



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

MCPB No. 20-107  
Preliminary Plan No. 120200170  
College View Campus  
Date of Hearing: October 8, 2020

**NOV 04 2020**

**RESOLUTION**

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

WHEREAS, on March 12, 2020, Woodside Ventures & Realty Services ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create three lots on 4.98 acres of land in the CRT-0.75, C-0.25, R-0.50, H-40 and R-60/TDR-12 zone, located on the east side of Frederick Road, approximately 500 feet north of Cider Press Place ("Subject Property"), in the Germantown East Policy Area and 2009 *Germantown Employment Area Sector Plan* ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120200170, College View Campus ("Preliminary Plan" or "Application"); 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 September 25, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 8, 2020, 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 October 8, 2020, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Fani-Gonzalez, seconded by Commissioner Verma, with a vote of 5-0; Chair Anderson, Commissioners Cichy, Fani-Gonzalez, Patterson, and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120200170 to create three lots on the Subject Property, subject to the following conditions:<sup>1</sup>

All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.<sup>2</sup>

#### General Approval

##### Density

1. The Preliminary Plan is limited to three (3) lots for a total development of up to 183,596 square feet, including up to 135,709 square feet of residential uses with up to 142 multi-family dwelling units, including 25% MPDU's, and up to 47,887 square feet of non-residential uses on the Subject Property.

#### Adequate Public Facilities and Outside Agencies

2. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for eighty-four (84) months from the date of mailing of this Planning Board Resolution, according to the following development schedule as show on the Certified Preliminary Plan:

Phase I – Within 60 months

Construct up to 50 multi-family units (either Building A or B).

Phase II – Within 72 months

Construct up to an additional 92 multi-family units for a cumulative total of up to 142 multi-family units (Building A or B).

Phase III – Within 84 months

Construct up to 47,887 square feet of commercial uses (Building C).

#### Outside Agencies

3. The Planning Board has reviewed and accepts the recommendations of the MCDOT in its letter dated September 25, 2020 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

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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.

MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

4. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements.
5. The Planning Board has reviewed and accepts the recommendations of the SHA in its letter dated August 25, 2020 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.
6. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration's requirements for access and improvements.
7. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") – Water Resources Section in its stormwater management concept letter dated August 7, 2020 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.
8. The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated June 2, 2020 and 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 amendment does not conflict with other conditions of Preliminary Plan approval.
9. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs ("DHCA"), in its correspondence dated August 7, 2020, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

## Other Approvals

### Concurrent Site Plan Approval

10. Before submitting a record plat application or any demolition, clearing or grading for the Subject Property, the Applicant must receive Certification of Site Plan No. 820200140. The number and location of site elements including but not limited to buildings, dwelling units, on-site parking, site circulation, sidewalks and bike paths are determined through site plan review and approval.
11. If an approved site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan amendment.

## Environment

### Forest Conservation

12. The Applicant must comply with the following conditions of approval for the Preliminary/Final Forest Conservation Plan No. 120200170, approved as part of this Preliminary Plan:
  - a) Prior to Certification of the Preliminary Plan, the Applicant must revise the Preliminary/Final Forest Conservation Plan to address the outstanding comments in eplans, including showing the off-site natural surface path connection alignment.
  - b) Prior to the start of any demolition, clearing, grading or construction for the development Application, 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/Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
  - c) Within the first planting season following the release of the Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3 caliper inches totaling at least 25 caliper inches as shown on the approved Preliminary/Final FCP. Mitigation must be provided in the form of planting native canopy trees. These trees are in addition to the trees planted



to satisfy the landscaping requirements for the Application. The mitigation trees must be planted on the Property, in locations shown on the approved Preliminary/Final Forest Conservation Plan, outside of any rights-of-way, or utility easements, including stormwater management easements. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

## Transportation

### Existing Frontage Improvements

13. The Applicant must provide 98 feet of dedication from the centerline of the existing right-of-way for MD 355 to provide a 150-foot right-of-way and show it on the record plat(s).
14. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a 6-foot wide sidewalk along the property frontage on Public Street 'A' and MD 355 and a 5-foot wide sidewalk along the property frontage on Cider Barrel Drive.
15. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MDSHA to ensure construction of a 16-foot wide shared use path (breezeway) along the property frontage on MD 355.

### New Streets

16. The Applicant must dedicate the rights-of-way and ensure construction of all necessary road improvements for the following public streets, as shown on the Preliminary Plan, to the design standards imposed by all applicable road codes. Only those roads [or portions thereof] expressly designated on the Preliminary Plan, "To Be Constructed By \_\_\_\_\_" are excluded from this condition.
  - a) Public Street 'A', consistent with MC -2005.01 modified to include 6-foot wide sidewalks
  - b) Cider Barrel Drive, consistent with MC-2003.12

## Record Plats

17. There shall be no clearing or grading of the site prior to recordation of plat(s).

### Easements

18. The record plat must show necessary easements.

19. The record plat must reflect the following building restriction lines (BRL) as shown on the Certified Preliminary Plan:
  - a) A tapered front BRL, 47 feet from the proposed right-of-way line for MD355 at the northern property line; and
  - b) 31 feet from the proposed right-of-way line for MD 355 at the southern property line.

#### Notes and Labels

20. The record plat must reflect all areas under common ownership.
21. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Book 28045 Page 578 ("Covenant").

#### MPDU's

22. The final number of MPDUs as required by condition 1 above will be determined at the time of site plan approval.

#### Certified Preliminary Plan

23. The Applicant must include agency approval letters and Preliminary Plan Resolution on the approval or cover sheet(s).

