



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

FEB 22 2022

MCPB No. 22-024
Preliminary Plan No. 12016006A
Wheaton Woods Preliminary Plan Amendment
Date of Hearing: February 17, 2022

RESOLUTION

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

WHEREAS, the Planning Board approved Record Plat No. 4803 on January 30, 1957, which created the existing Parcel A of the Aspen Knolls subdivision; and

WHEREAS, on November 7, 2013, the Planning Board reviewed a Pre-Preliminary Plan No. 720130110 and provided non-binding advice to the Applicant; and

WHEREAS, on March 4, 2016, the Planning Board, by Resolution MCPB No. 16-015, approved Preliminary Plan No. 120160060, to create six lots on 4.08 acres of land in the R-90 zone, located 300 feet west of the Landgreen Street and Marianna Drive intersection ("Subject Property"), in the Aspen Hill Policy Area and *Aspen Hill Master Plan* ("Master Plan") area; and

WHEREAS, on October 6, 2021, JOB LLC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plans to increase the total number of lots from six (6) lots to thirteen (13) lots; expand the plan limits to include additional land area, and associated landscape and streetscape modifications; and provide 60-foot right-of-way for a non-standard cul-de-sac on the Subject Property; and

WHEREAS Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12016006A, Wheaton Woods ("Preliminary Plan," "Amendment," or "Application"); and

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Approved as to
Legal Sufficiency: Emily Vaias
M-NCPPC Legal Department

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 February 5, 2022 setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on February 17, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 12016006A to increase the total number of lots from six (6) lots to thirteen (13) lots; expand the plan limits to include additional land area, and associated landscape and streetscape modifications; and provide a 60-foot right-of-way for a non-standard cul-de-sac subject to the following conditions, which supersede in their entirety the conditions set forth in Preliminary Plan 120160060:¹

General Approval

1. This Preliminary Plan is limited to thirteen (13) lots for 13 residential single family dwelling units.

Adequate Public Facilities and Outside Agencies

2. The Adequate Public Facilities ("APF") review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

Plan Validity Period

3. The Preliminary Plan will remain valid for three years (3) from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and prior to the expiration date 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 filed.

Outside Agencies

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated January 14, 2022 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.

¹ 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.

5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements.
6. 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 October 19, 2021 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.
7. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS"), Fire Department Access and Water Supply Section in its letter dated November 29, 2021 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.

Environment

8. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
9. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
10. Prior to any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Rock Creek watershed to satisfy the reforestation requirement for a total of 0.65 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Rock Creek watershed or by making a fee-in-lieu payment if mitigation credits are not available at any bank.
11. Prior to any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the required mitigation trees credited toward meeting the requirements of the FCP.
12. Prior to any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must execute a five-year Maintenance and Management Agreement ("MMA") in a form approved by the

M-NCPPC Office of General Counsel. The MMA is required for all variance tree mitigation plantings.

13. The Applicant must revise the FFCP to reflect the NRI/FSD approved on January 12, 2022 and show mitigation for the removal of 284.5" of variance trees. The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3.0 caliper inches totaling at least 72 caliper inches.

Transportation

New Streets

14. 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. The following public street dimensions may be modified by MCDOT without the need for a Preliminary Amendment.
 - a) Landgreen Street, Section 49-32.D.5, consistent with MC 2001.02 "Tertiary Residential Street" (as modified to have 11-foot green panels, 10-foot travel lanes in both directions, and 5-foot sidewalks on both north and south sides, with a 60-foot right-of-way)
 - b) Landgreen Street, Section 49-33.C, consistent with MC 222.01 (as modified to an oval shaped cul-de-sac with green space in the center by MCDOT)

Off-Site Improvements

15. Prior to the recordation of plat(s), the Applicant must ensure construction of the following off-site improvement by satisfying MCDOT requirements to widen the existing 4-foot sidewalk to 5 feet on the north side of Landgreen Street that extends to the intersection of Marianna Drive.
16. Prior to the recordation of plat(s), the Applicant must ensure construction of the following off-site improvement by satisfying MCDOT requirements to widen the existing 4-foot sidewalk to 5 feet on the south side to the extent possible to protect the existing mature trees along Landgreen Street that extends to the intersection of Marianna Drive.

Record Plat

17. There shall be no clearing or grading of the site prior to recordation of plat(s).
18. The record plat must show necessary easements.
19. The record plat must reflect all areas under common ownership.

