

WISTERIA BUSINESS PARK: PRELIMINARY PLAN NO. 120220030
LIDL GERMANTOWN: SITE PLAN NO. 820220080



Description

Application to create one lot for the construction of a 30,000 square foot LIDL grocery store and one outlot for an existing surface parking lot.

No. 120220030
No. 820220080
Completed: 7-15-2022

MCPB
Item No. 5
7-28-2022

Montgomery County
Planning Board
2425 Reedie Drive, Floor 14
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LOCATION/ADDRESS

On Walter Johnson Road, 225 Feet South of Wisteria Drive

MASTER PLAN

2019 MARC Rail Communities Section Plan

ZONE

CR-1.0, C-0.75, R-0.75, H-75

Germantown Transit Mixed Use Overlay Zone

PROPERTY SIZE

Preliminary Plan: 3.59 Acres

Site Plan: 2.78 Acres

APPLICANT

LIDL US Operations, LLC

ACCEPTANCE DATE

December 15, 2021

REVIEW BASIS

Ch. 59, 50 &22A



Summary:

- Staff recommends approval with conditions of the Preliminary Plan and Site Plan including a Preliminary/Final Forest Conservation Plan.
- The Preliminary Plan includes abandonment of a portion of the Walter Johnson right-of-way (AB 779).
- The Application extends Walter Johnson Road north through the site to Wisteria Drive which greatly improves bike, pedestrian and vehicular connectivity.
- The Application includes significant on-site and off-site bike and pedestrian improvements.
- The Application activates the Walter Johnson Road frontage with a public plaza, seating, landscaping, lighting, architectural materials, and artwork.
- The Applicant is seeking relief from the Building Orientation, Transparency and Blank Wall requirements along the façade facing Walter Johnson Road, pursuant to Section 59.4.5.3.C.
- The Applicant is seeking modified Build-to-Area's along the building's frontage on Walter Johnson Road and Germantown Road (MD 118).

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN NO. 120220030

Preliminary Plan No. 120220030: Staff recommends approval with conditions of the Preliminary Plan to create one lot and one outlot. All site development elements shown on the latest electronic version of the Preliminary Plan as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions:

GENERAL APPROVAL

1. This Preliminary Plan is limited to one (1) lot for up to 30,000 square feet of commercial uses and one (1) outlot for a surface parking lot. A Preliminary Plan Amendment is required, prior to any future development on the outlot.

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 (3) years 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 July 15, 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.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
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 May 27, 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 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 March 16, 2022, 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.

OTHER APPROVALS

Clearing/ Grading/ Demolition

9. Except for clearing and grading associated with the demolition of the existing building and paving, the Applicant must receive Staff certification of a Site Plan before submitting a record plat application. The number and location of site elements including but not limited to buildings, on-site parking, site circulation, sidewalks and shared pathway is determined through Site Plan review and approval.
10. Except clearing and grading associated with the demolition of the existing building and paving, there shall be no clearing or grading of the site prior to recordation of plat(s).
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

12. The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3 caliper inches totaling 92 caliper inches as shown on the approved Preliminary/Final Forest Conservation Plan. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

TRANSPORTATION

Frontage Improvements

13. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
 - a) All land necessary to accommodate fifty (50) feet from the existing pavement centerline along the Subject Property frontage for Walter Johnson Road.

14. Prior to the release of the any above ground building permit, the Applicant must satisfy all necessary requirements of Maryland State Highway Administration (“MDSHA”) to ensure construction of a 10-foot wide sidepath along the Property frontage on MD 118.
15. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a 12-foot wide sidepath along the Property frontage on Walter Johnson Road.
16. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a 10-foot wide sidepath along the Property frontage on Wisteria Drive. This section shall include a bikeable crossing of the bank driveway to the proposed offsite sidepath immediately to the north.
17. The existing bank driveway access to Wisteria Drive must include a concrete right-in right-out channelization.

Off-Site Improvements

18. Prior to the release of any above ground building permit, the Applicant must ensure construction of the following off-site improvements by satisfying MCDOT and/or MDSHA requirements to construct:
 - a. An 8-foot wide sidepath along the north side of Walter Johnson Road that extends approximately 275 feet between Bowman Mill Drive and the frontage of the Subject Property. This section must include a bikeable crossing at Bowman Mill Drive.
 - b. A 10-foot wide sidepath along the west side of Wisteria Drive that extends approximately 170 feet between Germantown Road and the existing bank driveway on Wisteria Drive.
 - c. A 10-foot wide sidepath along the south side of Germantown Road that extends approximately 185 feet between Wisteria Drive and the Property line of the Subject Property, connecting to the proposed sidepath along the Property frontage.
 - d. A minimum 10 ft-wide bikeable crossing of Walter Johnson Road at the western leg of the Walter Johnson Road / Wisteria Drive intersection.

Drive Aisles

19. The Applicant must provide two drive aisles as illustrated in the Preliminary Plan: one an extension of the residual stub of Walter Johnson Road running to the east to the existing ingress/egress and utility easement on Lot 2 and Outlot A; and one running north from Walter Johnson Road to the proposed parking lot.

RECORD PLATS

20. The record plat must show necessary easements.

21. The record plat must reflect common ingress/egress and utility easements over all shared driveways.

Notes and Labels

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

CERTIFIED PRELIMINARY PLAN

24. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
25. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan 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.

26. Prior to submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
 - a. Show resolutions and approval letters on the certified set
 - b. Illustrate a concrete right-in right-out channelization to the existing bank driveway access to Wisteria Drive

SITE PLAN APPLICATION NO. 820220030

Staff recommends approval of Site Plan No. 820220080. The Applicant must comply with the conditions of approval for the concurrent Preliminary Plan No. 120220030. 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:¹

Density, Height & Housing

¹ For the purposes 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.

1. Density

The Site Plan is limited to a maximum of 30,000 square feet of commercial uses on the 2.78-acre Site.

2. Height

The development is limited to a maximum height of 35 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

Open Space, Facilities and Amenities

3. Public Open Space, Facilities, and Amenities

- a. The Applicant must provide a minimum of 18,770 square feet of public open space (12% of net lot area) on-site.
- b. Prior to Use and Occupancy Certificate, the Applicant must construct the streetscape improvements, including the undergrounding of utilities, along the Property's frontages.
- c. Prior to Use and Occupancy Certificate, all public open space areas on the Subject Property must be completed.
- d. Landscape buffers between sidewalk and streets or drive aisles as illustrated on Certified Site Plan.

4. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to plaza, seating, landscaping, building mural, and historic signage.

Environment

5. Forest Conservation & Tree Save

The Applicant must comply with the following conditions of approval for the Preliminary/Final Forest Conservation Plan No. 820220080, approved as part of this Site Plan:

- a. 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.
- b. The Applicant must comply with all tree protection and tree save measures shown on the approved Preliminary/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.
- c. Prior to the start of 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 Seneca Creek Watershed to satisfy the reforestation requirement for a total of 1.58 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 Seneca Creek Watershed, or by making a fee-in-lieu payment if mitigation credits are not available at any M-NCPPC approved forest bank.

- d. Prior to the start of 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 mitigation trees and maintenance of those trees, credited toward meeting the requirements of the Final Forest Conservation Plan.
- e. Prior to the start of 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 the General Counsel. The MMA is required for all mitigation tree plantings, including variance tree mitigation plantings credited towards meeting the requirements of the Forest Conservation Plan. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.
- f. Within the first planting season following the release of the first 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 install the variance tree mitigation plantings as shown on the approved Final Forest Conservation Plan.
- g. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Preliminary/Final Forest Conservation Plan.

6. Historic Preservation

The Planning Board has reviewed and accepts the recommendations of the Historic Preservation Commission (HPC) in its letter dated March 23, 2022, and incorporates them as conditions of Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter.

- a) The portion of the of the environmental setting for the historic site on the Site, must be clearly delineated on the Certified Site Plan. Any alterations within the environmental setting (i.e., new construction, grading changes, tree removal, fence installation, retaining walls, and alterations to the historic house) will require review and approval through the Historic Area Work Permit process (HAWP).

Transportation & Circulation/Adequate Public Facilities (APF)

7. Transportation

- a) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated July 14, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- b) Prior to the issuance of any building permit, the Applicant must obtain approval of a Project-based Transportation Demand Management Plan (TDM) from the Montgomery County Department of Transportation (MCDOT).

8. Bicycle Parking

- a) The Applicant must provide a minimum of 1 long-term and 3 short-term bicycle parking spaces.
- b) The long-term space must be in a secured, well-lit room on the ground floor and the short-term spaces must be inverted-U racks (or approved equal) installed along the building's retail frontage. The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.

Site Plan

9. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations of the submitted architectural drawings, as determined by M-NCPPC Staff.

10. Lighting

- a) Prior to certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c) Deflectors will be installed on all proposed fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by streetlights within the right-of-way.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

11. Artwork

The Applicant must consult with the Arts and Humanities Council and Historic Preservation Commission with respect to mural artist selection and appropriate design suggestion(s).

12. Site Plan Surety and Maintenance Agreement

Prior to release of any above grade building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, site furniture, trash enclosures, railings, signage, private drive-aisles and sidewalks, private utilities, paths, artwork and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and streetlights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

13. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

14. Certified Site Plan

Before approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, MCDPS Right-of-way letter, development program, and Site Plan resolution on the approval or cover sheet(s).
- b) Add a note to the Site Plan stating that “M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading.”
- c) Include the approved Fire and Rescue Access plan in the Certified Site Plan.

- d) Add a note stating that “Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services.”
- e) Modify data table to reflect development standards approved by the Planning Board.
- f) Provide designs of pedestrian crossings at the intersection of the two main drive aisles to illustrate raised “table-style” crossings and note on plan sheets.
- g) Provide specifications for light pole based on the Landscape and Light Plans and removed obsolete light pole specifications.
- h) Add a note stating, “the light poles along the southwestern edge of the LIDL parking lot must be mounted flush with the paved surface”.
- i) Identify the indoor long-term bicycle parking space.
- j) Ensure consistency of all details and layout between Site and Landscape plans.

SECTION 2: OVERVIEW

OVERVIEW

The following staff report (“Staff Report”) provides a description, analysis and the necessary findings for Wisteria Business Park, Preliminary Plan No. 120220030, and LIDL Germantown, Site Plan No. 820220030, collectively referred to as Applications (“Applications”). The Preliminary Plan and Site Plan applications (Applications) are being reviewed concurrently; however, the Site Plan boundary does not include the portion of the Subject Property that is being recorded as an Outlot (as identified on Figure 1), because the parking lot use is existing, will continue to serve the Credit Union on Lot 2, and will not be altered. For the purposes of this Staff Report, the Preliminary Plan area is referred to as the subject property or property (“Subject Property” or “Property”) and the Site Plan area is referred to as the LIDL property (“LIDL Property”). Due to the unique site conditions and building requirements, the Applicant is requesting the following modifications and reduced dedication, which Staff supports:

Preliminary Plan

- Reduced right-of-way dedication for Wisteria Drive; and
- Creation of a through lot (no rear yard).

Site Plan

- Modified Build-to-Area on Walter Johnson Road and Germantown Road;
- Modification of certain building orientation and transparency requirements on Walter Johnson Road; and
- Parking between front building line on Germantown Road.

Staff received community correspondence regarding the Application’s conformance to the 2019 *MARC Rail Communities Sector Plan*, historic preservation recommendations, development stands and vehicle and pedestrian safety, which is detailed in the Community Correspondence Section of the Staff Report. Staff recommends approval of the Preliminary Plan and the Site Plan, with conditions.

SECTION 3: SITE DESCRIPTION

VICINITY

The Subject Property is located in the southern quadrant of the intersection of Germantown Road (MD 118) and Wisteria Drive in Germantown, Maryland and encompasses the northeast two thirds of a part of a commercial block of properties, bound by Germantown Road, Bowman Mill Drive, Walter Johnson Road and Wisteria Drive.

The Germantown MARC Rail Station is located just west of the Subject Property, and Seneca Valley High School, is located to the southeast on Wisteria Drive.

To the east and northeast, the Subject Property abuts the Mid-Atlantic Federal Credit Union (“Credit Union”), which is zoned CR-1.0, C-0.75, R-0.75, H-75, and has contracted to sell a portion of its property to Lidl as part of the proposal.

To the west and southwest, the Subject Property abuts a 7-11 convenience store and a Verizon sub-station that are separated from one another by a roadway which, is also called Walter Johnson Road, a dedicated, but privately maintained road. The Verizon and 7-11 properties are also zoned CR-1.0, C-0.75, R-0.75, H-75. Throughout this Staff Report, the proposed existing road between the Verizon and 7-11 store is referred to as “Walter Johnson North” and the road that borders the Subject property to the southeast as “Walter Johnson Road” (Figure 1). All the above properties are within the Germantown Transit Mixed Use Overlay (“GTMU”) Overlay Zone.

Across Walter Johnson Road are a series of commercial uses zoned CR-1.0, C-0.75, R-0.75, H-60. Across MD 118 are commercial and industrial uses zoned CRT-1.0, C-0.75, R-0.75, H-65.

PROPERTY DESCRIPTION

The Subject Property is comprised of multiple pieces of land (Figure 1). The Applicant is under contract to purchase Lot 1, Parcel P965, approximately half of Lot 3, and the Applicant is in the process of seeking

abandonment of a remnant portion of existing right-of-way that runs through the center of the Property from Walter Johnson Road.



Figure1 - Aerial Map

The Subject Property is zoned CR-1.0 C-0.75 R-0.75 H-75 and the GTMU Overlay zone. A portion of the Property is also located within the boundaries of the Madelyn V. Waters Historic Site (19/013-001A). The Subject Property is within the Germantown section of the 2019 *MARC Rail Communities Sector Plan* ("Sector Plan").

Existing Lot 1 is improved with an 11,450 square foot, single-story office building fronting on MD 118 and a surface parking lot. Lot 3 is improved with a surface parking lot that serves a Credit Union on Lot 2 (not part of this Application). The remainder of the Property is undeveloped and forested and is accessible from two existing private commercial drive aisles, one from Wisteria Drive and one from Walter Johnson Road. The Property slopes gently from the western corner on MD 118 to the eastern Property line along Walter Johnson Road.

The Property is located within the Middle Great Seneca Creek watershed, which is classified as Use Class IV-P Waters by the State of Maryland. The Property contains 1.33 acres of existing forest in the western portion of the Property; does not contain any streams, wetlands, floodplain, stream buffers, or highly erodible soils; has slopes greater than 25 percent located adjacent to MD Route 118; has no documented rare, threatened or endangered species on the Property; is served by public water and sewer; and there are no known cemeteries on the Subject Property.

SECTION 4: PROJECT DESCRIPTION

PREVIOUS APPROVALS

DEVELOPMENT PLAN AMENDMENT (DPA) 95-1

On May 3, 1990, the County Council approved Development Plan Amendment No. 95-1 (Zoning Application G-649) to rezone the 3.87 acres property from R-200 to the O-M Zone and permit development of lots 1-3.

DEVELOPMENT PLAN AMENDMENT 95-1 (AMENDMENT)

On February 7, 1995, the County Council approved an amendment to approved DPA No. 95-1 to replace the approved office use with a 10,315 square foot childcare facility, with up to 200 children.

PRELIMINARY PLAN 119900680

The Planning Board, by Opinion dated October 26, 1995, approved Preliminary Plan No. 119900680, to create one 3.92-acre lot in the O-M zone for up to 20,000 square foot of office, 7,450 square foot of retail, 3,000 square foot bank and a daycare with up to 200 children. Approval of this Preliminary Plan will supersede Preliminary Plan No. 119900680 for Lots 1 and 3. Lot 2 is not affected since it is already built out.

SITE PLAN NO. 819960130

On January 25, 1996, the Planning Board, by Opinion dated February 15, 1996, approved Site Plan No. 819960130, for the construction of a 10,416 square foot office, a 4,054 square foot retail building associate parking on lot 1 (1.1 acres). Only the office and associated parking were constructed.

SITE PLAN NO. 819990030

On December 17, 1998, the Planning Board, by Opinion dated January 14, 1999, approved Site Plan No. 819990030, for the construction of an 8,283 square foot daycare on lot 3, but was never constructed.

