in the front-yard area of Building No. 1 and for future improvements. Mr. Small noted that Lester Way's current width does not comply with the Town of Bel Air Code and there are currently no pedestrian sidewalks along Lester Way.

Ms. DiPietro testified that the set back of 15' is required for buildings exceeding 45'. Building No. 1 requires a 8' variance and 6.5' for Building No. 2. DiPietro testified that the Town is making the request for right-of-way transfer and, but for the Town's request, the Applicant could meet the 15' set-back requirements for both properties. Ms. DiPietro testified that there will be no adverse impacts to surrounding properties. Ms. DiPietro concurred with Mr. Small's testimony that the existing pavement is 20' wide on Lester Way and, after the Town's acquisition of the right-of-way, Lester Way will be widened to 24' with pedestrian sidewalks to bring it in compliance with the current standards of the Town of Bel Air Code.

Upon review of all of the evidence, the Board concludes that the Applicant has met its evidentiary burden by clear and convincing evidence. The Department and the Applicant's expert, Ms. DiPietro, both concur that the shape of Lester Way is unique in that it is 20' in width, when the current width requirements under the Town of Bel Air Code are 24'. The Board concludes that a practical difficulty exists because strict compliance with the required 15' set-back requirement would unreasonably prevent the Applicant from using the property for a permitted purpose. Since the Town of Bel Air is requiring the grant of a right-of-way for road improvements and pedestrian sidewalk installations, the

Applicant is restricted from using the property for a permitted purpose in the B-3A district and that restriction would exist no matter what the Applicant's intended use was for the properties in the B-3A district. The granting of this set-back variance would do substantial justice to the Applicant, as well as other property owners in the area, specifically, the residents whose homes run along Wallace Street. The residents' main access in and out of their community, to North Bond Street, is along Lester Way and increasing the width would provide for better traffic safety flow in and out of their community. For this reason as well, the granting of this variance would secure public safety and welfare and the spirit of the Town of Bel Air Development Regulations will be observed. The Applicant would still have a front-yard set-back and the Town can bring Lester Way's width in compliance with current standards under the Town of Bel Air Code and install pedestrian sidewalks which, at this time, do not exist. The Board finds that this practical difficulty is caused by the property's uniqueness, affects all of the properties running along Lester Way and is not personal to the Applicant or as a result of the actions of the Applicant or its predecessors in title. *See* TOWN OF BEL AIR, MD CODE (B)(1)(b)[1]-[4].

For the reasons stated herein, the Board finds that the Applicant has met its evidentiary burden by clear and convincing evidence and is hereby granting a variance from TOWN OF BEL AIR, MD CODE §165-51(C)(4)(b) to reduce the front yard set-back for buildings over 45' by 8', resulting in a set-back of 7' in the B-3A District for the property known as 128 North Bond Street, Building No. 1, along Lester Way.

C. A variance from TOWN OF BEL AIR, MD CODE §165-33(C)(4)(b) to reduce the front yard set-back for buildings over 45' by 6.5' resulting in a set-back of 8.5' for 100 Lester Way in the B3-A District (100 Lester Way, Bldg. #2).

The testimony and recommendations of the Department and the evidence supplied by the Applicant's expert, Ms. DiPietro were the same for both of the front yard set-back variances for 128 North Bond Street and 100 Lester Way. The only difference between the two requests is that 100 Lester Way requires a 6.5' variance, the lesser of the two. The difference appears to be, based on the Site Plan, a result of the varying width of Lester Way.

For the reasons stated herein previously, the Board finds that the Applicant has met its evidentiary burden by clear and convincing evidence and is hereby granting a variance from TOWN OF BEL AIR, MD CODE §165-51(C)(4)(b) to reduce the front yard set-back for buildings over 45' by 6.5', resulting in a set-back of 8.5' in the B-3A District for the property known as 100 Lester Way, Building No. 2, along Lester Way.