Certified Preliminary Plan

20. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
21. 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 building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or 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:

This Amendment supersedes all the objectives, or requirements in the originally approved preliminary plan, and all findings.

The Preliminary Plan Amendment proposes the creation of thirteen (13) lots, measuring approximately 4.08 acres of Site area in a R-90 zone, for a maximum density of 13 residential detached dwelling units. This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Application has been reviewed by other applicable State and County agencies. The Application meets all applicable sections. The shape and orientation of the proposed lots are appropriate for the location of the subdivision taking into account the type of development and use contemplated.

- 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.***
 - a) The block design is appropriate for the development or use contemplated***
 - b) The lot design is appropriate for the development or use contemplated***
 - c) The Preliminary Plan provides for required public sites and adequate open areas***

- i. ***Master Planned Sites***
- ii. ***Transportation and Utilities***

d) The Lot(s) and Use comply with the basic requirements of Chapter 59

The proposed lots were reviewed for compliance with the dimensional requirements for the R-90 Zone, as specified in the Zoning Ordinance. The proposed lot dimensions, size, width, shape and orientation are appropriate for the location of the subdivision and this type of development and will meet all dimensional requirements for the area, frontage, width, and setbacks in the R-90 Zone. The Application represents infill development in an appropriate location. The Proposal is consistent with the intent of the R-90 Zone that reads as follows:

“to provide designated areas of the County for moderate density residential uses. The predominant use is residential in a detached house.”

Pursuant to Section 59.4.4.8 of the Zoning Ordinance, applicable development standards for a Standard Method development of the Property in the R-90 Zone are as follows:

Table 1: Wheaton Woods Data Table for R-90 Zone, Standard Method, Section 59.4.4.8

Development Standard	Permitted/ Required	Proposed
Tract Area	n/a	4.08 acres
Proposed Dedication Right of Way	n/a	36,815 sq. ft.
1. Lot and Density (59.4.4.8.B.1.) (min.)		
Lot area	9,000 sq. ft.	9,000 sq. ft.
Lot width at front building line	75 ft.	75 ft.
Lot width at front lot line	25 ft.	25 ft.
Density (max.)		
Density (units/acre)	4.84	3.18
Total units (max.)	19	13
Coverage (max.)	30%	30%
Specification for Lot & Density		
2. Placement (59.4.4.8.B.2.)		
Principal Building Setbacks (min.)		
Front setback	30 ft.	30 ft.
Side setback	8 ft.	8 ft.
Sum of side setbacks	25 ft.	25 ft.
Rear setback	25 ft.	25 ft.
Height (max.)(measured to mean height between eaves and ridge of a gable, hip, mansard or gambrel roof) (59.4.4.8.B.3.)	30 ft.	30 ft.

2. The Preliminary Plan substantially conforms to the Master Plan.

The proposed Preliminary Plan Amendment is located within the 1994 *Aspen Hill Master Plan* (Master Plan) area. While the Master Plan does not identify specific recommendations for the Subject Property, the land use objectives of the Master Plan seek to:

- Encourage the protection, enhancement, and continuation of current land use patterns.
- Protect and reinforce the integrity of existing residential neighborhoods.
- Preserve and increase the housing resources in support of Montgomery County housing policies.

The 1994 *Aspen Hill Master Plan* “supports the retention and reconfirmation of existing zoning for all developed, underdeveloped and undeveloped land in the Aspen Hill Planning Area, except for those sites recommended for a change” by the Plan. (Page 33) The Preliminary Plan Amendment proposes lot sizes which are generally consistent with the surrounding neighborhood and maintains the established low-to-medium density character of the planning area. The proposed Preliminary Plan Amendment is in substantial conformance with the land use recommendations of the 1994 *Aspen Hill Master Plan*.

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

a) Roads and other Transportation Facilities

i. Existing Facilities

ii. Proposed public transportation infrastructure

Vehicular Circulation and Access Points

Pedestrian access to the Site will be from the established sidewalk network along Landgreen Street, which will be enhanced by streetscape improvements along each of the Property frontages, consistent with recommended streetscape standards within the *Complete Streets Design Guide*. Existing sidewalk segments from the Subject Property to Marianna Drive will be widened to a minimum of five feet, in accordance with ADA requirements. Portions of the four-foot sidewalk will be replaced but will remain at the existing four-foot width in specific locations as a means to maintain mature canopy trees along the residential street.

