



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

MCPB No. 17-053  
Preliminary Plan No. 120160290  
**WMAL Bethesda**  
Date of Hearing: June 15, 2017

**AUG 03 2017**

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on June 21, 2016, Toll Brothers Inc. (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create 309 lots (159 one-family detached, 150 one-family attached), one 4.3-acre parcel dedicated to MCPS, and various stormwater management, common open space, private road, and HOA parcels, on 74.83 acres of land, utilizing the Optional Method of Development in the R-90 Zone, located within the northeast quadrant of the intersection of Greentree Road and Interstate 495 (“Subject Property”), in the North Bethesda Policy Area and the North Bethesda/Garrett Park Master Plan (“Master Plan”) area; and

WHEREAS, Subdivision Regulation Amendment 16-01, adopted by the Montgomery County Council on November 15, 2016 as Ordinance No. 18-19, replaced Chapter 50, Subdivision of Land in its entirety, effective February 13, 2017 (“Subdivision Regulations”); and

WHEREAS, Ordinance 18-19 provided that any preliminary plan application filed and certified as complete before the effective date of the Subdivision Regulations may, at the applicant’s option, be reviewed under the Subdivision Regulations in effect when the application was submitted; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120160290, WMAL Bethesda (“Preliminary Plan” or “Application”); and

WHEREAS, Applicant opted to have this Preliminary Plan reviewed under the Subdivision Regulations in effect on June 21, 2016; and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated June 5, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

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Approved as to  
Legal Sufficiency *Christina Somet 7/20/17*  
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WHEREAS, on June 15, 2017, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120160290 to create 309 lots (159 one-family detached, 150 one-family attached), one 4.3-acre parcel dedicated to MCPS, and various stormwater management, common open space, private road, and HOA parcels on the Subject Property, subject to the following conditions:<sup>1</sup>

1. Approval is limited to 309 lots (159 one-family detached lots, 150 one-family attached lots) of which a minimum of 12.5% + one additional lot must be moderately priced dwelling units (MPDUs), one 4.3-acre parcel to be dedicated to Montgomery County Public Schools (MCPS), and associated stormwater management, common open space, private roads, and homeowners association (HOA) parcels. Final number of MPDUs to be determined at Site Plan.
2. The Applicant must revise the Forest Conservation Law variance request so that it no longer includes tree #158, a 27" Eastern Red Cedar.
3. The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan No. 120160290, approved as part of this Preliminary Plan, subject to the following conditions:
  - a. The Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Preliminary Forest Conservation Plan. The Category I Conservation Easement must be approved by the M-NCPPC Office of the General Counsel and recorded in the Montgomery County Land Records by deed prior to the start of any demolition, clearing, or grading on the Subject Property, and the Liber Folio for the easement must be referenced on the record plat.
  - b. At the time of Site Plan submittal, the Applicant must submit a Final Forest Conservation Plan ("FFCP"), consistent with the approved Preliminary Forest Conservation Plan ("PFCP").
  - c. The FFCP must include detailed and specific tree protection measures for on and off-site trees affected by the Limits of Disturbance (LOD).
  - d. The FFCP must include fencing and signage along areas of forest retention and planting.

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

- e. The FFCP must include mitigation plantings for the removal of five (5) trees located outside of existing forest stands and subject to the variance provision. Native canopy trees must be planted totaling 43 caliper inches, with a minimum planting stock size of three (3) caliper inches. The trees must be planted on the Property, in locations to be shown on the Final Forest Conservation Plan, outside of any rights-of-way, or utility easements, including stormwater management easements. All other trees subject to the variance provision are within existing forest stands and will be mitigated per Chapter 22A.
4. The Applicant must provide noise mitigation for the proposed residential units with final timing and details of features/structures to be determined at Site Plan. The Applicant shall cooperate, including sharing studies, with the Maryland State Highway Administration (SHA) and Staff in connection with SHA's evaluation of a noise mitigation solution that benefits the existing community adjacent to I-270.
5. The Applicant must dedicate, and the record plat must reflect, the Master Plan recommended 70-foot right-of-way for Greentree Road and Greyswood Road as identified by the North Bethesda/Garrett Park Master Plan and shown on the Preliminary Plan.
6. The Applicant must dedicate, and the record plat must reflect, the 60-foot right-of-way for Renita Lane between Greentree Road to Private Street 3, as shown on the Preliminary Plan.
7. The Applicant must dedicate, and the record plat must reflect, the 29-foot four-inch right-of-way for Renita Lane between Private Street 3 and Private Street 1, as shown on the Preliminary Plan.
8. The Applicant must dedicate, and the record plat must reflect, the 27-foot four-inch right-of-way for Renita Lane between Private Street 1 and existing Renita Lane, as shown on the Preliminary Plan.
9. The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan and/or to the design standards imposed by all applicable road codes.
10. The Applicant must provide Private Street(s) 1-8, Alleys 1-12, and Lanes A-F, including any sidewalks, bikeways, storm drainage facilities, street trees, street lights, private utility systems and other necessary improvements as required by either the Preliminary Plan or the subsequent Site Plan within the delineated private road area (collectively, the "Private Road"), subject to the following conditions:
  - a. The record plat must show the Private Road in a separate parcel.
  - b. The Private Road must be subject by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338.
  - c. Prior to issuance of a building permit, the Applicant must deliver to the Planning Department, with a copy to the Montgomery County Department of Permitting Services (DPS), certification by a professional engineer licensed in the State of Maryland that the Private Roads have been

designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified on this Preliminary Plan or a subsequent Site Plan, and that each road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.