[SITE PLAN NO. 819990100](#)

On December 17, 1998, the Planning Board, by Opinion dated January 14, 1999, approved Site Plan No. 819990100, for the construction of a 15,450 square foot office/bank on lot 2, but was never constructed.

[SITE PLAN NO. 820030180](#)

On May 20, 2003, the Planning Board, by Opinion dated June 20, 2003, approved Site Plan No. 820030180, for the construction of a bank with a drive-through on lot 2 and surface parking on lot 3.

[CONCEPT PLAN NO. 520210200](#)

On June 8, 2021, Concept Plan No. 520210200 for a Lidl Grocery store was discussed at the Development Review Committee meeting. Staff identified concerns related to the location and orientation of the building to streets, including the recommendation to continue the vehicular connection of Bowman Avenue and the existing drive-aisle to the south of the credit union. The current Application includes revisions consistent with the direction provided at Concept Plan.

PROPOSAL

The Applicant proposes to consolidate the Property into one lot for the 30,000 square foot Lidl Grocery store, associated parking, a private connection between Walter Johnson Road North, Walter Johnson Road and Wisteria Drive and other frontage and off-site improvements. The existing building on Lot 1 will be demolished, and the remainder of Lot 3 will be recorded as an Outlot to continue to provide parking for the Credit Union on Lot 2. No improvements or modifications are proposed on the Outlot as part of the Preliminary Plan, except for replanting an allee of historically significant trees and providing frontage improvements. Any future development on the Outlot will require a Preliminary Plan Amendment.

The Applicant is providing 18,770 square feet or 12% of Public Open Space which includes a public plaza, with seating, specialty paving, extensive landscaping, vegetated structural stormwater management features and a mural, two linear open spaces on either side of the private connection, which includes specialty pavers and street trees.

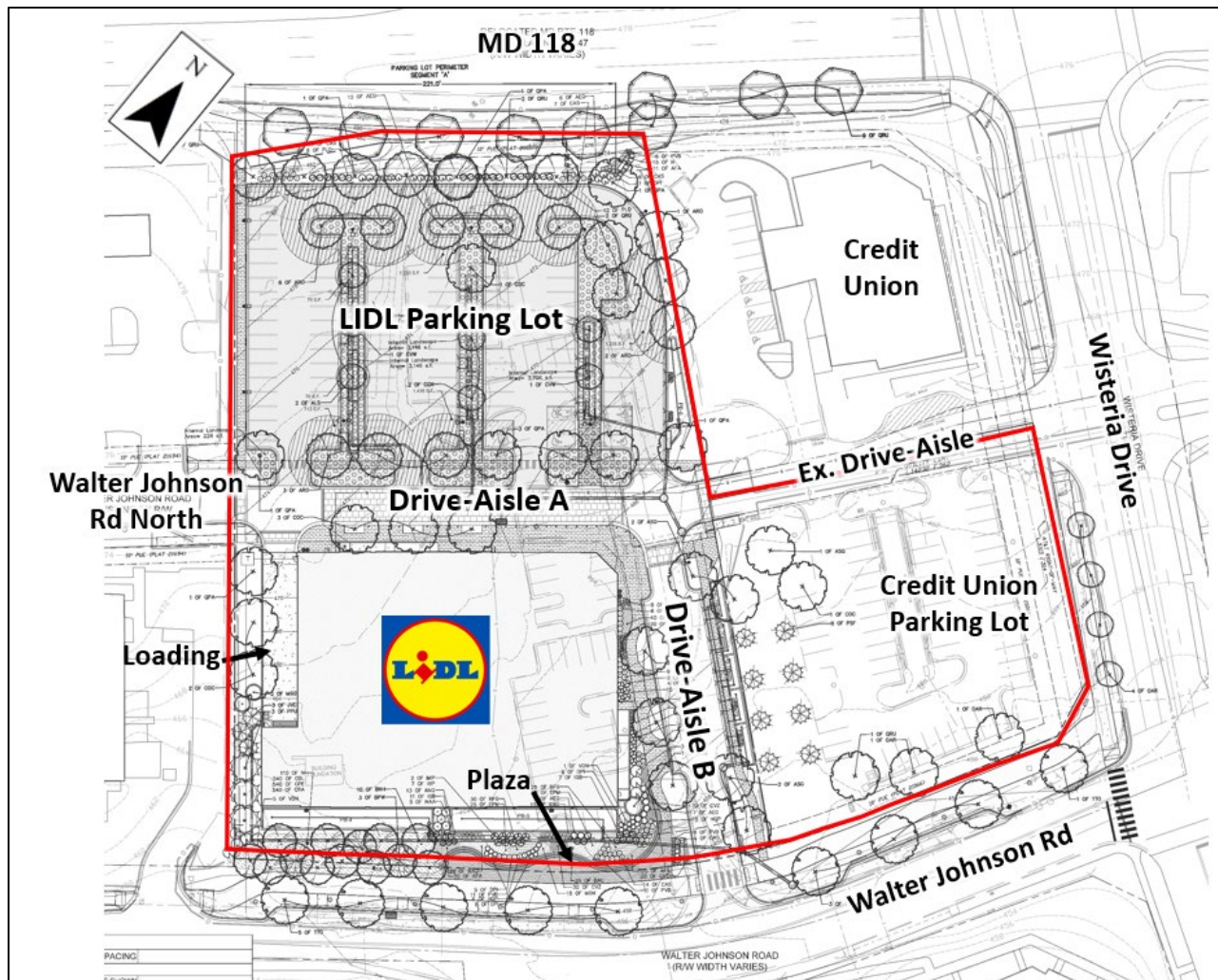


Figure 2 – Preliminary and Site Plan

Stormwater management goals will be met via micro bioretention planter boxes. A partial stormwater management waiver has also been requested due to the site constraints.

The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3 caliper inches totaling 92 caliper inches as shown on the Preliminary/Final Forest Conservation Plan.

SITE DESIGN AND ARCHITECTURE

The Applicant is creating a through-block connection, by extending a private drive-aisle (“Drive-Aisle A”) through the Subject Property, connecting to the existing drive aisle between the Credit Union and existing parking lot, to the southeast. Between the northeastern façade of the LIDL building and the existing parking lot, a second new drive-aisle will be constructed (“Drive-Aisle B”), connect Drive-Aisle A to Walter Johnson Road. The main entrance to the grocery store will be chamfered and located on the

north corner of the building across from the parking lot at the intersection of the new drive-drives. The midblock street connects from the existing terminus of Walter Johnson Road North via Drive-Aisle A provides direct pedestrian access to the grocery store entrance from the MARC station. This midblock connection is a private drive-aisle, but will function same as a typical street and will also serve as the primary vehicular access point to the grocery store parking lot. The street will have sidewalks, street trees and parking on both sides. The new parallel street will bisect the Lidl Germantown site. The parking lot for the grocery store will be located west of the new parallel street and the store, itself, will be on the east side of the new street. Both sides of the street will have a sidewalk and street trees; however, the trees on the southern side, adjacent to the grocery store, will be planted in tree pits. The entire length of the new parallel street within the Site will have stamped concrete pavers to help distinguish the street as part of the property. This is a similar solution to the treatment of the parking lot cut thru at the Safeway in Olney, Maryland.

Parallel parking will be provided on the west side of the drive. Against the building, the frontage will have an extensive landscaped area that includes a grove of birch trees and a gathering plaza with a seating wall near the intersection with the new midblock street. The plaza will also have commemorative signage for the Madeline V. Waters House that once stood near the Site.

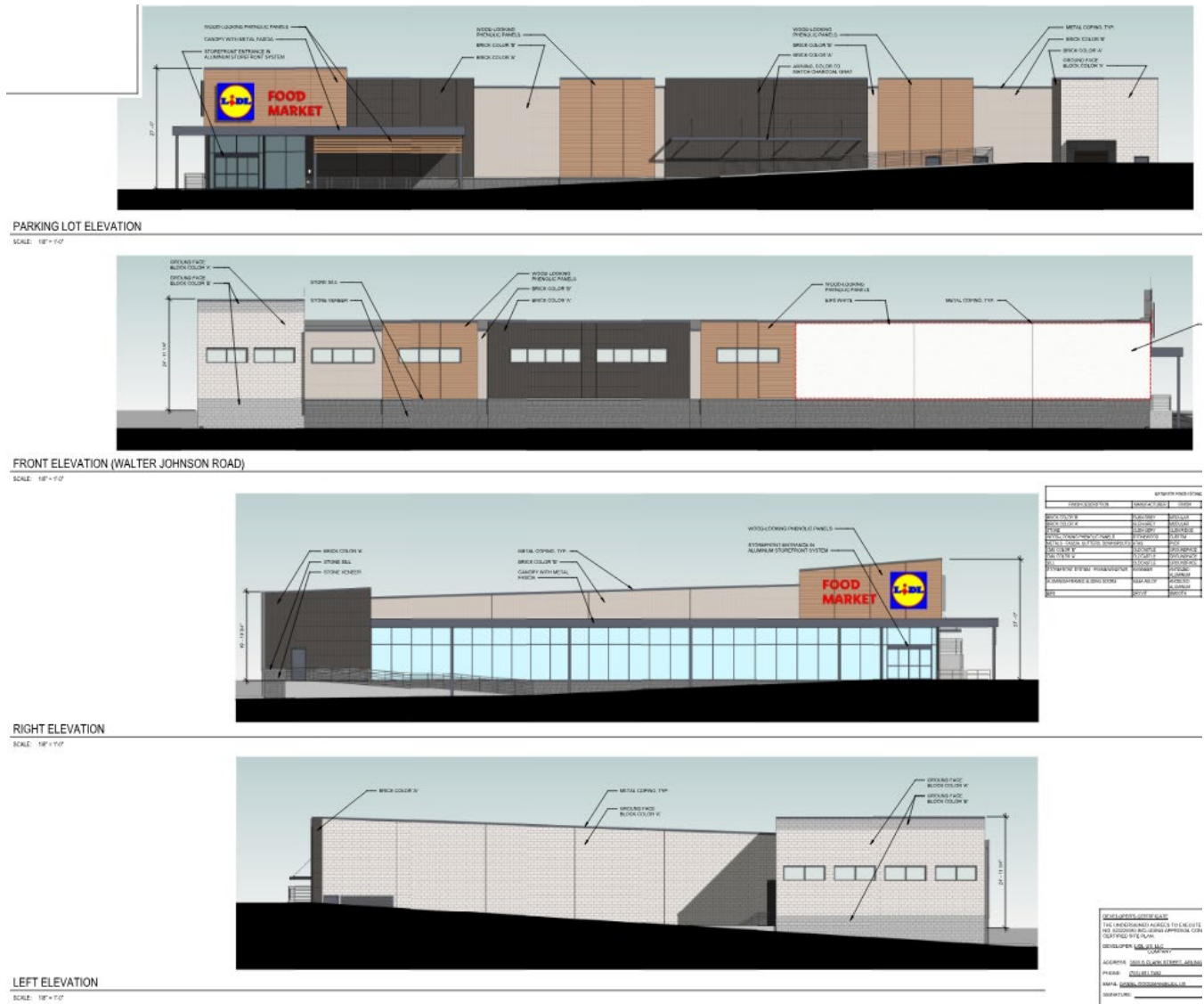


Figure 3 – Elevations

The Walter Johnson Road elevation is divided into two sections. The south section of the façade will be similar to the parking lot elevation and have the façade broken into bays through the use of material changes between dark and light grey brick, phenolic panels, and grey block. The bays will be punched with clearstory windows to provide light into the grocery store. The northern section of the façade in front of the plaza and stepped concrete seating wall will have a mural depicting the history of the Germantown area.

The loading dock elevation may be partially visible to pedestrians as they walk north along Walter Johnson Road. The façade of the loading dock area has been articulated with this in mind. The elevation will consist of primarily light-toned concrete block. However, the portion closest to Walter Johnson Road will have light and mid-toned grey concrete blocks and clearstory windows will punch the upper portion of the bay.

The proposed architectural elements work with the streetscape elements to enhance visual interest along three road frontages. The midblock connector street elevation, which is designated as the right elevation, has expansive amounts of glass and a dark grey metal canopy covering a portion of the sidewalk to attract pedestrians walking from Walter Johnson Road. The roofline of this elevation will be angled. Above the canopy, the entrance will be marked with a horizontal, wood-looking phenolic panels with Lidl signage. The remainder of the façade will be defined by two-toned light and dark grey brick.

The glass, the wood-looking phenolic panels with the Lidl signage, and the canopy turn the corner to define the entrance to the parking lot elevation along the new parallel street. To add visual interest to this façade, the materials of the building then alternate between various colors of dark and light grey brick, phenolic panels, and ground face grey block near the loading dock area.

TRANSPORTATION

The Application was reviewed under the 2020 Growth and Infrastructure Policy (GIP) and 2022 Local Area Transportation Review (LATR), and a transportation study has been submitted as part of the Application. The Subject Property is located in a Bicycle and Pedestrian Priority Area. The Application includes significant on-site and off-site bike and pedestrian improvements to meet and advance these policies and guidelines. These improvements, including on-site and off-site sidepaths, new sidewalk connections and vehicular connects (Figure 4) will be discussed in greater detail in the findings section.

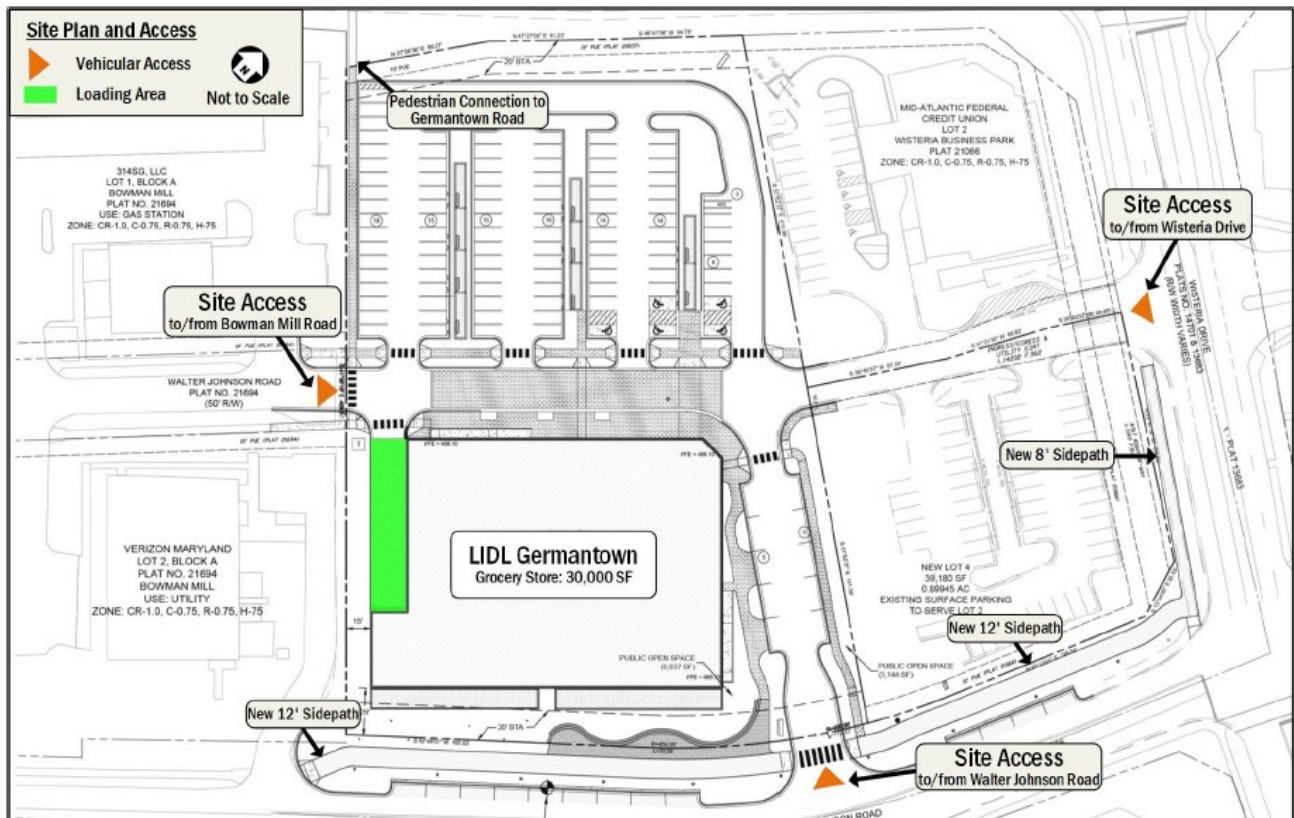


Figure 4 – Access

A designated space for daily truck deliveries is being provided via a truck loading parking and receiving dock on the westside of the LIDL building. Trucks will enter the Site from Bowman Mill Road to the west and back into the loading space. Delivery trucks will exit the Site east to Wisteria drive and return to I-270 via Germantown Road.