24. 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 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.*

25. Prior to submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
  - a) Update the 10-foot-wide shared use path along the full frontage of Frederick Road to show the master planned 16-foot wide asphalt shared use path (breezeway) with a minimum 6-ft buffer from edge of pavement.
  - b) Clearly label and delineate the area of dedication, road centerline BRL along the frontage for Frederick Road.

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 layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The 4.98-acre Subject Property consists of part of a lot (Lot 79 on Record Plat 276) and three Parcels (P809 and P811 on Tax Map FU13, P888 on Tax Map EU63). The easternmost portion of the Property, part of P888, is zoned R-60/TDR-12 and the remainder of the Property is zoned CRT-0.75, C-0.75, R-0.50, H-40.

- a. *The block design is appropriate for the development or use contemplated*

The block design depicted on the Preliminary Plan is appropriate for the proposed commercial (laboratory) and residential development. Connecting the two existing termini (stubs) of Cider Barrel Drive and the introduction of Public Street 'A' create a T-shaped grid, resulting in three adequately sized lots for the three proposed buildings, taking into consideration the scale of the development and the current CRT zoning.

- b. *The lot design is appropriate for the development or use contemplated*

The block design results in three separate lots with frontage on public roads. As intended by the CRT zone, each lot provides enough space for the new buildings, a pedestrian friendly street scape and adequate vehicular access.

- c. *The Preliminary Plan provides for required public sites and adequate open areas*

The lots were reviewed for compliance with Section 50.4.3.D, "Public Sites and Adequate Public Facilities," of the Subdivision Code. The Preliminary Plan provides adequate open areas for amenities, recreation, and stormwater management.

There are no Master Plan recommendations for public facilities or local recreation requirements for the Subject Property.

*d. The Lots and Use comply with the basic requirements of Chapter 59*

The lots were reviewed for compliance with the dimensional requirements for the CRT zone as specified in the Zoning Ordinance. This review does not include standards for the R-60/TDR-12 portion of the Property because it is predominately stream valley buffer and no buildings are proposed in that zone. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in CRT zone. A detailed summary of this review is included in Table 1, below.

Table 1:		
Zone : CRT-0.75, C-0.75, R-0.5, H-40 (Standard Method of Development)		
	Required	Proposed
1. Site		
Public Open space, tract > 10,000 SF	10% (16,850)	12.4% (20,973 SF)
2. Lot and Density		
Lot (min)		
Total Lot area (Site Area)		168,503 SF (3.87 AC)
Lot A (W of Cider Barrel)	n/a	95,894 SF (2.20 AC)
Lot B (North of WW)		25,900 SF (0.60 AC)
Lot C (south of WW)		46,709 SF (1.07 AC)
Density (max)		
TRACT AREA (CRT & R-60/TDR-12)	235,835 SF (5.41 AC)	
Part of Lot 79 (Tax Map FU13)	6,136 SF (0.14 AC)	
Parcel 809 (Tax Map FU13)	30,590 SF (0.70 AC)	
Parcel 811 (Tax Map FU13)	43,559 SF (1.0 AC)	
Parcel 888 Total (Tax Map EU63)		
Parcel 888 (CRT zone)	101,878 SF (2.34 AC)	
Parcel 888 (R-60/TDR12 zone)	34,786 SF (0.80 AC)*	
Previous dedication for MD-355	18,887 SF (0.43 AC)	
TRACT AREA FOR DENSITY PURPOSES (CRT)	201,049 SF (4.62 AC)	
* 0.80 acres zoned R-60/TDR12 is not included in the tract area for density calculations		
PROPOSED DEDICATION		
Cider Barrel Drive	14,716 SF (0.338 AC)	
MD-355	15,449 SF (0.355 AC)	

Public Street 'A'	18,281 SF (0.420 AC)	
<b>PROPOSED DEDICATION (TOTAL)</b>	<b>48,446 SF (1.11 AC)</b>	
<b>Base Density</b>		
Commercial	0.25 FAR (50,262 SF)	0.23 FAR (47,887 SF)
Residential	0.50 FAR (100,525 SF)	0.50 FAR (100,525 SF)
<b>Total</b>	<b>0.75 (150,786 SF)</b>	<b>0.73 (148,412 SF)</b>
<b>Moderately Priced Dwelling Units</b>	12.5% Min.	25%
<b>MPDU Bonus Density (59.4.5.2.c)</b>		
Total Bonus Density	35% max.	35% (35,184 SF)
Providing over 12.5% MPDU'S		30% (30,157 SF)
Plus 0.1% for each 0.1% increase in MPDU's above 20%		5% (5,026 SF)
<b>Adjusted Density with MPDU Bonus</b>		
Commercial		0.23 FAR (47,887 SF)
Residential		0.67 FAR (135,709 SF)
<b>Total</b>		<b>0.90 (183,596 SF)</b>
<b>3. Placement</b>		
<b>Building A - Principal Building Setbacks (min)</b>		
Front setback (Cider Barrel Drive)	0'	11'
Side setback, abutting Residential Detached, or Residential Townhouse zones	1.5 x 8' (R-60)	
North	12'	15'
South	12'	57'
Rear setback, Residential Detached, or Residential Townhouse zones	1.5 * 20' (R-60)	
West	30'	34'
<b>Building B - Principal Building Setbacks (min)</b>		



Front setback (MD 355)	0'	43'
Front setback (Public Street A)	0'	5'
Side setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones (North)	1.5*8' (R-60) 12'	12'
Rear setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones (West)	1.5*8' (R-60 HOA Parcel) 20'	30'
<b>Building C - Principal Building Setbacks (min)</b>		
Front setback (MD 355)	0'	32'
Side street setback (Public Street A)	0'	5'
Side street setback (Cider Barrel Drive)	0'	20'
Side setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones (South)	1.5*8 (R-60) 12'	12'
<b>4. Height</b>		
<b>Height (max)</b>		
Principal building	40'	40'

The exact building location, setbacks and additional requirements of the zone will be determined at site plan. The Application has been reviewed by other applicable County agencies, all of whom have recommended approval of the Preliminary Plan.