11. Within one year of the first record plat recorded, the Applicant must dedicate to MCPS 4.3 acres of land adjacent to Greentree Road as shown on the Preliminary Plan in accordance with Section 52-58 of the Montgomery County Code. The density attributable to the 4.3-acre parcel (19 dwelling units) shall be excluded from the density calculation of the development resulting in a total of 309 units on the remaining 70.53 acres. The exact boundaries of the conveyance must be shown on the record plat. As part of the dedication agreement, the Applicant and MCPS shall determine what improvements will be made to the parcel (e.g. rough grading, tree removal) and under what conditions the Applicant may utilize a portion of the parcel for staging for the approved development.
12. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
13. The record plat must reflect a common use and access easement for the benefit of the public over all trails, sidewalks and paths not included in a public right-of-way or private street parcel. The easement must be created by a deed approved by the M-NCPPC Office of the General Counsel and recorded in the Montgomery County Land Records.
14. The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
15. The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). The Applicant must provide verification to Staff prior to release of the final building permit that the Applicant's recorded HOA documents incorporate the Covenant by reference.
16. The Applicant must provide a streetscape plan for Greentree Road and Greyswood Road (from Fernwood Road to the intersection of Greentree Road and I-495) at the time of site plan. The streetscape plan must include, at a minimum, tree plantings from the Property to Fernwood Road and bump-outs at the Greyswood Road intersections with Harrogate Road and Inglemere Drive, to be designed so as not to interfere with existing utilities or infrastructure. Final details of the streetscape plan to be determined at Site Plan.
17. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated May 2, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The

Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

18. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
19. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated May 1, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
20. The Planning Board accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section (“MCDPS Fire and Rescue”) in its letter dated April 11, 2017, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.
21. No clearing or grading of the site, or recording of plats, prior to certified site plan approval.
22. Prior to issuance of any building permits for dwelling units, all radio towers, equipment, and associated materials must be removed from the site.
23. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and paths will be determined at site plan.
24. If a subsequent site plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration, right-of-way width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.
25. The Certified Preliminary Plan must contain the following note: “Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of Site Plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for these lots. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”
26. All necessary easements must be shown on the Record Plat.
27. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
28. Subject to MCDOT review and approval, the Applicant must improve the Fernwood Road and Democracy Boulevard intersection by converting the

northbound Fernwood Road right turn lane to a shared left turn lane/right turn lane, or equivalent improvement, with the improvement to occur within the existing right-of-way. The Applicant must submit a design concept for the improvement and a supporting traffic analysis at site plan. Prior to the issuance of the building permit for the first unit, final design must be approved by MCDOT, and the Applicant must permit and bond said improvement. This improvement must be completed prior to the issuance of the 150th building permit. This condition must be noted on the Record Plat.

29. All plats associated with this Preliminary Plan must be recorded within sixty-one (61) months from the date of mailing of the Planning Board Resolution. The recordation of the plats must be phased in the following manner:
- a. Phase I- Plats for at least 150 residential units must be recorded by 36 months from the 30th day after the Resolution is mailed.
  - b. Phase II- Plats for the remaining 159 residential units must be recorded by 24 months from the expiration of the Phase I validity period.

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

1. *The Preliminary Plan substantially conforms to the Master Plan.*

The Master Plan identifies the Property as a Key Vacant or Redevelopable Parcel – No. 20 (page 73). The Master Plan notes that the Property, “*is occupied by four transmission towers, and the owners have indicated that they plan to continue the present use of the property for the foreseeable future. The possibility of joint use of the property, including a community recreation center and ballfields, was investigated. However, the owners indicated that the existence of a multiplicity of underground cables and equipment, at a shallow depth, rendered construction, or even ballfields, impracticable. This property, the largest in North Bethesda, is surrounded on three sides by single-family housing in the R-90 Zone. Should the use of the property for transmission towers ever be discontinued, this Plan recommends that the site be used for single-family residential development in the R-90 Zone. The Plan also recommends that Greentree Road be connected to Greyswood Road as part of any residential development*” (page 84).

The Master Plan confirmed the existing R-90 Zone for the Property, and recommended the connection of Greyswood and Greentree Roads and that the Property be used for single-family development in the R-90 Zone. As proposed, this development will achieve several of the Master Plan’s general land use and environment objectives, including the following:

- Encourage a land use pattern that provides opportunities for housing and employment.
- Preserve and increase the variety of housing stock, including affordable housing.
- Preserve and expand green areas and greenways, including institutional open space, for environmental protection, wildlife sanctuary, recreation and visual relief.
- Preserve existing woodland and encourage reforestation throughout the Planning Area (pages 33-34).

The Application includes new residential development consistent with the Master Plan recommendations. The residential component will provide additional housing opportunities and increase the variety of housing stock including 12.5 percent (plus one additional) MDPU's. Approximately 18.3 acres of the site will be preserved as Common Open Space (COS) areas, of which approximately 11.49 acres will be preserved and protected by Category I Conservation Easements. The majority of the Category I Easement areas are located along the north and southern ends of the Property, linked by a series of linear park-like COS area connections. As proposed, these Category I Easement and COS areas help preserve green areas and existing woodland, and aide environmental protection, recreation, and visual relief.

#### Street Network

The Preliminary Plan shows the 70-foot right-of-way dedication and improvements for Greentree Road (P-2) and Greyswood Road (P-3) classified in the Master Plan as primary residential streets with a minimum right-of-way of 70 feet with two travel lanes (page 164). The Applicant is required to dedicate and construct the full right-of-way for this connection as shown on the Preliminary Plan. Renita Lane is not classified in the Master Plan, but the Applicant is required to improve Renita Lane as a modified secondary residential street, with variable pavement widths, including two travel lanes (one in each direction) and parallel parking on the north side. While Renita Lane is not specifically identified by the Master Plan, its extension through the Property to Greentree Road will provide the logical extension of the public street network, while providing more efficient pedestrian and vehicular connections. This extension of Renita is consistent with the Master Plan recommendation to add local streets to create a more interconnected local street network (page 109). The continuation of existing public roads is also required per Section 50-25(b) of the Montgomery County Subdivision Regulations. Lastly, MCDPS Fire and Rescue has determined that, based on the location of the development within the existing community, the number of units require three remote points of access per NFPA 1141 Table 5.1.4.1 (a). The Planning Board has approved a modified, reduced-width right-of-way, as shown on the Preliminary Plan, to minimize impacts to the existing forest on the southern end of the Property.

