

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-102
Preliminary Plan Amendment No. 12009009A
Montgomery Village Marketplace
Date of Hearing: September 28, 2023

OCT 05 2023

RESOLUTION

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

WHEREAS, on October 14, 2009, the Planning Board, by Resolution MCPB No. 09-125, approved Preliminary Plan No. 120090090, Montgomery Village Marketplace, creating two (2) lots on 3.32 acres of land in the Town Sector (TS) zone, under the standards and procedures of the Zoning Ordinance in effect at that time, located at 10001 Stedwick Road and approximately 410 feet west of Montgomery Village Avenue ("Subject Property"), in the Montgomery Village/Airpark Policy Area and *Gaithersburg Vicinity Master Plan* area; and

WHEREAS, on March 30, 2023, Ganges Gaithersburg, LLC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan(s) to subdivide existing Lot 31 into two (2) lots to accommodate a change in use from commercial to civic/institutional for a Day Care Center with up to 171 students and one (1) separate open space parcel located adjacent to Stedwick Road on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan Amendment No. 12009009A, Montgomery Village Marketplace (The Learning Center) ("Preliminary Plan," "Amendment," or "Application"); and

WHEREAS, this Preliminary Plan was reviewed under the Subdivision Regulations in effect on March 30, 2023 and under the current CRT-1.5, C-0.75, R-1, H-75 zone and pursuant to the recommendations of the 2016 *Montgomery Village Master Plan* ("Master Plan"); and

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Approved as to

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

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated September 18, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 28, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick, and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 12009009A to subdivide existing Lot 31 into two (2) lots to accommodate a change in use from commercial to civic/institutional for a Day Care Center with up to 171 students, and one (1) separate open space parcel located adjacent to Stedwick Road by modifying/deleting two conditions and adding nineteen (19) new conditions as follows, and all other conditions remain in full force and effect:¹

Modified/Deleted Conditions

Condition Nos. 3 and 8 of Preliminary Plan No. 120090090 will be deleted:

~~3. Prior to issuance of final use and occupancy permit for the third building, the Applicant must complete improvements to the Theater Pond. These improvements must be approved by Maryland Department of the Environment and/or MCDPS with input from the Department of Environmental Protection.~~

~~8. The Applicant must satisfy Local Area Transportation Review (LATR) by providing a second right turn lane on the eastbound Stedwick Road approaching its intersection with Montgomery Village Avenue. This additional lane will be provided by restriping and widening the eastbound approach at the intersection by approximately 6.5 feet on the north side and approximately 2.5 feet on the south side with an approximate 120-foot long taper to the west. The intersection improvement plan must be approved by the Montgomery County Department of Transportation (MCDOT). The permits and bonds must be approved by the Montgomery County Department of Permitting Services (DPS) prior to site plan certification.~~

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.

New Conditions

The below conditions continue the numbering from the prior approval.

General Approval

14. This Preliminary Plan Amendment is limited to two (2) lots; one (1) 46,790 square foot lot (known as Lot 32) for civic/institutional use with a maximum of 171 students, 26 instructors, and 2 administrative staff, and one (1) 5,220 square foot open space parcel (known as Lot 33).

Adequate Public Facilities and Outside Agencies

15. The Adequate Public Facilities ("APF") review for the Preliminary Plan Amendment 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

16. The Preliminary Plan Amendment will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and before 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

17. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated August 21, 2023 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
18. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements (i.e. apply for the roadway improvement permit and post the bond for the project cost).
19. 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 July 26, 2023 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations 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.

20. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS"), Fire Department Access and Water Supply Section in its letter dated July 11, 2023 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Other Approvals

21. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of any subsequent Site Plan(s) associated with this Preliminary Plan. The number and location of site elements including but not limited to buildings, on-site parking, site circulation, sidewalks and bike facilities is determined through site plan review and approval.
22. 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.