*2. The Preliminary Plan substantially conforms to the Sector Plan.*

The Preliminary Plan substantially conforms to the 2009 *Germantown Employment Area Sector Plan*. The Subject Property is in the Montgomery College District identified in the Sector Plan.

Land Use

The Sector Plan has no specific recommendations for this Property. However, the Sector Plan does provide the following general land use recommendations for properties in this District, regarding their relationship, compatibility and connectivity with Montgomery College Campus:

*Provide a network of streets with extensive pedestrian connections that create a walkable area.*

The Application completes a network of streets which included completion of Cider Barrel Drive and a new public street, connecting to MD 355, listed as public street "A". Sidewalks are provided along Cider Barrel Drive and Public Street "A" and a 16-ft wide Shared Use Path along MD 355.

*Use building placement and site design to create smaller usable outdoor spaces characteristic of urban areas.*

The placement and orientation of the three buildings creates a smaller pedestrian scaled open space at the intersection of Cider Barrel Drive and Public Street "A".

*Incorporate structured parking into buildings where feasible and pave surface parking areas with permeable materials.*

All three buildings provide structured parking that have been incorporated into the building design.

*Buildings must have a minimum of three stories where feasible with floorplates no greater than 25,000 square feet for non-residential uses. Medical facilities such as hospitals are exempt from this guideline.*

As envisioned by the Sector Plan, all three buildings are three stories or greater (3, 3, and 4) and the commercial building (Building "C") has a floorplate less than 25,000 square feet.

The commercial building (Building "C") is envisioned as lab/research space which at some point in the future could provide ancillary lab space or be tied to the college's programing. Given the Subject Property's close proximity to the college, the new apartment buildings (A&B) provide additional housing opportunities for college students and faculty.

### Transportation

#### *Trail Connection*

The Sector Plan envisions a connection from the Fredrick Road corridor in the east to Montgomery College and Observation Drive to the west. As the last remaining property for redevelopment in this section of Frederick Road, this Application represents the best opportunity to achieve this connection in the near term. A full vehicular connection was explored but deemed infeasible due to the extensive environmentally sensitive areas and steep grades surrounding Gunners Branch creek. Additionally, concern over a full vehicular connection was expressed by Montgomery College representatives, whose approval is

required to extend any connection onto the college campus. Instead, Staff has worked with the Applicant, Montgomery College, and the Montgomery County Department of Environmental Protection (MCDEP) on a pedestrian trail alternative. As conditioned, the trail would cross Gunner's Branch via an existing earthen berm as part of a stormwater management facility under the control of the MCDEP. The trail would then connect to the pedestrian facilities affiliated with the easternmost parking lot on the Montgomery College campus. This option was preferred as opposed to a connection at the rear of the Subject Property as it avoids existing environmental easements, doesn't require a new stream crossing, and would take advantage of a reduced grade offered by the existing berm. A paved, ADA compliant alternative was explored; however, due to the abrupt 40 ft grade change west of the stormwater facility, resulting engineering challenges, and concern voiced by Montgomery College that the trail could restrict development potential and near-term programming on the campus, a natural surface for the trail is being pursued and conditioned for this Application. As conditioned, the final alignment and design of the trail will be determined prior to the use and occupancy permit for the first building and must be approved by Montgomery College and the MCDEP.

As approved, this Preliminary Plan achieves the District wide goals and substantially conforms to the Sector Plan recommendations.

#### Noise Guidelines

The Environmental section of the 1993 *General Plan Refinement for Montgomery County* contains multiple objectives directing Staff to protect future residents and workers from unacceptable noise levels. The 1983 Staff Guidelines for the Consideration of Transportation Noise ("Noise Guidelines") contain strategies for mitigating the impact of transportation noise on new residential development. The Noise Guidelines map has the Subject Property in the 60 dBA Ldn guideline area.

Phoenix Noise & Vibration, LLC prepared a report on June 18, 2020 with findings from an analysis of transportation related noise impacts from MD 355 on the Property. Under normal circumstances, the Applicant provides a noise study that includes on-site noise measurements taken at the Property. The noise study provided for this Application includes the results of a computer model that utilized the most recent data published by the Maryland Department of Transportation State Highway Administration (MDOT SHA) along with projected conditions on-site based on the proposed development's topography and building locations. Due to efforts to limit the spread of the Coronavirus (COVID-19) and the resulting atypical traffic volumes due to stay at home orders, business closures, limitations on non-essential travel, increased teleworking, and remote learning for schools, the provided noise analysis includes results from the

computer modelling only. Measurements taken at the Property during this time would not yield realistic data for this analysis. Once the typical traffic patterns resume, on-site measurements of traffic related noise may be taken and included in this analysis.

The computer modeling indicates that two of the five proposed public outdoor spaces will be impacted by noise levels above 60 dBA Ldn. These areas are located on the east side of proposed Buildings B and C, adjacent to MD 355. Noise levels in the other three proposed outdoor open space areas will have noise levels below 60 dBA Ldn. Mitigation measures such as a berm or barrier could be constructed to alleviate the noise impacts in the two areas closest to MD 355; however, since there are three additional areas available for residents to enjoy open space that are not impacted by excessive noise levels, Staff is not recommending construction of a berm or barrier along MD 355.

