

Memorandum

TO: Jeffrey Zyontz, Chair
Montgomery County Planning Board

VIA: *JC* Jonathan Casey, Planner II
SP Sandra Pereira, Supervisor
PB Patrick Butler, Chief
Upcounty Division

FROM: Tanya Stern, Acting Planning Director *TS*

RE: Corrected Resolutions:
A. MCPB No. 22-088
Wisteria Business Park, Preliminary Plan No. 120220030

B. MCPB No. 22-089
LIDL Germantown, Site Plan No. 820220080

DATE: November 17, 2022

Attached, please find the Corrected Resolution for Wisteria Business Park, Preliminary Plan No. 120220030, MCPB No. 22-088 and LIDL Germantown, Site Plan No. 820220080, MCPB No. 22-089. The Resolutions were mailed out to all parties of record on August 25, 2022. Minor corrections to the Resolutions have become necessary because the adopted Resolutions included typographical errors in the Whereas clauses, that misstated the name of the applicable Sector Plan as the **2009 Germantown Employment Area Sector Plan**, rather than the **2019 MARC Rail Communities Sector Plan**. The Site Plan resolution also misstated the date of Staff's memorandum as July **28**, 2022, rather than July **15**, 2022.

At the request of the Applicant's counsel, additional language has been added to Site Plan **Condition 4** and **19**. Related to Condition 19, clarifying language has also been added to **page 7, 12, and 16** of the Site Plan Resolution to clarify the description of "Drive-Aisle A" and "Drive-Aisle B", as described in the Staff Report. Site Plan **Condition 6** has also been revised to remove the reference to the historic house, since the historic house is not on the Subject Property.

The revision does not alter the intent of the conditions approved by the Planning Board and the Certified Preliminary Plan and Certified Site Plan will include the attached Corrected Resolutions.

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-088
Preliminary Plan No. 120220030
Wisteria Business Park
Date of Hearing: July 28, 2022

CORRECTED RESOLUTION

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

WHEREAS, on December 15, 2021, LIDL US Operations, LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create one (1) lot and Outlot on 3.59 acres of land in the CR-1.0, C-0.75, R-0.75, H-75 zone and the Germantown Transit Mixed Use Overlay (“GTMU”) Overlay Zone, located in the southern quadrant of the intersection of Germantown Road (MD 118) and Wisteria Drive, on Walter Johnson Road, 225 Feet South of Wisteria Drive (“Subject Property”), in the Germantown Center Policy Area and 2019 *MARC Rail Communities ~~09-Germantown Employment Area~~ Sector Plan* (“Sector Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120220030, Wisteria Business Park (“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 July 15, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 28, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120220030 to create one (1) lot and one (1) Outlot on the Subject Property, subject to the following conditions:¹

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

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, except for Comment 1 and 17a, requiring installation of a traffic signal at the intersection of Walter Johnson Road and Wisteria Drive. The Applicant must comply with each of the remaining 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 May 4, , 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. Before approval of a record plat or any demolition, clearing or grading for the Subject Property (except for demolition, clearing and grading associated with demolishing the existing building and paving), 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, on-site parking, site circulation, sidewalks and sidepaths is determined through site plan review and approval.
10. Except for 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-NCPFC 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 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 must include a 10-foot-wide crossing, with corresponding ramps at the existing bank driveway, connecting to the proposed sidepath on Outlot A to the off-site sidepath immediately to the north.
17. The existing bank driveway access to Wisteria Drive must include necessary treatments, as approved by MCDOT, to achieve 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~~ Drive aisle A, 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~~ Drive aisle B, running north from Walter Johnson Road to the proposed parking lot.

Record Plats

20. Prior to recordation of any plat, the County Council must abandon the portions of public rights-of-way subject to Right-of-Way Abandonment Case # AB779.
21. The record plat must show necessary easements.
22. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
23. The record plat must reflect all areas under common ownership.
24. 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

25. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
26. 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.