Transportation

Off-Site Improvements/LATR

23. Before the issuance of the first above grade building permit or right-of-way permit (whichever comes first), the following off-site improvements must be permitted and bonded (to ensure construction) pursuant to MCDOT requirements:
 - a. Add Detectable Warning Surface (DWS) to the east side of the driveway ADA crossing ramp located immediately to the east of the Subject Property and the west ADA ramp at the eastern entrance to the Montgomery Village Marketplace.
 - b. Reconstruction of the east ADA ramp at the eastern entrance to the Montgomery Village Marketplace.
24. If, at the time the Applicant submits for permits to construct one of the required LATR Off-Site Improvements, the improvement is no longer necessary or desirable, because: i) it has been constructed or is under construction by another applicant or as part of a capital improvement project by a government agency, or, ii) the applicable master plan has changed and no longer requires or suggests the improvement, the Applicant can propose an alternative LATR Off-Site Improvement from the priority list of improvements provided in the subject Staff Report that is of similar value, and this alternative improvement, if reviewed

and approved by Planning Staff, can be substituted and shown on a revised Certified Preliminary Plan.

25. Before issuance of the first above-grade building permit or right-of-way permit (whichever comes first), the Applicant must make a payment of \$1,981.72 to the Montgomery County Department of Transportation Sidewalk Capital Improvements Program for the construction of pedestrian improvements in the Montgomery Village/Airpark policy area or as determined by MCDOT. The payment will be indexed to the Federal Highway Administration's National Highway Construction Cost Index from the mailing date of the Planning Board resolution to the date of application for the first above-grade building permit or right-of-way permit (whichever comes first). Proof of payment is required.

Record Plats

26. There shall be no clearing or grading of the site before recordation of plat(s).

Easements

27. The record plat must show necessary easements.
28. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
29. At the time of recordation of the plat for the new Lot 33, the Applicant must record a public use easement for the 5,220 square foot (0.1198 acre) public open space green as shown on the Certified Preliminary Plan and reference the easement being recorded contemporaneously on the plat.

Notes and Labels

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

Certified Preliminary Plan

31. The certified Preliminary Plan must contain the following notes:
 - a. *Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*

32. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:

- a. Show resolutions and approval letters on the certified set.
- b. Update the plans to show the internal sidewalk on the south side of the property connects to the west parking lot with an ADA ramp.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged, and in full force and effect.

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:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan and all findings not specifically addressed remain in effect.

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

- a) The Lot(s) and Use comply with the basic requirements of Chapter 59*

The Preliminary Plan Amendment would create one (1) lot for a civic/institutional use and one (1) parcel for open space. The Preliminary Plan Amendment meets the dimensional requirements for the CRT zone as specified in the Zoning Ordinance and as shown in Table 1 below, in relation to maximum density, height, and minimum open space. Additionally, the Application must provide the minimum required number of parking spaces associated with the proposed use. The final number, configuration, and location of parking spaces will be approved with the concurrently submitted Site Plan Amendment based on requirements for the Day Care Center.

Table 1: Preliminary Plan Data Table for CRT Zone, Standard Method

Development Standard	Permitted/ Required (CRT Zone)	Previously Approved (TS-M Zone)	Approved with Amendment (CRT Zone)
Overall Site Area	n/a	144,736 sq/ ft. (3.32 acres)	144,736 sq/ ft. (3.32 acres)
Tract Area – Existing Lot 31	n/a		52,010 sq. ft. (1.19 ac.)
Prior Dedication	n/a		n/a
Proposed Dedication	n/a		n/a
Site Area – New Lot 32	n/a		46,790 sq. ft (1.07 ac.)
Public Open Space (min) – New Lot 33	10% (5,201 sq. ft., 0.11 ac.)	N/A	10% (5,201 sq. ft., 0.11 ac.)
Maximum Density of Development (GFA/FAR) Non-Residential (GFA/FAR)	108,552 sq. ft. (0.75 FAR)	24,868 sq. ft. ²	28,040 sq. ft. ³ (0.19 FAR)
Building Height (Building C)	75 feet	40 feet	31.5 feet
Public Open Space (min) – Lot 33	10% (5,201 sq. ft.)	N/A	10% (5,201 sq. ft.)
Frontage on street/ open space	Required	N/A	Provided
Entrance Spacing	100 feet max.	N/A	Complies
Minimum Setbacks (ft)			
Front	0 feet	0 feet	0 feet
Side	0 feet	0 feet	0 feet
Rear	0 feet	0 feet	0 feet
Transparency, walls			
Front, ground	40%		
Front, upper	20%		
Side, ground	25%	N/A	To be determined and approved at Site Plan
Side, upper	20%		
Rear, ground	25%		
Rear, upper	20%		
Blank Wall, front	35 ft.		
Blank Wall, side/rear	35 ft.		