The Noise Analysis identified future noise levels of 65 dBA Ldn and up to 70 dBA Ldn in some units of proposed multi-family Building B. The affected units, on the eastern, northern, and southern elevations of this building will require building construction modifications to maintain interior noise levels below the recommended 45 Ldn. Building construction modifications may include upgraded windows and/or doors. The other proposed residential building, Building A, will not be impacted by noise levels in excess of 60 dBA Ldn and will not require any mitigating measures.

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

a. Roads and Other Transportation Facilities

Transportation access is adequate to serve the development proposed by this Preliminary Plan.

*i. Proposed public transportation infrastructure*

The Applicant is dedicating the necessary amount of right-of-way for the construction and maintenance of Cider Barrel Drive and Public Street 'A'. However, the Applicant is requesting a narrower than standard right-of-way for MD 355, as discussed in detail below.

All new roads will be dedicated for public use. Improvement of the Subject Property will complete the connection of Cider Barrel Drive from north to south, crossing the Subject Property roughly mid-way; it will be constructed to a primary residential street standard with a 70-ft ROW with 5-foot-wide sidewalks on either side. Public Street A will add an additional link as recommended in the Master Plan of Highways and Transitways from Cider

Barrel Drive to Frederick Road, expanding on the existing street grid along this corridor. Street A will be constructed as a Business District Street with 2 travel lanes with parking on the north side and 6-foot-wide sidewalks. The intersection with Frederick Road will be constructed as a restricted right-in-right-out condition.

b. MD 355 Right-of-way

The Subject Property has approximately 339 feet of frontage on MD 355, which is classified by the Sector Plan and 2018 *Master Plan of Highways and Transitways* as a 6-lane Major Highway with planned Bus Rapid Transit (BRT) and an ultimate right-of-way (ROW) width of 250 feet (125 feet from the road center line). The Applicant is requesting that dedication be reduced to 98 feet from the road centerline, instead of 125 feet from the road centerline, providing for a 150 feet ultimate ROW width.

Section 50.4.3.E.2.a.i gives the Planning Board the authority to approve a narrower than standard right-of-way after making the additional findings discussed below. M-NCPPC Staff and MCDOT support the Applicant's proposal based on the existing and planned improvements in the section of the Property's frontage on MD 355.

The Applicant's request to reduce the right-of-way dedication for MD 355 improves compatibility with the adjoining existing developments and makes the best use of the Subject Property's frontage on MD 355, which is allowed per Section 50.4.3.E.2.a.i of the Subdivision Regulations.

In the Planning Board's review of a preliminary plan and record plat, Subdivision Regulation Section 50.4.3.D - *Public sites and adequate open spaces*, a preliminary plan must provide for required public sites and adequate open space areas. Section 50.4.3.D.3 instructs the Board to require dedication to public use of roads as part of the subdivision process. Section 50.4.3.E.2., Road Design Standards, states:

*Design standards.*

- a. *Right-of-way.* Area for a road on a subdivision plan must include the full width of all rights-of-way recommended for the applicable road classification in the adopted master plan and in the Road Design and Construction Code.
  - i. *The Board may approve a narrower than standard road right-of-way if it meets minimum fire access requirements and the Board finds that a narrower right-of-way is environmentally preferable, improves*



*compatibility with adjoining properties, or allows better use of the tract under consideration.*

- ii. In determining the width of a less than standard right-of-way, the Board must consider:*
  - (a) the recommendations of the Department of Transportation or other applicable state or municipality transportation permitting agency;*
  - (b) the amount of traffic expected to use the proposed roads;*
  - (c) the maximum road right-of-way or improvement required for the proposed land use; and*
  - (d) the increased traffic, travel lane, and right-of-way requirements that would be created by maximum use and development of land using the road.*

In their letter dated September 25, 2020, MCDOT stated that, in consultation with MCDOT Transit staff, they support the requested, narrower ROW for MD 355. The Application has also been reviewed by the MCDPS, Fire Department Access and Water Supply Section, which determined that access to the Property (with the reduced ROW) meets fire access requirements.

The Applicant's justification letter explains that the reduction of ROW will allow for better use of the tract under consideration and improve compatibility with the existing residential development. Following a thorough review of the Application, Planning Staff supports the Applicant's request. The buildable area of the Property is constrained due to the narrow geometry of the Subject Property, required setbacks and right-of-way dedication for two master planned street connections – Cider Barrel Drive and Public Street A. The requested reduction in ROW for MD 355 allows for the best use of the land along the frontage of the Property results in the most compatible development. The narrower right-of-way allows the Applicant to utilize a larger area of the Property's frontage to provides public open space, landscaping and stormwater management, which helps tie the new buildings into the surrounding development.

Providing the full additional dedication of 125 feet from the centerline of MD 355 would have a detrimental effect on the economic feasibility to construct buildings within the remaining buildable area. Additionally, the building faces would no longer align with the existing building face found along this stretch of road.

