



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

MCPB No. 19-032  
Preliminary Plan No. 120170170  
**Westwood Shopping Center**  
Date of Hearing: March 14, 2019

**MAY 06 2019**

**RESOLUTION**

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

WHEREAS, on December 20, 2016, Equity One (Northeast Portfolio), LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create 111 lots on 23 acres of land in the CRT 2.0, C 0.75, R 1.25, H 60; CRT 1.0, C 0.25, R 1.0, H 45; CRT 1.5, C 0.5, R 1.5, H75; CRT 2.5, C 0.5, R 2.0, H 75; and CRT 2.5, C 0.5, R 2.0, H 110 zones, located along Westbard Avenue and Ridgefield Road, between River Road and Massachusetts Avenue ("Subject Property"), in the Bethesda/ Chevy Chase Policy Area and *Westbard Sector Plan* ("Sector 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. 120170170 Westwood Shopping Center ("Preliminary Plan" or "Application"); and

WHEREAS, Applicant opted to have this Preliminary Plan reviewed under the Subdivision Regulations in effect on December 20, 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, March 4, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

Approved as to  
Legal Sufficiency

*Christina Sout* 4/2/19  
MNCPPC Legal Department

WHEREAS, on March 14, 2019, 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, on March 14, 2019, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Fani-Gonzalez, seconded by Commissioner Cichy, with a vote of 4-0; Commissioners Anderson, Cichy, Fani-Gonzalez, and Patterson voting in favor and Commissioner Dreyfuss absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120170170 to create 111 lots on the Subject Property, subject to the following conditions:<sup>1</sup>

#### **General Approval**

1. This Preliminary Plan is limited to 111 lots for a total development of up to 852,915 square feet, including up to 647,378 square feet of residential uses (up to 104 townhomes and up to 410 multifamily dwelling units) and up to 205,537 square feet of commercial uses (including the 29,305 square feet of commercial uses to remain on Lot 3 Block B/ Bowlmor).

#### **Adequate Public Facilities and Outside Agencies**

2. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for one hundred twenty (120) months from the date of mailing of the Planning Board Resolution, phased in the following manner, as illustrated on the Certified Preliminary Plan:
  - a. First Phase - 36 months from the 30th day after the Resolution is mailed; or if an administrative appeal is timely noted by any party authorized to take an appeal, the date upon which the court having final jurisdiction acts, including the running of any further applicable appeal periods.
  - b. Second Phase - 36 months from the expiration date of the validity period for First Phase.
  - c. Third Phase- 24 months from the expiration date of the validity period for Second Phase.
  - d. Fourth Phase - 24 months from the expiration date of the validity period for Third Phase.

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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.

Outside Agencies

3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its Traffic Impact Study and Traffic Signal Warranty Study letter dated February 28, 2019 and 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 if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
4. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated March 4, 2019 and 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 if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. Before recording any plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. The Planning Board accepts the recommendations of the Maryland State Highway Administration (“SHA”) in its letter dated August 23, 2018 and as amended by emails dated January 4, 2019 and January 30, 2019 and 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 MDSHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
7. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration’s requirements for access and improvements.
8. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated February 27, 2019 and 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 if the amendment does not conflict with any other conditions of the Preliminary Plan approval. All future Site Plans will be required to submit updated stormwater management concept plans to reflect proposed development.
9. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated February 14, 2019, 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.

## **Other Approvals**

### **Concurrent Site Plan Approval**

10. Prior to approval of a record plat or clearing or grading for the Subject Property, the Applicant must receive certification of Site Plan No. 820180190. The number and location of site elements including but not limited to buildings, dwelling units, on-site parking, site circulation, landscape, hardscape, open space, sidewalks and bike paths is determined through site plan review and approval.
11. If a proposed site plan amendment for the Subject Property substantially modifies the lots, right-of-way configurations, or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment in conjunction with a site plan amendment.
12. Each site covered by Preliminary Plan 120170170 must obtain Site Plan approval prior to any future development on that particular property.