D. A waiver of parking requirements in TOWN OF BEL AIR, MD CODE § 165.51(H) to reduce the minimum requirements by 91 parking spaces for commercial uses in a Mixed-Use Center for 130 & 128 North Bond Street and 100 Lester Way in the B-3A District.

The Applicant seeks a collective parking waiver for all three (3) of the properties intended to be utilized for the Applicant's mixed-use development plan. Specifically, the Applicant seeks a waiver of 91 parking spaces from the 133 parking spaces required for the commercial uses. The Department recommends, in its Supplemental Staff Report, that the Board grant a parking waiver of 61 spaces for the commercial parking requirements under TOWN OF BEL AIR, MD CODE §165-33(H).

TOWN OF BEL AIR, MD CODE §165-51(C)(3) sets forth parking space reductions, or waivers, and the procedure that this Board is required to follow. Specifically, TOWN OF BEL AIR, MD CODE §165-51(C)(3) provides as follows:

(C) Flexibility.

...

(3) Parking and loading space reduction. Upon receipt of an application for a parking...waiver, a public hearing shall be scheduled before the Board of Appeals. A waiver or reduction of the parking...requirements in any district may be permitted by the Board of Appeals whenever the character or use of the building is such as to make full provision of the specific parking... requirements unnecessary, or where adequate community loading facilities are provided on site, or where, due to problems of access or to the size of the lot, the provision of the required loading spaces is impractical.

(a) In permitting such a waiver for new construction, the Board of Appeals must find the following:

[1] The requirements for parking...would result in particular or exceptional difficulties upon the owner of such property; and

[2] Such relief can be granted without substantial impairment of the intent or purpose of this article.

...

(c) In permitting mixed-use development, the Board of Appeals may reduce the cumulative parking space requirements after reviewing a parking impact study. The Board of Appeals must find the following:

[1] The peak requirements of several occupants occur at different times during the day; and

[2] The Board of Appeals determines the findings of the parking study prepared by a qualified consultant support the requested reduction and that no adverse impact will be caused by the reduction.

A copy of this Section was attached as an appendix to the Department's Supplemental Staff Report. In reviewing TOWN OF BEL AIR, MD CODE §165-51(C)(3), the Board first turns its attention to the specific requirements for mixed-use developments under Subsection (c). The Applicant offered and the Board admitted into evidence as

Exhibit 6, "Parking and Land Use Regulation Opportunities to Support Redevelopment prepare for the Town of Bel Air, Maryland," prepared by Mead & Hunt, April, 2023 (hereinafter "the Mead & Hunt Report"). The Board takes judicial notice that this is a publicly available report that was commissioned by the Town of Bel Air Board of Commissioners to study available parking throughout the corporate boundaries of the Town of Bel Air. The Board takes further judicial notice that on July 17, 2023, the Board of Town Commissioners passed Ordinance No. 813-23, which provided for clarity to the mixed-use parking requirements and performance standards for mixed-use developments, which includes various provisions pertaining to parking. Given that this Ordinance was passed after the Mead & Hunt Report was issued, the Mead & Hunt Report does not address the new parking requirements and clarifications for mixed-use developments.

The Applicant admitted the Mead & Hunt Report in its entirety and its expert, Ms. DiPietro, supported the Mead & Hunt Report's conclusions that "...there is sufficient parking in downtown Bel Air, with a good mix of public, semi-public and private parking." Mead & Hunt Report at 3. The Applicant did not point to any specific information contained in the Mead & Hunt Report, it provided no further specific parking impact study, nor expert testimony to support its requests for a waiver of 92 commercial parking spaces.

The Applicant's submission of the Mead & Hunt Report to support its parking waiver request is not persuasive. First, a review of the Mead & Hunt Report along with the testimony provided by the Applicant and its expert, Ms. DiPietro, does not elicit any evidence for this Board to determine "the peak requirements of several occupants occur at different times during the day." *See* TOWN OF BEL AIR, MD CODE §165-51(C)(3)(c)[3]. Throughout all of the testimony heard during the hearing, the Board can only conclude as to the generalizations provided by the Applicant, such as, the development of this project is intended to attract "high-end" restaurants, "quality" residential tenants and other, nonspecific retail uses. The only discussions relating to the times of the day were the generalized, unsupported statements that the intended residents of the penthouse and apartments would likely utilize more parking during the evening and nighttime hours than the commercial uses. Speculation is not a basis for consideration of a parking waiver pursuant to TOWN OF BEL AIR, MD CODE §165-51(C)(3). This is legally insufficient to satisfy the specific requirements under TOWN OF BEL AIR, MD CODE §165-51(C)(3)(c).