In lieu of full dedication, the Applicant is providing a building restriction line (BRL) along the frontage which sets back building placement from the road and aligns them with abutting structures to the north and south. The BRL is located in excess of 125 feet from the centerline of the road and will provide a minimum

of 182 feet of clearance between the proposed buildings (including ESD facilities) and the opposite right-of-way line. Further, clearance from the proposed buildings and the face of the existing townhouses on the opposite (east) side of MD 355 will be a minimum of 200 feet. If in the unlikely case additional ROW in excess of 150 feet is needed for temporary or permanent road improvements, the BRL provides for more available and unencumbered land than the proposed dedication alone would provide. As detailed below, all planned road and transit facilities can be accommodated in the proposed ROW area. As proposed, future ROW provides an interim open space area, with seating, landscaping (both stormwater features and ornamental planting), and a sidewalk linking the development to the existing neighborhoods. It will also connect the development to the 16-foot-wide master-planned shared use path (referred to as breezeway) being constructed by the Applicant. The reduction in right of way will not impede fire access; all future travel lanes of MD 355 will continue to accommodate emergency vehicle movement.

#### c. Future MD 355 BRT Cross Section

Based on the current MCDOT BRT Corridor Alternative Phase 2 Study, Alternative C for Segment 7 is the only BRT alignment that would utilize the ROW along the Property's frontage. As depicted in Figure 23 of the Staff Report, the planned public improvements can be easily accommodated within the proposed 150-foot-wide ROW for a currently proposed mixed-traffic (e.g., no dedicated transit lane) operation. The proposed dedication area has been reviewed and approved by MCDOT transit planning staff.

However, the proposed ROW should nevertheless accommodate the potential for an ultimate master-planned vision for MD 355 as a 6-lane highway with median running BRT. This will require at a minimum the addition of a roughly 50-ft wide bidirectional BRT transitway and additional 11-ft wide travel lane. As a point of comparison, similar facilities are envisioned under Alternative B of the Study can be fully accommodated within this proposed 150 ft. ROW.

While the provided dedication is significantly less than the ultimate Master Plan recommendation for 250 feet, all potential public facilities can be accommodated without restriction – there will be no foreseeable detrimental impact to the implementation on future facilities.

While short of the full recommended ROW, this Application, by matching the existing ROW dedication and building face on Frederick Road will not preclude implementation of any planned future facilities. Taken together, this ROW dedication and building restriction line the Application substantially conforms to the goals of the Master Plan of Highways and Transitways.

d. Pedestrian and Bicycle Infrastructure

The 2018 *Bicycle Master Plan* recommends that the west side of Frederick Road carry the Clarksburg to City of Gaithersburg Breezeway, a high-capacity, high-functioning bikeway to run through this corridor. As conditioned, a 16-foot wide asphalt shared-use path will be constructed along the frontage of the Subject Property, connecting to an existing shared use path running to the north, to accommodate the breezeway to be used by both pedestrians and cyclists.

As conditioned, a signal is to be constructed by the Applicant to address safety concerns at the Oxbridge Dr. – Frederick Road intersection to the north of the Subject Property. This will additionally facilitate safe pedestrian crossing of Frederick Road, which at present lacks a marked or signalized crosswalk in the roughly one-mile stretch between Germantown Road and Middlebrook Road.

As mentioned, a natural surface trail will be constructed by the Applicant to connect the Frederick Road corridor to the east to Montgomery College to the west, with the path itself to be constructed off-site to the south of the Subject Property. This is to accommodate the desire for a transportation connection envisioned by the Sector Plan.

e. Local Area Transportation Review (LATR)

This mixed-use plan for 142 multifamily dwelling units, 15,000 sq. ft. of office and 32,887 sq. ft. of R&D office use will generate 128 person trips during the AM weekday peak period and 163 person trips during the PM weekday peak period based on the trip generation rates as calculated using the 10th Edition ITE Trip Generation Manual and adjusted as detailed in the 2017 LATR guidelines. Because the Application generates over 50 peak hour person trips, a traffic study was required for Local Area Transportation Review. This study is summarized below in Table 2.

**Table 2 - Trip Generation**

Development	Measure	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Existing Misc. Use (credit)	driveway count	(4)	(3)	(7)	(3)	(3)	(6)
Multifamily	142 Units	11	35	46	36	23	59
Office	15,000 sf	33	6	39	3	15	18

<b>R&amp;D Office</b>	32,887 sf	10	3	13	5	29	34
<b>Net New Vehicle Trips</b>	—	50	41	91	41	64	105
<b>Net New Person Trips</b>	—			128			163

Trip generation rates are based on the ITE Trip Generation Manual, 10th Edition and adjusted as detailed in the 2017 LATR guidelines.

Seven intersections were studied using the CLV congestion methodology, with two intersections – Frederick Road / Germantown Road and Frederick Road / Middlebrook Road (in Italics) exceeding the Germantown East policy area CLV standard of 1425.

**Table 3 - Intersection CLV Counts**

<b>Intersection</b>	<b>Existing Conditions</b>		<b>Background Conditions</b>		<b>Total Future Conditions</b>	
	<b>AM Peak Hour</b>	<b>PM Peak Hour</b>	<b>AM Peak Hour</b>	<b>PM Peak Hour</b>	<b>AM Peak Hour</b>	<b>PM Peak Hour</b>
<b>Germantown Road &amp; Cider Barrel Drive</b>	588	673	774	931	793	966
<b><i>Frederick Road &amp; Germantown Road</i></b>	1221	<i>1583</i>	<i>1473</i>	<i>1871</i>	<i>1483</i>	<i>1880</i>
<b>Frederick Road &amp; Oxbridge Drive</b>	1010	1195	1107	1290	1137	1290
<b>Frederick Road &amp; Site Driveway</b>	672	1075	728	1170	749	1198
<b>Frederick Road &amp; Cider Press Place</b>	700	1094	756	1190	767	1205
<b><i>Frederick Road &amp; Middlebrook Road</i></b>	1087	1392	1208	<i>1532</i>	1213	<i>1540</i>
<b>Cider Barrel Drive &amp; Site Driveway</b>	--	--	--	--	65	84

These two intersections were additionally analyzed using the HCM methodology to measure delay and the efficacy of signal timing improvements. These signal timing improvements have been reviewed and approved by MCDOT and SHA. While the signal timing improvements do not reduce delay below the 51 second standard for the Germantown East policy area, they do reduce the delay to below

background conditions – e.g., they fully mitigate delay caused by this Application, as acceptable according to the LATR guidelines.