### Urban Design

The Master Plan does not provide specific urban design guidance for the Property. However, two of the seven urban design objectives in the Master Plan are applicable to the development:

- Add local streets to create a more interconnected local street network and reduce the size of blocks in high intensity areas.
- Greatly improve the pedestrian friendliness of new and existing streets, particularly within walking distance of transit nodes, and increase the number of pedestrian and bicycle routes to transit (page 109).

The Applicant will provide the logical extension of public streets, and an internal network of private streets, which form a grid pattern and create a more interconnected local street network. The Applicant has agreed to coordinate with Staff, MCDOT, MCDPS-ROW Permitting, and the Community to provide improvements to Greentree and Greyswood Roads, which are both public roads, to improve the pedestrian friendliness of the existing streets and to blend the existing and new developments together. The final improvements will be addressed at site plan.

### Pedestrian Network

The Master Plan made no specific pedestrian recommendations for the Property. However, the proposed pedestrian network of sidewalks and paths will link different sides of the development to the existing sidewalks on Greentree and Greyswood Road. The community currently uses the Property as a park and recreation area. There is a worn path on the outer ring of the Property created by walkers and joggers, and the Applicant proposes to preserve the functionality of the path by providing a similarly located loop of path and sidewalks through the development and COS areas.

### Bikeway Network

The Master Plan identifies Greentree/Greyswood Road as a Class III signed, shared roadway/bikeway (page 168). As a Class III shared roadway/bikeway, cyclists are expected to share the road with motor vehicles. Therefore, only the standard right-of-way improvements as shown on the Preliminary Plan are expected at this time.

### Environment

The Master Plan's main environmental objective is to "protect and enhance the environmental resources of North Bethesda-Garrett Park" (page 247). The Plan also makes general recommendations for tree preservation and noise including the following:

- Protect woodlands, green space, steep slopes and wetlands through land use recommendations and development regulations.
- Retain mature trees as buffers in new residential development to create visual separation from major roads.
- Retain the maximum number of specimen trees on site where they occur.

- Provide additional trees along existing streets, in median strips, and in parking lots whenever feasible.
- Require every new road recommended by this Plan have a streetscape plan with an emphasis on tree planting.
- Provide noise attenuation wall when the I-270 spurs are widened at locations where existing residences will be subjected to high noise levels (pages 247-248).

The development will implement the applicable environmental recommendations of the Master Plan. Through the Category I Conservation Easement and COS areas, approximately 10.75 acres of the Property will be retained as forest. As outlined in the Forest Conservation finding below, the Applicant has minimized impacts to specimen trees and forest, and will plant mitigation trees for the specimen trees that will be removed. The Applicant has agreed to provide a streetscape plan for Greentree and Greyswood Roads per the Master Plan recommendation, with an emphasis on tree planting and traffic calming. The Applicant is also proposing to add several street trees and landscaping along Renita Lane and the internal network of private streets. The final details of the streetscape plan and of the landscaping and lighting plan will be determined at Site Plan.

#### Noise

The Master Plan states that noise from the Capital Beltway (I-495) and I-270 is intrusive because of large traffic volumes on both roadways. The Master Plan states that “any undeveloped or redevelopable land adjacent to major highways should use noise-compatible land use and site design and other mitigation measures recommended in the Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development” (page 252).

The Montgomery County “Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development” is used to review traffic noise impact on residential developments. In this area of the County, the Guidelines recommend a maximum value of 65 dBA Ldn for exterior recreation areas and 45 dBA Ldn for indoor residential spaces.

The Property is located directly to the north of I-495, the Capital Beltway, and between 950’ and 250’ east of the western spur of I-270. While there are noise barriers along most of I-495, the stretch adjacent to the Property does not have a barrier due to the existing land use. The Applicant was required to submit a noise analysis and did so on October 28, 2016 (dated October 26, 2016). An updated noise study was submitted on April 27, 2017 (dated April 25, 2017), which was identical except for the proposed noise mitigation along the I-270 spur. Numerous lots on the northern edge are impacted by noise at the 65 dBA level from I-270, and all of the lots on the southern edge are impacted by noise up to the 70 dBA level.

The Applicant is proposing to construct a noise wall along I-495. The Applicant will also be required to mitigate the noise generated by the I-270 ramp for the rear outdoor space of the fourteen units located on the north side of Greentree and Greyswood Roads. The Applicant has agreed to continue to cooperate with SHA and Planning Staff in their efforts to potentially identify a noise mitigation solution that benefits both the existing community adjacent to I-270 and the units on the Subject Property. Final details of the noise mitigation features/structures will be determined at Site Plan.

2. *Public facilities will be adequate to support and service the area of the approved subdivision.*

#### Required Vehicular Site Access Points

Greyswood Road will be connected to Greentree Road through the Property, while Renita Lane will be extended through the Property to intersect with Greentree Road. This extension of Renita Lane is required to provide the logical extension of the public street network in the immediate vicinity. This extension of Renita is consistent with the Master Plan recommendation to add local streets to create a more interconnected local street network (page 109); the continuation of existing public roads is also required per Section 50-25(b) of the Montgomery County Subdivision Regulations; and the MCDPS Fire and Rescue determination that, based on the location of the development within the existing community, the proposed number of units require three remote points of access per NFPA 1141 Table 5.1.4.1 (a). The Planning Board has approved a modified, reduced-width right-of-way, as shown on the Preliminary Plan, to minimize impacts to the existing forest on the southern end of the Property. Therefore, the development includes three access points from Greentree Road, Greyswood Road, and Renita Lane.

#### Master-Planned Roadways, Bikeways, and Public Roads

In accordance with the 1992 *North Bethesda/Garrett Park Master Plan*, Greentree Road (P-2) and Greyswood Road (P-3) are designated as two-lane primary residential streets, with a recommended 70-foot right-of-way and a Class III bikeway.

The 2005 *Countywide Functional Bikeways Master Plan* recommends PB-5, Greyswood Road, as a shared roadway. This bikeway can be implemented by the County through a variety of treatments. It is anticipated that bicyclists will share the road with vehicles throughout the development without additional enhancements beyond those that are already proposed.