Furthermore, the Mead & Hunt Report was a review of *all* parking available in the Town of Bel Air, including parking lots owned by the Town of Bel Air, State of Maryland and Harford County, Maryland in determining the overall availability to the public. Mead & Hunt Report at 7. The Mead & Hunt Report was neither commissioned, nor intended to be utilized to determine "the peak requirements of several occupants [of the Applicant's proposed mixed-use development] occur at different times during the day." TOWN OF BEL AIR, MD CODE §165-51(C)(3)(c)[3].

Similarly, the Applicant's reliance upon the Mead & Hunt Report does not support its requested reduction. Indeed, as previously stated, the Mead & Hunt Report says nothing about the property or the Applicant's intended mixed-use development. On the other hand, what the Mead & Hunt Report does provide is sufficient basis for the Department's conclusion that "...there are options to acquire parking in the downtown area without obtaining a waiver including fee-in-lieu payment and leasing of existing spaces in a nearby parking lot..." Supp. Staff Report at 7.

Lastly, the Board is required to find that no adverse impact will be caused by the parking reduction. Notwithstanding the lack of a parking impact study and expert testimony supporting the request for the parking waivers, the Board is highly concerned about adverse impacts to the adjoining residential neighborhood along Wallace Street. Several residents who live along Wallace Street provided public comment and the bulk of these comments were geared toward concerns about parking spilling over from the Applicant's proposed mixed-use development and the lack of current enforcement of the permit parking restrictions along Wallace Street. Mr. Goddard testified, as a fact witness, that he had no concerns about parking for retail uses and restaurants because parking would "open up" after 4:00 p.m., there was adequate, presumably, overflow parking available behind the Hamilton Building and in the Harford Mutual parking lot. He concluded that parking has a way of "shaking itself out." The Board is not persuaded by this totally speculative testimony in light of the testimony and comments of the residents along Wallace Street. The Board finds that without a parking impact study, as required under TOWN OF BEL AIR, MD CODE §165-91(C)(3)(c), there will be an adverse impact on the surrounding properties.

Since the Applicant has failed to comply with the express requirements of TOWN OF BEL AIR, MD CODE §165-51(C)(3)(c) and provide a parking impact study and introduce qualified expert testimony concerning the impact of the Applicant's requested mixed-use development, the Board cannot address the specific requirements set forth in TOWN OF BEL AIR, MD CODE §165-51(C)(3)(a) and it is not necessary for the Board to continue the inquiry. The Mead & Hunt Report, while sufficient for providing the Department and the Board of Town Commissioners adequate information for future planning and legislative action, the Board concludes that it is insufficient to satisfy the express requirements of TOWN OF BEL AIR, MD CODE §165-51(C)(3)(c). The Board finds that Mead & Hunt Report does support the conclusion that adequate alternatives exist for the Applicant other than a parking waiver.

For the reason set forth herein, the Board hereby denies the Applicant's requests for a parking waiver of 91 commercial parking spaces as required under TOWN OF BEL AIR, MD CODE § 165-33(H).

E. A waiver of parking requirements in TOWN OF BEL AIR, MD CODE § 165.33(H) to reduce the minimum requirements by 40 parking spaces for residential uses in a Mixed-Use Center for 130 & 128 North Bond Street and 100 Lester Way in the B-3A District.