## **Forest Conservation**

13. For all properties included under Preliminary Plan 120170170, the Applicant must obtain approval of an overall certified Preliminary/Final Forest Conservation Plan (FFCP) from the Planning Department prior to any clearing, grading or demolition for the applicable phase. Future Site Plan approvals for implementation of subsequent phases of the larger site covered by the Preliminary Plan will address the remaining forest conservation requirements associated with each future phase and will include a Final Forest Conservation Plan for those phases. Each Site Plan or Site Plan amendment covered by this overall FFCP must address the following:
  - a. The locations of trees credited towards variance mitigation plantings must be at least 5 feet away from any structures, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements.
  - b. Prior to any clearing, grading and demolition for each applicable phase, the off-site forest conservation requirements for each phase must be addressed by submitting a certificate of compliance to use an off-site forest mitigation bank to satisfy the required credits as determined in the certified Forest Conservation Plan.
14. Before demolition, clearing, or grading on the Manor Care Site, the Applicant must record a Category I Conservation Easement among the Montgomery County Land Records by deed. The deed must be in a form approved by the M-NCPPC Office of the General Counsel, and the Book and Page for the easement must be referenced on the record plat.

## **Transportation**

### **Existing Frontage Improvements**

15. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
  - a. All land necessary to accommodate 55 feet from the existing pavement centerline along the Subject Property frontage for River Road (MD 190);
  - b. All land necessary to accommodate a right-of-way width of 120 feet on Westbard Avenue, between River Road and Private Street A, as shown on the Certified Preliminary Plan; and
  - c. All land necessary to accommodate an ultimate right-of-way width of 110 feet Westbard Avenue, between Private Street A/ Westbard Circle and the southern loading entrance, except along Lot 1, Block B (Parking Lot 1) Lot 2, Block B (Parking Lot 2), Lot 3, Block B (Bowlmor), which will be subject to an easement for future right-of-way dedication, as shown on the Certified Preliminary Plan.
16. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to construct sidewalk(s) and separated bicycle lane along Westbard Avenue as shown on the Certified Preliminary Plan.

#### Off-Site Improvements

17. Prior to the issuance of the Use and Occupancy Certificate for the Core and Shell for the Commercial Building, the Applicant must construct interim improvements at the intersections of River Road and Ridgefield Road and Westbard Avenue and Ridgefield Road, or if the construction of the realignment of Westbard Avenue, as defined by demolition of existing Ridgefield Road, provide maintenance of traffic as needed to facilitate truck and construction traffic prior to completion of the realignment, with priority to construct the geometric improvements to the intersection of River Road and Ridgefield Road as specified by MCDOT and MDSHA.
18. Prior to Use and Occupancy Certificate for the Commercial Building, the Applicant must file for abandonment of portions of Ridgefield Road and Westbard Avenue.
19. If applicable, prior to plat approval for the Manor Care site and in accordance with the Westbard Sector Plan, the Applicant must file a corrective map amendment (CMA) changing the underlying R-60 zone within the Westbard Avenue abandonment limits to be consistent with the CRT 1.0, C 0.25, R 1.0, H 45' zone associated with the Manor Care site.
20. Prior to issuance of the Use and Occupancy Certificate for the 55<sup>th</sup> townhouse unit for Site Plan 820180190, the Applicant must construct and dedicate to public use the realigned Westbard Avenue, as illustrated on the Certified Preliminary Plan. In conjunction, the Applicant must:
  - a. Meet all design standards imposed by all applicable road codes; and

- b. Secure a County Council resolution abandoning the portions of existing Westbard Avenue/ Ridgefield Road rights-of-way that are no longer needed for transportation purposes.