Renita Lane is not specifically identified in the *North Bethesda/Garrett Park Master Plan*. This secondary residential street is an existing street, which will be extended through the southern portion of the Property to Greentree Road with three different cross sections (west, middle and east). The development includes 5-foot-wide sidewalks on both sides of the entire length of Renita Lane. Crosswalks are provided at all street intersections.

The Renita Lane cross section and right-of-way widths have been reduced as much as possible between Greentree Road and existing Renita Lane in order to minimize the forest clearing on the south end of the Property. The Applicant will provide a Public Improvement Easement (PIE) along each side of Renita Lane in lieu of additional right-of-way that would typically be required in order to reduce the impacts of the required setbacks. This results in further reducing the amount of forest clearing than would otherwise be required if the full right-of-way width was required.

Renita Lane is proposed as a public 60-foot-wide Primary Residential Street between Greentree Road and Private Street "3" with an environmentally preferable 28-foot wide pavement section. The Montgomery County Department of Transportation has recommended that this section be reduced to a twenty (20) foot paved section because it will not contain any parallel vehicle parking spaces. Final right-of-way and pavement widths will be determined at the time of Site Plan.

The middle section of Renita Lane between Private Street "3" and Private Street "1" is proposed as a twenty-nine foot and four inches (29' 4") right-of-way, with an environmentally preferable 28-foot wide pavement section.

Finally, the eastern section of Renita Lane between Private Street "1" and the existing Renita Lane is proposed as a twenty-seven foot and four inches (27' 4") right-of-way, with an environmentally preferable 26-foot-wide pavement section as it transitions to the existing section of Renita Lane.

#### Bicycle Parking

The Zoning Ordinance requires a minimum of one bicycle parking space for every 5,000 square feet of Swimming Pool (Community), with up to a maximum of 25 bicycle parking spaces, while fifteen (15) percent of the required bicycle parking spaces must be long-term spaces. The Applicant should provide inverted U-shaped bike racks at the proposed community building/swimming pool area. The final amount and location of bicycle parking will be determined at Site Plan.

#### Pedestrian Safety at Street Intersections

The paving section of all streets is proposed to be reduced to 20 feet wide at intersection locations through the provision of curb extensions to provide traffic calming and shorten pedestrian crossings.

#### Public Transit Service

The nearest bus route is the Ride On 47 along Fernwood Road, approximately ½ mile from the Property. Bus stops for this Ride-On route are located near the intersection of Greyswood Road and Fernwood Road. Other bus stops for this route along Fernwood Road that will be close to the development are at Inglemere Drive, Stoneham Road, Brixton Lane, and Tusculum Road.

Local Area Transportation Review (LATR)

A traffic study was required to satisfy the LATR test because the development generates more than 29 total peak-hour trips within the weekday morning and evening peak periods. The traffic study estimated existing traffic conditions, background forecasts (existing plus the approved but unbuilt pipeline of development), and the estimated trips generated by the proposed development, for impacted intersections in the study area.

In addition to pipeline trip generation estimates from several developments, the Applicant's traffic study relied on the following documents to estimate the total pipeline trip generation from the National Institutes of Health (NIH) Bethesda campus:

1. 1992 MOU between M-NCPPC and NIH in conjunction with 2004 NIH Master Plan Update
2. 2011 National Institutes of Health (NIH) Employee Transportation Survey
3. 2014 Final Environmental Impact Statement, NIH Bethesda Campus, October 6, 2014
4. 2013 Comprehensive Master Plan NIH Bethesda Campus, June 14, 2013
5. 2014 NIH Traffic Monitoring and Parking Utilization Studies

*Pipeline Development Trip Generation and Trip Assignments*

Existing traffic counts represent the traffic conditions as they are today. Background traffic forecasts represent future conditions with existing peak hour traffic counts plus the estimate of traffic trips generated by the development pipeline, but without the development of the Subject Property. Pipeline traffic is the traffic projected to be generated by the approved but not fully built-out development projects in the study area, which would impact the same intersections being analyzed for the proposed project assumed over the next five years.

*Total Future Condition*

The total peak hour traffic forecast is the combined background conditions plus the number of trips estimated to be generated by the development of the Subject Property. Based on ITE and M-NCPPC trip generation rates, the development of 170 single-family detached dwelling units and 158 townhomes, as described in the Applicant's traffic impact study, will generate 209 AM peak hour trips and 271 PM peak hour trips. The traffic study assigned these trips to the roadway network based on LATR trip distribution tables for residential development.

The estimated total future condition indicates that all the study intersections will continue to operate within the acceptable Policy Areas congestion standards of 1,550 and 1,600 CLV during both AM and PM peak hours without requiring any mitigation. The highest CLV of 1,512 occurs at the intersection of Fernwood and Democracy in the PM peak hour.

It should be noted that the current Application has been revised and lowered to 159 single-family detached dwelling units and 150 townhomes. Thus, both the total number

of trips generated from the development and CLV counts will be lower than described above.

*Capacity/Critical Lane Volume (CLV) Analysis*

The LATR analysis, including the CLV calculations, was conducted in accordance with the 2012-2016 Subdivision Staging Policy and the associated LATR and TPAR Guidelines. Based on the traffic study results, the capacity/CLV values at the studied intersections do not exceed the CLV standard of 1,550 for intersections within the North Bethesda Policy Area and the CLV standard of 1,600 for the Bethesda-Chevy Chase Policy Area. Thus, the LATR test is satisfied. No LATR improvements or mitigation is required.