Abandonment of Land Dedicated for Public Use

A concurrent abandonment application (Abandonment Case 779 Walter Johnson Road) for a small portion of unused ROW attached to Walter Johnson Road has been submitted to MCDOT. A public hearing was held by MCDOT on February 16, 2022 and issued a letter of support for the abandonment. Planning Staff issued a letter of support for the abandonment request (Attachment 1). The abandonment request is currently being reviewed by the County Executive's office and then will be forwarded to the County Council for final action.

SECTION 5: PRELIMINARY PLAN 120220030 FINDINGS AND ANALYSIS

The Preliminary Plan would create one lot and one outlot on 3.59 acres of land, for a maximum density of up to 30,000 square feet of retail/service establishment uses. This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Application has been reviewed by other applicable agencies.

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 lot design is appropriate for the development or use contemplated

a. Creation of a through lot

Section 4.3.C.e. of the Subdivision Regulation states that the Board must not approve through lots, except where unusual topography, orientation, or the size of the subdivision permit no other feasible way to subdivide.

Proposed Lot 4 has frontage on MD 118 and Walter Johnson Road, making it a through lot with a front setback on both sides. However, the building is sited on Walter Johnson Road and the internal drive, and the topography of the site precludes vehicular connection from Germantown Road. Thus, the Applicant proposes to access the development from Walter Johnson North and Walter Johnson Road, with a public access easement over the private drive. Thus, circulation and access to the site will function as though the Property has been subdivided. The Applicant is not proposing new access to MD 118, other than for pedestrians. Creating a through lot comes with unique challenges associated with the development standards, and as a result, the Applicant is requesting modifications to the build-to-area standards. Staff supports the Applicant's request.

b) The Preliminary Plan provides for required public sites and adequate open areas

i. Master Planned Sites

The Sector Plan identifies part of the Subject Property for the creation of an open space (Figure 17 on Pg.37) and later, on page 80, goes on to describe the vision of establishing Water Johnson Road as a neighborhood main street with a variety of public open spaces. The Applicant has delineated an open space on the Outlot, framed by the new sidewalk on the east side of drive-aisle B and the existing parking lot. The open space coincides with the historic driveway which once accessed the historic Water's house north of MD118. The Applicant is replanting the historic allee of trees, that lined both sides of the original driveway and incorporating historically appropriate commemorative signage identifying the significance of the historic site.

As discussed in the Sector Plan Section below, the Applicant is providing all the necessary right-of-dedication and easements necessary public road, paths, utilizes and other public facilities, except for dedication of the right-of-way for Wisteria Drive.

a. Reduced right-of-way dedication for Wisteria Drive

The portion of the Subject Property occupied by a surface parking lot and proposed as an Outlot, has approximately 200 feet of frontage on Wisteria Drive, which is classified by the Sector Plan and 2018 Master Plan of Highways and Transitways as a business street with an ultimate right-of-way (ROW) width of 115 feet.

The Applicant is requesting that the right-of-way dedication for Wisteria Drive be reduced from 57.5 feet from the center line to between 43 and 45 feet (variation along frontage) from the road centerline, providing for 87 feet of ultimate ROW width instead of the recommended 115 feet.

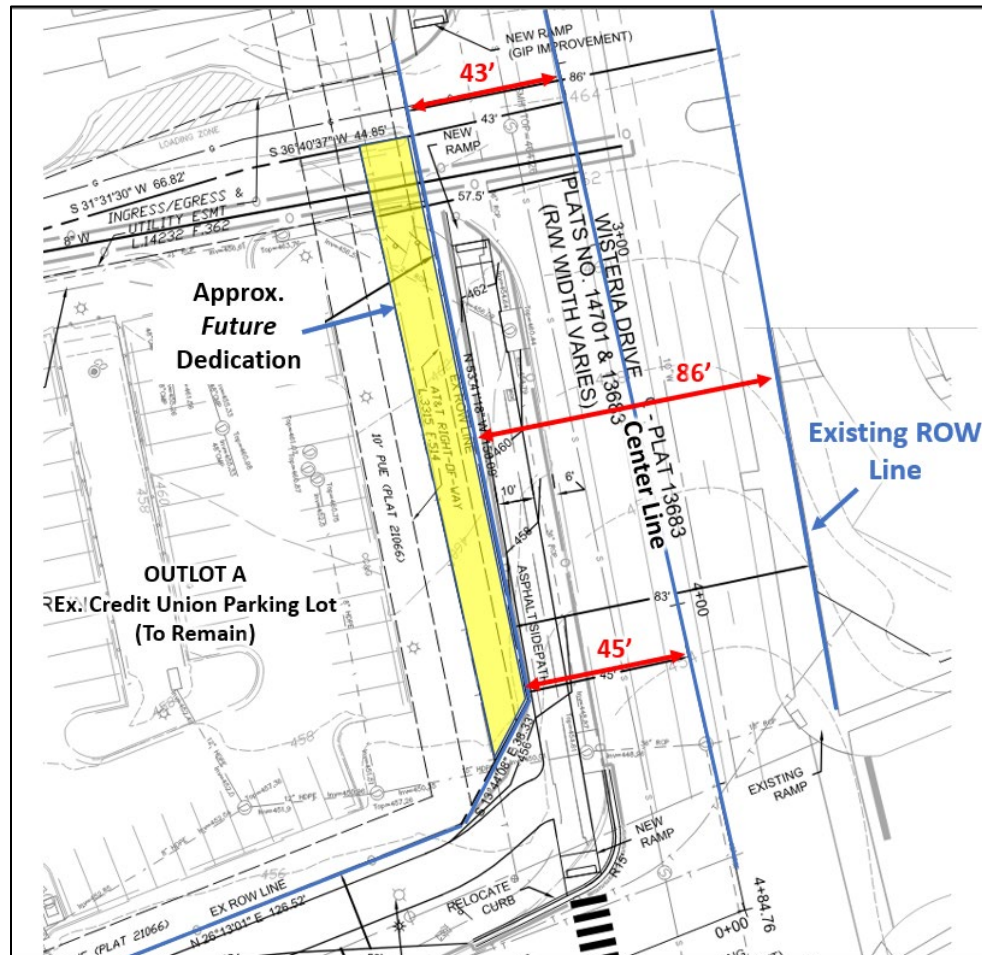


Figure 5 – Reduced Dedication

Staff supports the Applicant's request for a narrower right-of-way, because public improvements are still feasible as part of this Application and future dedication can be expected upon development of the existing parking lot.

Section 50.4.3.E.2.a.i gives the Planning Board the authority to approve a narrower than standard right-of-way. M-NCPPC Staff and MCDOT (Attachment 2) support the Applicant's proposal based on the existing and planned improvements in the section of the Property's frontage on Wisteria Drive.

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:

2. *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.*

The Applicant's request to reduce the right-of-way dedication for Wisteria Drive is the result of the presence of an existing AT&T utility easement which is beyond the Applicant's control. This easement area cannot be transferred to public ownership as a result of this Application. However, this reduction in dedication will not impact the

Master Plan cross section of Wisteria Drive as it is already constructed to the full 4 through-lane cross section envisioned, which adequately handles current and future vehicular traffic.

Additionally, the Applicant is constructing a 10-foot sidepath along the southwest side of Wisteria Drive between Germantown Road and Walter Johnson Road, within the existing right-of-way, which meets the Master Plan required minimum width; completing the Master Planned cross section. Furthermore, because, as on Outlot, any future development (other than use as a parking lot) will trigger further subdivision review and dedication of additional right-of-way. Additional space required for easements will either remain in the existing AT&T easement or in the future utilize a new 10 ft. wide utility easement immediately adjacent. While reviewing this application, the reduced ROW has been reviewed and approved by MCDPS and MCDOT.

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

The Preliminary Plan meets all applicable sections of the Subdivision Regulations. The size, width, shape and orientation of the proposed lot is appropriate for the location of the subdivision and proposed retail/service establishment use, taking into account the Commercial Residential zone, Germantown Transit Mixed Use (GTMU) Overlay zone and recommendations included in the 2019 *MARC Rail Communities Sector Plan*. Based on the CR-1.0, C-0.75, R-0.75, H-75 zoning, retail/service establishment with between 15,001 and 50,000 square feet is a permitted use in the CR zone under Section 59.3.1.6. A general building such as a grocery store is a permitted building type in the CR zone under Section 59.4.1.5.

Retail/service establishment is a permitted use in the CR zone and not a prohibited use in the Germantown Transit Mixed Use Overlay zone, per Section 4.9.11. The land use and development standards are the same as the underlying zone. The purpose of the overlay is to prioritize the purchase of Building Lot Terminations (BLT) by requiring public benefit points. Public benefit points and purchasing BLT's is not required for this Application, because the development is standard method, with site plan approval.

The lot was reviewed for compliance with the dimensional requirements of the CR zone, including area, frontage, width, and setbacks as specified in the Zoning Ordinance. A summary of this review and additional considerations are included below and within the Site Plan data table.

As shown on the Preliminary Plan and described in more detail in the Site Plan analysis section of this report, Lot 4 can adequately accommodate the proposed grocery store, inter-parcel connections, open space, stormwater management facilities, and public utility easements. The Preliminary Plan has been reviewed by other applicable county agencies, all of whom have recommended approval.

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

The Preliminary Plan substantially forms to the recommendations in the 2019 *MARC Rail Communities Section Plan* and 1985 *Amendment to the Master Plan for Historic Preservation*. The 2020 *Bicycle Master Plan*, and the 2021 *Complete Street Design Guidelines*.

2019 APPROVED AND ADOPTED MARC RAIL COMMUNITIES SECTOR PLAN

The Vision statement for the Germantown portion of the 2019 *Approved and Adopted MARC Rail Communities Sector Plan* states “the Germantown plan area is envisioned as a compact, connected and walkable neighborhood with a mix of land uses. These uses include community- and commuter-serving retail, a range of housing options and parking structures for MARC commuters near the station. The historic integrity of the station area is maintained through the preservation and adaptive reuse of historic structures, while the design and placement of new buildings are sensitive to the historic scale and character. A variety of public spaces and dedicated open spaces accommodates community gatherings and enhance existing public events, such as the flea market that draws visitors to the area.

Walter Johnson/Liberty Mill Road, the historic alignment of MD 118, is revitalized as a neighborhood main street, while an enhanced street network improves access to the station and provides a safer and more comfortable environment for walking and bicycling. The interconnected street grid and redesigned streets near a newly rebuilt Seneca Valley High School support increased walking, biking and student safety.”

The recommendations in the Sector Plan for the Germantown area are geared toward supporting this vision and transforming the Germantown MARC Station area from an auto-dominated environment to an environment with an interconnected street network that is safe and comfortable for pedestrians, bicyclists, transit riders, and motorists. The five recommendations that are most applicable to the Lidl Germantown site are as follows:

Renew Germantown Recommendation B.2.c. (page 80)

Design streets and streetscapes to promote a comfortable walking environment that fosters a distinct sense of place.

- Establish Walter Johnson Road as a neighborhood main street and primary pedestrian link to the MARC station by incorporating wide sidewalks, neighborhood-serving uses, a variety of public open spaces and outdoor gathering spaces and seating.

Sustain Germantown Recommendation C.4.a. (page 94)

Celebrate Germantown’s history and historic resources through local events, walking tours, signage, and artwork.

The proposed Lidl Germantown grocery store is to be located north of the railroad tracks in the GI designated area of the Germantown portion of the 2019 Approved and Adopted MARC Rail Communities

Sector Plan (Figure 6), less than a quarter mile north of the Germantown MARC Station. The GI designated area is generally bounded by Wisteria Drive on the north, Walter Johnson Road on the east, Bowman Mill Drive on the south and Germantown Road on the west. A drive-aisle will be introduced that runs parallel to Walter Johnson Road and connects Bowman Mill Drive with Wisteria Drive. An existing unimproved right-of way midway along the west side of Walter Johnson Road (Drive-aisle A) will be built to create a midblock connection between this drive-aisle street and the existing stub of Walter Johnson Road to the west.

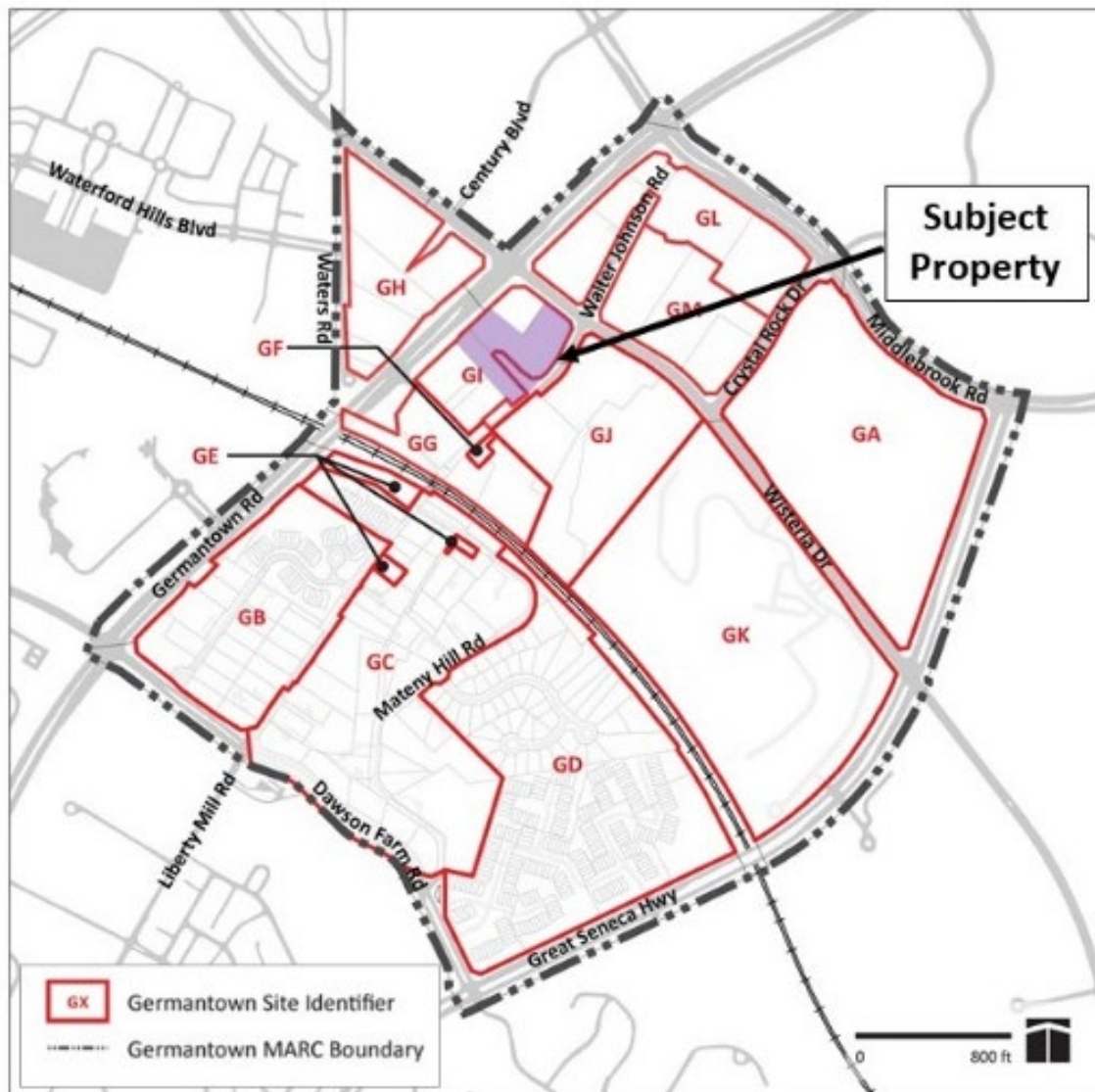


Figure 6 – Sector Plan Area Key (MP p.31)

The grocery store will be sited so that building is located at the juncture of Walter Johnson Road, Drive-aisle B, and the new midblock connecting (Drive-aisle A). The streetscapes for the three adjacent roads will be improved in accordance with the general recommendations of the Sector Plan. Walter Johnson Road, which is to serve as the “neighborhood main street” for the Germantown portion of the MARC

station area and is significant pedestrian connection to the station, will be improved with a 12-foot wide sidepath with a planting strip that has shade trees.

