

# **Montgomery County Planning Board**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-062  
Preliminary Plan No. 120220060  
White Oak Apartments  
Date of Hearing: July 7, 2022

JUL 18 2022

## **RESOLUTION**

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

WHEREAS, on February 28, 2022, White Oaks Apartments, LLC ("Applicant") filed an application for approval of a preliminary plan for construction of up to 443,400 square feet of residential development, up to 387 dwelling units, on 7.83 acres of CRF-1.25, C-0.25, R-1.25, H-85' zoned-land, located at 2220 Broadbirch Drive and identified as Parcel EEEE on Plat No. 21173 ("Subject Property") in the 2014 *White Oak Science Gateway Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120220060, White Oak Apartments ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated June 27, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 7, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Rubin, seconded by Vice Chair Verma, with a vote of 4-0; Chair Anderson, Vice Chair Verma, and Commissioners Cichy, and Rubin voting in favor, with Commissioner Patterson being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120220060 to create one lot and one outlot on the Subject Property, subject to the following conditions:<sup>1</sup>

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

General Approval

1. This Preliminary Plan is limited to one lot and one outlot for up to 387 multifamily residential units (443,400 square feet of residential uses), including a minimum of 15% MPDUs.

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 dated June 1, 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. 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 12, 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.
7. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS"), Fire Department Access and Water Supply Section in its letter dated May 5, 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.
8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs ("DHCA"), in its letter dated April 18, 2022, and incorporates them as

conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

#### Other Approvals

9. The Applicant must comply with binding elements of County Council Resolution No. 19-1128 approving Local Map Amendment H-141.
10. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of any subsequent Site Plan(s) associated with this Preliminary Plan. The number and location of site elements including but not limited to buildings, dwelling units, on-site parking, site circulation, sidewalks and bike paths will be determined through the site plan review and approval process.
11. If an approved site plan amendment for the Subject Property substantially modifies the lot(s) 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 schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
13. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
14. 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 Paint Branch watershed to satisfy the reforestation requirement for a total of 1.25 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 Paint Branch watershed or by making a fee-in-lieu payment if mitigation credits are not available at any bank.

#### Transportation

15. The Applicant must develop a Level 3 Results Transportation Demand Management (TDM) Plan to participate in the White Oak Transportation Management District prior to issuance of any building permit.

#### Existing Frontage Improvements

16. 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 Broadbirch Drive.
  - b. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a 10-foot wide sidewalk and 14-foot green panel along the Property frontage on Broadbirch Drive.

New Streets

17. The Applicant must dedicate the rights-of-way and ensure construction of all necessary road improvements for the following public streets, as shown on the Preliminary Plan, to the design standards imposed by all applicable road codes:
  - a. Road A, consistent with MC -2005.02, as modified by MCDOT.

Record Plats

18. There shall be no clearing or grading of the site prior to recordation of the plat, except for demolition of existing development.

Easements

19. The record plat must show necessary easements.
20. The record plat must reflect common ingress/egress and utility easements over all shared driveways.

Notes and Labels

21. The record plat must reflect all areas under common ownership.

Certified Preliminary Plan

22. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
23. The certified Preliminary Plan must contain the following notes:
  - a. 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.
24. 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. Include the approved Fire and Rescue Access plan in the certified set.
  - c. Ensure consistency between Sketch, Preliminary, and Site Plans.

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

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

The lots have been reviewed for compliance with Section 50.43(D) of the Subdivision Regulations. The layout of the subdivision, including size, width, shape, and orientation of the lot and outlot, is appropriate for the location within the subdivision and meets all applicable requirements of the CRF Zone.

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

The Preliminary Plan provides for the required dedication along Broadbirch Drive and the necessary dedication to construct Road A. The Project establishes the minimum 10% public open space.

- b) *The Lots and Use comply with the basic requirements of Chapter 59.*

The lot and outlot were reviewed for compliance with the dimensional requirements for the CRF zone as specified in the Zoning Ordinance. As shown, the lot meets all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included below.