However, based on community concern, the Applicant has volunteered to improve the Fernwood Road and Democracy Boulevard intersection by converting the northbound Fernwood Road right turn lane to a shared left turn lane/right turn lane, or equivalent improvement, with the improvement to occur within the existing right-of-way. The Applicant must submit a design concept for the improvement and a supporting traffic analysis at Site Plan. Prior to the issuance of the building permit for the first unit, final design must be approved by MCDOT, and the Applicant must permit and bond said improvement. This improvement must be completed prior to the issuance of the 150th building permit. With the proposed improvement, the CLV standards for the intersection will be lowered to 1,143 in the AM peak-hour, and 1,228 in the PM peak-hour. Although not required, the Applicant elected to calculate the CLV standards for AM and PM peak-hours with the proposed improvement, using the community preferred October, 2015 traffic count (which had traffic counts higher than the Applicant's November, 2015 traffic count) and the 4% estimated total future traffic from NIH, which is the worst case traffic scenario. The CLV Standards for the intersection were found to be lowered to 1,238 in the AM peak-hour and 1,370 in the PM peak-hour.

Additionally, although not required to satisfy the LATR/APF test, the community requested that Staff conduct an Average Delay Highway Capacity Manual (HCM) Analysis on the Democracy Boulevard and Fernwood Road intersection. Staff conducted this analysis by using both the Applicant's November, 2015 traffic count and estimated total future traffic, and the community's preferred October, 2015 traffic count and estimated total future traffic. When using the information from the Applicant's traffic study, the existing conditions average intersection delay results for this intersection are 38.4 seconds during the morning (AM) peak-hour and 40.5 seconds during the evening (PM) peak-hour, which is well below the 71-second threshold established by the 2016-2020 Subdivision Staging Policy for North Bethesda. When using the information from the Applicant's traffic study, including the Applicant's proposed mitigation, the total future average intersection delay results for this intersection are 39.8 second (AM) peak-hour and 54.8 second (PM) peak-hour. When using the community preferred October, 2015 traffic count, the 4% estimated total future traffic from NIH, and the Applicant's proposed mitigation, the total future average intersection delay results for this

intersection are 57.6 second (AM) peak-hour and 57.5 second (PM) peak-hour, which are below the 71-second threshold established by the 2016-2020 Subdivision Staging Policy for North Bethesda. It is important to note that even though the Applicant and Staff ran the HCM test to ease community concerns, the new HCM test does not apply to this Application and cannot apply to this Application due to the date it was submitted. Nevertheless, the Application is within the LATR requirements and well below the threshold when the Applicant's voluntary intersection improvement is considered.

#### Transportation Policy Area Review (TPAR)

The Property is located within the North Bethesda Policy Area for the TPAR test. The roadway capacity in the policy area is adequate but the transit test is inadequate. As of March 1, 2017, a TPAR mitigation payment equal to 25 percent of the General District Transportation Impact Tax (per the 2012-2016 Subdivision Staging Policy) is no longer required. The Applicant must make a Transportation Impact Tax payment based on the higher rates just approved at the time of building permit. Therefore, with the Transportation Impact Tax payment at the time of building permit, the TPAR test is satisfied.

#### Schools

##### *Proposed School Site*

The 1992 *North Bethesda-Garrett Park Master Plan* covered a large geography and focused on the areas around the Metrorail stations at Twinbrook, White Flint, and Grosvenor-Strathmore, as well as the office park at Rock Spring. Some of the communities that were previously part of the 1992 master plan are now the subject of separate, smaller area plans, including the 2009 *Twinbrook Sector Plan*, the 2010 *White Flint Sector Plan*, and the plans currently underway for White Flint 2, Rock Spring, and Grosvenor-Strathmore. During recent master plans, school capacity issues have risen to the forefront of local citizens' concerns as most of these plans are within the boundaries of the Walter Johnson Cluster, which is experiencing overcrowding at all school levels. Due to the nearly coincident schedules for the White Flint 2 Sector Plan and the Rock Spring Master Plan, these two plan updates addressed the school capacity issues in the Walter Johnson cluster area comprehensively. During the outreach phases for these two plans, the Planning Department and MCPS held two joint community meetings to hear concerns and address questions. During the Planning Board's review of these two plans, a joint work session was held on February 16, 2017, at which school capacity issues and possible solutions in the Walter Johnson cluster were discussed with MCPS representatives.

As part of any master plan update process, Staff work with the MCPS staff to assess the potential number of students that could be generated from future residential development anticipated by a master plan. If necessary, planners seek to identify potential future school sites within a master plan's boundaries. However, finding potential school sites within developed areas is increasingly difficult. It has been acknowledged that potential school sites need to be on smaller "more urban" footprints

and fit into redevelopments whenever possible. In addition to the master plan process, MCPS is evaluating long-term growth management strategies. In 2016, MCPS led a community roundtable discussion group that explored a wide range of approaches to accommodate near-term and long-term enrollment growth in the Walter Johnson Cluster. As a result of this process, MCPS led another working group that focused on reopening the former Charles W. Woodward High School to provide relief for high schools in the downcounty area. In addition, MCPS has stated that Rocking Horse Center, a former elementary school that is currently being used for MCPS administrative offices and is located within the Downcounty Consortium in the White Flint 2 Sector Plan area, could be considered for a large school facility in the future.

As part of the recent Subdivision Staging Policy (SSP), the County Council passed Bill 37-16, which amended Section 52-58 of the Montgomery County Code, in response to the established need for a school site(s) in this area and others in the County. This Bill established a new mechanism that allows a developer to earn credit against the Development Impact Tax for School Improvements such that “a property owner may receive credit for land dedicated for a school site, if the density calculated for the dedication area is excluded from the density calculation for the development site, and the Montgomery County School Board agrees to the site dedication.”

MCPS has indicated their desire to acquire a school site on this Property based on the established need in the area. The Applicant has agreed to dedicate a 4.3-acre portion of the Property to MCPS for a school site, which reduces the density on the Property by nineteen units. Optional Method Development in the R-90 Zone allows for a maximum density of 4.39 units per acre. The Property is 74.83 acres, which would have allowed the Applicant a maximum of 328 units (74.83 acres \* 4.39 units per acre). However, since the Applicant has agreed to dedicate the 4.3-acre school site, the base density is now calculated on the remaining 70.53 acres (74.83 – 4.3), which allows the Applicant a maximum of 309 units (70.53 acres \* 4.39 units per acre).