² A total of 24,868 sq. ft of development reflects 3,172 square feet for Building A (office/bank), 12,896 square feet for Building B (retail/restaurant), and 8,800 square feet for Building C (retail/restaurant).

³ A total of 28,040 square feet of development reflects 16,068 square feet of existing non-residential development on the Site and the 11,972 square feet of non-residential development (day care center) on proposed Lot 32 of the Subject Property through this Amendment Application.

At the time of Site Plan, the Applicant must also comply with zoning requirements for building walls that face a street or open space. Per Section 59.4.5.3.C.5 of the Zoning Code, the Applicant requested approval of a modification from the Planning Board where the transparency for the building walls requirement is not met for the ground story of the proposed building, as demonstrated in the Site Plan. The upper stories of the building will meet the transparency requirements. The Planning Board granted this modification with the Site Plan approval.

Additionally, at the time of Site Plan, the Applicant must also comply with Section 59.4.5.3.C.5. of the Zoning Code regarding building entrance and orientation. The entrance must face a street or open space. The Project's ability to orient the main building entrance to Stedwick Road or the open space fronting the building is not practical considering the relationship of the building to the open space, the circulation of traffic on the Site, and the existing easement encumbrances along the road frontage. The Planning Board granted this modification with the Site Plan approval.

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

The Preliminary Plan Amendment substantially conforms to the recommendations within the 2016 *Montgomery Village Master Plan* ("Master Plan"), as discussed below.

a) Land Use

Land Use & Zoning

One of the major recommendations of the Master Plan pertains to an overlay zone to address concerns about the consequences of large-scale rezoning. The Montgomery Village Overlay Zone is intended to preserve the unique Village character, protect existing open space and conservation areas, and ensure a compatible relationship between new and existing development. The Subject Property is within the Overlay Zone and the change of use from commercial to civic and the infill development meets the intent of both the underlying and overlay zones. The Plan also recommends the creation of attractive mixed-use areas during redevelopment opportunities. The Preliminary Plan Amendment supports combining civic/institutional uses with existing retail, personal services, and eating/drinking establishments. The Project contributes to the vision of walkable village centers that have a diversity of land uses.

Density & Height

Under the CRT-1.5 zoning designation, the Overall Site is limited to a density of 0.75 FAR or 108,552-square feet of non-residential uses. The Project encompasses 0.19 FAR or 28,040 square feet of non-residential uses (16,068 square feet of existing non-residential development on the Overall Site and the proposed 11,972 square feet of non-residential development (daycare center) on the new Lot 32).

The height of the two-story Day Care Center is within the 75-foot height limit and will not exceed the heights of any existing structure on the Montgomery Village Marketplace Site or those abutting or confronting the Property. The two-story building height is compatible in scale and density to confronting existing residential communities to the south.

Open Space

The Master Plan strongly recommends that recreation and open spaces be maintained and preserved and new development or redevelopment should provide ample green spaces, vistas and recreational opportunities. The Project will complete the last identified open space area associated with the Montgomery Village Marketplace. The Master Plan recommends that open spaces utilize combinations of hardscape and landscaped areas, which the Project will deliver with Lot 33. The new parcel will enhance the publicly accessible green space within the Village and provide a small area of respite for nearby residents and visitors to the shopping center. The open space parcel is also tied to a connected system of existing sidewalks. Also, orienting the new building to front onto open space will preserve the existing character of the village centers which prioritize open space. The Overlay Zone requires public open space to be in a separate lot.

Urban Form

The Master Plan anticipates the provision of compact, mixed-use development patterns that have short blocks and building frontages close to the street to create an inviting and safe public realm. The Amendment shifting from a commercial use in a one-story format to a civic/institutional use in two-stories results in a more compact building footprint. The Day Care Center will have a total gross floor area of 11,972 square feet; therefore, its building footprint is approximately 5,986 square feet compared to the approved single-story commercial structure of approximately 8,800 square feet of gross floor area.