Private Roads

21. The Applicant must provide private roads, "Westbard Circle," "Street A," "Street B," and "Street C," 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. If there are no structures above or below the Private Road, the record plat must show the Private Road in a separate parcel. If there are structures above or below the private Road, the record plat must clearly delineate the Private Road and include metes and bounds description of the boundaries of the Private Road.
  - b. The Private Road must be designed and constructed according to the Montgomery County Road Code Standard MC-2005.01 per the modified typical section specified by the subsequent Site Plan.
  - c. Prior to issuance of the final Use and Occupancy Certificate for the Commercial Building, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Road has 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 the 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.
  - d. Prior to recordation of the plat, the Applicant must submit to Staff an agreement or other legal instrument that assigns responsibility for the long-term maintenance of the Private Road. To the extent possible, the agreement must conform to the requirements set forth in the covenant recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338. The agreement must be approved by the Commission's Office of the General Counsel, recorded in the Montgomery County Land Records, and referenced on the plat.
  - e. Prior to issuance of the final Use and Occupancy Certificates for the townhouses on Lots 1-15, Block A at Westwood Shopping Center, all private streets must be completed to base course of asphalt and streetscape improvements completed on the townhouse side of the street and inspected by MCDPS.

### **Record Plats**

22. The Applicant may not perform clearing or grading of any site prior to recordation of the plat for each site.

### **Easements, Dedications, Open Space**

23. The record plat must show necessary easements and dedications.
24. The Applicant must record an easement for the Sector-Plan-recommended pedestrian connection from Westbard Avenue to the future Willett Branch Greenway on Parking Lot 1 (Lot 1, Block B).
25. The record plat must reflect all areas under common ownership.
26. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Book 28045 Page 578 ("Covenant").

### **Parkland**

27. The Applicant must convey in fee simple to the Maryland-National Capital Park and Planning Commission (M-NCPPC), at no cost and via plat at the same time as the first plat for Site Plan 820180190, the following areas for use as public park land for the Willett Branch Greenway, as shown on the Certified Preliminary Plan:
  - i. The portion of unimproved land at Lot 2, Block H, at the existing Westwood II Shopping Center and associated parking lot; and
  - ii. The area shown as Lot 3, Block B.
  - iii. The Applicant must provide for invasive species management in dedicated areas.
28. Prior to the first record plat for Site Plan 820180190, the Applicant must record a covenant to M-NCPPC for future conveyance in fee simple of the portion of land at Lot 2, Block H, currently improved with the existing Westwood II Shopping Center and associated parking lot. The covenant must be shown on the Certified Preliminary Plan and be recorded in the land records of Montgomery County.
29. At Lot 3, Block B (Bowlmor), the Applicant must grant to M-NCPPC a 20-foot-wide parks maintenance access easement reaching the east side of the Willett Branch conveyance area for access to the Willett Branch Urban Greenway.
30. If applicable, prior to any land disturbance, the Applicant must comply with all relevant laws and regulations concerning burial sites and an inventory of burial sites and coordinate all activity relevant to these laws and regulations with Montgomery County Planning Department's Historic Preservation Section Archaeologist.

### **Certified Preliminary Plan**

31. The Applicant must include the stormwater management concept approval letter, other applicable agency letters and the Preliminary Plan Resolution on the approval or cover sheet(s).

32. 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 issuance of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*

33. Prior to submittal of the Certified Preliminary Plan, the Applicant must make the following changes:

- a. Revise the Westwood Shopping Center townhouse layout to remove the double 90-degree turn in the proposed alley adjacent to townhouse lots 50-56.
- b. Create a new common ownership parcel behind townhouse lots 62-70 for stormwater management conveyance in accordance with MCDPS approved Stormwater Management Concept Plan.
- c. Revise drawings to show a common ownership parcel for stormwater management behind townhouse lots 57-61.
- d. Revise the Manor Care Category I Easement boundary on all appropriate sheets consistent with the Category I Easement shown on Sheet PP-5.
- e. Rectify inconsistencies between plan graphics/notes/ figures/tables.
- f. Modify data table to reflect development standards approved by the Planning Board.