Currently, Landgreen Street terminates at the Property line, adjacent to the entrance into the former Wheaton Woods Community Swimming Pool surface parking area. The Applicant proposes to extend Landgreen Street into the Property as a public tertiary residential roadway by constructing a modified cul-de-sac design that will provide vehicular access into each of the driveways of the 13 single family residences. A design

exception application was submitted by the Applicant to deviate from the MCDOT standard 222.01 for cul-de-sacs in order to accommodate a central green space and roadway curvature intended to provide access to each respective driveway and provide sufficient radius to handle emergency vehicles. Five-foot-wide sidewalks are proposed to encircle the modified cul-de-sac design, connecting directly with the established sidewalk network to the east.

The extension of Landgreen Street into the modified cul-de-sac will be dedicated as public right-of-way, with the central green space that will include the stormwater management facilities and pathway inside of the cul-de-sac which will be maintained by MCDOT. Consistent with vehicular movements within a traditional cul-de-sac street design, vehicular movement into the Landgreen Street extension will occur in a counterclockwise fashion. Landgreen Street is proposed to be constructed in accordance with MCDOT standard 2001.02 & 222.01, proposed to be modified to an oval shaped cul-de-sac with green space in the center and stormwater management facilities which will treat the majority of the runoff from the public right-of-way with minimal runoff from private properties.

Existing Transit Service

The Subject Site is serviced by Montgomery County Ride-On bus service, with existing bus stops located along Aspen Hill Road and Parkland Drive. The nearest public transit routes are as follows:

- Ride On Route 26 operates along Aspen Hill Road, providing service between the Montgomery Mall Transit Center, the Aspen Hill and Wheaton Woods neighborhoods, and the White Flint, Twinbrook, and Glenmont Metrorail stations.
- Ride On Route 48 operates along Parkland Drive, providing service between the Rockville and Wheaton central business districts, Aspen Hill, and the Rockville and Wheaton Metrorail stations.

According to the 2013 *Countywide Transit Corridors Functional Master Plan*, the future Veirs Mill Bus Rapid Transit service is planned to have a station at the Veirs Mill Road-Aspen Hill Road intersection, to the southwest of the Property.

Pedestrian and Bicycle Facilities

Currently, the off-site segment of Landgreen Street between the Subject Property and Marianna Drive has four-foot-wide sidewalks and 11-foot-wide green panels. The intersection of Landgreen Street and Marianna Drive has marked crosswalks and handicap ramps across Landgreen Street, but no crosswalks across Marianna Drive. The existing Landgreen Street between the Subject Property and Marianna Drive is 290 feet long with substandard four-foot-wide sidewalks that are proposed to be widened to five feet. Portions of the four-foot-wide sidewalks along the existing off-site southern frontage of Landgreen Street are proposed to be replaced in-kind in order to preserve two existing mature canopy trees.

An internal sidewalk path is proposed within the central green area within the modified cul-de-sac, to be accessed by new crosswalks from the sidewalks adjacent to the new single-family residences.

No bicycle facilities are planned along the Property's frontage of the Landgreen Street extension. Bidirectional sidepaths are planned along the northern frontages of Aspen Hill Road and Renn Street, within the immediate area.

Master-Planned Roadways, Bikeways, and Transitways

Marianna Drive and the segment of Landgreen Street between the Subject Property and Marianna Drive function as Secondary Residential Streets within 60-foot wide rights-of-way, however, Landgreen Street is not formally classified within the 1994 *Aspen Hill Master Plan*. Landgreen Street Extended, within the Subject Property, is proposed to be a Tertiary Residential Street.

b) Local Area Transportation Review (LATR)

Transportation Adequate Public Facilities (APF) Review

The Applicant submitted a traffic statement to satisfy the Local Area Transportation Review (LATR). The proposed 13 new single-family detached units will generate 16 person trips within the AM peak-period (6:30 to 9:30 a.m.) and 21 person trips within the PM peak-period (4:00 to 7:00 p.m.). In accordance with the 2020-2024 *Growth and Infrastructure Policy*, a traffic study is not required because the number of morning and evening peak period person trips is fewer than 50.

c) Other Public Facilities and Services

Based on the following school cluster and individual school capacity analysis performed using the FY2022 Annual School Test, there is adequate school capacity for the amount and type of development proposed by this application.

Overview and Applicable School Test

The FY2022 Annual School Test, approved by the Planning Board on June 17, 2021 and effective July 1, 2021 is applicable to this Application. This Plan increases the prior approval by eight (8) single-family detached units for a total of thirteen (13) units².