While pulling the building up to the street is ideal for a walkable and pedestrian-scale environment, the existing conditions on the Property make that difficult. The Subject Property is encumbered by several easements that run along the Stedwick Road frontage. Therefore, the Plan prioritizes enhancing the open space parcel facing the south façade of the building to create an inviting public realm. A new pedestrian path will run parallel to the northside of the open space to create additional porosity in the pedestrian network to provide access to various uses within the shopping center.

b) Environment

The overall environmental goal for the Master Plan is to allow limited redevelopment to occur without compromising the area's environmental quality (pg. 38). It states that redevelopment should respect and incorporate the natural environment and maintain the Village's existing open spaces. The Plan recommends incorporating existing environmental features (stream areas, tree clusters) into new development. As previously noted, the Site does not have existing environmentally sensitive features, including forest or protected specimen trees. With the forest conservation plan exemption granted for this Project, the Property is not subject to any afforestation requirements. However, the Project will provide landscaping and new shade and ornamental trees within the open space area and within several locations along the building's periphery. Together, the new building and the open space parcel create a balance between the built environment and a natural setting, as envisioned by the Master Plan.

c) Transportation

The Preliminary Plan Amendment substantially conforms with the *2016 Montgomery Village Master Plan*, *2018 Bicycle Master Plan*, and the *2021 Complete Streets Design Guide*. The transportation goals for the Montgomery Village Master Plan area are to improve mobility, reduce automobile dependency, and implement a complete street approach to ensure the transportation network is safe and efficient for all modes of travel (page 70). The Master Plan focuses on expanding and enhancing opportunities to make walking, biking, and transit connections within the Village; between the retail centers and the surrounding residential neighborhoods; and to the transit hubs. Further, the Plan recommends expansion of the sidewalks and the trail system where possible. The Project advances the transportation goals of the Master Plan by providing new segments of pedestrian sidewalks that connect to the daycare center, the broader retail center, and between surrounding residential neighborhoods. New ADA improvements will increase the level pedestrian comfort and safety within proximity to the Project. The transportation improvements also makes bicycling to this commercial activity center more convenient with the installation of new bicycle storage. Additionally, the Project will coordinate with MCDOT to enhance existing surrounding transit stops with additional amenities.

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

a) *Roads and other Transportation Facilities*

i. *Existing Facilities*

The Property is served by access from adjacent major roadways, Montgomery Village Avenue, Stedwick Road, and Watkins Mill Road. The Property fronts onto Stedwick Road which has a Town Center Street designation with a width of 80 feet. It currently has one travel lane in each direction. Sidewalks are present on both sides of the roadway. The sidewalk on the Subject Property frontage is eight-feet-wide and there is a six-foot-wide landscape buffer separating the sidewalk from traffic.

The Montgomery Village Marketplace has one existing bus stop located on the southwest corner of the Site which is served by four (4) Montgomery County Ride On bus routes.

ii. *Proposed public transportation infrastructure*

No new public transportation infrastructure, such as new roads or dedications, will be constructed as part of this Project. The Project will provide surface parking that is subject to a shared parking agreement. A total of 152 parking spaces will be provided. The anticipated parking total is above the minimum requirement of 83 spaces and exceeds the maximum parking requirement of 146 spaces. However, per Section 59.6.2.3.H.2.b. of the Zoning Code, an applicant may provide more parking spaces than allowed by the maximum if all the parking spaces provided in excess of the maximum number allowed are made available to the public and are not reserved. The Applicant requested a waiver to exceed the maximum number allowed, which was granted by the Planning Board at the time of Site Plan.

Table 2: Required and Proposed Vehicle Parking

<i>Use</i>	<i>Metric</i>	<i>Minimum Required/ To be Determined with the Site Plan</i>	<i>Maximum Required/ To be Determined with the Site Plan</i>	<i>Proposed/ To be Approved with the Site Plan</i>
Day Care Center (11,972 sq. ft.)	Min: 3 sp./ 1,000 SF of GFA Max: 4 sp./1,000 SF of GFA	36	48	38
Retail (8,491 sq. ft.)	Min: 3.5 sp./ 1,000 SF of GFA Max: 6 sp./ 1,000 SF of GFA	31	52	114 ⁴
Restaurant (patron area) (3,789 sq. ft.)	Min: 4 sp./ 1,000 SF of GFA Max: 12 sp./ 1,000 SF of GFA	16	46	
	TOTAL	83	146	152