Therefore, contingent upon the Montgomery County School Board accepting the dedication, the Planning Board finds the Applicant qualifies for the Development Impact Tax Credit, which states that MCPS must review the dedication, verify the land value and time schedule for dedication, agree to the dedication, determine the amount of credit for the dedication, and certify this amount to the Department of Permitting Services before that Department issues any building permit.

#### *Schools Test/Payment*

Since this Preliminary Plan was submitted prior to January 1, 2017, the 2012-2016 Subdivision Staging Policy and FY2017 Annual School Test apply. The Property is in the Walter Johnson High School Cluster, which would have required a school facility payment at the high school level for all residential units. However, in accordance with Bill 37-16, the County will not be collecting any required school facility payments for building permit applications filed after March 1, 2017, but will instead collect an updated

School Impact Tax on all applicable residential units. DPS will determine the amount and timing of the payment.

Phased Adequate Public Facilities (APF) Validity

The Applicant has requested a 10-year APF Validity Period and a 10-year Plan Validity Period for the development of the proposed 309 units, and the platting of the lots and parcels. The Applicant's request for a 10-year (120 month) APF Validity Period is based on the following phasing schedule:

Phase I – Issuance of building permits for up to 150 residential units, which must include 12.5% MPDUs, within 60 months from the 30<sup>th</sup> day after the Resolution is mailed; and

Phase II – Issuance of building permits for up to 159 residential units, which must include 12.5% MPDUs, within 60 months from the expiration date of the Phase I validity period.

*Planning Board Review*

Pursuant to Section 50-20(c)(3)(A)(iv) of the Subdivision Regulations, the Planning Board can make an APF determination for “no less than 5 and no more than 10 years after the preliminary plan is approved, as determined by the Board at the time of approval, for any plan approved on or after August 1, 2007, and before April 1, 2009, or on or after April 1, 2015.” Section 50-20(c)(3)(B) states that to allow an APF validity period longer than the 5 year minimum, “the Board must find that the extended validity period would promote the public interest”.

The extended validity period is common and typical of a larger subdivision to allow for construction phasing and financing, and is consistent with the Subdivision Regulations. Allowing the longer APF validity period promotes the public interest by better allowing this development to implement the proposed plan since the road system, open space, and amenities of the project are site-wide and interrelated. Additionally, allowing the longer APF validity period ensures enough time for the Applicant to facilitate the recommendations contained in the *North Bethesda Garrett Park Master Plan* including the streetscape improvements to Greyswood and Greentree Roads, provide dedication/conveyance of the 4.3-acre school site to MCPS, deliver the required 40 MPDUs, and sufficient time to finalize all infrastructure improvements (including the intersection improvement to Democracy Boulevard and Fernwood Road) necessary to support the development and avoid further disruption to the Community by potentially leaving the Property disturbed for construction but only partially built. Therefore, the Planning Board extended the APF validity period for the Application to 7 years.

Phased Plan Validity

The Applicant requested a 10-year (120 month) Plan Validity Period based on the following phasing schedule:

Plat Phase I- 125 Lots (within 5 years of Initiation Date)

Plat Phase II- 250 Lots (125 Lots in Phase I plus an additional 125 Lots) (within 7 years (84 months of Initiation Date)

Plat Phase III- remaining Lots (within 10 years of Initiation Date)

#### *Planning Board Review*

Pursuant to Section 50-35(h)(2)(B) of the Subdivision Regulations, the Planning Board may approve a separate plan validity period for each phase in a multi-phase project. In this case, the Planning Board approved a cumulative total of 5 years (60 months) for the plan validity period for all phases. The phasing of the plan validity period approved by the Board matches the two phases in the APF validity period and not the three phases originally proposed by the Applicant. The Planning Board considered the amount of infrastructure work associated with the development as well as the size of the project.

#### Other Public Facilities and Services

The development will be served by public water and sewer systems. Fire and Rescue has reviewed the Application and has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services including police stations, firehouses and health care are currently operating in accordance with the Subdivision Staging Policy and will continue to be sufficient following the construction of the project. Electric, gas and telecommunications services will also be available and adequate.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The lot size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations in the North Bethesda/Garrett Park Master Plan, and for the type of development or use contemplated. The lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Master Plan. Access and public facilities will be adequate to serve the lots, and the Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan.

#### Common Open Space (COS)

Per Section 59.4.4.8.C. of the Montgomery County Zoning Ordinance, 15% of COS is required since the Applicant is using the Optional Method of development in the R-90 Zone. While the COS exhibit provided with the Preliminary Plan indicates that 11.2 acres are required, this calculation was based on the 74.83 acres instead of 70.53 acres after the 4.3-acre school site dedication. Thus, 10.58 acres of COS is required for the 70.53 acre project to meet the minimum 15% COS requirement. The Applicant is proposing to provide a total of 18.3 acres, or 25.9% as COS. The final amount of COS,

including the design criteria per Section 59.6.3.5.B., will be evaluated in detail at the time of Site Plan review.

However, per Section 59.6.3.5.A.2., COS is defined as, “an outdoor area that is intended for recreational use by residents and their visitors. Common open space does not include private individual lots.” Therefore, the Planning Board asserts that while the Zoning Ordinance allows SWM facilities in COS areas, the purpose of COS areas is to provide recreational opportunities for residents and visitors, and that SWM facilities will not be allowed to the extent that they render the COS unusable for recreation. The Planning Board will consider this in more detail at the time of Site Plan review.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

#### Environmental Guidelines

Staff approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) #420160220 on November 9, 2015. The approximately 74.83-acre Property is predominantly an open field with 15.84 acres of forest around the perimeter. At the northeast corner of the Property, there is a small pocket of wetlands at the head of an intermittent stream, with 0.43 acres of stream valley buffer.