**Table 4 - Intersection HCM Counts with Proposed Signal Timing Improvements**

Intersection	Existing Conditions		Background Conditions		Total Future Conditions	
	AM Peak Hour	PM Peak Hour	AM Peak Hour	PM Peak Hour	AM Peak Hour	PM Peak Hour
<b>Frederick Road &amp; Germantown Road</b>	50.1	102.3	70.3	82.2	71.5	83.3
<b>With signal optimization</b>	--	--	--	--	61.7	71.0
<b>Frederick Road &amp; Middlebrook Road</b>	69.2	74.0	72.8	92.3	73.1	93.8
<b>With signal optimization</b>	--	--	--	--	68.0	90.1

f. Signal Warrant

A peak-hour signal warrant analysis was conducted on two unsignalized full-movement intersections: Germantown Road / Cider Barrel Drive and Frederick Road/ Oxbridge Drive. Both intersections meet warrants under both existing and future conditions and require mitigation to address safety concerns.

**Table 5 - Peak Hour Signal Warrant Analysis**

Intersection	Peak Hour	Existing Conditions			Total Future Conditions		
		Major Volume	Minor Volume	Warrant Met?	Major Volume	Minor Volume	Warrant Met?
<b>Germantown Road &amp; Cider Barrel Drive</b>	<b>AM</b>	2683	81	Yes	2711	100	Yes
	<b>PM</b>	2909	67	No	2931	105	Yes
<b>Frederick Road &amp; Oxbridge Drive</b>	<b>AM</b>	3095	91	Yes	3134	91	Yes
	<b>PM</b>	3947	66	No	3974	66	No

These warrants constitute significant safety concerns for both intersections, particularly for vehicles making through and left-turn movements from the minor streets onto multi-lane highways with 40 mph speed limits. It is recognized that these intersections are in need of improvement even under current conditions – the current vehicular flow warrants full signalization – and



that vehicular trip generation from this Application only amounts to a fraction of total future trips. However, given the safety concern, improvements to these intersections have been conditioned as part of the approval of this Application and are required to meet the finding for Adequate Public Facilities. These improvements, as stated in the conditions, are a change in geometry of the Germantown Road & Cider Barrel Drive intersection to a channelized right-in, right-out condition (restricting through and left-turn movements) and the signalization of the Frederick Road & Oxbridge Drive intersection.

g. School Adequacy Analysis

**Overview and Applicable School Test**

Preliminary Plan No. 120200170, College View Campus was heard by the Planning Board on October 8, 2020. Therefore, the FY21 Annual School Test, approved by the Planning Board on June 25, 2020 and effective July 1, 2020 is applicable. The Application proposes development of 142 multi-family low to mid-rise units.

**Calculation of Student Generation**

To calculate the number of students generated by the proposed 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 Upcounty region of the County.

**Table 6 – Per Unit Student Generation Rates – Upcounty Region**

	<b>Elementary School</b>	<b>Middle School</b>	<b>High School</b>
<b>SF Detached</b>	0.210	0.120	0.169
<b>SF Attached</b>	0.248	0.121	0.157
<b>MF Low-Rise</b>	0.183	0.077	0.093
<b>MF High-Rise</b>	0.020	0.008	0.010

With a net of 142 multi-family low-rise units, the proposed project is estimated to generate the following number of students:

**Table 7 – Student Projections**

<b>Type of Unit</b>	<b>Net Number of Units</b>	<b>ES Generation Rates</b>	<b>ES Students Generate</b>	<b>MS Generation Rates</b>	<b>MS Students Generated</b>	<b>HS Generation Rates</b>	<b>HS Students Generated</b>
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			d				
Multi-Family Low to Mid Rise	142	0.183	25.986	0.077	10.934	0.093	13.206
<b>TOTALS</b>	<b>142</b>		<b>25</b>		<b>10</b>		<b>13</b>

On average, this project is estimated to generate 25 new elementary school students, 10 new middle school students, and 13 new high school students.

#### Cluster Adequacy Test

The project is located in the Clarksburg High School Cluster. The student enrollment and capacity projections from the FY21 Annual School Test for the cluster are noted in the following table:

**Table 8 – Cluster Projections**

School Level	Projected Cluster Totals, September 2025			Moratorium Threshold	Estimated Application Impact
	Enrollment	Program Capacity	% Utilization		
Elementary	3,857	4,056	95.1%	1,011	<b>25</b>
Middle	1,629	1,668	97.7%	372	<b>10</b>
High	2,410	2,034	118.5%	30	<b>13</b>

The Moratorium Threshold identified in the table is the number of additional projected students that would cause the projected utilization to exceed the 120% utilization threshold and therefore trigger a cluster-wide residential development moratorium. As indicated in the last column, the estimated enrollment impacts of this Application fall **below** the moratorium thresholds at all three school levels. Therefore, there is sufficient capacity at the cluster level 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 Fox Chapel ES and Rocky Hill MS, respectively. Based on the FY21 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

**Table 9 – Projected totals**

School	Projected School Totals, September 2025				Moratorium Threshold	Estimated App. Impact
	Enrollment	Prog. Capacity	% Utilization	Surplus/ Deficit		

Fox Chapel ES	620	683	90.8%	+63	200	25
Rocky Hill MS	1,035	1,020	101.5%	-15	190	10

Under the individual school adequacy test, a school is deemed inadequate if the projected school utilization rate exceeds 120% and the school seat deficit meets or exceeds 110 seats for an elementary school or 180 seats for a 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 numbers of additional projected students that would cause the projected utilization to exceed the 120% utilization threshold and the seat deficit threshold. As indicated in the last column, the estimated enrollment impacts of this Application fall below the moratorium thresholds for both Fox Chapel ES and Rocky Hill MS. Therefore, there is sufficient anticipated school capacity to accommodate the estimated number of elementary and middle school students generated by this project.