White Oak Apartments, Preliminary Plan Data Table for CRF-1.25, C-0.25, R-1.25, H-85' Zone, Optional Method, Section 59.5.3.5

Development Standard	Permitted/ Required	Approved
Tract Area (square feet /acres)	n/a	358,008 s.f. (8.22 ac)
Prior Dedication (square feet /acres)	n/a	17,170 s.f. (0.39 ac)
Dedication (square feet /acres)	n/a	44,294 s.f. (1.02 ac)
Site Area (square feet /acres)	n/a	
Parcel A		295,712 s.f. (6.79 ac)
Outlot A		831 s.f. (0.02 ac)
Mapped Density CRF-1.25, C-0.25, R-1.25, H-85 Residential (GFA/ FAR)		



	447,510 s.f. (1.25 FAR)	443,400 s.f. (1.24 FAR)
<b>Commercial (GFA/FAR)</b>	89,502 s.f. (0.25 FAR)	0.0 s.f. (0.0 FAR)
<b>Total Mapped Density (GFA/FAR)</b>	447,510 s.f. (1.25 FAR)	443,400 s.f. (1.24 FAR)
<b>MPDU requirement</b>	15%	15%
<b>Building Height, max average</b>	85 feet	
<b>Multifamily</b>		75 feet max
<b>Two over Two Buildings</b>		55 feet max
<b>Public Open Space (min s.f.)</b>	29,654 s.f. (10%) <sup>2</sup>	34,820 s.f. (11.7%)
<b>Minimum Setbacks (ft)<sup>3</sup></b>		
<b>Front (south)</b>	10 ft	14 ft
<b>Side (west)</b>	0 ft	124 ft
<b>Side (east)</b>	60 ft	60 ft
<b>Rear (north)</b>	10 ft	15 ft

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

The Project substantially conforms to the recommendations of the *2014 White Oak Science Gateway Master Plan* (Master Plan). The overarching goal of this Master Plan is “to transform the built environment from auto-oriented single-purpose nodes into vibrant mixed-use centers” (p. 23). The Property is within the Master Plan’s Life Science/FDA Village Center which is identified as one of the Plan’s three major activity centers (p. 27). This Plan recommended the CR Zone for this Property to “encourage redevelopment and provide land use flexibility” (p. 50) and the Property is identified as a potential redevelopment site on the Illustrative Concept Plan for the area (Figure 4, p. 47).

The US 29 BRT network envisioned in the Master Plan is now operating along the corridor, and the Project takes advantage of the County’s major investment in this new transit infrastructure. The Master Plan recommendations support the introduction of residential uses and pedestrian-oriented amenities. While the Master Plan discussion focuses primarily on the 300-acre Percontee property, it also recommends that properties such as the Subject Property and others adjacent to it “introduce mixed uses and improve key properties to create adequate gateways to the area and enhance vehicular and pedestrian connections” (p. 50). The development furthers other Master Plan goals by improving frontages along an important existing street (Broadbirch Drive); and introducing a mix of residential uses into an otherwise light industrial area.

<sup>2</sup> As required by 4.5.4.B.1 (optional method) because of two master planned frontages.

<sup>3</sup> As determined by the Floating Zone Plan associated with H-141.

The Applicant intends to construct a portion of master planned “potential” connection, “Whitehorn Court (extended)”. When redevelopment of adjacent properties occurs in the future, dedications to complete this road will be required that will ultimately connect Broadbirch Drive and Whitehorn Court, improving area circulation and extending dead-end streets as recommended in the Master Plan (p. 50).

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

a) *Circulation and Access*

Pedestrian access to the Site will be from the established sidewalk network along Broadbirch Drive, which will be enhanced by streetscape improvements along the Property frontage, consistent with recommended streetscape standards within the *2014 White Oak Science Gateway Master Plan Design Guidelines*. The Applicant is proposing to construct a new Business District Street (Road A), identified as a potential road within the Master Plan, along the eastern Property line from Broadbirch Drive to the northeast corner of the Property, which will be explained in further detail in this section.

The existing curb cut on Broadbirch Drive currently providing access to the former office surface parking area, along the eastern Property line, remains. The solitary ingress and egress from the existing roadway provides direct access to the internal parking areas which serve the multifamily residential structure and 2-over-2 garages. The new Business District Street serves as the community’s backbone, providing access to the residential driveways, as well as the structured, multi-grade parking garage. Construction of Road A is intended to be extended northwards as part of future redevelopment of adjacent properties, eventually tying into the existing Whitehorn Court cul-de-sac. A temporary turnaround, consistent with MCDOT standard detail MC-223.01 is provided in the interim, prior to its future extension.