#### Forest Conservation

The Property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) and the Applicant submitted a Preliminary Forest Conservation Plan in conjunction with the Preliminary Plan. A Final Forest Conservation Plan must be submitted in conjunction with the Site Plan. There are 15.84 acres of high priority forest on site and an additional 0.52 acres of off-site forest in areas proposed to be disturbed. The Applicant is proposing to clear 5.61 acres of forest and retain 10.75 acres of forest. The Application has a 9.12-acre planting requirement, which the Applicant proposes to meet by planting 0.74 acres of forest on-site and purchasing 8.38 acres of credit in an off-site bank. All areas of stream valley buffer will be planted in forest and protected by a Category I Conservation Easement.

#### *Minimum Retention*

As per Section 22A-12(f)(2)(B) of the Forest Conservation Law,  
*“In a planned development or a site developed using a cluster or other optional method in a one-family residential zone, on-site forest retention must be equal to the applicable conservation threshold in subsection (a).”*

The Property is subject to the minimum retention provision because R-90 is a single-family zone and the Applicant is proposing to use the MPDU optional method of

development. The conservation threshold for this property is 20%, or 15.16 acres. The Applicant is retaining 10.75 acres, 4.41 acres below the requirement.

However, Sec. 22A-12(f)(3) allows flexibility in meeting this requirement.

*“If the Planning Board or Planning Director, as appropriate, finds that forest retention required in this subsection is not possible, the applicant must provide the maximum possible on-site retention in combination with on-site reforestation and afforestation, not including landscaping.”*

It is not possible for the Applicant to maintain the entire 15.16-acre conservation threshold in forest on-site. This is not possible because of the following requirements associated with this development - roadway connections (including the Greentree Road/Greyswood Lane connection that is required in the Master Plan), and noise mitigation. Furthermore, based on a known need for school capacity in the area, the Applicant has agreed to dedicate a 4.3-acre school site. The Applicant had a unique opportunity to dedicate 4.3 acres of developable land for a public school, which is much needed in the area. The development of this public infrastructure responds to the public needs of the area but also constrains the area for development. These requirements shape the form of the development by limiting the development area and setting the alignment of major components of the on-site transportation network.

The Applicant has reduced areas of clearing by reconfiguring and rearranging stormwater management facilities and restricting roadway clearing primarily to areas within the right-of-way. The Applicant worked with MCDOT to provide a reduced right-of-way and pavement width along Renita Lane to save as much forest as possible. Additionally, the Applicant is utilizing the planning and zoning measures available to cluster this development and retain as much forest as possible. The unit mix of 159 detached and 150 attached results in 49% attached units, which is very close to the maximum 50% allowed. This is significant because attached units have smaller lot sizes than detached. In an effort to minimize the impact on forest, the lot sizes have been kept close to the minimums permitted by the Zoning Ordinance (4,000 square feet for single-family detached, and 1,000 square feet for townhouses). The lot sizes for townhouses range from just over 1,000 square feet to approximately 3,500 square feet for the larger corner/end units, while the majority of the townhouse units are approximately 1,500 square feet to 2,200 square feet in size. The single-family detached lot sizes range from approximately 5,000 square feet to approximately 11,000 square feet in size. The larger 11,000-square foot lots are located only on the eastern edge of the Property adjacent to the existing neighborhood. These lots were intentionally developed as larger lots to be more consistent with the development pattern of the adjoining properties. The majority of the approved single-family detached lots are approximately 5,000 to 7,000 square feet in size.

All areas of the site that can be planted with forest have been, including the stream valley buffer, which further protects the wetlands. Given the constraints associated with this

development, the Applicant is providing 10.75 acres of retention (the maximum possible on-site retention) coupled with 0.74 acres of afforestation (the maximum possible on-site afforestation). The Planning Board finds that, when all of the site constraints are considered, it is not possible for the Applicant to meet the minimum on-site retention and the Applicant is providing the maximum possible on-site retention and the maximum possible on-site afforestation. The remaining Forest Conservation requirements will be fulfilled by the Applicant by purchasing credits in an off-site Forest Conservation Bank.

Forest Conservation Variance

Section 22A-12(b) (3) of the County Code provides criteria that identify certain individual trees as high priority for retention and protection. The law requires a variance for any impact, including removal or disturbance within the tree's critical root zone (CRZ), to trees that are: 30 inches or greater Diameter at Breast Height (DBH); part of a historic site or designated with a historic structure; designated as National, State, or County champion trees; at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs and plants that are designated as Federal or State rare, threatened, or endangered species. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law.

On May 27, 2016, the Applicant submitted a variance request for the increased impacts to high priority trees (revised on October 27, 2016, March 27, 2017, and again on April 27, 2017), to remove 33 trees, listed in the Staff Report. The Applicant also proposes to impact, but retain, 16 trees that are considered high priority for retention.

Unwarranted Hardship for Variance Tree Impacts

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in an unwarranted hardship. In this case, the unwarranted hardship is caused by the need to provide master-planned roadway connections, noise mitigation, and land conveyance on the site. The North Bethesda/Garrett Park Master Plan requires the connection of Greentree Road to Greyswood Road with the redevelopment of the WMAL site. The Planning Board is also requiring the extension of Renita Lane to Greentree Road to provide proper connectivity in the area. It is not possible to provide either roadway connection without impacting protected trees.

Leaving the requested trees in an undisturbed state would result in an unwarranted hardship because it would deny the Applicant a reasonable and significant use of the Property. The Applicant would not be able to:

- Connect Greentree Road to Greyswood Road;
- Connect Renita Lane to Greentree Road;
- Construct the noise wall along I-495;
- Convey land in rough graded condition for a school site; and
- Construct housing in accordance with the zoning.

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

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

The disturbance to the specified trees is a result of developing a 74.83-acre site constrained by roadway connections, noise mitigation, required wetland protection, and dedication of the school site in the R-90 Zone. Granting the variance would not result in a special privilege that would be denied to other applicants.

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

The variance is not based on conditions or circumstances which are the result of actions by the Applicant. The Applicant is using the MPDU Optional Method, which allows the development of single-family attached units in the R-90 Zone. By using the Optional Method of development, the Applicant is able to constrain the limits of disturbance significantly more than using the Standard Method. Under the Standard Method of development, the Applicant would be able to clear all existing forest and variance trees, and take all forest conservation requirements off-site. The Optional Method allows for a mix of unit types and reduced lot sizes, which in turn, allows the development footprint to be reduced.