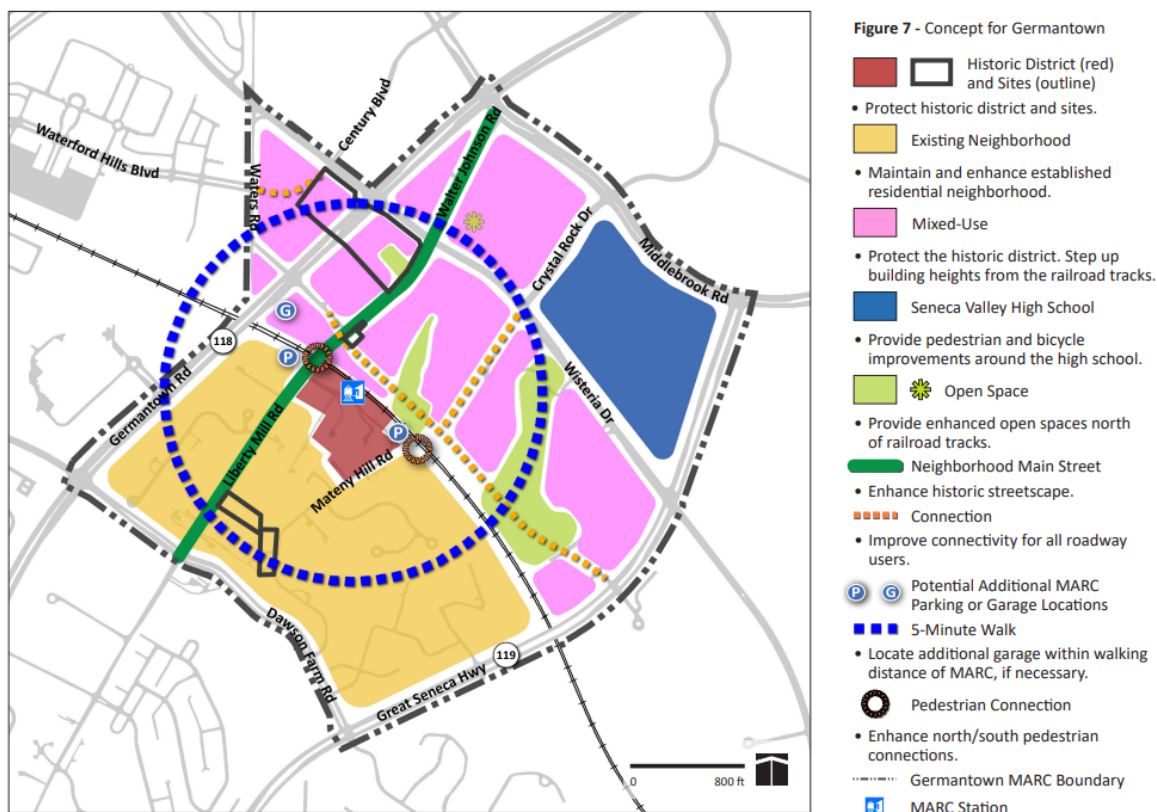


Figure 7 – Sector Plan Land Use Plan (p.19)

Connect Germantown Recommendation A2.a. (page 53)

Transform the MARC station area from an auto-dominated environment to an interconnected street network that is safe and comfortable for pedestrians, bicyclists, transit riders and motorists (Sites GA, GF, GG, GH, GI, GJ, GK, GL and GM).

- Provide a network of local roads and pedestrian/bicycle facilities that will result in improved circulation and safe access, and create a fine-grained network of small, walkable blocks on the north side of the railroad tracks. Implement context-sensitive improvements to streets that calm traffic, improve safety and respect historic resources.

Connect Germantown Recommendation A.2.i. (page 63)

Classify Bowman Mill Drive as a two-lane business district street with wide sidewalks and shade trees.

- Confirm the recommended private road connection between Bowman Mill Drive and Walter Johnson Road as recommended in the 2009 Germantown Employment Area Sector Plan unless properties are consolidated for redevelopment (Site GI).

Connect Germantown Recommendation A.2.p. (page 66)

Enhance streetscapes along Walter Johnson and Liberty Mill Roads to improve the walking and bicycling experience while reinforcing the street's historic role as the spine of historic Germantown and a significant link to the MARC station (Sites GB, GC, GE, GF, GG, GI, GJ, GL and GM).

- Design the streetscape to complement the historic character of the area.
- Construct a sidepath on the northwest side of the streets linking to the bridge and a broad sidewalk on the southeast side of the streets with shade trees on both sides. If pedestrian facilities (south of the railroad tracks) cannot be located on both sides of the street, a sidepath on the northwest side will suffice.

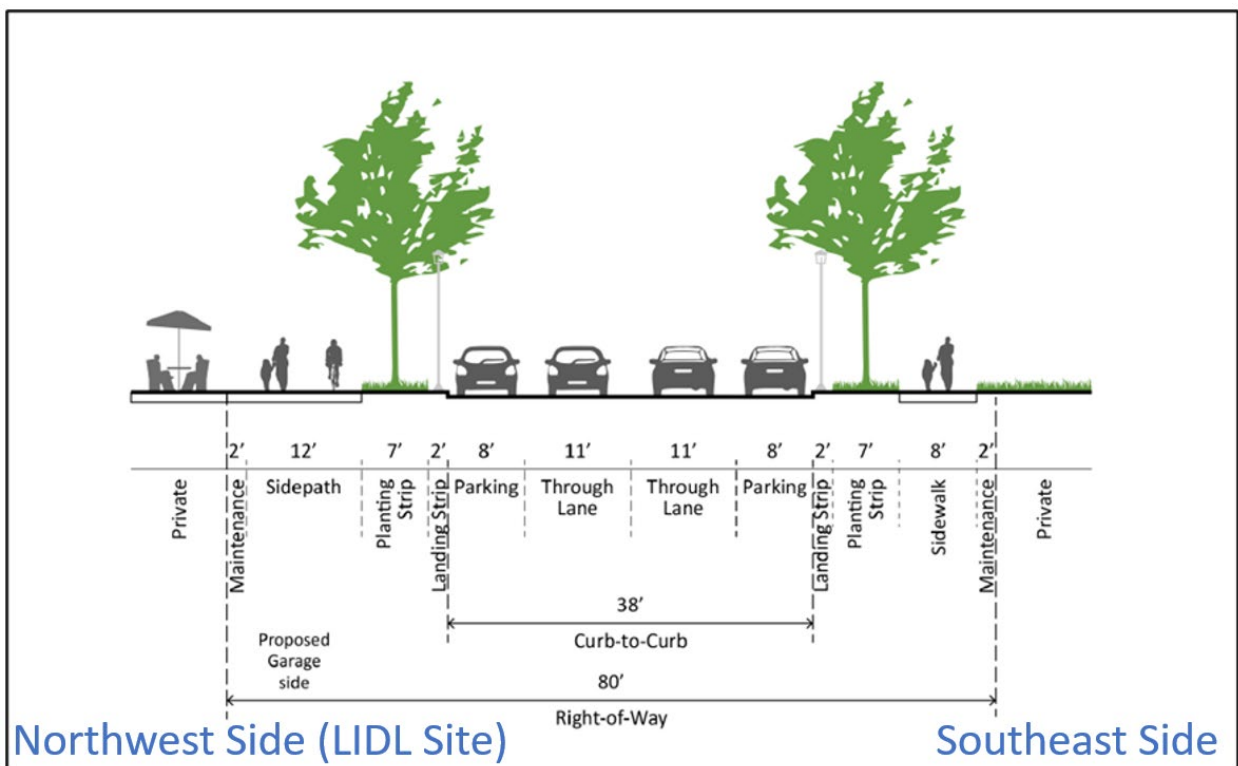


Figure 8 – Sector Plan recommended Typical Street Section for Walter Johnson Road (Fig.47)

BIKEWAYS

The 2020 *Bicycle Master Plan* recommends the following improvements along the Subject Property:

- Sidepath along the north side of Walter Johnson Road
- Sidepath along the west side of Wisteria Drive

Additionally, the 2021 *Complete Streets Design Guidelines* recommends a minimum 10 ft. wide sidepath along the south side of Germantown Rd.

As detailed in the findings section, the Applicant is constructing these improvements along the Subject Property frontage and off-site in conformance with these recommendations.

HISTORIC PRESERVATION

The Madeline V. Waters House (MP 19/13-1) historic site is identified in Sector Plan and 1985 Amendment to the Master Plan for Historic Preservation Sites in Montgomery County, Maryland. The Application is subject to historic preservation review pursuant to Chapter 24A of the Montgomery County Code. The Historic Preservation Commission (HPC) reviewed the Application during a Preliminary Consultation on March 23, 2022 (Attachment 3) and recommended approval.

Sector Plan recommendations:

Maintain the entire Madeline V. Waters House (MP 19/13-1) historic site (Sites GH and GI) [see Reference Key below] and all rights-of-way, including Germantown Road and Wisteria Drive within its designated environmental setting as follows:

- The portion of the Subject Property north of Germantown Road, within the Wisteria Drive right-of-way, must maintain the existing linear park with benches, lighting, stone wall, pavers and commemorative monument/signage. Street signage should be added for Waters House Avenue.
- The portion of the Subject Property south of Germantown Road must maintain the historic row of trees (including replanting as necessary) and existing commemorative signage within a publicly accessible, grassy open space.
- For both north and south portions of the Subject Property, commemorative signage must be erected along the street frontage of every parcel and the existing environmental setting, and these requirements will remain in place even if there is parcel assemblage, resubdivision or redevelopment of the site.

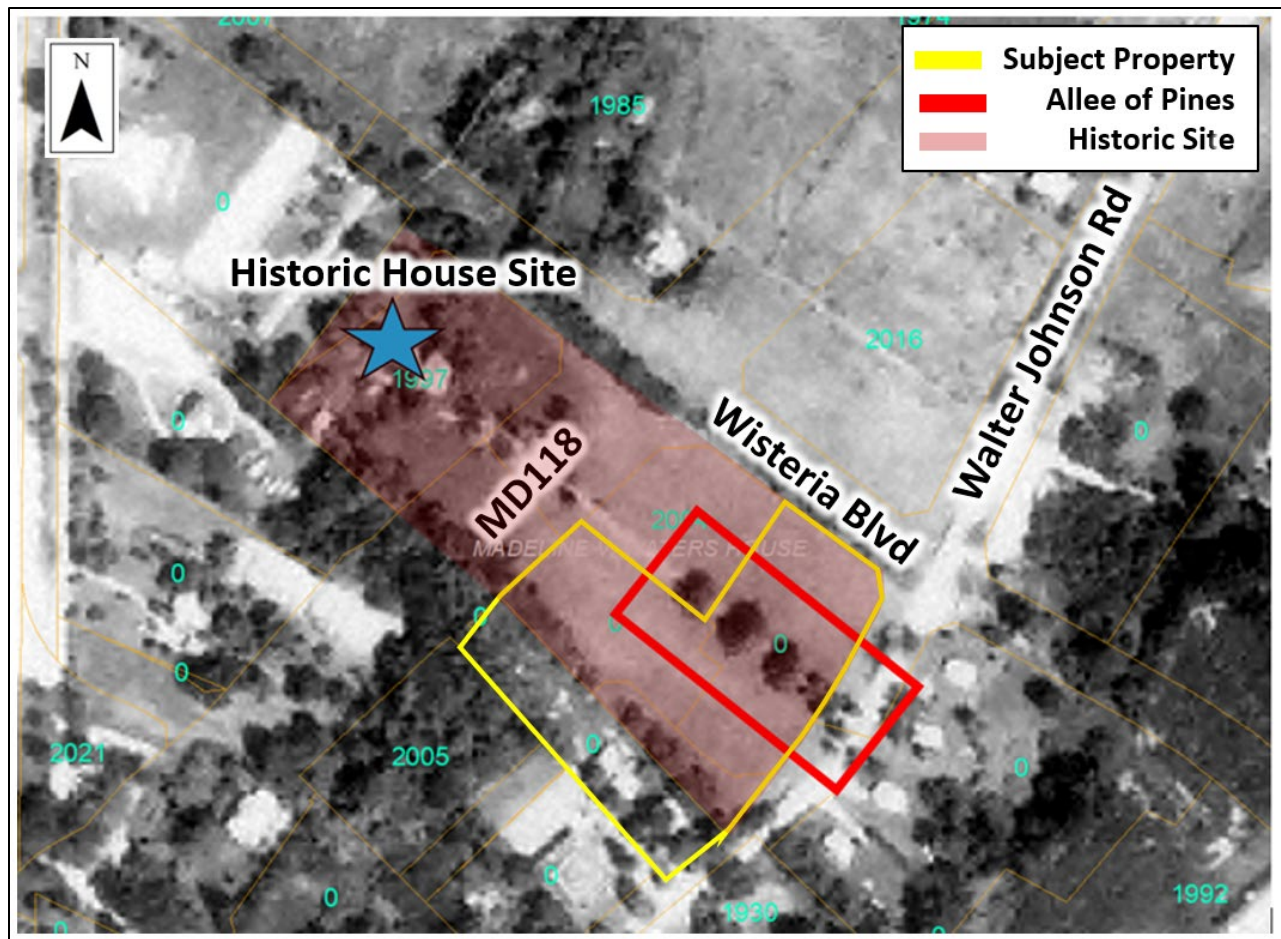


Figure 9 - 1979 aerial image of the Madeline V. Waters House property, with the house marked by the blue star. The above-referenced allee/row of trees is clearly visible at the southeast side of the property

Excerpt from *Places from the Past*:

A linear park along Wisteria Drive, at Rt. 118, commemorates the Madeline Waters House that was destroyed by arson in 1986. Built in 1899-1902, this roomy frame Colonial Revival house belonged to the owner of Germantown's general store, Horace D. Waters. His stepson Lloyd Dorsey built the house, which was the long-time dwelling of Madeline Waters, daughter of Horace. The residence was the most elaborate house in Germantown, featuring a three-story projecting pavilion with palladian windows, a broad hipped roof with dormers, cornice with dentil molding, and pedimented wrap-around porch with classical columns.

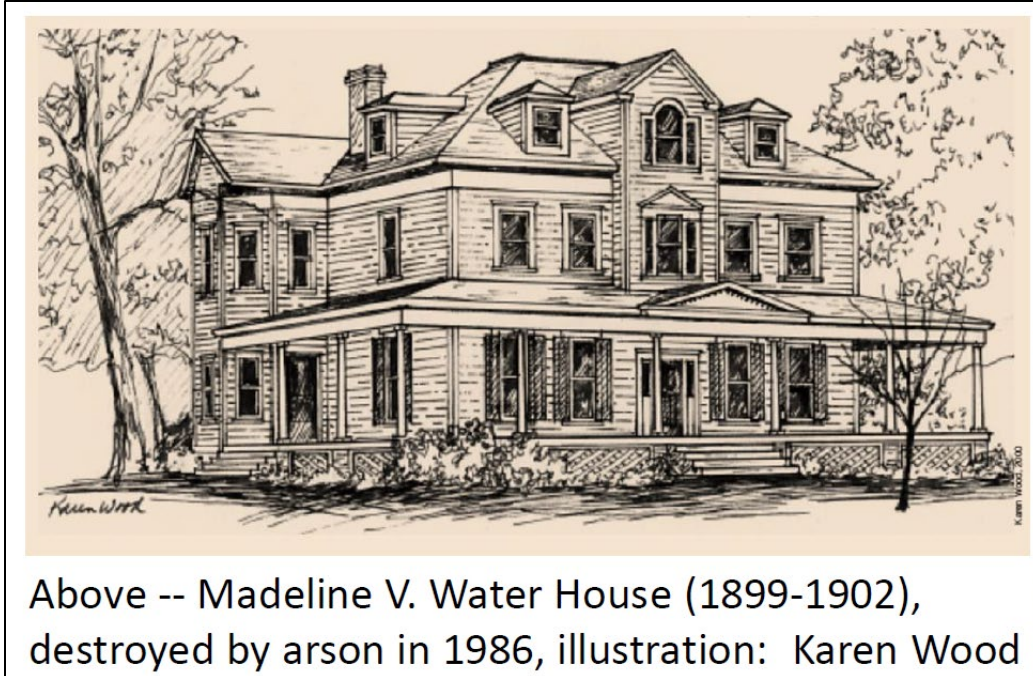


Figure 10 – Madeline V. Water House

The historic allee of white pines that delineated the historic alignment of the Water’s driveway, have died of the years, so the Applicant is replanting white pines, in the linear green area between drive-aisle B and the existing parking lot on Outlot A.