34. Future Coordination Issues for Site Plan Review

a. Westwood II

Future development must be designed and constructed to minimize adverse impacts on the future implementation of the Willett Branch Greenway.

b. Manor Care

- i. Maximize plantings in and along the River Road right-of-way;
- ii. Obtain the services of a consultant specialized in stream restoration to address the details of the environmental enhancements, including:
  1. Bank stabilization/stream enhancements;
  2. Invasive control;
  3. Re/afforestation planting and planting of supplemental native species within retained forest areas within the Category I Easement area and right-of-way, as applicable;
  4. Address fences encroaching into the Category I Conservation Easement on the Manor Care site;



5. Soil restoration for restored areas; and
  6. Monitoring and maintenance.
- iii. Revised noise study updated per proposed design.

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 Approved and Adopted 2016 Westbard Sector Plan (“Sector Plan” or “Plan”) envisions Westbard as a vibrant walkable village center adjacent to an enhanced Willett Branch Greenway (Sector Plan, p. 6). Toward that vision, the Sector Plan provided specific recommendations for development of the Subject Property and amenities for the entire Sector Plan area (e.g. the realignment of Westbard Avenue and establishment of the Willett Branch Greenway). Both the site-specific and Sector Plan area recommendations are incorporated in the Subject Application and discussed in more detail below.

The Site is located within the area designated by the Sector Plan as “the Westbard Avenue District.” Specific Sector Plan recommendations include transforming the existing surface parking lots into an inviting, livable, walkable village with stores and apartments and providing new open spaces. Each of the site-specific recommendations are summarized below.

#### Land Use

##### Westwood Shopping Center

For the Shopping Center site, designated Site 1, the Sector Plan envisioned a mixed-use commercial and residential redevelopment with a maximum building height of 60 feet. In support of the redevelopment on this site, the Sector Plan recommends a central civic green (measuring approximately 1/3 of an acre), a new neighborhood park, and an internal circulation network.

The Application provides a new mixed-use development with a Multi-Family Building with ground-floor retail, a new Commercial Building (expected to accommodate the new Giant supermarket), and up to 70 townhomes. The Applicant will also design and construct a new central civic green, the new Springfield Neighborhood Green Urban Park to be conveyed to M-NCPPC, and a new internal circulation system. The development on the Westwood Shopping Center site conforms to the recommendations of the Sector Plan.

#### Manor Care

For this site, identified as Site 2, the Sector Plan recommends residential townhouse development, limited to 45 feet in height, with commercial uses on this site strongly discouraged. The development of this site is significantly enlarged by the Sector-Plan-recommended realignment of Westbard Avenue and its intersection with Ridgefield Road, discussed below, and the site layout reflects this major public improvement. The Sector Plan also provides specific restrictions on the location of the townhouses, including behind the existing single-family homes and limiting encroachment into the Stream Valley Buffer around the Kenwood Tributary, except where removal of existing paved areas is necessary to mitigate and replant the northerly strip along River Road. As conditioned, the development conforms to these recommendations for the purposes of Preliminary Plan review. Development on this site will be the subject of a future Site Plan application and conformance with the Sector Plan will be reevaluated at that time. The Sector Plan (p. 73) also identifies the possibility for a Corrective Map Amendment that would involve the Manor Care site combined with the road abandonment.

#### Westwood II

For this site, identified as Site 3, the Sector Plan recommends a mixed-use development with a maximum building height of 75 feet coupled with the naturalization of the Willett Branch, which runs through the northern portion of the Subject Property. This site is also significantly impacted by the recommended realignment of Westbard Avenue and Ridgefield Road. The reduced site is reflected on the Preliminary Plan and as conditioned at this stage conforms to the recommendations of the Sector Plan. Development on this site will be the subject of a future Site Plan application and will be re-evaluated then.

#### Transportation Network

As a major improvement to the circulation system of the Sector Plan Area, the Sector Plan recommends the realignment of Westbard Avenue (Street B-1), and its intersection with Ridgefield Road. As part of the Subject Application, in coordination with County and State transportation agencies, the Applicant will construct the realigned Westbard Avenue. Additionally, the Applicant will implement Sector-Plan-recommended streetscape improvements along Westbard Avenue to improve the safety and comfort of all roadway users. As conditioned, the Applicant will provide the necessary improvements to the transportation network and satisfies the Sector Plan recommendations.