Additionally, the Applicant has reduced impacts to variance trees by reconfiguring and rearranging stormwater management features within public road rights-of-way and on individual residential lots. The Applicant has also minimized disturbance associated with roads by using retaining walls. Stormwater outfalls have been minimized and sited to avoid forest and variance trees.

**Trees #9, #19, #82, #88, #93, #134B, #136, and #139** will be impacted or removed by the Greentree Road/Renita Lane connection, as well as the associated public utility easement and disturbance required to tie out to existing grades.

**Trees #173, #175, #177, #223, #225, and #228** will be impacted or removed by the Greentree Road/Greyswood Road connection, as the associated public utility easement and disturbance required to tie out to existing grades.

**Trees #161, #162, #165, #166, #167, and #170** will be removed due to rough grading of the school conveyance site and pedestrian connection to Greentree Road.

**Trees #171, #172, #246, #155, #149, #143, #142, #141, and #140** will be impacted or removed at the property edge due to disturbance required to tie out to existing grades by leveling the property to match the grade of the adjoining property.

**Tree #56** will be impacted by constructing the noise wall along I-495.

**Trees #8, #25, #61, #69, #80, #81, #83, #85, #90, #91, #98, #102, #103, #112, #119, #131, #158, #181, #204, and #228** will be impacted or removed due to residential lot development and associated infrastructure.

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

The requested variance is a result of developing the Property with 159 single family detached units and 150 single family attached units with associated infrastructure and constraints. The variance is not related to land or building use on a neighboring property.

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

Granting the variance will not violate State water quality standards as none of the protected trees are located within the stream valley buffer and the unforested portion of the buffer will be planted with forest, which will enhance the function of the stream valley buffer. Additionally, the new trees proposed as mitigation for the loss of specimen trees will enhance the form and function of the existing tree canopy. Trees protect water quality by reducing runoff through rainfall interception and water uptake. The trees also provide shade for impervious areas and improve soil texture, which also results in improved water quality.

#### Mitigation for Protected Trees

Mitigation is required for the following five protected trees located outside of areas of forest removal: #140 31" Silver maple, #141 30" Red maple, #142 35" Red oak, #143 40" Sycamore, and #149 36" Black cherry. The removal of these five trees will be mitigated by plantings calculated at the rate of 1 caliper inch planted per 4-inch DBH lost. Using

this ratio, the Applicant must plant a total of 43 caliper inches of native canopy trees as mitigation for the protected tree impacts on the Property within one calendar year or two growing seasons after completion of road construction. The trees must be a minimum of three-inch caliper each and shown on the Site Plan.

County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The County Arborist has reviewed the variance request and recommends approval.

5. *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards per their letter dated, *May 1, 2017*. The stormwater management concept proposes to meet required stormwater management goals via Environmental Site Design (ESD) to the maximum extent practicable (MEP) with the use of micro-bioretenion structures. Additional fifty-year control is provided on the northern end of the Property, because the Applicant is proposing to tie into an existing Stormwater Management pond on an adjacent property that was designed for a 50-year storm.

The Planning Board remains concerned about the size and quantity of Stormwater Management facilities shown in the COS areas on the Preliminary Plan. Although Stormwater Management facilities are allowed in COS areas per the Zoning Ordinance, the primary purpose of COS areas is to provide recreational opportunities for residents and guests. The Planning Board expects to see more detail of the proposed Stormwater Management facilities at the time of Site Plan review in order to more adequately evaluate the size and quantity of proposed Stormwater Management facilities in COS areas, and to determine how well the SWM facilities have been incorporated into the design and functionality of the COS areas.

6. *Per Section 50-29(a)(2), all private roads and alleys have attained the status of public roads.*

Section 50-29(a)(2) of the Subdivision Regulations requires that all lots shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road. Fifty-six (56) lots will front on a public street, while 253 lots will front onto a private street or open space. As reflected in other similar cases approved by the Planning Board, this finding must be based upon the proposed road being fully accessible

to the public; accessible to fire and rescue vehicles, as needed; and designed to the minimum public road standards, except for right-of-way and pavement widths.

For this subdivision, the proposed private internal streets and alleys, which provide frontage to 253 lots, meet the minimum standards necessary to make the finding that they have attained the status of a public road. The private roads will be constructed to the minimum public road structural standards, will have a minimum 20-foot pavement width and adequate turning radii where needed for emergency access, an appropriate paving cross-section elsewhere for private vehicles, and an adequate circulation and turnaround pattern. The private roads will be located within separate private road parcels, with a covenant and easement that ensures they are adequately maintained and remain fully accessible to the public.

Private streets are intended to provide necessary flexibility in right-of-way width and road design, that cannot be achieved under Chapter 49, in order to provide enhanced sidewalk, curb and crosswalk design features that promote pedestrian circulation. The proposed private streets are modified tertiary residential streets with approximately 42-foot-wide rights-of-way and 5-foot wide sidewalks. Private alleys are proposed as 20-foot-wide paved alleys with no sidewalks.

Most of the proposed private streets include five-foot-wide sidewalks, a green panel, and stormwater management facilities. Curb extensions are provided to narrow public street crossings to approximately 20 feet at intersections. This treatment will reduce pedestrian crossing distances and help calm traffic. On-street parking is also proposed on several private roads as depicted on the Preliminary Plan. ADA-compliant features (i.e., handicap ramps and/or at-grade crossings) are shown on the Preliminary Plan and must be shown on the final Certified Preliminary Plan and subsequent Site Plan.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for a total of 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)) as phased in condition 29 above, and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 03 2017 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Dreyfuss, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Fani-González, and Cichy voting in favor at its regular meeting held on Thursday, June 15, 2017, in Silver Spring, Maryland.

  
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Casey Anderson, Chairman  
Montgomery County Planning Board