Commemorative signage will be installed at the southern side of the green, adjacent to the new sidepath where it will be easily viewed from the public realm. Additionally, the mural being installed on the southern face of the building will relate to the history of Germantown, tying the historic signage and open place to one another.

As discussed in the attached HPC staff report, the proposed change in use and associated architectural alterations and improvements are consistent with the goals and recommendations of the Sector Plan. At the time of building permit, the Applicant will return to the HPC for a Historic Area Work Permit.

As proposed, the Preliminary Plan substantially conforms to the recommendations in the Sector Plan, and 1985 *Amendment to the Master Plan for Historic Preservation*.

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

a) Roads and other Transportation Facilities

i. Existing and proposed public transportation infrastructure

Table 1: Summary of Study Area Roadways

Roadway	Jurisdiction	Functional Classification (MDOT SHA/MPOHT)	Rural vs Urban	# of Lanes
Germantown Road	SHA	Principal Arterial Other/major Highway	Urban	6
Middlebrook Road	MCDOT	Principal Arterial Other/ Arterial	Urban	6
Wisteria Drive	MCDOT	Major Collector/business	Urban	4
Bowman Mill Drive	MCDOT	Local/Business	Urban	2
Waters Road	MCDOT	Local/Business	Urban	2
Dawson Farm Road	MCDOT	Major Collector/Arterial	Urban	4
Great Seneca Hwy	MCDOT	Principal Arterial Other/Major Highway	Urban	4
Walter Johnson Road	MCDOT	Local/Business	Urban	2

Germantown Road

The Subject Property has approximately 240 feet of frontage on Germantown Rd., classified as a Major Highway as defined by the Sector Plan and 2018 Master Plan of Highways and Transitways with a recommended 150 ft. ROW. The existing ROW line will be maintained which exceeds the 75 ft. minimum width required.

The Applicant will construct a 10-foot sidepath along the south side of Germantown Road between Wisteria Drive and westernmost point of Subject Property frontage, meeting the Complete Streets Design requirement of a minimum 10-ft wide facility.

Walter Johnson Road

The Subject Property has approximately 520 feet of frontage on Walter Johnson Road, an unclassified road with a variable width ROW that has been reviewed as part of this application as a business street.

The Applicant will construct a 12-foot-wide sidepath along north side of the road along the frontage of the Subject Property, meeting the Master Plan recommended width. Off site, the Applicant will continue the path but with an 8-ft width along frontage of neighboring property between Subject Property and Bowman Mill Drive on the north. This reduced width is the result of the limited available ROW on that side of the road, with additional ROW acquisition beyond the Applicant's ability. This nevertheless substantially conforms to the Master Plan.

Wisteria Drive

As previously discussed, the Subject Property has approximately 200 feet of frontage on Wisteria Drive, which is classified by the Sector Plan and 2018 *Master Plan of Highways and Transitways* as a business street with an ultimate right-of-way (ROW) width of 112 feet. As detailed in the request above, the Applicant will construct a 10-foot sidepath along the southwest side of Wisteria Drive between Germantown Road and Walter Johnson Road, within the existing right-of-way, which meets the Master Plan required minimum width.

Staff supports the Applicant's request to dedicate 43-45 feet (existing) from the road centerline which will not provide the full recommended ROW width the sidepath can be constructed as part of this application and because, as on Outlot, any future development (other than use as a parking lot) will trigger further subdivision review and dedication of additional right-of-way.

ii. ***Proposed private transportation infrastructure***

Two main drive aisles, A and B, provide both vehicular and pedestrian connection, one between Bowman and Wisteria Drive to the east, providing east-west through connectivity, and drive aisle running north-south from Walter Johnson Rd connecting to the main drive aisle. These drive aisles as designed will be narrow and pedestrian focused to promote slow speeds and walkability. Curb radii have been reduced for the most part to 15 feet. as recommended by the Urban Road Code. Stamped pavement will additionally highlight the high pedestrian traffic areas of the sight to increase driver awareness. Additionally, a pedestrian walkway will connect from the storefront to Germantown Rd. accommodating new north-south connectivity.

The cross connectivity through the site in both the north-south and east-west orientations will significantly improve the walkability of this section of Germantown by reducing walking distance between destinations. Maximum block width will be reduced roughly by half from the current 800 feet to 400 feet, comparable to pedestrian-focused mixed-use areas of Germantown Town Center.

Truck loading for the grocery store will be located on the southeastern edge of the structure, accessed from the main drive aisle.

b) Local Area Transportation Review (LATR)

The Application was reviewed under the 2020-2024 Growth and Infrastructure Policy and associated 2021 Local Area Transportation Review (LATR) Guidelines. The proposed grocery store replaces an existing office building. The project will generate 136-person trips during the AM weekday peak period and 417-person trips during the PM weekday peak period based on the ITE Trip Generation Manual, 10th Edition, adjusted for the Germantown Town Center policy area (Table 1). A multimodal transportation study is required to satisfy the LATR Guidelines as the project generates 50 or more-person trips during a weekday peak hour. The Applicant submitted a study dated October 11, 2021 (Attachment 4).

Table 1: Trip Generation – Person Trips*

Development	Measure	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Existing Office	15,000 sf	20	2	22	4	18	22
Proposed Supermarket	30,000 sf	95	63	158	223	216	439
Net New Person Trips	--	75	61	136	219	198	417

*Trip generation rates are based on the ITE Trip Generation Manual, 10th Edition and adjusted as detailed in the 2021 LATR guidelines. Figures are rounded to nearest whole number. Source: Grove Slade Traffic Impact Analysis October 11, 2021.

Thirteen intersections were studied: nine in the Germantown Town Center Policy Area, an orange policy area, and four in the Germantown West Policy Area, a yellow policy area. These intersections were studied using the HCM and CLV methodologies, respectively, in line with LATR requirements. All intersections will operate under the congestion limit.

Table 2: Highway Capacity Manual Methodology - Seconds of Vehicle Delay

Intersection	Traffic Conditions					
	Existing		Background		Total Future	
	AM	PM	AM	PM	AM	PM
<i>Germantown Town Center Policy Area (HCM 63 Seconds)</i>						
Germantown Rd & Middlebrook Rd	40	43	39	44	40	44
Germantown Rd & Wisteria Dr	35	42	33	42	34	44
Germantown Rd & Waters Road/Bowman Mill Dr	12	21	9	16	10	18
Wisteria Dr & Walter Johnson Rd	1	4	21	25	23	25
Wisteria Dr & Father Hurley Blvd	16	18	21	25	23	25
Wisteria Dr & Crystal Rock Dr	9	9	8	9	9	9
Site Driveway & Walter Johnson Rd	1	2	1	1	5	4
Site Driveway & Wisteria Dr	0	2	0	2	0	2
Site Driveway & Bowman Mill Dr	1	2	1	1	1	3

Table 3: CLV Methodology

Intersection	Traffic Conditions					
	Existing		Background		Total Future	
	AM	PM	AM	PM	AM	PM
<i>Germantown West Policy Area (1,425)</i>						
Germantown Rd & Dawson Farm Rd	513	575	696	679	699	683
Germantown Rd & Father Hurley Blvd	534	706	803	1,060	805	1,063
Middlebrook Rd & Great Seneca Hwy	1,129	978	1,184	1,049	1,192	1,066
Wisteria Dr & Great Seneca Hwy	591	885	718	990	718	991

All nine intersections in the Germantown Policy Area operate below the 63 second congestion standards. All four intersections in the Germantown West Policy Area operate below the 1,425 CLV threshold. No improvements are necessary for congestion purposes.

(1) Signal Warrant

Signal warrant analysis was performed for the currently unsignalized intersection of Walter Johnson Drive and Wisteria Drive. The analysis did not find that the intersection met any of the 9 warrants studied. However, it should be noted that Warrant 2 for four-hour vehicular volume nears, but does not exceed, the warrant threshold for two hours of the study period (4 – 6 pm). MCDOT has expressed concern over those volumes as part of the department's request to signalize the intersection. Additionally, the complex intersection geometry which includes 3 travel lanes and 2 turning lanes on Wisteria presents many potential conflict points between vehicles, many traveling at high speed down an incline from Germantown Road to the north. The proximity to Seneca Valley High School presents additional challenges of large numbers of students crossing the street following school dismissal in the weekday afternoon hours.

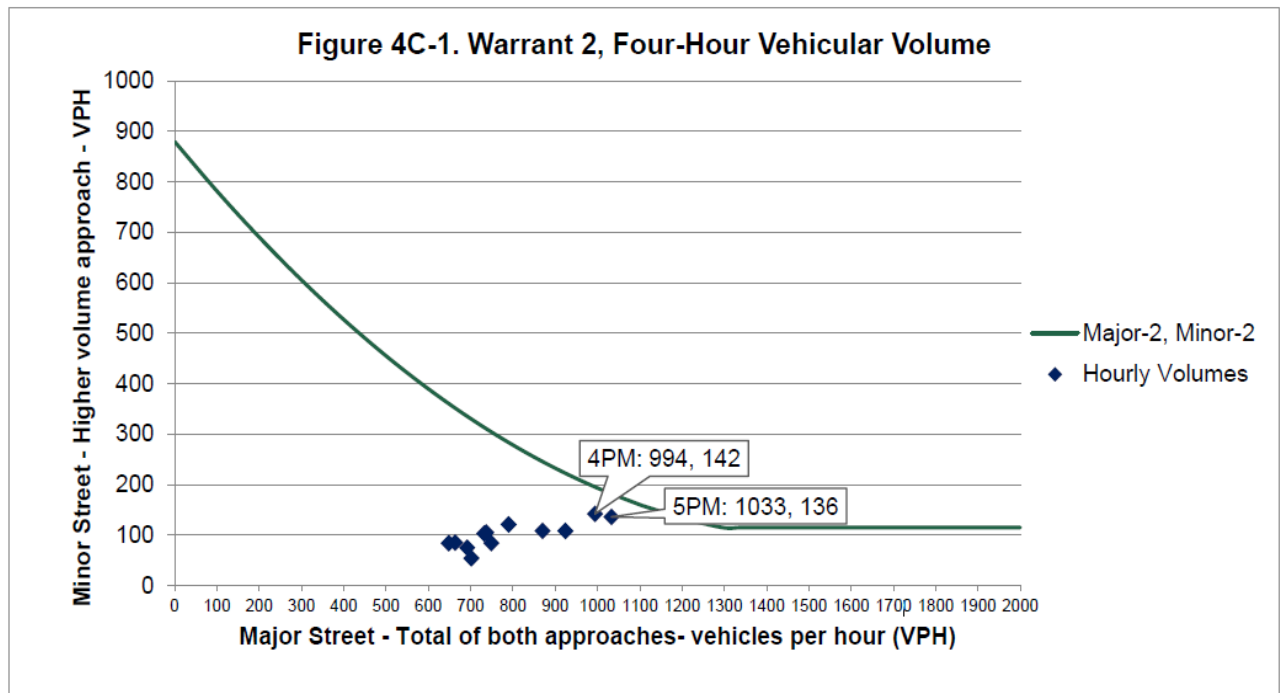


Figure 11 - Four-Hour Signal Warrant of Walter Johnson Drive / Wisteria Drive intersection



Figure 12 - Walter Johnson Drive / Wisteria Drive Intersection

(2) Multimodal Analysis

The transportation study analyzed multimodal transportation facilities for pedestrians, bicyclists, transit, and ADA compliance. Serious deficiencies in these networks were found in all studies. The local bicycle and pedestrian networks within a 1,000 ft. buffer of the Subject property. Facilities along major roads, particularly Germantown Road and Wisteria Drive, are for the most part deficient, exceeding the minimum Level of Traffic Stress standards for cycling and Pedestrian Level of Comfort for walking. Only one study area ramp was found to be deficient, which will be improved as part of the off-site bicycle improvements. Bus stations in the vicinity were for the most part sufficient with only one stop lacking shelter.

Additionally, the study area has a significant history of crashes; within the 1,000 ft. study area, 124 crashes were recorded between 2015 and 2019. Four of these were serious, injury-causing crashes. Six crashes involved pedestrians, though there was no record of any crashes involving bicyclists.

Two speed studies were conducted along Germantown Road and Walter Johnson Road. On Germantown Road, 85th percentile speeds of up to 53 mph exceeded the 40-mph posted speed limit, exceeding the 120% threshold to signify a speeding problem. Speeds on Walter Johnson Road fell in line or below the posted speed limit of 30 mph. Additional speed enforcement along with geometric improvements to Germantown Road Rd. would be necessary to address these deficiencies but are beyond the scope of this Application.

According to the proportionality guidelines of the 2022 LATR, the Applicant is limited to a maximum of \$123,375 in off-site LATR related mitigation improvements. The Applicant proposes to fulfill this mitigation by providing the following off-site improvements which match the capped maximum dollar amount for off-site mitigation:

- 8-foot wide sidepath along the north side of Walter Johnson Road that extends approximately 275 feet between Bowman Mill Drive and the frontage of the Subject Property. This section shall include a bikeable crossing of Bowman Mill Drive.
- 10-foot wide sidepath along the west side of Wisteria Drive that extends approximately 170 feet between Germantown Road and the existing bank driveway on Wisteria Drive.
- 10-foot wide sidepath along the south side of Germantown Road that extends approximately 185 feet between Wisteria Drive and the property line of the Subject Property, connecting to the proposed sidepath along the frontage.
- A minimum 10 ft-wide bikeable crossing of Walter Johnson Road at the western leg of the Walter Johnson Road / Wisteria Drive intersection.

As conditioned, public facilities are adequate for the proposed use.

c) Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lot. The Lot will be served public water and sewer. There is an 8-inch waterline within the existing ingress/egress and utility easement between the building and Wisteria Drive, which the Applicant will extend with a 6-inch water house connection to serve the new grocery store.

A new 6-inch sewer house connection will tie into the existing 8-inch sewer line that runs parallel to the building withing the existing Water Johnson Road right-of-way. The use of public water and public water is consistent with the existing W-1 and S-1 services categories designated for the Property.

The Application has been reviewed by the MCDPS Fire Department Access and Water Supply Section who determined that the Property has adequate access for fire and rescue vehicles as shown on the approved Fire Department Access Plan dated March 16, 2022 (Attachment 5).

There are existing 10-foot-wide public utility easements along the Property frontage on Germantown Road and Wisteria Drive, which will be sufficient to accommodate future utility installation. A new public utility easement is not proposed along the frontage of the Lot in accordance with page 80 of the Sector Plan, which allows all underground utilities to be placed within in the right-of-way to provide a street oriented gathering space.

Electric and telecommunications services are available and adequate to serve the Subject Property. Other public facilities and services, such as police stations, firehouses and health services are currently

operating within the standards set by the 2020-2024 *Growth and Infrastructure Policy*. The Application can be adequately served by all applicable public facilities and services.