The Applicant is also seeking a waiver of 40 parking spaces from the 90 parking spaces required for the residential uses on the three (3) properties. The Department recommends denial of a parking waiver of 40 parking spaces for the residential parking requirements under TOWN OF BEL AIR, MD CODE §165-33(H). The Applicant presented the same evidence and testimony in support of both parking waiver requests collectively and simultaneously and thus, the Board's findings of facts and conclusions of law are applicable to both requests.

For the reasons stated herein previously, the Board hereby denies the Applicant's request for a parking waiver of 40 residential parking spaces as required under TOWN OF BEL AIR, MD CODE §165-33(H).

F. A variance from TOWN OF BEL AIR, MD CODE §165-51(E)(1) to reduce the drive aisle width from 24' to 20' for 130 North Bond Street in the B-3A District.

The Applicant is seeking a variance from TOWN OF BEL AIR, MD CODE § 165-51(E)(1) which provides that a two-way drive aisle must be 24' or more in width. The Department is recommending this variance be approved.

Mr. Small testified that the parking lot at 130 North Bond Street was designed in 1992 with compact car parking lot spaces, with reduced width and lengths of the individual parking spaces and is deficient. Mr. Small testified that compact car parking configurations are no longer permitted under the Town Code. He further testified that a variance is required when the compact car spaces are being utilized for a new use such as in this case. Mr. Small identified only two other instances in the Town of Bel Air which utilizes compact car spaces – Tollgate Marketplace and Bel Air Town Center. He further testified that there would be no change to the existing conditions in this parking lot and the parking aisle cannot be brought into compliance with the current requirements of the Town Code without reducing the number of parking spaces.

Ms. DiPietro testified the Site Plan shows a 20' drive aisle on 130 N. Bond Street. Ms. DiPietro testified that the parking spaces were approved in 1992 with parking spaces 15' in length and thereafter, the parking spaces were lengthened. Ms. DiPietro testified that non-conforming uses exist around the Town of Bel Air, however, the decreased size of the drive aisle is an inherent uniqueness that only exists on 130 North Bond Street and no other property in the area. Ms. DiPietro confirmed that there will be no changes to the parking spaces if the variance is granted. Ms. DiPietro testified that she did not believe

that an increased use of this parking lot would result in any dangerous conditions or jeopardize public safety.

There was no cross-examination of either Mr. Small or Ms. DiPietro and no public comment concerning this request.

After reviewing all of the evidence submitted, the Board concludes that the Applicant has proven, by clear and convincing evidence, that the subject property has an inherent characteristic or condition not generally shared by other surrounding properties, specifically, the dimensions of the drive aisle at 20' feet pose a practical restriction on the property. Both Mr. Small and Ms. DiPietro concurred that this restriction exists only on this property out of the other two properties that are subject to this application. Mr. Small could only point to the same restriction being present at Tollgate Marketplace and Bel Air Town Center, both of which are not in the immediate area. The Board finds that strict compliance with the Town of Bel Air Development Regulations would render conformity with the current drive aisle width unnecessarily burdensome because, based on the testimony received, the drive aisle could not be increased without the loss of parking spaces. The Board finds that granting the variance would do substantial justice to the Applicant, as well as to other property owners in the area by keeping the current number of parking spaces intact, thus, alleviating the possibility that a reduction in parking spaces could result in overflow parking occurring in the abutting residential development. The Board finds that the granting of this variance ensures that the spirit of the Town of Bel Air Development Regulations will be observed and public safety and welfare secured based on Ms. DiPietro's testimony and no contrary testimony provided by the Department. The Board further finds that the practical difficulty is caused by the property's uniqueness and is not personal to the Applicant nor the result of acts of the Applicant or its predecessor in title. The testimony clearly establishes that the decreased width of the drive aisle was developed in 1992 in order to comply with the then existing Town of Bel Air Development Regulations which are no longer in use.

For the reason set forth herein, the Board finds that the Applicant has met its evidentiary burden by clear and convincing evidence and hereby grants the Applicant's request for a variance from TOWN OF BEL AIR, MD CODE §165-51(E)(1) to reduce the drive aisle width from 24' to 20' for 130 North Bond Street in the B-3A District.