Prior Condition No. 8

The previous Preliminary Plan No. 120090090 condition of approval No. 8 required the Applicant to install a second right turn lane at Stedwick Road onto Montgomery Village Avenue, located to the east of the Site. However, based on the Motor Vehicle Adequacy Test results, the second right turn lane is no longer necessary to satisfy the Local Area Transportation Review. Traffic volumes have decreased since the previous Preliminary Plan conditions were established, likely attributable to the I-270 / Watkins Mill interchange that was not open at the time of the previously approved Preliminary Plan. Additionally, widening the intersection would reduce the pedestrian level of comfort and safety, and conflicts with the County's Vision Zero Initiative, adopted in 2017. Therefore, a second turn lane at the intersection of Stedwick Road and Montgomery Village will not be required or constructed as confirmed in the MCDOT letter dated August 21, 2023 and affirmed by the Planning Board.

⁴ The existing retail/service establishments and restaurant uses are not being modified therefore the existing parking will remain.

iii. *Proposed private transportation infrastructure*

No new private transportation infrastructure will be constructed as part of this Project.

b) *Local Area Transportation Review (LATR)*

As a development that anticipates up to 171 daycare students as well as the existing 12,696 square feet of retail and a 3,172 square foot licensed medical marijuana dispensary, both of which are less than 12 years old, the Project is estimated to generate 246 total peak hour person trips in the morning and 364 total peak hour person trips in the evening. After accounting for peak hour person trips currently associated with the previously approved 24,868 square feet of retail on the Site, (115 morning peak hour person trips and 268 evening peak hour person trips), the Project is estimated to generate 131 net new morning peak hour person trips and 96 net new evening peak hour person trips. As a result of the estimated transportation impact, the Project submitted a Transportation Impact Study (TIS) with the Preliminary Plan to satisfy the Local Area Transportation Review (LATR).

Table 3: Montgomery Village Marketplace Estimated Person Trip Generation

Land Uses	Square Feet/Units	Morning Peak Hour	Evening Peak Hour
Existing (credit)			
Strip Retail (<40k)	21,696 sq. ft.	70	186
Medical Marijuana Dispensary	3,172 sq. ft.	45	82
Total Person Trips		115	268
Proposed			
Day Care Center	171 students	160	154
Strip Retail (<40k)	21,696 sq. ft.	41	128
Medical Marijuana Dispensary	3,172 sq. ft.	45	82
Total Person Trips		246	364
Net Increase in Peak-Hour Person Trips		+131	+96

Source: TIS by Wells & Associates dated July 24, 2023, and as amended by Planning Staff

Travel Mode Adequacy Test

The 2020-2024 *Growth and Infrastructure Policy* requires evaluation of all transportation modes, including: auto-drive, transit, walking and biking. Mode-specific adequacy tests are required for any project estimated to generate 50 or more net new peak hour person trips. The mode split of the total person trips for the Project are summarized by travel mode in Table 4. The Project's estimated transportation impact necessitates that the Transportation Impact Study evaluate all four travel modal adequacy tests.

Table 4: Montgomery Village Marketplace Trip Estimate by Mode

	Total Person-Trips	Auto-Driver	Transit	Pedestrian ⁵	Bicycle
Morning Peak Hour	246	182	6	18	12
Evening Peak Hour	364	262	8	26	19

Source: TIS by Wells & Associates dated July 24, 2023, and as amended by Planning Staff

- Motor vehicle system adequacy was evaluated for the intersections enumerated below. Intersections exceeding the policy area congestion standards must be mitigated.
 1. Watkins Mill Road / Stedwick Road
 2. Stedwick Road / Mills Choice Road
 3. Stedwick Road / Site Access Driveway East
 4. Montgomery Village Avenue / Stedwick Road
 5. Watkins Mill Road / Club House Road
 6. Montgomery Village Avenue / Centerway Road
 7. Montgomery Village Avenue / Whetstone Drive
 8. Watkins Mill Road / Travis Avenue
 9. Montgomery Village Avenue / Lake Shore Drive

The Site is in the Montgomery Village/Airpark Policy Area, which is designated as a Yellow Policy Area by the 2020-2024 Growth and Infrastructure policy. Traffic congestion in Yellow Policy Areas is measured using the Critical Lane Volume (CLV) level of service standard for study intersections with a CLV of 1,350 or less. Highway Capacity Manual (HCM) delay-based level of service standards apply to study intersections with CLV of more than 1,350.