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

The Property is subject to the Montgomery County Forest Conservation Law, Chapter 22A of the County Code, and requires a Forest Conservation Plan. Included with the Forest Conservation Plan is a request for a tree variance for impacts and removal of subject trees. The Preliminary Plan and Site Plan comply with the Montgomery County Environmental Guidelines and the Forest Conservation Law, as conditioned in the Staff Report and described below.

a) Natural Resource Inventory/Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”) 420220020 for this Property was approved in September 2021. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. The NRI/FSD included 4.63 acres within the Middle Great Seneca Creek watershed which is classified as Use Class IV-P by the State of Maryland. The Subject Property contains 1.33 acres of forest. There are four trees with a diameter at breast height (“DBH”) of 24 inches or more located on or immediately adjacent to the Subject Property, one of these trees has a DBH greater than 30 inches. The Property does not contain any streams, wetlands, floodplain, stream buffers, or highly erodible soils. There are slopes greater than 25 percent located adjacent to MD Route 118. There are no documented rare or endangered species on the Property. A portion of the Property is located within the boundaries of the Madelyn V. Waters Historic Site (19/013-001A). No cemeteries are known to exist on the Subject Property.

b) Forest Conservation Plan

The Applicant has submitted a Preliminary/Final Forest Conservation Plan (“FCP”) with the current development plan applications for Preliminary Plan No. 120220030 and Site Plan No. 820220080 (Attachment 6). The Applications satisfy the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and comply with the Montgomery County Planning Department’s approved Environmental Guidelines.

The Subject Property is zoned CR and is assigned a Land Use Category of Commercial and Industrial (“CIA”) as defined in Section 22A-3 of the Montgomery County Forest Conservation Law (“FCL”) and in the Land Use Table of the *Trees Technical Manual*. This results in an afforestation threshold of 15% and a conservation threshold of 15% of the Net Tract Area.

The tract area for forest conservation purposes includes the 3.75-acre Subject Property plus 0.92 acres of offsite disturbance associated with this Application, for a total net tract area of 4.67 acres. There is a total of 1.40 acres of existing forest within the net tract area which includes the 1.33 acres of onsite forest and 0.07 acres of forest within the adjacent offsite right-of-way. The Application proposes to remove the entire 1.40 acres of existing forest. The

proposed forest clearing generates a reforestation requirement of 1.58 acres. The Applicant proposes to meet the planting requirement offsite by purchasing credits from an M-NCPPC approved forest bank. If there are no credits available for purchase, the Applicant will meet the requirements via fee-in-lieu payment.

c) Forest Conservation 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 (“Protected Trees”). Any impact to these trees, including removal of the subject tree or disturbance within the 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. 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 an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; 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.

Variance Request - The Applicant submitted a variance request in a letter dated June 22, 2022 (Attachment 7). For the portion of the Property that is designated an historic site, the variance provision applies to all impacted trees that are one inch caliper and greater (“Protected Trees”). For the remainder of the Property, the variance provision applies to all impacted trees that are 30 inches DBH and greater (“Protected Trees”). The Applicant proposes to impact fifteen (15) trees and remove 196 trees that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law (Tables 4 and 6, Figure 13).

Table 4: Protected Trees to be impacted but retained

Tree Number	Species	DBH Inches	% CRZ Impacts	Status and Notes
196	Willow Oak (<i>Quercus phellos</i>)	12"	25%	Historic Site, proposed parking lot
198	Arborvitae (<i>Thuja occidentalis</i>)	3", 3"	10%	Historic Site, sidewalk along MD 118
200	Arborvitae (<i>Thuja occidentalis</i>)	3", 3"	20%	Historic Site, sidewalk along MD 118
201	Willow Oak (<i>Quercus phellos</i>)	14"	20%	Historic Site, sidewalk along MD 118
205	Willow Oak (<i>Quercus phellos</i>)	11"	5%	Historic Site; water line
218	Willow Oak (<i>Quercus phellos</i>)	11"	10%	Historic Site; water line
219	Willow Oak (<i>Quercus phellos</i>)	18"	30%	Historic Site; sidewalk along Wisteria
220	Willow Oak (<i>Quercus phellos</i>)	17"	35%	Historic Site; sidewalk along Wisteria
221	Willow Oak (<i>Quercus phellos</i>)	19"	35%	Historic Site; sidewalk along Wisteria
222	Willow Oak (<i>Quercus phellos</i>)	17"	20%	Historic Site; water line
228	Pin Oak (<i>Quercus palustris</i>)	17"	35%	Historic Site; sidewalk along Wisteria
229	Willow Oak (<i>Quercus phellos</i>)	19"	40%	Historic Site; sidewalk along Wisteria
236	Pin Oak (<i>Quercus palustris</i>)	15"	40%	Historic Site, sidewalk along MD 118
237	Pin Oak (<i>Quercus palustris</i>)	15"	40%	Historic Site, sidewalk along MD 118
238	Pin Oak (<i>Quercus palustris</i>)	15"	40%	Historic Site, sidewalk along MD 118

Table 5: Protected Trees to be removed

Tree Number	Species	DBH Inches	Status and Notes
3	Silver Maple (<i>Acer sacharinum</i>)	39"	Very Poor condition; within edge of forest; grocery store and parking lot; not historic
231	Norway Maple (<i>Acer platanoides</i>)	30"	Poor condition; offsite, not forest; expansion of existing sidewalk along Walter Johnson Rd.; not historic
Trees	Various	1-30"	Located within forest
Trees	Various	1-30"	Located outside of forest



Figure 13 – Tree Variance Exhibit

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the unwarranted hardship is caused by the necessary layout of the proposed development on the Property, which is dictated by the existing site conditions, including the historic designation, development standards of the zone, including impervious surface limitations,

Montgomery County agency requirements, and requirements associated with Master Plan objectives, including construction of road connections through the middle of the Property.

The 196 trees requested to be removed are located within the developable area of the Property with 194 of these trees (Trees #5 – 195 and Trees #206, #233, and #235) located on the historic site. Some of these Protected Trees are located within the existing forest and some are outside of the forest. All of them will be impacted by the removal of the existing office building and parking lot and the construction of the proposed grocery store, associated parking lot and sidewalk expansion or road connection improvements as recommended in the Master Plan. The other two trees proposed to be removed include Tree #3, a 39” DBH silver maple in very poor condition and Tree #231, a 30” DBH Norway maple in poor condition. Tree #3 is located within and along the edge of the onsite forest and will be significantly impacted by the proposed grocery store and associated required parking. Tree #231 which is located offsite, southwest of the Property, will be impacted by the required expansion of the existing sidewalk along Walter Johnson Road.

The fifteen trees requested to be impacted but retained are all located within the historic properties and include Tree #196, #198, #200, #201, #205, #218, #219, #220, #221, #222, #228, #229, #236, #237, and #238. Tree #196 will be impacted by the proposed parking lot that is necessary to serve the grocery store. Trees #205, #218, and #222 will be impacted by the construction of a water line that is a necessary connection to the existing water main located within Wisteria Drive; its location is dictated by the need to avoid disturbing the existing gas line that also comes off Wisteria Drive. Trees #219, #220, #221, #228 and #229 will be impacted by the required sidewalk expansion along Wisteria Drive. Trees #198, #200, #201, #236, #237, and #238 will be impacted by the required sidewalk expansion along MD 118. The new sidewalks have been designed as raised sidewalks with aeration matting to minimize the impacts to these Protected Trees and allow them to be retained.

Access to the Property is provided from Walter Johnson Road, with a secondary access drive-aisles that will traverse the Property between Wisteria Drive and Bowman Mill Drive. The existing conditions, necessary access requirements and available access opportunities have largely determined the layout of the development. In addition, the historic property designation, location of many of the Protected Trees in the middle of the Property and required sidewalk and utility improvements have resulted in the need for a variance to impact and remove Protected Trees. The inability to impact and remove these trees would potentially render portions of the site undevelopable. Therefore, there is a sufficient unwarranted hardship to justify a variance request because the Applicant would otherwise be denied the ability to use the Property for the commercial use for which it is zoned, which is a reasonable and significant use of the Property.

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.***

Granting the variance will not confer a special privilege on the Applicant as the removal and disturbance to the specified trees are due to the development of the Property, location of the trees and necessary site design requirements. The Property contains numerous Protected trees located within the developable area of the site. Granting a variance to allow disturbance within the developable portion of the site and meet the objectives of the Master Plan is not unique to this Applicant. The granting of this variance is not a special privilege that would be denied to other applicants.

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

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions, development standards of the zone, and necessary design requirements of this Application, including street frontage improvements.

- 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 existing conditions and the proposed site design and layout of the Subject Property, and not as 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.***

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being removed are not located within a stream buffer, wetland or Special Protection Area. The Application proposes mitigation by planting larger caliper trees on-site. These trees will replace water quality functions that may be lost by the removed trees. Therefore, the Application will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions

There are 196 Protected Trees proposed for removal in this variance request. Mitigation is proposed for the Protected Trees that will be removed that are located outside of the forest clearing, which is already accounted for in the forest conservation worksheet calculations and resulting requirements. The Application proposes to remove 368 caliper inches of Protected Trees that will be mitigated for at a rate that approximates the form and function of the trees being removed. These trees will be replaced at a ratio of approximately 1-inch caliper for every four inches removed using trees that are a minimum of three caliper inches in size. This results in a total mitigation of 92 inches with the installation of thirty-one 3-inch caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements. The mitigation trees will be planted on the Subject Property and provide some immediate benefit, ultimately replacing the canopy lost by the removal of these trees. There is some disturbance within the CRZ of fifteen trees; however, they will receive adequate tree protection measures, their roots will regenerate, and the functions they currently provide will continue. Therefore, no mitigation is recommended for trees that are impacted but retained. As stated previously, it has been M-NCPPC policy not to require mitigation for Protected Trees removed within forest stands since the removal of the forest is accounted for through the Forest Conservation Worksheet. As conditioned, the mitigation trees will be protected as part of a 5-year maintenance and management agreement.

County Arborist's Recommendation

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist as part of the ePlans review process. The County Arborist recommended approval of the variance request in a letter dated July 1, 2022 (Attachment 8).

Recommendation on the Variance

Staff recommends approval of the variance request.

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

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 May 27, 2022 (Attachment 9). The Application will meet stormwater management goals via micro bioretention planter boxes. A partial stormwater management waiver

has also been requested due to site constraints. The application of these approaches will provide for full environmental site design (ESD) to the maximum extent practicable (MEP).

- 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.**

Not applicable to this Property.

SECTION 6: SITE PLAN NO. 820220080 FINDINGS AND ANALYSIS

- 1. When reviewing an application, the approval findings apply only to the site covered by the application.**

The findings herein apply only to the Subject Property.

- 2. To approve a Site Plan, the Planning Board must find that the proposed development:**

- a) satisfies any previous approval that applies to the site;**

As discussed in the Previous Approvals section, existing Lot 1 and 3 are subject to approved Preliminary Plan 119900680; all conditions of approval pertinent to the Site Plan either have been satisfied or will be superseded by approval of Preliminary Plan No. 120220030. Portions of the Site are also covered by Final Forest Conservation Plans 819990068 and 819996013 and Site Plan 819960130, all of which will be superseded by approval of the present applications.

- b) satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;**

As discussed in the Previous Approval section, a portion of the Subject Property and Site was the subject of a schematic development plan that was approved in 1990 as part of Local Map

Amendment G-649 and amended in 1995 by DPA 95-1. The same land was rezoned to the TMX-2 zone in 2009 by the Sectional Map Amendment that implemented the 2009 *Germantown Forward* Sector Plan and was rezoned again to the CR zone in 2014 by the District Map Amendment associated with the County’s comprehensive rezoning. As a result of the 2009 rezoning, the schematic development plan was no longer in effect on October 29, 2014. The Applicant has received confirmation from the Office of Zoning and Administrative Hearings that no further action is required with regard to LMA G-649 and DPA 95-1 in connection Preliminary and Site Plan Applications (Attachment 10)

- c) satisfies under Section 7.7.1.B.5 any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment;**

This section is not applicable as the Subject Property’s zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

- d) satisfies applicable use standards, development standards, and general requirements under this Chapter;**

i. Division 4.5 (Use Standards)

Table 6: LIDL Germantown: Site Plan Data Table for CR Zone, Standard Method, Section 59.4.5 (General Building Type)

Development Standard	Required	Proposed
1. Site		
Open Space (min)		
Open space, tract > 10,000 SF	10% (15,642 SF) Public Open Space	12% (18,770 SF) Public Open Space
2. Lot and Density		
Lot (min)		
Outlot A	n/a	39,180 SF (0.89945 acres)
Lot area (Lot 4)	n/a	121,265 SF (2.783 acres)
Current Gross Tract Area		
Preliminary Plan		156,426 SF (3.591 acres)
Site Plan		124,484 SF (2.86 acres)
Exiting Property Info²		
Lot 1		44,644 SF (1.025 acres)
Lot 3		62,264 SF (1.42 acres)
Parcel P965		43,305 SF (0.994 acres)

² Existing property information does not account for prior dedication. See Preliminary Plan for details

Montgomery County ROW		13,451 SF (0.309 acres)
Proposed Dedication (Walter Johnson Rd)		3,219 SF (0.0739 acres)
Density (Lot 4)		
Max CR Density (FAR)	1.0 FAR (124,484 SF)	0.25 FAR (30,000 SF)
Commercial	0.75 FAR (93,363 SF)	0.25 FAR (30,000 SF)
Residential	0.75 FAR (93,363 SF)	N/A
Lot Coverage (max)	n/a	21% max.
3. Placement		
Principal Building Setbacks (min)		
Front setback	0'	29 ft. (Walter Johnson Rd.) 230 ft. (Germantown Rd.)
Side street setback	0'	n/a
Side setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones	See Section 4.1.8.A	n/a
Side setback, abutting all other zones	0'	15 ft.
Side setback between lot and site boundary	n/a	n/a
Rear setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones	See Section 4.1.8.A	n/a
Rear setback, abutting all other zones	0'	n/a ³
Rear setback, alley	4'	n/a
Rear setback between lot and site boundary	n/a	n/a
Parking Setbacks for Surface Parking Lots (min)⁴		
Front setback	must be behind front building line of building in the BTA	Provided (Walter Johnson Rd)
Front setback	must be behind front building line of building in the BTA	Modified (Germantown Rd) ⁵

³ Lot 4 is a through lot with two front setbacks, two side setbacks and no rear setback.

⁴ Parking lot setback standard applies to the new parking lot only.

⁵ The Applicant is seeking modified standards as justified below.

Side street setback	must be behind side street building line of building in the BTA	n/a
Side setback	must accommodate landscaping required under Section 6.2.9	Not required – abutting existing parking lots
Abutting ROW	must accommodate landscaping required under Section 6.2.9	Screening Option A Provided
Build-to Area (BTA, max setback and min % of building façade)		
BTA on Walter Johnson Road		
Front setback	20 ft or as modified	36 ft**
Building in front street BTA	70%	100%
BTA on Germantown Road		
Front setback	20 ft	20 ft**
Building in front street BTA	70%	0%
Specifications for Build-to Area		
a. The Build-to Area maximum front or side street setback may be increased by the minimum setback necessary to avoid a platted public transportation or utility easement, or a platted public transportation or utility reservation.		
b. The Build-to Area requirements may be modified by the Planning Board during site plan review under Section 7.3.4. In approving a site plan submitted under this subsection, the Planning Board must find that the plan: (1) deviates from the Build-to Area requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.		
4. Height		
Height (max)		
Principal building	mapped and Section 4.1.8.B	
5. Form		
Building Orientation		
Entrance facing street or open space	required	2 provided (NE Open Space)
Entrance spacing (max)	100 ft.	136 ft (NE Open Space)**
Entrance facing street or open space	required	None (Walter Johnson Rd)**
Entrance spacing (max)	100'	n/a
Transparency, for Walls Facing a Street or Open Space		
Ground story, front (min)	40%	12% (Walter Johnson Rd)** 308 SF of 2,562 SF facade
Ground story, side (min)	25%	84% (NE Open Space) 1,525 SF of 1,806 SF facade
Blank wall, front (max)	35 ft.	80 ft. (Walter Johnson Rd)**

Blank wall, side (max)	35 ft.	25 ft. (NE Open Space)
Specification for Building Orientation and Transparency		
a. Building Orientation and Transparency requirements may be modified by the Planning Board in a site plan under Section 7.3.4. In approving a site plan submitted under this subsection, the Planning Board must find that the plan: (1) deviates from the Building Orientation and Transparency requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.		