27. 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 necessary treatments to achieve right-in right-out channelization at the existing bank driveway access to Wisteria Drive and note that the final design is subject to MCDOT approval.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Preliminary Plan No. 120220030, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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 Subject Property consists of 4.737 acres of land (gross tract area), comprised of Lot 1 on Record Plat 20037 (1.02 acres), Lot 3 on Record Plat 21066 (1.42 acres), Parcel P965 (0.994 acres), 42,677 square feet (0.978 acres) of prior dedication and an 0.308-acre portion of Montgomery County Right-of-Way (to be abandoned by request No.779). The Preliminary Plan creates one 2.78-acre lot and one 0.89-acre 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.

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

- i. 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. The Applicant intendeds to access the development from the existing terminus (hammerhead) of Walter Johnson Road, in the public right-of-way shown on Record Plat No. 21694 (referred to as “Walter Johnson North)” that connects the Subject Property with Bowman Drive. Between the new parking lot and LIDL building, the Applicant is creating a through-block connection, by adding a drive-aisle (“Drive-Aisle A”) connecting Walter Johnson North through the Subject Property, 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 Outlot A, a second new drive-aisle will be constructed (“Drive-Aisle B”), connecting Walter Johnson Road to Drive-Aisle A and the Credit Union drive-aisle.

~~Walter Johnson North and Walter Johnson Road Drive-Aisles A and B will be covered by an ingress-egress easement for the benefit of the public, with a public access easement over the private drive.~~ Therefore, circulation and access to the site will function as though the Property and surrounding tracts had~~s~~ been subdivided as a single subdivision. 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. The Board approves this lot design due to the unusual topography and orientation that provide no other feasible subdivision option.

- 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 ~~d~~Drive-~~A~~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-way for dedication and easements necessary for public roads, paths, utilities and other public facilities, except for dedication of the right-of-way for Wisteria Drive.

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

A portion of the Subject Property is occupied by a surface parking lot and will remain on Outlot A. Outlot A 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.

The Planning Board 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 support (Letter dated July 15, 2022) 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, under 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, it is an 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 utilities will either remain in the existing AT&T easement or in the future utilize a new 10-foot-wide utility easement immediately adjacent to the existing AT&T easement. 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. However, public benefit points and purchasing BLT's is not required for this Application, because the development is standard method, with a concurrent 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. Final building placement and setbacks will be determined at Site Plan.

As shown on the Preliminary Plan and described in more detail in the accompanying Site Plan application, 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.

1) *The Preliminary Plan substantially conforms to the Master Plan.*

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

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 Road/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 Lidl 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*, 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-A~~ aisle A will be introduced ~~that run~~ runnings parallel to Walter Johnson Road and ~~connectings~~ connecting Bowman Mill Drive with Wisteria Drive. ~~An existing unimproved right of way midway along the west side of Walter Johnson Road (“Drive-a~~ aisle BA”) will be built to create a midblock connection between ~~this Drive-A~~ aisle A street and ~~the existing stub of~~ Walter Johnson Road to the southwest.

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~~ connection (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.

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.

2020 Bicycle Master Plan

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 Road.

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

1985 Amendment to the Master Plan for 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 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 in the Sector Plan] 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.

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.

The historic allee of white pines that delineated the historic alignment of the Water's driveway, have died over 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 HPC staff report, the 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.

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

2) *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 Road, 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.

The Board approves the Applicant's request to dedicate 43-45 feet (existing) from the Wisteria Drive road centerline, which is less than the full Master Plan recommended ROW width. The reduced ROW is acceptable because the Master Plan recommended sidepath can be constructed in the existing ROW as part of this Application and because, as an 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 connections through the Subject Property. ~~Drive-Aisle A, one~~ between Bowman Mill Drive and Wisteria Drive to the east, providing east-west through connectivity, and ~~Drive-~~Aisle B, running north-south from Walter Johnson Road connecting to ~~the main Drive-A-aisle A~~. 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 Road 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.

iii) 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.