Trash pick-up associated with the 2-over-2 multifamily dwelling units are accommodated through the vehicular access located off a drive aisle, where trash will be collected from each of the 14 buildings for pick-up, with an expected frequency of twice per week. The five-story multifamily structure features its own internal loading dock and resident parking entrance, directly from Road A. The loading space is intended to primarily serve residents moving in and out of the building, as well as accommodate trash pickup. Vehicular and loading turning movements are displayed on the submitted circulation and truck turning exhibits.

b) *Parking*

The total number of parking spaces in the on-site parking garages and surface parking areas meet the Zoning Ordinance requirement, by providing 522 vehicle spaces, 96 long-term bike spaces, and 6 short-term bike racks. Long-term bicycle parking spaces are provided within a secure bicycle room on the ground floor of the structure and short-term spaces are located adjacent to the future leasing and amenity space along Road A, in the southeast corner of the multifamily structure. All private vehicular parking within the garage structure, surface parking areas, and garages within the 2-over-2 dwelling units are accessed from the internal private driveways.

*c) Master-Planned Roadways*

The segment of Broadbirch Drive between Tech Road and Cherry Hill Road is classified as B-9, a Business Street within the *Master Plan of Highways and Transitways*. The segment is currently 80-feet wide and planned to be 100 feet wide with 4 travel lanes. The Applicant is proposing a public right-of-way dedication of ten feet to meet this requirement. The Broadbirch Drive Property frontage is enhanced with a 10-foot sidewalk and 14-foot green panel in accordance with the Town Center Boulevard streetscape requirements in the *Complete Streets Design Guide*.

Pursuant to the Master Plan, a new street connection from Broadbirch Drive to the existing terminus of Whitehorn Court is identified within the Life Sciences/FDA Village Center area. Due to the fact that the Master Plan does not explicitly dictate its street classification or its design, the new public connection falls most appropriately to the Business District Street designation due to its land use context. Per Section 49-31(h)(h) of the County Code, "a Business District Street is a road meant for circulation in commercial and mixed-use zones." However, as a result of constraints of the site due to topographic issues along the east side of the Property and challenges associated with accommodating the standard 70-foot width for a Business District Street in relation to the Applicant's structures, the stream valley buffer, and parking; full implementation of the 70-foot right-of-way is not warranted. The Applicant is dedicating the constructed roadway as public right-of-way.

As such, the Applicant will construct the new connection under a modified MC 2005.01 standard detail, utilizing a 60-foot cross section which provides a shared use path along the Applicant's frontage, green panel, and two travel lanes, with curb and gutter on both sides of the pavement width, as illustrated in Figure 8 of the Staff Report. While it is important to note that separated bicycle lanes are the default facility for streets which do not have recommended bikeways per the Bicycle Master Plan, a sidepath is the context sensitive solution in this instance given the constraints of the site and the Planning



Board's apprehension of limiting bikeway improvements to just one path of travel. It is assumed that a new sidepath will be constructed when the adjacent property to the east of the subject site redevelops, in a manner that facilitates the grading of current topographic challenges. The design of the new road is consistent with recommendations outlined in the *Complete Streets Design Guide* as it relates to Town Center Streets.

*d) Pedestrian and Bicycle Facilities*

Along the Broadburch Drive Property frontage, the Applicant proposes to construct a new ten-foot-wide sidewalk with a wider furnishing zone to preserve existing mature canopy trees, consistent with guidance within the Master Plan and the *Complete Streets Design Guide*, which would foster a more comfortable space for people walking parallel to multimodal traffic along the Business Street. Per the *2018 Bicycle Master Plan*, there are no bicycle facilities planned along the Site's frontage with Broadburch Drive. A bidirectional separated bikeway is planned along the opposite frontage of the roadway.

Furthermore, the Applicant is constructing a new sidepath along the entirety of the western frontage of Road A, ensuring safe and comfortable space for people walking and bicycling, from Broadburch Drive to the terminus of Road A at the northeast corner of the Property. A new crosswalk will be built hand-in-hand with the roadway connection, providing a high visibility crossing between the residences and the existing sidewalk network to the east along the adjacent property. The eventual completion of sidepaths along both sides of Road A facilitates enhanced circulation and connects with the planned separated bicycle lanes along Broadburch Drive and the sidepath along Prosperity Drive to the north.

*e) Public Transit Service*

The immediate area is well served by transit that includes Ride On, Metrobus, and the Flash Bus Rapid Transit service along Columbia Pike (US 29), which features an existing station at the Tech Road-Columbia Pike intersection located within a 1/3 mile of the Subject Property. Metrobus route Z6 operates along Broadburch Drive, providing service to the Silver Spring CBD and Burtonsville Crossing Park & Ride, and the Silver Spring Metrorail Station. Ride On route 10 provides service between the Tech Road Transit Center, the FDA, and the Glenmont/Twinbrook Metrorail Stations via Tech Road to the west of the Property.