#### Open Space and Environment

As discussed above, the Public Open Spaces are consistent with the Sector Plan recommendations. Specific discussion of each of these elements is discussed below:

- **Central Civic Green:** The Sector Plan recommends a new Central Civic Green, measuring between one-half acre and one-third acre, to be located on the Westwood Shopping Center site. The Sector Plan envisions this Public Open Space as a gathering place supported by amenities necessary to make the space an appealing destination for the entire community.
- **Springfield Neighborhood Green Urban Park:** The Sector Plan recommends a new neighborhood park, measuring between one-half acre and one-third acre, at the intersection of Ridgefield Road and Westbard Avenue. Although this space is envisioned as a buffer between the Westwood Shopping Center site and adjacent Springfield Neighborhood, the Sector Plan specifically recommends that it be programmed to serve both workers from the Westbard Avenue District and residents from the neighborhood and designed for more activity than an urban buffer park.
- **Willett Branch Greenway:** The Sector Plan envisions rehabilitation of the Willett Branch to improve both its ecology and community benefit. Toward this goal, the Sector Plan recommends that the Willett Branch be buffered from development, naturalized, and improved with environmentally sensitive public amenities.

As conditioned, the open spaces and Willett Branch accommodations satisfy the Sector Plan recommendations.

#### Housing

The Sector Plan places a high priority on the provision of new affordable housing for Optional Method development. Since the development is under the Standard Method, this recommendation does not strictly apply. However, with over 500 new dwelling units, the development will provide 63 total new MPDUs in both the multi-family and townhouse units.

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

As a Preliminary Plan application accepted on December 20, 2016, The Application was reviewed under the Subdivision Regulations in effect prior to February 13, 2017, and the 2012 – 2016 *Subdivision Staging Policy* (SSP). For this reason, technical evaluation of the intersection capacity is based on the Critical Lane Volume (CLV) methodology and is limited to vehicular impacts rather than the Highway Capacity Manual (HCM) methodology and multi-modal analysis associated with the current 2016-2020 SSP.

The Applicant submitted a transportation study, dated June 14, 2018, estimating the development's impact to the transportation network. Based on that analysis, sufficient intersection capacity exists to serve the Project. The Applicant will implement interim improvements to improve existing transportation issues on Westbard Avenue and will implement the Westbard Avenue Realignment, which is anticipated to improve traffic flow in the immediate vicinity of the project.

School Adequacy Analysis

**Overview and Applicable School Test**

Preliminary Plan 120170170, Westwood Shopping Center, is subject to the FY19 Annual School Test, approved by the Planning Board on June 21, 2018 and effective July 1, 2018. The Application includes 410 multifamily high-rise dwelling units and 106<sup>2</sup> single family attached dwelling units on land with no dwelling units currently.

**Calculation of Student Generation**

To calculate the number of students generated by the development, the number of dwelling units is multiplied by the applicable regional student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low- to mid-rise multifamily unit, or high-rise multifamily unit. The Subject Property is located in the southwest region of the County.

Per Unit Student Generation Rates – Southwest Region

	<b>Elementary School</b>	<b>Middle School</b>	<b>High School</b>
<b>SF Detached</b>	0.193	0.111	0.147
<b>SF Attached</b>	0.191	0.094	0.124
<b>MF Low- to Mid-Rise</b>	0.146	0.063	0.083
<b>MF High-Rise</b>	0.055	0.022	0.031

With a net of 410 new multifamily high-rise dwelling units and 106 new single family attached dwelling units, the project is estimated to generate the following number of students:

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<sup>2</sup> School capacity analysis tested for 106 SF Attached, however the latest submitted plans include 104 SF Attached.

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
<b>SF Attached</b>	106	0.191	20.246	0.094	9.964	0.124	13.144
<b>MF High-rise</b>	410	0.055	22.550	0.022	9.020	0.031	12.710
<b>TOTAL</b>	<b>516</b>		<b>42</b>		<b>18</b>		<b>25</b>

This project is estimated to generate 42 new elementary school students, 18 new middle school students, and 25 new high school students.