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). Although MCDOT requested the traffic signal be constructed by the Applicant, the Planning Board found that the analysis did not show a need for the signal, a nexus did not exist, and the Applicant otherwise met its transportation requirements.

(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. These deficiencies are being addressed in part through the Applicant's off-site mitigation improvements as discussed below, which will provide improvements up to the maximum LATR project cost cap. The local bicycle and pedestrian networks were studied 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. 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.

iv) 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 within 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 May 4, 2022.

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.

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

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 Madeline V. Waters Historic Site (19/013-001A). No cemeteries are known to exist on the Subject Property.

B. Forest Conservation

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

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

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.

This Application will require the removal or CRZ impact to 211 Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board finds that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property, for a permitted commercial use, without the Variance.

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the variance 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.

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

The requested variance is 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.

- 3. The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is 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.

- 4. Granting the Variance 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 the Variance is at a rate that approximates the form and function of the Protected Trees removed (368 caliper inches). The Board approved replacement of Protected Trees 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. No mitigation is required for Protected Trees 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

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.

- 3) *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. 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.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution remains August 25, 2022, (which is the date that the original Resolution was mailed to all parties of record); and

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

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner _____, seconded by Commissioner _____, with a vote of **XX-XX-XX**; Chair _____, Vice Chair _____, and Commissioners _____, _____, and _____, voting in favor of the motion, **[if any abstaining - Commissioner _____ abstaining]** at its regular meeting held on Thursday, _____, in Wheaton, Maryland and via video conference.

Jeffrey Zyontz, Chair
Montgomery County Planning Board

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-089
Site Plan No. 820220080
LIDL Germantown
Date of Hearing: July 28, 2022

CORRECTED RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on December 15, 2021, LIDL US Operations, LLC (“Applicant”) filed an application for approval of a site plan for the construction of a 30,000 square foot retail/service establishment on 2.78 acres of land in the CR-1.0, C-0.75, R-0.75, H-75 zone and the Germantown Transit Mixed Use (“GTMU”) Overlay Zone, located in the southern quadrant of the intersection of Germantown Road (MD 118) and Wisteria Drive, on Walter Johnson Road, 225 Feet South of Wisteria Drive (“Subject Property”), in the Germantown Center Policy Area and 2019 MARC Rail Communities ~~2009 Germantown Employment Area Sector Plan~~ (“Sector Plan”) area; and

WHEREAS the site plan application for the Subject Property was designated Site Plan No. 820220080, LIDL Germantown (“Site 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 July ~~15~~²⁸, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 28, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to certain conditions, by the vote certified below.

2425 Reedie Drive, Floor 14, Wheaton, MD 20902 | Phone: 301-495-4605 | Fax: 301-495-1320
www.montgomeryplanningboard.org | mcp-chair@mncppc.org

Approved as to

Legal Sufficiency: /s/ Emily Vaias
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820220080 for the construction of a 30,000 square foot retail/service establishment, **on** the Subject Property, subject to the following conditions:¹

Density, Height & Housing

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 (15% of Site 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 must be provided 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 Final Forest Conservation Plan ("FFCP") No. 820220080, approved as part of this Site Plan:

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

- 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 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 clearing, grading, or construction, except for clearing and grading associated with the building and paving demolition, 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 /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, and 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 (“MCDPS-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 MCDPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

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 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-ROW letter, development program, Preliminary Plan resolution 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.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of LIDL Germantown, Site Plan No. 820220080, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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 development satisfies any previous approval that applies to the site.*

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, which is being considered concurrently with this Application. Portions of the Site are also covered by Final Forest Conservation Plans 819990068 and 819996013, and Site Plan No. 819960130, all of which will be superseded by approval of the present Site Plan and concurrent Preliminary Plan.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

A portion of the Subject Property 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 with this Site Plan Application.

3. *The development satisfies 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.

4. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

- a. Use Standards

The Site Plan meets all applicable use standards, development standards and general requirements under the Zoning Ordinance, with the modification outline below. 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-1.0, C-0.75, R-0.75, H-75 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. However, public benefit points and purchasing BLT's is not required for this Application, because the development is standard method, with site plan approval.

b. Development Standards

The Subject Property includes approximately 3.59 acres (gross tract area) zoned CR-1.0 C-0.75 R-0.75 H-75 and the GTMU Overlay zone, with dedications of 35,161 square feet, resulting in a Site Area of 2.78 acres (121,265 square feet). The Application satisfies the applicable development standards as shown in the following data table, with the exception of the items identified with ** for which relief is being granted and discussed further below regarding certain placement, form and parking standards :

Site Plan Data Table 1

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)		
Public Open space, tract > 10,000 SF	10% (12,126 SF) of Site Area	15% (18,770 SF)
2. Lot and Density		
Lot (min)		
Site Plan Gross Tract		156,426 SF (3.591 AC)
Prior Dedication		31,942 SF (0.733 AC)
Existing Site		124,484 SF (2.86 AC)
Proposed Dedication (Walter Johnson Rd.)		3,219 SF (0.0739 AC)
Site Area (Lot 4)		121,265 SF (2.784 AC)
Density (Lot 4)		
Max CR Density (FAR)	1.0 FAR (156,426 SF)	0.20 FAR (30,000 SF)
Commercial	0.75 FAR (117,319 SF)	0.20 FAR (30,000 SF)
Residential	0.75 FAR (117,319 SF)	N/A
Lot Coverage (max)	n/a	25% 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 ²
Rear setback, alley	4 ft.	n/a
Rear setback between lot and site boundary	n/a	n/a
Parking Setbacks for Surface Parking Lots (min)³		
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) ⁴
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

² Lot 4 is a through lot with two front setbacks, two side setbacks and no rear setback.

³ Parking lot setback standard applies to the new parking lot only.

⁴ The Applicant is seeking modified standards as justified below.

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 (Walter Johnson Rd)		
Front setback	20 ft or as modified	36 ft**
Building in front street BTA	70%	100%
BTA (Germantown Rd)		
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 (75 ft) and Section 4.1.8.B	35 ft max.
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 ft.	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		
<p>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.</p>		

As depicted in Data Table above, 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 Board makes the following findings to approve the requested modifications:

Modifications to the Placement and Parking Standards

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 Planning Board approves modified build-to-area requirements on both Germantown and Walter Johnson Roads. The Planning Board finds that the modifications to the build-to requirements are necessary due to the constraints of building on a through lot and the Sector Plan recommendation to provide a vehicular connection between Bowman Mill Drive Road and Wisteria Drive, which bisects the Subject Property. The Site slopes down from Germantown Road to Walter Johnson Road. Once the through connection between the existing terminus of Walter Johnson Road (south of 7-11) and the existing bank

drive-aisle (“Drive-Aisle A”) 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 Drive-Aisle B (“Drive-Aisle B”) which connects Drive-Aisle A to Walter Johnson Road (south), at the same grade as the parking lot. As discussed below, the Applicant went to great lengths to active the frontage of Walter Johnson Road and Drive-Aisle B, consistent with the Sector Plan’s other recommendations. The other design elements engage the surrounding publicly accessible spaces.

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 Applicant’s 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. The Planning Board approves of this request as well.

Modification to the Form Standards

The Planning Board approves the Applicant’s request to 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 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.

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 in 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 up large expanses of featureless façade, the Applicant is seeking an exception. Nonetheless, the Applicant is incorporating 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 requested relief from the entrance spacing standards was 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 the new 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 back-of-house space to be located along the internal wall.

Given the aforementioned Site constraints, the Planning Board grants the Applicant's requests for modified building Form standards.

c. General Requirements

i. *Site Access*

The Site is accessible from Bowman Mill Drive, Walter Johnson Drive, and Wisteria Drive (via an existing access easement).