⁵ Pedestrian trips are calculated by adding non-motorized and transit trips.

Planning and MCDOT staff reviewed the TIS that included CLV analysis for each intersection under existing conditions, background conditions, and future conditions, which includes the proposed development project. As summarized in Table 5, all intersections are below the 1,350 CLV standard in each scenario. Therefore, the Application satisfies the vehicle adequacy test.

Table 5: Intersection Level of Service Critical Lane Volume (CLV) Methodology

Intersection	Congestion Standard (Critical Lane Volume)	Existing		Background		Total Future	
		AM	PM	AM	PM	AM	PM
1. Watkins Mill Road / Stedwick Road	1,350	746	816	787	871	824	896
2. Stedwick Road / Mills Choice Road	1,350	444	573	450	593	484	640
3. Stedwick road / Site Access Driveway East	1,350	402	500	411	503	473	543
4. Montgomery Village Avenue / Stedwick Road	1,350	943	866	1016	920	1062	963
5. Watkins Mill road / Club House Road	1,350	784	763	808	814	811	818
6. Montgomery Village Avenue / Centerway Road	1,350	634	714	708	786	713	790
7. Montgomery Village Avenue / Whetstone Drive	1,350	661	793	743	852	741	856
8. Watkins Mill Road / Travis Avenue	1,350	652	809	678	821	681	825
9. Montgomery Village Avenue / Lake Short Drive	1,350	976	857	1,050	888	1,050	892

- Transit system adequacy was evaluated by inventorying three (3) bus stops located within 1,500 feet of the Property. Where bus shelters and associated amenities are not provided, the Applicant must install the standard amenities in coordination with MCDOT. Most of the bus stops in the study area are flag stops and do not include shelters or other amenities such as trash cans, seating, etc.
- Pedestrian system adequacy was evaluated within 600 feet of the Property. Mitigation will be required to achieve a Pedestrian Level of Comfort (PLOC) of Somewhat Comfortable or better, and/or deficiencies identified for streetlamps within the scoped boundary. Sidewalks within the buffer have a PLOC of

somewhat comfortable or very comfortable but there are several locations that were noted as uncomfortable or very uncomfortable largely due to street buffer widths smaller than 5 feet. All crosswalks in the study area were identified as being somewhat comfortable or very comfortable. Several streetlamp outages were noted along Montgomery Village Avenue, but spacing and location was not identified as an issue.

Pedestrian system adequacy also requires mitigation for ADA deficiencies identified within 300 feet of the Property. Of 18 ADA ramps in the study area, three (3) were identified as not having detectable warning strips. These were all located along Stedwick Road. In addition, two ADA ramps exceed the 2% crossing slope requirements.

- Bicycle system adequacy was evaluated by analyzing bikeways within 600 feet of the Property. Mitigation will be required to achieve a Level of Traffic Stress 2 (LTS-2) or lower, consistent with the Countywide Bicycle Master Plan. Montgomery Village Avenue north of Stedwick Road, Stedwick Road west of Mills Choice Road, and Watkins Mill Road north and south of Stedwick Road are rated with high and moderate stress levels. Sidepaths that provide additional separation between bicyclists and vehicles would improve the level of traffic stress to low or very low.

Under Section 8 of the 2022 *Local Area Transportation Review Guidelines* (LATR Proportionality Guide), the cost of construction and/or mitigation payments for mitigation projects is not to exceed \$5,387 for a 11,972 square foot Day Care Center based on the proportionality guide below and the following calculation: (\$5,387= (11,972 square feet) (\$1.50) (30%)).

$$\text{LATR Proportionality Guide} = (\text{Extent of Development}) \times (\text{LATR Proportionality Guide Rate}) \times (\text{LATR Proportionality Guide Adjustment Factor})$$

After evaluating the adequacy of each of the required transportation modes, the Applicant identified a comprehensive list of deficiencies, by which a prioritized list of mitigation improvements was submitted to Staff for review. In compliance with the 2022 LATR Guidelines, the final list of two prioritized projects was finalized by the reviewing agencies and are conditioned for approval of the Preliminary Plan. Table 6 below identifies the final list of projects which could be feasibly constructed. Several other deficiencies that were identified cannot be addressed without exceeding the maximum. Therefore, the Applicant will pay a mitigation payment to reach the maximum.