#### **Analysis Conclusion**

Based on the school cluster and individual school capacity analysis performed, using the FY2021 Annual School Test, there is adequate school capacity for the amount and type of development proposed by this Application.

#### **h. Other Public Facilities and Services**

The Subject Property is in sewer category S-1 and water category W-1, respectively, which is consistent with the Applicant's proposal to connect to public water and sewer which are available and adequate to serve the development. The Applicant is extending the existing 8" water line and 12" sewer line from the WSSC easement, south of the Subject Property at the terminus of Gunners Terrace (west of Cider Barrel Drive). The new water lines will be installed within the proposed right-of-way for Cider barrel Drive and Public Street A, with service lines connecting to each of the new buildings. The existing electrical service provided by PEPCO will be upgraded to serve the proposed buildings.

The Application has been reviewed by the MCDPS Fire Department Access and Water Supply Section, which determined that the Property has adequate access for fire and rescue vehicles by transmittal dated June 2, 2020. Other public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the 2016-2020 Subdivision Staging Policy.

**2. Adequate Public Facility Validity Extension Request**

The Applicant requested an extended Adequate Public Facilities Validity period for 7 years (84 months) instead of the typical 5 years (60 months).

Under Section 50.4.3.J.5.iv, an Adequate Public Facilities determination shall be valid “for no less than 5 and no more than 10 years after the preliminary plan is approved, as determined by the Board when it approved the plan, for any plan approved after July 31, 2007, and before April 1, 2009, or after March 31, 2017.” As such, the Applicant’s request is within the allowable validity time period under the Subdivision Regulations.

The Subdivision Regulation continues under Section 50.4.3.5.b:

*“If an applicant requests a longer validity period than the minimum specified in 5.a, the applicant must submit a development schedule or phasing plan for completion of the project in the Board for its approval.*

- i. At a minimum, the proposed development schedule or phasing plan must show the minimum percentage of the project that the applicant expects to complete in the first 5 or 7 years, where is the applicable minimum, after the preliminary plan is approved.*

The phasing plan indicates that Phase I will be completed within the first 5 years, with includes construction of up to 50 dwelling units, both roads, the 16-foot breezeway, the natural surface trail connecting to Montgomery College. The second residential building, commercial building and the transportation improvements, will be completed within the next two phases, as specified below, in Table 10.

**Table 10 – Adequate Public Facilities Phasing**

<b>Phase</b>	<b>Benchmark (See Conditions of Approval for triggers)</b>	<b>Duration</b>
<b>Phase I</b>	Construct 50 Multi-family Units (Building A or B). <ul style="list-style-type: none"><li>• Construct the extension of Cider Barrel Drive and Public Street A to approved public street standards.</li><li>• Construct a natural surface trail as approved by M-NCPPC Staff, Montgomery College, and the MCDEP</li><li>• Construct a 16-ft wide asphalt shared use</li></ul>	60 months (5 years)

	path with a minimum 6-ft buffer from edge of pavement along the full frontage of MD 355.	
<b>Phase II</b>	Construct 92 additional multi-family units for a total of 142 units (Building A or B) <ul style="list-style-type: none"> <li>• Install a traffic signal at the intersection of Oxbridge Drive and MD 355.</li> <li>• Improve the southern leg of the Cider Barrel Dr. and MD-118 intersection to a right-in, right-out condition.</li> <li>• Conduct signal optimization to reduce the average delay at the intersections of Middlebrook Road/MD 355 and MD 118)/MD 355 as approved by staff from the MCDOT and SHA.</li> </ul>	12 months (72 months cumulative)
<b>Phase III</b>	Construct 47,887 square feet of Commercial (Building C).	12 months (84 months cumulative)

- ii. *To allow a validity period longer than the specified minimum, the Board must find that the size or complexity of the subdivision warrant the extended validity period and would not be adverse to the public interest. The Board must condition a validity period longer than the specified minimum on adherence to the proposed development schedule or phasing plan and may impose other improvements or mitigation conditions if those conditions are needed to assure adequate levels of transportation or school service during the validity period.*

The Planning Board approved the Applicant's request for two additional years of APF validity, to complete construction of proposed development. Due to the scope of off-site transportation improvements, including signalization of an existing intersection, installation of a "pork-chop" to improve vehicle turning conditions and signal optimization, all of which will take detailed coordination, planning and substantial financial contributions by the Applicant. Considering the scope of the required improvements, Staff believes the two additional years of APF validity requested by the Applicant is reasonable.