*f) Local Area Transportation Review (LATR)*

In accordance with the *2020-2024 Growth and Infrastructure Policy*, a traffic study is not required to satisfy the LATR test because projects within the White Oak Policy Area are exempt from the LATR but are subject to a Local Area Transportation Improvement Program (LATIP). The LATIP program is designed to cost-share currently planned transportation improvements for the area. The Applicant will pay a fee per their assumed impact based on trip generation, to the satisfaction of the Montgomery County Department of Transportation (MCDOT), which operates the LATIP program. Standard frontage improvements must still be constructed by the Applicant; however, the cost of projects assumed in the LATIP package may be credited against the fee if an Applicant chooses—or is required—to construct an improvement.

The Applicant filed a transportation statement, which included up to 359 high rise multifamily residential units as well as 28 low rise residential units. A 66,150-square foot general office use previously occupied the Site. The Project would generate an increase of 120 net new morning person trips and 111 net new evening person trips, including an increase of 61 net new morning peak hour vehicle trips and 55 net new evening peak hour vehicle trips when compared to the former office building. The table below shows the projected new person trips generated by the redevelopment.

*Vehicular Trip Generation*

<b>Vehicle Trip Generation</b>	<b>AM</b>	<b>PM</b>
Existing Site Generated Vehicle Trips (Driver) (ITE 11 <sup>th</sup> Edition – 66,150 SF General Office)	117	118
LATR Policy Area Adjustment (Office)	90% of ITE Rate	
Person Trips	153	155
Site Generated Vehicle Trips (Driver) (ITE 11 <sup>th</sup> Edition – 359 Mid Rise Residential)	146	140
LATR Policy Area Adjustment (Residential)	89% of ITE Rate	
Person Trips	224	215
Site Generated Vehicle Trips (Driver) (ITE 11 <sup>th</sup> Edition – 28 Low Rise Residential)	32	33
LATR Policy Area Adjustment (Residential)	89% of ITE Rate	
Person Trips	49	51
Net New Vehicle Trips (Driver)	+61	+55
Net New Person Trips (Converted using total vehicle driver mode share)	+120	+111

*(Source: ITE, 11<sup>th</sup> Edition, revised from Applicant's LATR Review)*

Transportation Demand Management

As a project within the White Oak Transportation Management District (TMD) that is greater than 40,000 square feet of gross floor area, the development is required to develop a Level 3 Results Transportation Demand Management (TDM) Plan with MCDOT to participate in the White Oak TMD.

*g) Schools*

Overview and Applicable School Test

Since Preliminary Plan No. 1202200060 for 2220 Broadbirch Drive was approved by the Planning Board on July 7, 2022, the FY23 Annual School Test, approved by the Planning Board on June 16, 2022 and effective July 1, 2022 was applied. This plan includes 359 multifamily high-rise units and 28 multifamily low-rise units.

School Adequacy Test

The project is served by Galway ES, Briggs Chaney MS and Paint Branch HS. Based on the FY23 Annual School Test results, the student enrollment and capacity projections for these schools are noted below.

*Applicable FY2023 School Adequacy*

School	Projected School Totals, 2026				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/ Deficit		Tier 1	Tier 2	Tier 3
Galway ES	770	736	95.6%	+34	No UPP	119	188	304
Briggs Chaney MS	927	912	98.4%	+15	No UPP	141	201	340
Paint Branch HS	2,021	2,165	107.1%	-144	No UPP	36	261	564

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school's adequacy status and ceilings, as determined in the Annual School Test. Under the FY23 Annual School Test, Galway ES, Briggs Chaney MS and Paint Branch HS do not require any UPP as identified in the table above. If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

Calculation of Student Enrollment Impacts

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

With a net of 387 multifamily low-rise units that are not age-restricted, the Project is estimated to generate the following number of students based on the Subject Property's location within an Infill Impact Area as shown below.