#### Cluster Adequacy Test

The project is located in the Walt Whitman High School Cluster. The student enrollment and capacity projections from the FY19 Annual School Test for the Whitman Cluster are noted in the following table:

School Level	Projected Cluster Totals, September 2023			Moratorium Enrollment Threshold	Projected Enrollment + Application Impact
	Enrollment	Program Capacity	% Utilization		
Elementary	2,410	2,539	94.9%	3,047	2,452
Middle	1,336	1,502	88.9%	1,803	1,354
High	2,129	2,397	88.8%	2,877	2,154

The Moratorium Enrollment Threshold identified in the table is the enrollment at which the 120% utilization threshold is exceeded, resulting in a cluster-wide residential development moratorium. As indicated in the last column, the projected enrollment plus the estimated impact of this Application fall below the moratorium thresholds at all three school levels. Therefore, there is sufficient capacity at the elementary, middle and high school cluster levels to accommodate the estimated number of students generated by this project.

#### Individual School Adequacy Test

The applicable elementary and middle schools for this project are Wood Acres ES and Thomas W. Pyle MS, respectively. Based on the FY19 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

School	Projected School Totals, September 2023				Moratorium Enrollment Thresholds		Projected Enrollment + Application Impact
	Enrollment	Program Capacity	% Utilization	Surplus / Deficit	120% Utilization	Surplus / Deficit	
Wood Acres ES	641	725	88.4%	+84	871	835	683
Pyle MS	1,336	1,502	88.9%	+166	1,803	1,682	1,354

Under the individual school adequacy test, a school is deemed inadequate if the projected school utilization rate exceeds 120% and if the school seat deficit meets or exceeds 110 seats for the elementary school or 180 seats for the middle school. If a school’s projected enrollment exceeds *both* thresholds, then the school service area is placed in a residential development moratorium.

The Moratorium Enrollment Thresholds identified in the table above are the enrollments at which the 120% utilization threshold and the seat deficit threshold are exceeded. As indicated in the last column, the projected enrollment plus the estimated impact of this application falls below both applicable moratorium thresholds for both Wood Acres ES and Pyle MS. Therefore, there is sufficient anticipated school capacity to accommodate the estimated number of students generated by this project.

**School Capacity Analysis Conclusion**

Based on the school cluster and individual school capacity analysis performed, using the FY2019 Annual School Test, there is adequate school capacity for the amount and type of development included in this application.

Other Public Facilities

Public facilities and services are available and will be adequate to serve the development. The Subject Property will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, schools, and health services are operating according to the *Subdivision Staging Policy* resolution currently in effect and will be adequate to serve the Subject Property. Electrical, telecommunications, and gas services are also available to serve the Subject Property.

Adequate Public Facility Validity Period

In accordance with Section 50-20(c)(3)(B) of the Subdivision Code, the Applicant requested a validity period longer than the minimum specified in the Code. That request set forth a detailed phasing plan demonstrating when each phase of

development would be completed. As conditioned, the Adequate Public Facility review for the Preliminary Plan will remain valid for one hundred twenty (120) months, phased in the following manner:

1. First Phase - 36 months from the 30th day after the Resolution is mailed; or if an administrative appeal is timely noted by any party authorized to take an appeal, the date upon which the court having final jurisdiction acts, including the running of any further applicable appeal periods.
  2. Second Phase - 36 months from the expiration date of the validity period for First Phase.
  3. Third Phase- 24 months from the expiration date of the validity period for Second Phase.
  4. Fourth Phase - 24 months from the expiration date of the validity period for Third Phase.
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.*

The size, width, shape, and orientation of the lots is appropriate for the location of the subdivision taking into account the recommendations included in the Sector Plan, and for the type of development or uses contemplated. The Application complies with the land use recommendations for the Subject Property as well as the applicable urban design, roadway, and general recommendations outlined in the Sector Plan. As evidenced by the Preliminary Plan, the Subject Property is sufficiently large to efficiently accommodate the mix of uses. Under Section 59.4.5.4 of the Zoning Ordinance, the dimensional standards for the lot will be determined with approval of the subsequent Site Plans.