School Adequacy Test

The Project is served by Brookhaven ES, Parkland MS and Wheaton HS. Based on the FY22 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

² The FY2022 Annual School Test already incorporated the previous approved 5 units from Preliminary Plan 120160060, thus the current applicant is required to test for increase per the amendment for the 8 units.

Table 2: Applicable FY2022 School Adequacy

School	Projected School Totals, 2025				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/ Deficit		Tier 1	Tier 2	Tier 3
Brookhaven ES	470	445	94.7%	+25	No UPP	110	127	190
Parkland MS	1,216	1,118	91.9%	+98	No UPP	224	342	524
Wheaton HS ³	2,234	2,082	93.2%	+152	No UPP	332	599	934

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school's adequacy status and ceilings, as determined in the Annual School Test. **Under the FY2022 Annual School Test, Brookhaven ES, Parkland MS and Wheaton HS do not require any UPP.** If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

Calculation of Student Enrollment Impacts

To calculate the number of students generated by the proposed amendment, the number of dwelling units is multiplied by the applicable School Impact Area student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low-rise multifamily unit, or high-rise multifamily unit.

With a net increase of 8 single-family detached units that are not age-restricted, the proposed Amendment is estimated to generate the following number of students based on the subject Property's location within a Turnover Impact Area:

³ Projected enrollment reflects the estimated impact of CIP P651908, which will reassign students between the Downcounty Consortium, Walter Johnson HS and Woodward HS in 2025.

Table 3: Estimated Student Enrollment Impacts

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
SF Detached	8	0.185	1.480	0.108	0.864	0.154	1.232
SF Attached	0	0.225	0.000	0.123	0.000	0.159	0.000
MF Low-rise	0	0.107	0.000	0.058	0.000	0.070	0.000
MF High-rise	0	0.051	0.000	0.024	0.000	0.030	0.000
TOTALS	8		1		0		1

As shown in Table 3, on average, this project is estimated to generate one elementary school student, no middle school students and one high school student. The number of students generated does not exceed the adequacy ceilings identified for each school in Table 2, therefore no additional UPPs are required and neither are partial payments across multiple UPP tiers.

Analysis Conclusion and Condition of Approval

Prior to issuance of each building permit for the 8 single-family detached units in this Preliminary Plan Amendment, the Applicant must obtain an assessment from Montgomery County Department of Permitting Services (MCDPS) for Utilization Premium Payments (UPPs) consistent with the Growth and Infrastructure Policy, as follows:

No UPP condition required.

Other Public Facilities

The proposed development will be served by public water and sewer systems. The Montgomery County Department of Permitting Services Fire Department Access and Water Supply Section has reviewed the Application and has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services including police stations, firehouses and health care are currently operating in accordance with the Growth and Infrastructure Policy and will continue to be sufficient following construction of the project. Electric, gas and telecommunications services are available and adequate.

4. All Forest Conservation Law, Chapter 22A requirements are satisfied.

A Final Forest Conservation (FFCP) was approved in conjunction with Preliminary Plan No. 120160060. However, the plan was never implemented and due to the change in layout, the FFCP associated with Preliminary Plan No. 12016006A replaces the previously approved FFCP.

Environmental Guidelines

Staff approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) No. 420221250 on January 12, 2022, reflecting the current tree sizes. The approximately 4.08-acre Property is currently developed with a swimming pool and associated asphalt surface parking lots and grass lawns with scattered trees. There are no forest or streams but there are large and specimen trees on-site. The proposed plan is in conformance with the *Environmental Guidelines*.

Final Forest Conservation Plan

The Applicant has submitted a Final Forest Conservation Plan (FFCP) (Attachment B) with the Preliminary Plan. While there is no forest on the Subject Property, there is a forest conservation requirement based on the Property area and land use. The forest conservation requirements of 0.65 acres will be met in an off-site mitigation bank or by fee-in-lieu payment if no banks are available. The FFCP shows the proposed development and all disturbance necessary for development. As submitted, and including approval of the accompanying variance request, the plan complies with Chapter 22A, Forest Conservation.