*Estimated Student Enrollment Impacts*

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	0	0.195	0.000	0.096	0.000	0.139	0.000
SF Attached	0	0.166	0.000	0.091	0.000	0.116	0.000
MF Low-rise	28	0.059	1.652	0.023	0.644	0.032	0.896

MF High-rise	359	0.034	12.206	0.015	5.385	0.016	5.744
<b>TOTALS</b>	<b>387</b>		<b>13</b>		<b>6</b>		<b>6</b>

As shown in the table above, on average, this project is estimated to generate 13 elementary school students, six (6) middle school students and six (6) high school students. The estimated number of students generated do not exceed the adequacy ceilings identified for each school in the FY2023 School Adequacy Table. Therefore, no additional UPPs are required and neither are partial payments across multiple UPP tiers.

#### Analysis Conclusion

The Applicant is not required to obtain an assessment from Montgomery County Department of Permitting Services for Utilization Premium Payments (UPPs) consistent with County Code and the Growth and Infrastructure Policy.

#### h) Other Public Facilities

The development is to be served by public water and sewer systems. Fire and Rescue has reviewed the Application and has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services including police stations and health care continue to be sufficient following the construction of the project. Electric, gas and telecommunications services are also available. Per the June 1, 2022 letter from MCDOT, the storm drain analysis shows adequate drainage with no improvements needed to the downstream storm drain system for this plan.

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

#### A. Forest Conservation

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

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD No. 420211170) for the Subject Property on April 14, 2021. There are 0.35 acres of forest on the Property. Multiple pipes outfall into a series of incised channels and there are utility and stormdrain easements on portions of the southwest corner. Due to the observed groundwater involvement, the channels have been designated as an intermittent stream and buffered. The channel system flows into two pipes at Broadbirch Drive and becomes part of the stormdrain system before daylighting into the West Farm tributary of the Paint Branch. The Property has 1.51 acres of stream valley buffer associated with the intermittent stream. The existing development is partially within the stream valley buffer.



*The Guidelines for Environmental Management of Development in Montgomery County* (Environmental Guidelines) provide guidance on appropriate techniques for protecting natural resources during the development process. The development encroaches into the stream valley buffer but the Applicant is protecting the channels and forest and integrate the natural areas into the open space.

In this case, the Project provides adequate protection of the stream and surface water flowing through the channel because:

1. The stream fragment is the only remaining daylighted portion of this tributary until it surfaces ¼ mile away; and
2. The majority of water flowing through the channel is runoff from surrounding developments that has been concentrated into pipes and outfalls into the channel.

The Project avoids the stream and provides long term protection. Due to the extremely degraded nature of the existing system and the short length of exposed channels, increased preservation of the stream valley buffer will not result in increased water quality. The Project protects and enhances the forested area and most of the stream valley buffer, creating an asset from a degraded environmental feature.

The Property has 0.35 acres of forest located in the southwest corner of the Property, within the stream valley buffer. However, 0.26 acres of the forest is located within an existing stormdrain easement. The Planning Board approved a Preliminary Forest Conservation Plan (PFCP) associated with LMA H-141 showing the retention of 0.24 acres of forest in a Category I Conservation Easement. Through the development process, MCDPS Staff determined that the stormdrain easement must be retained so the forest previously shown as retained is now removed from all calculations.

The Final Forest Conservation Plan (FFCP) shows 0.09 acres of forest (outside of the stormdrain easement). The Applicant is clearing 0.01 acres of forest but the remaining 0.08 acres of forest is counted as cleared because it is too small to be protected with an isolated Category I Conservation Easement. The Limits of Disturbance (LOD) on the FFCP is consistent with the LOD on the PFCP. The Applicant is planting 0.05 acres of forest to supplement the existing forest. The forest conservation planting requirement of 1.25 acres is being met off-site.

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

The Applicant received approval of their stormwater management concept from the Montgomery County Department of Permitting Services, Water Resources Section on May 12, 2022. The concept meets required stormwater management goals using a combination of ESD approaches including six microbioretention areas and two planter boxes. Stormwater quantity control is met by the Westfarm Regional Pond. The Property is not subject to a water quality plan, and there are no floodplain requirements. The requirements of Chapter 19 for stormwater management are satisfied.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 18 2022 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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#### CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Rubin, seconded by Vice Chair Verma, with a vote of 4-0-1, Chair Anderson, Vice Chair Verma, and Commissioners Cichy, and Rubin voting in favor, Commissioner Patterson abstaining, at its regular meeting held on Thursday, July 14, 2022, in Wheaton, Maryland and via video conference.