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

#### Environmental Guidelines



Natural Resource Inventory/Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420200170 for the Property was approved on September 3, 2019. The NRI/FSD identifies the environmental features and forest resources on the Property. The Property contains approximately 0.79 acres of forest, including approximately 0.45 acres of forested stream valley buffer. There is one perennial stream that enters the Property from the south, through an outfall of an existing stormwater management pond, flows in a northern direction through the Property and continues off-site. The Property contains approximately 0.10 acres of forested wetlands, 0.55 acres of 100-year floodplain, and there are highly erodible soils and slopes greater than 25 percent present. There are 16 trees greater than or equal to 24" Diameter at Breast Height (DBH) that were identified on or adjacent to the Subject Property, three of which are 30" DBH and greater.

Stream Buffer Encroachment

The Application is subject to the *Guidelines for Environmental Management of Development in Montgomery County* (January 2000) ("Environmental Guidelines"), which includes guidance for the protection of streams and their buffers. Section IV-A1 of the Environmental Guidelines allows for some encroachments within the stream buffer under certain circumstances, and when determined by staff that there are no reasonable alternatives and the impacts have been minimized as much as possible. The Application proposes to impact the stream buffer to install a storm drain outfall that extends off-site, out falling into an existing stormwater management pond located on the adjacent property to the south. The impacts have been minimized to the greatest extent possible and are unavoidable due to the location of the existing stormwater management pond.

A. Forest Conservation

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

The Application meets the requirements of the Montgomery County Forest Conservation Law (Chapter 22A of the County Code). The Preliminary Plan and Site Plan reviews occurred concurrently, so the Forest Conservation Plan was submitted and reviewed as a combined Preliminary and Final Forest Conservation Plan. The net tract area for forest conservation is 5.27 acres, which includes the 4.98-acre Property and 0.29 acres of offsite disturbance for required utility connections, a stormwater management outfall, and connections to Cider Barrel Drive. The FCP includes 0.79 acres of existing forest located on the west side of the Property and along the northern property line. The Application proposes to retain 0.45 acres and remove 0.34 acres of forest. The

proposed forest clearing generates a reforestation requirement of 0.68 acres. The Applicant proposes to meet the planting requirement by reforesting 0.22 acres on-site within the unforested portion of the stream buffer and the remaining 0.46 acres off-site, such as at an M-NCPPC approved forest bank. The on-site retained and planted forest will be protected in a Category I conservation easement.

#### 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 three 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.

The Protected Trees are located within and immediately adjacent to the Property. Tree ST-1 is located within the public right-of-way along Frederick Road with proposed impacts due to the required construction of a public sidewalk that connects to an existing sidewalk. If the impacts to the critical root zone of ST-1 were not permitted, the proposed sidewalk connection could not be made. Tree ST-5 is located adjacent to the planned extension of Cider Barrel Drive through the Property. Existing Cider Barrel Drive dead ends at both the northern and southern property boundaries, which has pre-determined the alignment through the Property. If the impacts to the critical root zone and resulting removal of Tree ST-5 were not permitted, the connection and completion of Cider Barrel Drive could not be accomplished. Tree ST-16 is located off-site on the adjacent property to the north. This tree will be impacted by the proposed development of a residential building. The Property is narrow in shape, with a stream buffer and the pre-determined alignment of Cider Barrel Drive through the Property dictating land available for the development envelope. If the impacts to the critical root zone and removal of Tree ST-16 were not permitted, the full development potential of this CRT-zoned property could not be achieved. These existing conditions are such that any application to develop this Property for the recommended use and density would result in the need for a tree variance. Staff worked

with the Applicant to revise the limits of disturbance to minimize the impacts to the Protected Trees as much as possible. The number and location of the Protected Trees within the developable portions of the Property, and the development requirements create an unwarranted hardship. If the variance were not considered, the development anticipated on this Property would not occur. The Planning Board has reviewed this Application and finds that there would be an unwarranted hardship if a variance were not considered.

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.*

Granting the variance does not confer a special privilege on the Applicant as the disturbance to the Protected Trees is due to the reasonable development of the Property. Protected Trees are located in the developable area of the Property. The requested removal of and impacts to Protected Trees are due to required road and sidewalk connections, and disturbance within the anticipated developable area of the site that would be necessary under any application for development of the Property. Any development considered for this Property would be faced with the same considerations. Granting a variance to allow land disturbance within the developable portion of the Property is not unique to this Applicant. Staff believes that the granting of this variance is not 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 need for the variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon existing Property conditions, including the location of the Protected Trees within the developable area and required infrastructure improvements.

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 need for a variance is a result of the existing conditions and the design and layout of the Property, and not 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.*

The variance does not violate State water quality standards or cause measurable degradation in water quality. Onsite mitigation for the removal of the Protected Trees will ultimately replace the functions currently provided by the Protected Trees to be removed. In addition, the Montgomery County Department of Permitting Services has found the stormwater management concept for the proposed project to be acceptable as stated in a letter dated August 7, 2020.

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-inch caliper for every 4 inches removed, using trees that are a minimum of 3 caliper inches in size. This Application removes approximately 99.6 inches in DBH, resulting in a mitigation requirement of 25 caliper inches of planted, native, canopy trees with a minimum size of 3-inch caliper. The FCP includes the planting of nine 3-inch caliper, native, canopy trees on the Property as mitigation for the removal of the two variance trees. No mitigation is required for Protected Trees impacted but retained.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

This finding is based upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards. The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Section on August 7<sup>th</sup>, 2020. The Application will meet stormwater management goals through a variety of techniques including a green roof, bioretention, modular wetland system – linear and structural treatment in an existing stormwater management pond.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 36 months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G, 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 ~~NOV 04 2020~~ (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 Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, October 15, 2020, in Wheaton, Maryland.



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Casey Anderson, Chair  
Montgomery County Planning Board