Tree Variance

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater, DBH; are part of a historic site or designated with a historic structure; are designated as a national, State, or County champion tree; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. The Applicant submitted a variance request on December 1, 2021 to remove eight (8) trees and to impact but not remove five (5) trees that are considered a high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

Unwarranted Hardship

The proposed development is in accordance with both the intent and recommendations of the 1994 *Aspen Hill Master Plan* and the Site's R-90 zoning. The Subject Property is infill development and is surrounded by single-family houses. The variance trees are spread all over the Property and are not located in a single location that could be easily avoided. It would be impossible to demolish the existing swimming pool and parking lot without impacting variance trees, and thus a significant and reasonable use of the Property for single family homes would not be possible. For these reasons, the Applicant has demonstrated a sufficient unwarranted hardship to consider a variance request.

Table 4: Variance Tree Removals

ID	Species	Size DBH	Condition	Notes
2	Pinus strobus / White Pine	30.5"	Good	Demolition, grading, and site development.
3	Pinus strobus /White Pine	33"	Good	Demolition, grading, and site development.
4	Quercus falcata / Southern Red Oak	43.75"	Good	Demolition, grading, and site development.
8	Platanus occidentalis / Sycamore	30.5"	Good	Demolition, grading, and site development.
10	Acer rubrum / Red Maple	41.5"	Good	Demolition, grading, and site development.
13	Pinus strobus /White Pine	35.25"	Good	Grading and site development.
14	Pinus strobus /White Pine	32"	Fair	Grading and site development.
19	Quercus rubra / Red Oak	38"	Good	Demolition and site development.

Table 5: Variance Tree Impacts

ID	Species	Size DBH	Condition	% Disturbed	Notes
20	Acer rubrum / Red Maple	32"	Good	22%	Demolition and grading.
23	Liriodendron tulipifera / Tulip Poplar	41"	Good	30%	Grading and site development.
24	Quercus palustris / Pin Oak	37.5"	Good	15%	Grading and stormwater management.
35	Acer rubrum / Red Maple	37"	Good	24%	Sewer and site development.
36	Acer rubrum / Red Maple	32.5"	Good	12%	Site development.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted.

a) Variance Findings

The following determinations are based on the required findings for granting of the requested variance:

- i. ***Will not confer on the applicant a special privilege that would be denied to other applicants.***

The Applicant cannot demolish the existing development without disturbing four (4) of the variance trees. The impacts to the remaining trees are caused by the development requirements of an infill development and the relationship of the Property to adjacent properties. The location of the Property at the end of Landgreen Street means that any development on the Property will require the Applicant to construct a cul-de-sac to terminate the public road. The need to construct a cul-de-sac combined with the requirements of infill development determines the overall area of disturbance. Thus, granting the variance will not confer a special privilege on the Applicant.

- ii. ***Is not based on conditions or circumstances which are the result of the actions by the applicant.***

The requested variance is based on the locations of the trees, the necessity of demolishing the existing development, and providing the required infrastructure for redevelopment. The variance is not based on conditions or circumstances which are the result of actions by the Applicant.

iii. ***Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.***

The requested variance is a result of the need to demolish the existing development and redevelop the Property and not a result of land or building use on a neighboring property.

iv. ***Will not violate State water quality standards or cause measurable degradation in water quality.***

Mitigation must be provided for removal of these trees by planting native shade trees of at least three inches caliper, each, within the new development. The Applicant will plant 72-inch caliper of native shade trees to replace the form and function of the variance trees proposed for removal. This is based on Planning Department policy that requires replacement of variance trees at a rate of 1 inch replaced for every 4 inches removed, using replacement trees of no less than 3-inch caliper, to replace lost environmental functions performed by the trees removed. These mitigation plantings will provide sufficient tree canopy in a few years to replace the lost water quality benefits of the variance tree being removed. Therefore, the Project will not violate State water quality standards or cause measurable degradation in water quality.

The Planning Board approves the variance.

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

The Applicant received approval of their stormwater management concept from the Montgomery County Department of Permitting Services, Water Resources Section on October 19, 2021. The concept meets required stormwater management goals using a combination of ESD approaches including micro-bioretenion areas and landscape infiltration. The Property is not subject to a

water quality plan, and there are no floodplain requirements. The requirements of Chapter 19 for stormwater management are satisfied.

- 6. Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.**

Not applicable to this Property.

- 7. Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied.**

No other provisions apply to the Subdivision.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB 22 2022 (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 Verma, seconded by Commissioner Rubin, with Chair Anderson and Commissioners Cichy, Verma, and Rubin voting in favor of the motion, and Commissioner Patterson absent at its regular meeting held on Thursday, February 17, 2022, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board