Casey Anderson, Chair  
Montgomery County Planning Board



Thomas Rosato  
7226 Lee Deforest Drive, #104  
Columbia, Maryland 21046

Noam Magence  
1228 Euclid Avenue, 4th Floor  
Cleveland, Ohio 44115

Adam Steiner  
4080 Lafayette Center Drive, Suite 330  
Chantilly, Virginia 20151

Don Foor  
8200 Greensboro Drive, Suite 650  
McLean, Virginia 22102

Timothy Stemann  
2 Research Place, Suite 100  
Rockville, Maryland 20850

SOO LEE-CHO  
200B Monroe Street,  
Rockville, Maryland 20850

Jane Przygocki  
2 Research Place, Suite 100  
Rockville, Maryland 20850

Francoise Carrier  
7315 Wisconsin Avenue, Suite 800  
Bethesda, MD 20814

Karl J. Alt  
9801 Washingtonian Blvd, Suite 310  
Gaithersburg, MD 20878

Josh Wooldridge  
9801 Washingtonian Blvd, Suite 310  
Gaithersburg, MD 20878

Joseph Torg  
9801 Washingtonian Blvd, Suite 310  
Gaithersburg, MD 20878

Thom Nester  
1228 Euclid Avenue, 4th Floor  
Cleveland, Ohio 44115

Ben Audrain  
1228 Euclid Avenue, 4th Floor  
Cleveland, Ohio 44115

Rebecca Torma  
101 Monroe Street, 10th floor  
Rockville, MD 20850

Deepak Somarajan  
101 Monroe Street, 10th floor  
Rockville, MD 20850

Dan Wilhelm  
904 Cannon Rd,  
Silver Spring, MD 20904

Daniel Park  
2 Research Place, Suite 100  
Rockville, MD 20850

MR. RICHARD BRUSH, MANAGER  
MCDPS-WATER RES. PLAN REVIEW  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [rick.brush@montgomerycountymd.gov](mailto:rick.brush@montgomerycountymd.gov)

MS. Somer Cross  
DHCA  
100 MARYLAND AENUE  
4<sup>TH</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [somer.cross@montgomerycountymd.gov](mailto:somer.cross@montgomerycountymd.gov)

MS. PATRICIA WOLFORD  
MCDPS-ZONING  
255 ROCKVILLE PIKE, 2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [patricia.wolford@montgomerycountymd.gov](mailto:patricia.wolford@montgomerycountymd.gov)

DAN McHUGH  
MPDU MANAGER, DHCA  
100 MARYLAND AVENUE, 4<sup>TH</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [dan.mchugh@montgomerycountymd.gov](mailto:dan.mchugh@montgomerycountymd.gov)

MR. GREG LECK  
MCDOT  
101 MONROE ST  
10<sup>TH</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [greg.leck@montgomerycountymd.gov](mailto:greg.leck@montgomerycountymd.gov)

MR. ATIQ PANJSHIRI  
MCDPS-RIGHT-OF-WAY  
PERMITTING  
255 ROCKVILLE PIKE, 2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [atiq.panjshiri@montgomerycountymd.gov](mailto:atiq.panjshiri@montgomerycountymd.gov)

MS. CHRISTINA CONTRERAS  
MCDPS-LAND DEVELOPMENT  
255 ROCKVILLE PIKE, 2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850  
By email  
[christina.contreras@montgomerycountymd.gov](mailto:christina.contreras@montgomerycountymd.gov)

MR. ALAN SOUKUP  
MCDDEP-WATER & WASTEWATER POLICY  
255 ROCKVILLE PIKE, SUITE 120  
ROCKVILLE, MD 20850  
By email [alan.soukup@montgomerycountymd.gov](mailto:alan.soukup@montgomerycountymd.gov)

MR. MARK ETHERIDGE, MANAGER  
MCDPS-SEDIMENT/STORMWATER  
INSPECTION & ENFORCEMENT  
255 ROCKVILLE PIKE, 2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [mark.etheridge@montgomerycountymd.gov](mailto:mark.etheridge@montgomerycountymd.gov)

MR. EHSAN MOTAZEDI  
MCDPS-SITE PLAN ENFORCEMENT  
255 ROCKVILLE PIKE, 2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [ehsan.motazedi@montgomerycountymd.gov](mailto:ehsan.motazedi@montgomerycountymd.gov)

MR. GENE VON GUNTEN  
MCDPS-WELL & SEPTIC  
255 ROCKVILLE PIKE, 2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850  
By email [gene.vongunten@montgomerycountymd.gov](mailto:gene.vongunten@montgomerycountymd.gov)