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

**A. Forest Conservation**

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

The entire site is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code). A Preliminary Forest Conservation Plan (PFCP) has been submitted for the all the properties under ownership of the Applicant in the Westbard area and a Final Forest Conservation Plan (FFCP) has been included for the Westwood Shopping Center site. As typical with other phased projects, the forest conservation requirements for any particular phase must be satisfied before any clearing or grading occurs within that phase. The afforestation requirements will be satisfied in part by the establishment of an onsite

Category I Easement at the Manor Care site and also by the purchase of equivalent credits in an offsite forest conservation bank.

**B. Forest Conservation Variance**

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

This Application will require the removal or CRZ impact to ten (10) Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

**Table 7: VARIANCE TREES AS PROPOSED FOR REMOVAL**

Tree #	Scientific Name/ Common Name	D.B.H (inches)	Field Condition	CRZ Impacts (%)	Disposition
12	<i>Quercus palustris /pin oak</i>	38	Good	N/A	Removal
13	<i>Quercus palustris /pin oak</i>	30	Fair/Poor	N/A	Removal
14	<i>Quercus palustris /pin oak</i>	30	Poor	N/A	Removal
37	<i>Quercus palustris /pin oak</i>	34	Good	N/A	Removal
1014	<i>Prunus serotina/black cherry</i>	40	Fair	N/A	Removal
1006	<i>Robina psuedocacia/ black locust</i>	30	Fair	N/A	Removal

**Table 8: VARIANCE TREES AS PROPOSED FOR IMPACT**

Tree #	Scientific Name/ Common Name	D.B.H (inches)	Field Condition	CRZ Impacts (%)	Disposition
3	<i>Quercus palustris /pin oak</i>	31	Good	25.2	Save
4	<i>Quercus palustris /pin oak</i>	30	Good	30.1	Save
22	<i>Quercus palustris /pin oak</i>	36	Good	4.3	Save
1018	<i>Robina psuedocacia/ black locust</i>	30	Fair	23.2	Save

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.*

Most of the removals are for subject trees in the ROW and their retention would otherwise preclude the Sector-planned ROW modifications. Furthermore, the impacts to tree 1018 are needed to implement an environmental enhancement project which is also recommended by the Sector Plan. Therefore, the variance request would be granted to any Applicant in a similar situation.

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

The requested variance is based on development allowed under the existing zoning and recommended by the Sector Plans. The variance can be granted under this finding if the impacts are avoided or minimized and that any necessary mitigation is provided as conditioned.

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 generally a result of the implementation of the Sector Plan recommendations and not as a result of land or building use on a neighboring property.

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

Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality. The subject area currently contains widespread areas of impervious surfaces with no known SWM facilities. The redevelopment will include green roofs and other formal SWM treatments in addition to environmental enhancements within the SVB at the Manor Care site (such as the removal of a linear parking lot and replacement with forest plantings in addition to stream bank stabilization work). Other water quality aspects of the project include dedication of land for the Willett Branch Greenway which will ultimately remove the existing concrete channel as part of the overall for stream naturalization. The DPS review and approval of the sediment and erosion control and stormwater management plans will help ensure that appropriate standards are met.

Additionally, the variance mitigation plantings will contribute to the water quality goals.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approved replacement of Protected Trees at a ratio of approximately 1" DBH for every 4" DBH removed. No mitigation is required for Protected Trees impacted but retained.

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.*

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on February 27, 2019. As the Applicant proceeds with future development of the properties covered by this Preliminary Plan, DPS will be reviewing updated stormwater concept plans at the time of Site Plan.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 120 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), 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 MAY 06 2019 (which is the date that this Resolution is mailed to all parties of record); and

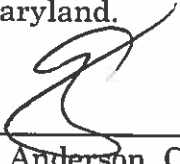
BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Cichy, seconded by Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González and Cichy voting in favor, and Commissioner Patterson absent at its regular meeting held on Thursday, April 25, 2019, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board