As depicted in Table 6, the Application is seeking relief from certain placement, form and parking standards (identified with ** in the Data Table) which cannot be met as part of the Application. The following justifies the need for the requested modifications, which Staff supports:

(3) Modifications to the Placement and Parking Standards

Staff recommends that the Planning Board modify certain Build-to-Area requirements along Germantown Road and Walter Johnson Road pursuant to Section 59.4.5.3.C.3.b:

The Build-to Area requirements may be modified by the Planning Board during site plan review under Section 7.3.4. In approving a site plan submitted under this subsection, the Planning Board must find that the plan: (1) deviates from the Build-to Area requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.

The Applicant requests Planning Board approval for a modification of build-to-area requirements on both roads. Modification of build-to requirements is necessary due to the constraints of building on a through lot and the Sector Plan recommendation to provide a vehicular connection between Bowman Mill Road and Wisteria Drive, which bisects the Subject Property. The Site slopes down from Germantown Road to Walter Johnson Road. Once the through connection was incorporated into the layout, the only feasible way to construct a grocery store was to place the parking on the north side of Drive aisle A with the building entrance at the corner of drive-aisle A and B, at the same grade as the parking lot. However, as discussed below, the Applicant has gone to great length to active the frontage of Walter Johnson Road and Drive aisle B, consistent with the Sector Plans other recommendations. The other design elements engage the surrounding publicly accessible spaces.

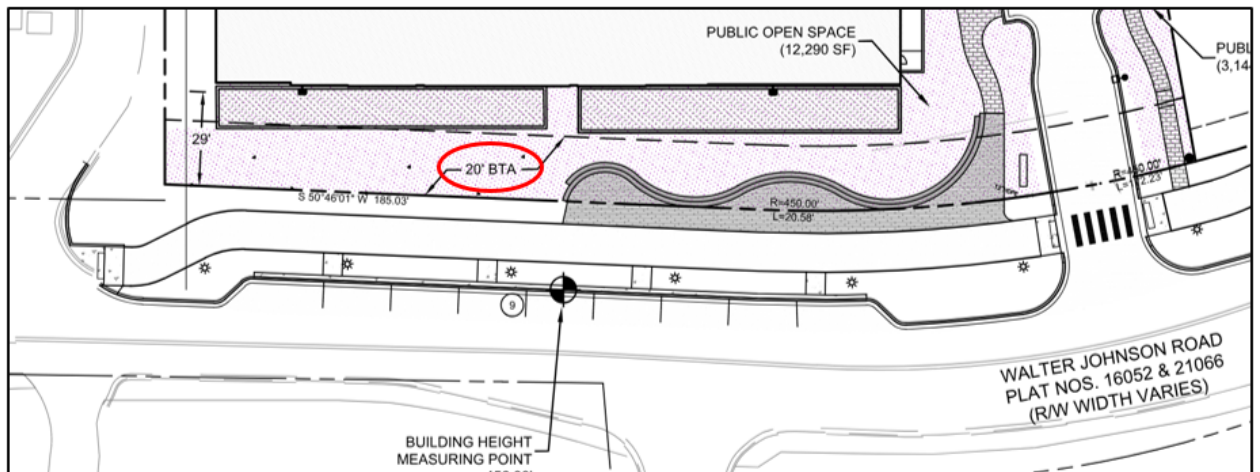


Figure 14 – Walter Johnson Build-to-Area

The build-to-area on Walter Johnson Road is being modified as little as possible to achieve a useable and high-quality open space along the frontage that will activate the space and provide sufficient space to accommodate required stormwater management facilities. Because the site slopes down to Walter Johnson Road, this is the lowest part of the Site and by default the most appropriate location to incorporate stormwater management facilities.

For the same reasons the BTA requirement on Germantown Road is being modified, the Applicant is requesting to modify the parking standard to allow a parking lot between the building line and the Property frontage on Germantown Road. Introducing the through connection eliminated the Applicants ability to place the building in a more central location with the rear of the building orientated to the southwest Property line, with parking to the northeast side of the building. Instead, the building has been reoriented to front on Walter Johnson Road, which separates the building and parking and because the lot is a through lot, the parking is located in front of one of the two front building lines. From a functionality standpoint, the front of the building is located along drive aisle b and Walter Johnson Road, while the side facing Germantown Road functions like a side of the building.

(4) Modification to the Form Standards

Staff recommends that the Planning Board modify the following Form standard Transparency requirements along Walter Johnson Road pursuant to Section 59.4.5.3.C.5.a:

Building Orientation and Transparency requirements may be modified by the Planning Board in a site plan under Section 7.3.4. In approving a site

A modification of transparency and blank wall standards along Walter Johnson Road is necessary because building a private drive through the middle of the Site required turning the typically blank rear wall (back of house) of the store to face Walter Johnson Road. Windows are difficult to accommodate along Walter Johnson Road South due to store fixtures and back-of-house functions along the interior of this façade inside the store.



The Applicant is adding multiple significant features to activate this façade, including a variety of architectural materials, a grove of birch trees, a mural, accent lighting, and a public plaza containing seating, a pedestrian path and extensive landscaping.

Section 4.1.7.D.2.a defines Blank Wall as “the area of the exterior street facing façade of a building that does not include windows or doors, columns, pilasters, or other articulation greater than 8 inches depth”. The Applicant has reserved a blank 80 foot wide by 17-foot-tall space on the southeast face of the building for a mural. The space qualifies as a blank wall per the definition of Blank Wall. Since the area will feature a mural which will meet the intent of the blank wall requirements, to break of large expanses of featureless façade, the Applicant is seeking an exception. Nonetheless, The Applicant proposes windows along the entire façade except the area reserved for the mural. Transparency is maximized where building function will allow, with a 12- foot-tall storefront window system that wraps 110 linear feet of the building on Drive aisle B.

The primary reason the Applicant is seeking relief from the entrance spacing standards is the grade of the Site and building orientation. As previously discussed, the primary entrance to the building is located at an angle to the corner of drive-aisles. The second entry is located approximately 136 feet south, adjacent to the plaza. Due to the grade, the store floor plate is approximately 4 feet above grade along Walter Johnson Road, for that reason a ramp to the second entrance is provided. No additional entrances are provided on Walter Johnson Road because of the grade separation and internal layout requires refrigerated units and backout house space to be located along the internal wall.

Given the aforementioned Site constraints, Staff recommends the Planning Board support the Applicant’s requests for modified building standards.

ii. ***Division 6 - General Development Standards***

(5) Division 6.1 Site Access

As identified in Figure 16, the Site is accessible from Bowman Mill Drive, Walter Johnson Drive, and Wisteria Drive (via access easement).

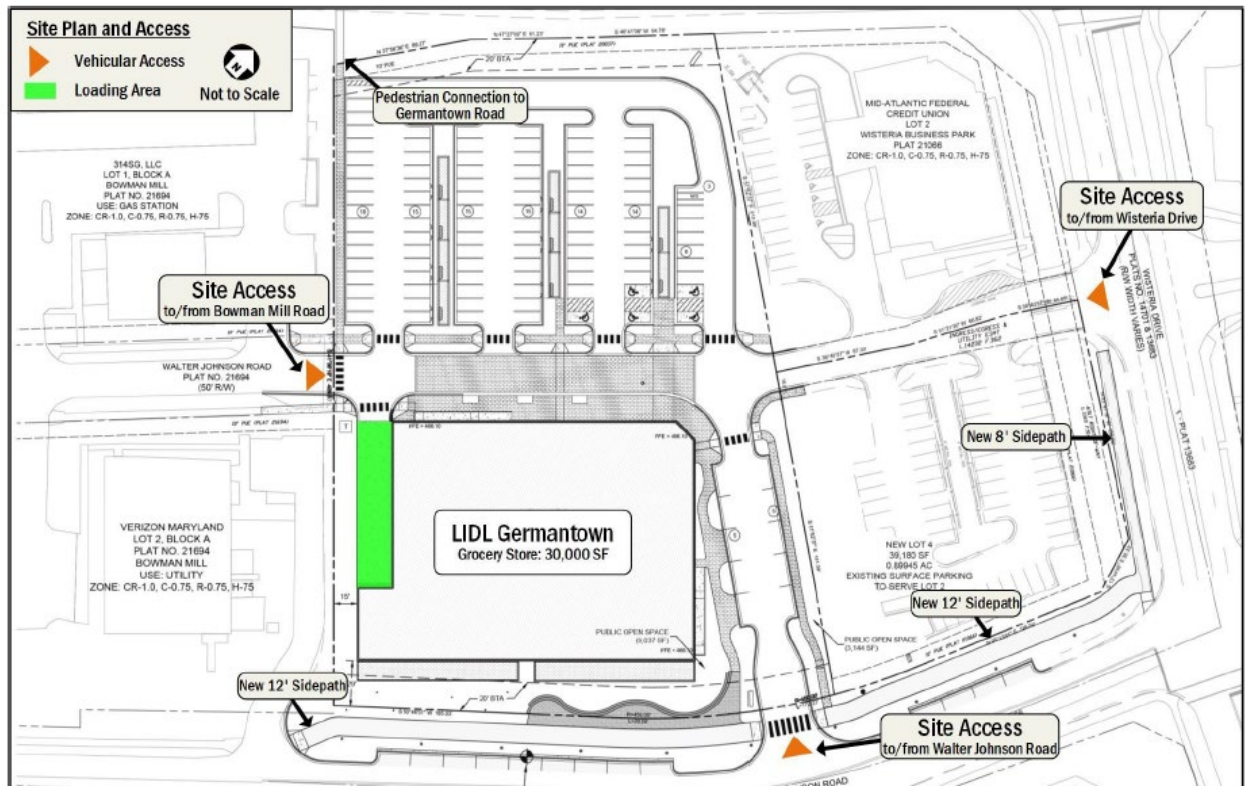


Figure 16 – Access Plan

The interior drive-aisles connect the existing vehicular access points creating a grid, which provides connectivity within the block. The additional side paths (including off-site) provide improved circulation to and along Wisteria Drive, Walter Johnson Road and MD 118. Internally, the sidewalks on both sides of the drive-aisles and which in the parking lot will provide safe pedestrian routes between the grocery store, parking lot, parallel parking spaces, plaza and sidepath network.

(6) Division 6.2 Parking, Queuing and Loading

As summarized in Table 7, the Application satisfies the parking and loading requirements necessary to support the 30,000 square foot grocery store. Queuing space is not required for the proposed use; however, the internal drive aisle network does provide adequate space for vehicles to queue while navigating the parking lot and waiting for patrons to safely cross from the store front to the adjacent parking lot.

Table 7: Parking Analysis

Parking Standards	Required/Allowed	Proposed
Vehicle Parking Spaces (Reduced Parking Area)	112 min (3.5 per 1,000 SF) 192 max (6 per 1,000 SF)	121
Parking Breakdown (spaces)		
Standard (8.5 ft x 18 ft)	-	91
Parallel (8 ft x 21 ft) On-site	-	10
Parallel (8 ft x 21 ft) Public ROW	-	9
Accessible (8 ft x 18 ft)	5	5
Motorcycle/scooter (4 ft x 18 ft)	3	3
Car-Share (8.5 ft x 18 ft)	1	1
Electric charging (9 ft x 18 ft)	2	2
Bicycle Parking		
Bicycle Parking Spaces	4 spaces (1 long term) (1 per 10,000 SF/GFA)	4 space (1 long term)
Loading Spaces (12 ft x 55 ft)	1	1 (21 ft x 100 ft)
Landscaping		
Parking Lot Internal Landscaped Area	2,200 SF or 5% of 44,001 SF (pavement area)	23% or 10,226 SF
Parking Lot Landscape Island Required	100 SF min.	228 SF min.
Parking Lot Tree Canopy at 20 years	11,001 SF or 25% of 44,001 SF (pavement)	30% or 13,200 SF
Parking Lot Perimeter Planting width, abutting ROW (MD 118)		
Minimum width	6 ft	27 ft
Minimum hedge height	3 ft	3 ft
Canopy tree spacing	30 ft o.c. (7 trees)	30 ft o.c. (7 trees)

(7) Division 6.3 Open Space and Recreation

The Zoning Ordinance requires 10 percent Public Open Space for general building types in the CR zone with a tract greater than 10,000 square feet. This Site Plan satisfies the Public Open Space requirement by providing 12 percent or 18,770 square feet of space devoted to public use and enjoyment, which exceeds the minimum 15,642 square feet required. As depicted in Figure 17, 12,290 square feet of open space is provided west of drive aisle B and 3,144 square feet is east of drive aisle B.

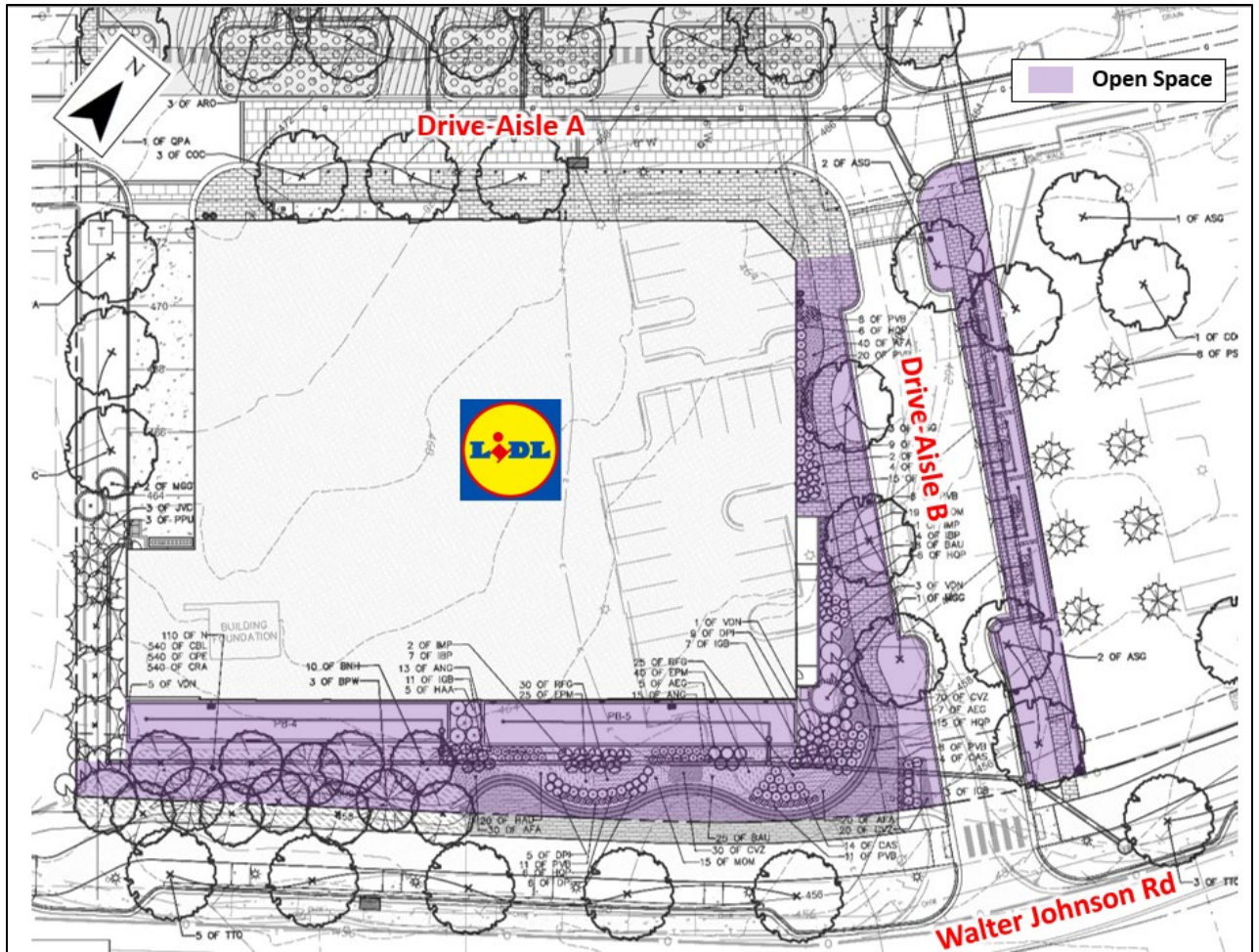


Figure 17 – Public Open Space Diagram/Landscaping Plan

The primary Public Open Space is between the southern face of the building and Walter Johnson Road, parallel to the proposed sidepath. The space along the western half of the building is a passive area, which is predominately landscaped and features a large grove of river birch trees.