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 in the parking lot will provide safe pedestrian routes between the grocery store, parking lot, parallel parking spaces, plaza and sidepath network.

ii. *Parking, Queuing, and Loading*

As summarized in Table 2, 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 2: Parking Analysis

Parking Standards	Required/Allowed	Proposed
Vehicle Parking Spaces (Reduced Parking Area)	105 min (3.5 per 1,000 SF) 180 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)

iii. *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 15 percent or 18,770 square feet of space devoted to public use and enjoyment, which exceeds the minimum 12,126 square feet required. As depicted on the Landscaping and Lighting sheets, 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.

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.

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 extends 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 and building facade. 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, LIDL envisions 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 of people, including patrons, employees, or cyclists in need of a shady respite.

At the eastern edge of the wall, a separate style of pedestrian paver begins, delineating the plaza and transitioning 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.

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.

iv. *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. Wall-mounted lights on the side of the building will provide additional lighting along the building perimeter. Accent lights will also be installed to highlight 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.

v. *Screening*

As specified in the Site Plan Data Table and in accordance with Section 59.6.2.9, the Applicant is installing screening (Option A) between the proposed parking lot and the abutting Germantown Road right-of-way. The screening will provide an adequate visual buffer between the roadway and the new parking lot.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on May 27, 2022. 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.

b. Chapter 22A, Forest Conservation

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

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. 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 includes remove of the entire 1.40 acres of existing forest. The 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.

Forest Conservation Variance

The Planning Board previously approved a tree variance with the Preliminary Forest Conservation Plan for the impact to fifteen (15) trees and removal of 196 (one hundred and ninety-six) trees, totaling 368 caliper

inches. Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approved replacement of Protected Trees at a ratio of approximately 1-inch caliper for every 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. at a ratio of approximately 1/4" diameter of tree planted for every 1" diameter of tree removed. No mitigation is required for Protected Trees impacted but retained.

6. *The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

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 pedestrians, unintended conflicts are diminished with the installation of bollards along the perimeter of the pedestrian space.

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 a priority pedestrian area, stamped concrete is being installed between the building and parking lot in lieu of standard asphalt. As depicted on the Certified Site Plan, stamped concrete will also be used to delineate the pedestrian crossings which will further improve pedestrian safety and awareness.

7. *The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Site Plan substantially forms to the recommendations in the 2019 *MARC Rail Communities Sector Plan*, the 1985 *Amendment to the Master Plan for Historic Preservation*, the 2020 *Bicycle Master Plan*, and the 2021 *Complete Streets Design Guide*.

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 Road/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 Lidl 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*, 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~~Drive-Aisle A” 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).~~ Drive-Aisle B will be built to create a ~~midblock~~ connection between Drive-Aisle A ~~this drive-aisle street~~ and ~~the existing stub of~~ Walter Johnson Road to the southwest.

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 connection ong (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.

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.

2020 Bicycle Master Plan

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 Guide* recommends a minimum 10 ft. wide sidepath along the south side of Germantown Road.

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

1985 Amendment to the Master Plan for 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 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 in the Sector Plan] 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.

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.

The historic allee of white pines that delineated the historic alignment of the Water's driveway, have died over 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 HPC staff report, the 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.

The Site Plan substantially conforms to the recommendations in the Sector Plan, and 1985 *Amendment to the Master Plan for Historic Preservation*.

8. *The development 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.*

As part of concurrent Preliminary Plan No. 120220030, the Planning Board found that adequate public services and facilities exist to serve Lot 4, including, but not limited to adequate water and sewer service, public roads and storm drainage. Those findings remain valid and are incorporated herein.

9. *The development is compatible with existing and 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.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution remains August 25, 2022, (which is the date that the original resolution was mailed to all parties of record); and

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

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner _____, seconded by Commissioner _____, with a vote of **XX-XX-XX**; Chair _____, Vice Chair _____, and Commissioners _____, _____, and _____, voting in favor of the motion, **[if any abstaining - Commissioner _____ abstaining]** at its regular meeting held on Thursday, _____, in Wheaton, Maryland and via video conference.

Jeffrey Zyontz, Chair
Montgomery County Planning Board