Figure 18 - Open Space Looking NE

The activated portion of the Public Open Space is the plaza, between the southwest half of the building and corner of the building, west of drive-aisle B. The plaza features pedestrian pavers beginning at the back edge of the 12-foot-wide shared use path space that leads to a multi-tier curvilinear concrete seat wall, that extend around the southeast corner of the building. To soften the predominately hard surface area, a variety of the of landscaping is being planted between the edge of the seating wall. Two linear stormwater micro infiltration boxed will be constructed paralleling the building face, which will be vegetated and blend in with the surrounding landscaping. The plaza will be highlighted by a unique backdrop, the proposed 80-foot wide (approximately) mural that will be applied to the building face. According to the Applicant's Statement of Justification (Attachment 11), LIDL envision the mural will depict images from Germantown history.

The open space will serve multiple functions in this location. It will provide visual interest with the mural and unique landscape design and activate the frontage of Walter Johnson Road. The seating area serves a variety people, including patrons, employees, or cyclist and runs in need of a shady respite.



Figure 19 - Open Space Looking NE

At the eastern edge of the wall, a separate style of pedestrian paver begins, delineating the plaza and transiting to the sidewalk leading to the entrance of the LIDL store, along the southside of drive-aisle B. This portion of the open space includes a pedestrian connection, pedestrian access to the on street parallel parking space and street trees.

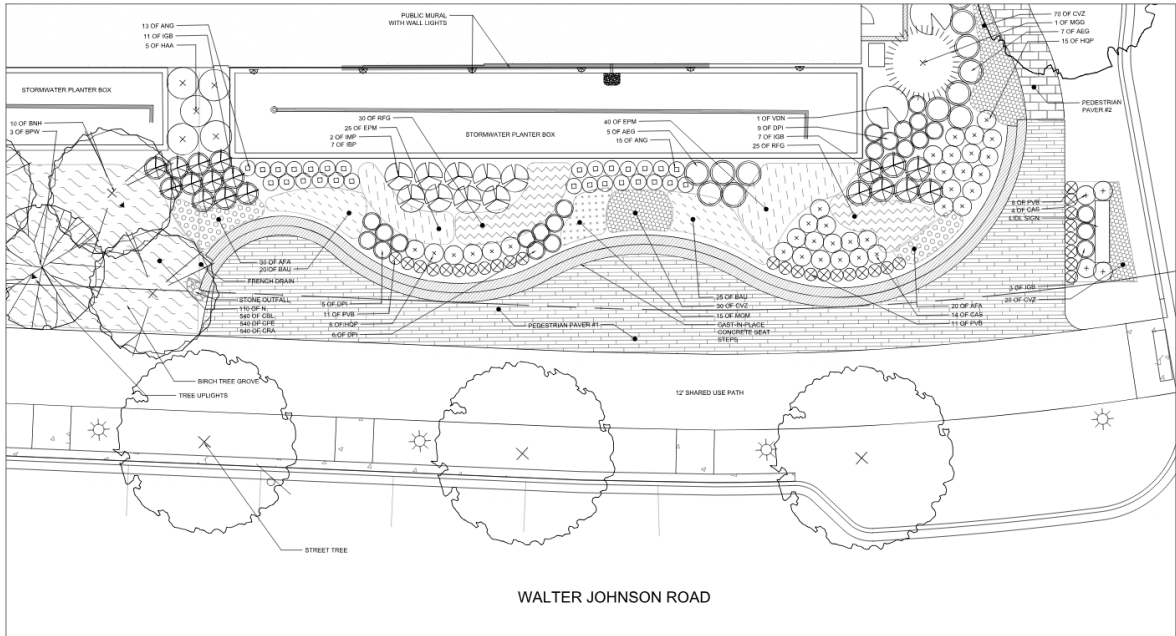


Figure 20 - Southern Plaza/Public Open Space

As described above, a contiguous Public Open Space area is being provided on the Subject Property, which includes passive and active spaces. As proposed, the Public Open Spaces are safe, adequate, and efficient to meet the proposed development.

(8) Division 6.4 General Landscaping and Outdoor lighting

The location and quantity of the proposed landscaping is safe, adequate, and efficient on the Subject Property. The Site Plan is proposing landscaping to serve multiple purposes, including canopy cover in-and-around the parking facilities, landscaping around the Public Open Space, and landscaping adjacent to the proposed buildings. Planting includes canopy trees, understory trees, shrubs, perennials, ornamental grasses, and groundcover.

Distributed throughout the Site, along the building facades, and in the parking lot, the proposed landscaping will enhance the visual appeal of the Subject Property and provide an aesthetically pleasing development. Internal landscaping occupies 22% of the parking lot, exceeding the 5 percent required by the Zoning Ordinance. Additionally, canopy trees will shade at least 30 percent of the parking lot; 5 percent more than required.

The lighting provided with this Application is safe, adequate, and efficient for ensuring good nighttime visibility within the parking lot and open space. The sidepath along Walter Johnson Road will be illuminated by 12-foot-tall decorative streetlights with globe LED luminaires. Interior to the site, the parking lot and parallel parking on the drive-aisles will be

lit by 25-foot-tall modern pole lights. Additional walls, mounted on the side of the building will provide additional lighting. Accent lights will also be installed to highlights the grove of river birches being plant in the Open Space, as well as the mural.

The photometric plan submitted by the Applicant shows that the proposed lighting will adequately illuminate the site creating a safe environment, without creating light spillage or excessive glare on adjacent properties or the rights-of-way. As conditioned, all site lighting provides adequate, safe and efficient illumination.

e) Satisfies the applicable requirements of:

i. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and

The Site 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 May 27, 2022 (Attachment 9). The Application will meet stormwater management goals via micro bioretention planter boxes. A partial stormwater management waiver has also been requested due to site constraints. The application of these approaches will provide for full environmental site design (ESD) to the maximum extent practicable (MEP).

ii. Chapter 22A, Forest Conservation.

The proposed Site Plan meets all requirements of the Forest Conservation Law. Please refer to the environmental section above in the Preliminary Plan findings for details.

f) Provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;

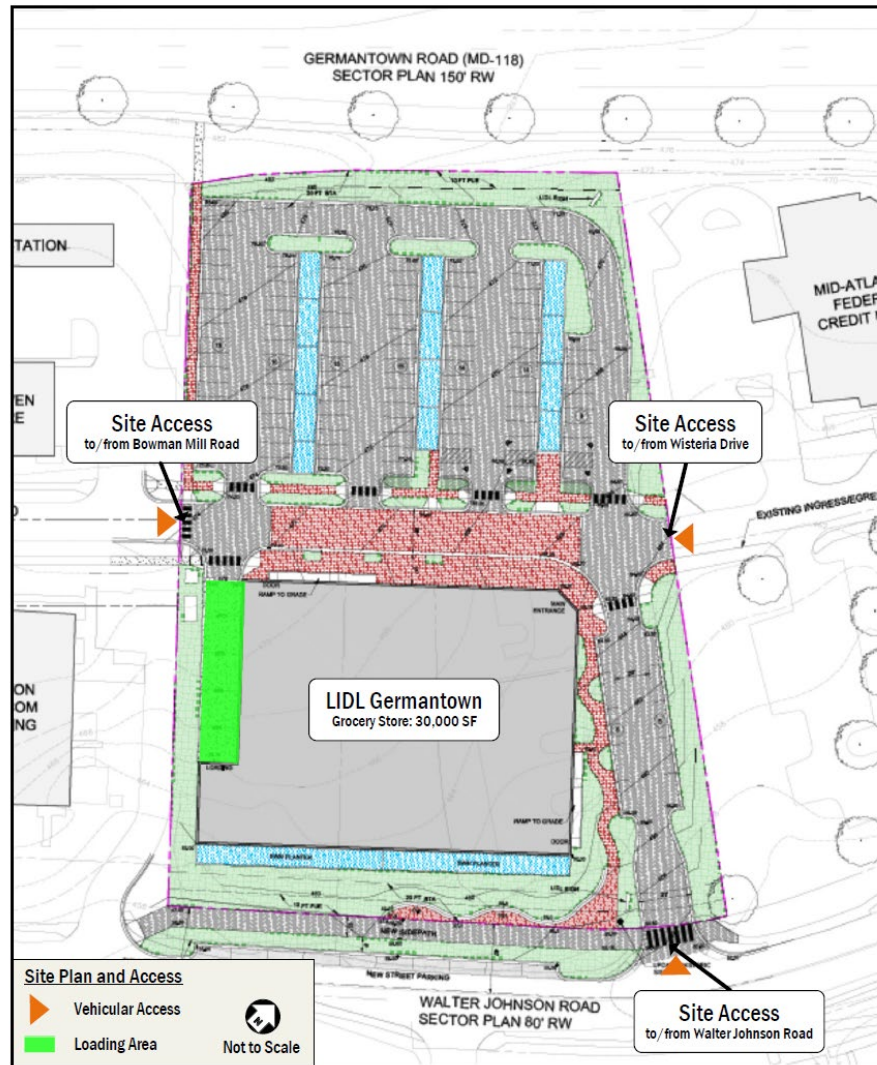


Figure 21 – Access Plan

The Site provides a safe, and efficient layout with parking, pedestrian connections, and open space that is well-integrated and logically located in relation to the proposed building. Sidewalks, raised crosswalks and specialty pavement clearly differentiate the pedestrian space on-site. Between the northwest building face and Drive-aisle A, where vehicles will be in close proximity to pedestrian, unintended conflicts are diminished with the installation of bollards along the perimeter of the pedestrian space.

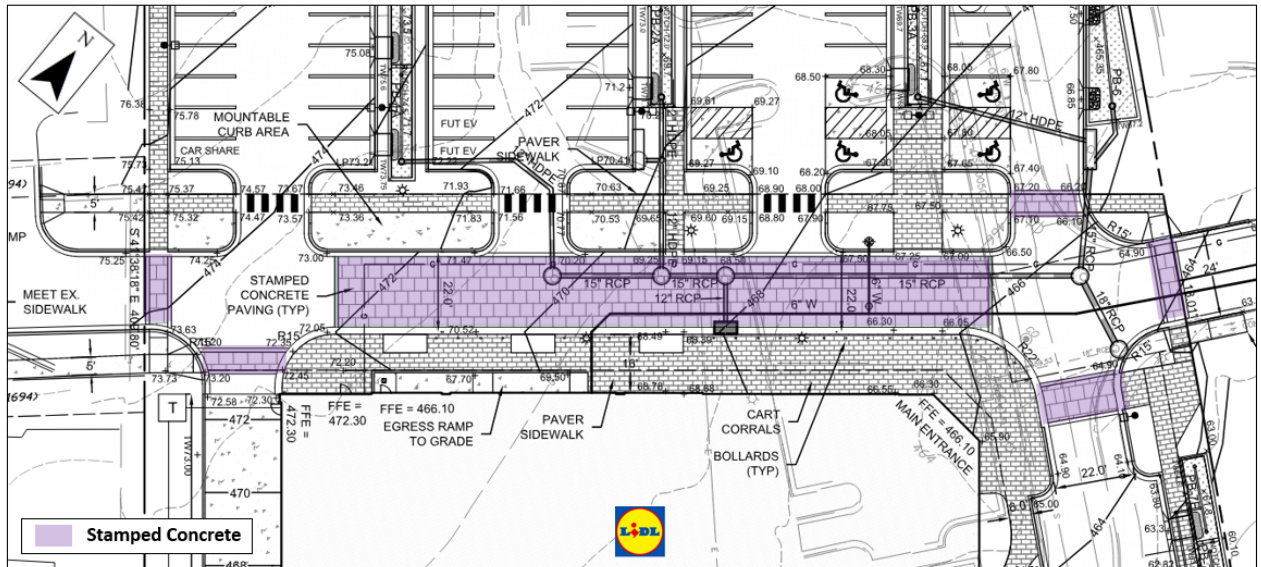


Figure 22 – Stamped Concrete Crossings

In addition to providing internal sidewalks for safe pedestrian movements, the Applicant is adding additional design features to increase pedestrian awareness and safety. To highlight that drive-aisle A is priority pedestrian area, stamped concrete is being installed between the building and parking lot in lieu of standard asphalt. As depicted in Figure 22, stamped concrete will also be used to delineate the pedestrian crossings which will further improve pedestrian safety and awareness.

- g) Substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;***

As analyzed in the accompanying Preliminary Plan No. 120220030 findings, the Site Plan substantially conforms with the recommendations of the relevant master plans.

- h) will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;***

As discussed in the accompanying Preliminary Plan No. 120220030 findings, the proposed development will be served by adequate public facilities, including police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.

- i) on a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and***

The Subject Property is not located in a Rural Residential or Residential zone.

- j) on a property in all other zones, is compatible with existing, approved or pending adjacent development.***

The proposed commercial use is compatible with the existing abutting and confronting commercial uses. The grocery store is similar in massing, height and scale to the abutting bank and retail establishments. By providing a connection through the Site, the Application will result in more efficient and convenient vehicular and pedestrian access and circulation through the commercial block and surround area.

- 3. To approve a Site Plan for a Restaurant with a Drive-Thru, the Planning Board must also find that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood.***

Not applicable, this Site Plan does not include a restaurant with a drive-thru.

- 4. For a property zoned C-1 or C-2 on October 29, 2014 that has not been rezoned by Sectional Map Amendment or Local Map Amendment after October 30, 2014, if the proposed development includes less gross floor area for Retail/Service Establishment uses than the existing development, the Planning Board must consider if the decrease in gross floor area will have an adverse impact on the surrounding area.***

Not applicable, the Subject Property is not zoned C-1 or C-2.

SECTION 7: COMMUNITY OUTREACH

The Applicant held a virtual pre-submittal public meeting on September 20, 2021 related to the Site Plan and Preliminary Plan. The meeting was conducted virtually per COVID-19 Guidelines and has complied with all submittal and noticing requirements. In addition to the required public meeting, the Applicant has conducted additional outreach.

Staff has received correspondence from the community in opposition of the Applications. The main concerns are related to historic preservation, Master Plan conformance, development stands and vehicle and pedestrian safety (Attachment 12).

Staff met with members of the Germantown community on-site on Tuesday, April 5 to discuss the Applications and address their concerns. They expressed concerns over safety within and around the Application area, particularly bike and pedestrian safety. There was significant attention given to the potential for cut-through traffic using the main drive aisle, the adequacy of nearby intersections and crosswalks, as well as the presence of large curb radii. There were also concerns over traffic generation that would negatively affect students at Seneca Valley High School. Unrelated to traffic, there are also concerns over the placement and design of the building in relation to Walter Johnson Road and requirement to replant the historic allee of white pines. In response to these concerns the Applicant made the following modifications:

- Adding mountable curbs around the outside edge of site with an outer radius of 15 ft. to meet the Urban Road Code standard.
- Restricting left turns at the intersection of driveway and Wisteria Dr. with re-striping median area (yellow), removing left turn out of site, and installing flex bollards in road
- Adding curb neck-downs along main drive aisle to restrict width to 22' of pavement
- Raising the two crosswalks across the drive aisle to slow traffic
- Extend the curb and add mountable curb to the NW corner of the Walter Johnson Rd./ Wisteria Drive intersection
- Replanting white pines consistent with the historic allee.

SECTION 8: CONCLUSION

The Application satisfies all of the applicable requirements of the Montgomery County Zoning Ordinance, and Subdivision Regulations, taking into consideration the requested modification and Sector Plan recommendations. The Application also satisfies the requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines. Therefore, Staff recommends approval of the Preliminary and Final Forest Conservation Plan with the conditions as cited in this Staff Report.

ATTACHMENTS

Attachment 1: ROW Abandonment Letter

Attachment 2: MCDOT Approval Letter

Attachment 3: Historic Preservation
Attachment 4: Traffic Statement
Attachment 5: Fire Access Letter
Attachment 6: Forest Conservation Plan
Attachment 7: Tree Variance Letter
Attachment 8: Arborist Letter
Attachment 9: Stormwater Management Concept
Attachment 10: Correspondence from OZAH
Attachment 11: Statement of Justification
Attachment 12: Community Correspondence
Attachment 13: DPS -ROW Letter