Table 6: Montgomery Village Marketplace LATR Mitigation Project List

Map ID	Project Location	Project Description	Construct/ Mitigation Payment	Project Cost
1	East side of the driveway ADA crossing ramp located immediately to the east of the Subject Property and west ADA ramp at the eastern entrance to the Montgomery Village Marketplace	Add Detectable Warning Surface (DWS) – 2 ramps	Construct	\$746.01
2	East ADA ramp at the eastern entrance to the Montgomery Village Marketplace.	Reconstruction of the east ADA ramp	Construct	\$2,659.27
Construction Subtotal				\$3,405.28
Mitigation Payment Subtotal				\$1,981.72
Total				\$5,387.00
Proportionality Guide				\$5,387.00

(Source: The Applicant's LATR prepared by Wells and Associates)

Montgomery County Planning and MCDOT Staff reviewed the TIS and approved the mitigation project list. Therefore, the Applicant has satisfied the requirements of the LATR, and the public transportation facilities are adequate for the Site. As conditioned, all off-site mitigation projects must be permitted, bonded for construction, and all mitigation payments must be paid before the issuance of the first above grade building permit or right-of-way permit (whichever comes first).

c) Schools

The Day Care Center is a non-residential use; therefore, the Preliminary Plan Amendment is not subject to the County's annual school test.

d) Other Public Facilities and Services

The Subject Property is located within the W-1 and S-1 water and sewer categories and will be served by public infrastructure. Therefore, there are adequate water and sewerage facilities to serve the Project. Other utilities, public facilities, and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Growth and Infrastructure Policy currently in effect.

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

a) Forest Conservation Plan/Exemption

A Forest Conservation Exemption was previously granted with the initial development applications and re-submitted and re-evaluated for the concurrently submitted Preliminary and Site Plan Amendments. The Amended Application includes a confirmed Forest Conservation Exemption dated February 24, 2023. The Project is exempt from Article II of the County Code, Chapter 22A (Forest Conservation Law), Section 22A-5(s)(1) because the activity occurring is on a tract of land less than 1.5 acres with no existing forest, or existing specimen or champion tree, and the afforestation requirements would not exceed 10,000 square feet. There are no environmentally sensitive areas on the Overall Site or Subject Property and no significant or specimen trees will be cleared. The Board finds that the Application is in conformance with the Planning Board's Environmental Guidelines.

b) Variance Findings

The Application does not include the removal of specimen trees, and no variance is needed.

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

DPS reviewed and approved with conditions a Stormwater Management Concept Plan File No. 289185 on July 26, 2023. The Plan proposes to meet required stormwater management goals via environmental site design ("ESD") techniques that will filter and retain stormwater on-site primarily through two (2) micro-bioretenment facilities along the building's eastern facade. Plantings approved by MCDPS will also be used in ESD's to the greatest extent practicable. Full stormwater management compliance for the Project could not be provided due to site constraints from numerous existing easement encumbrances. All stormwater management structures must be located outside of easement areas and public rights-of-way. Therefore, MCDPS granted approval of the Applicant's request for a partial stormwater compliance waiver, and the Board finds the Application satisfies the requirements of Chapter 19.

Prior Condition No. 3

The initial Preliminary Plan No. 120090090 approval was contingent upon the Montgomery Village Marketplace Property Owner establishing an agreement with the Montgomery Village Foundation (MVF) to use an existing stormwater management pond facility south of the Property, known as the Theater Pond (Condition No 3). The Theater Pond is an outfall point for stormwater runoff from approximately 40 acres of adjoining properties. Currently, the Site's stormwater outfall flows to the Theater Pond and the Project anticipates the stormwater outfall to continue to flow to the Theater Pond. The Montgomery Village Foundation (MVF) has undertaken the retrofit of the Theater Pond, and the Property Owner contributed \$100,000 to the MVF towards the retrofit and through two executed agreements filed in the land records. The Applicant may use this existing stormwater management pond facility, therefore, satisfying Condition No. 3 is no longer applicable, is confirmed in the MCDPS letter dated July 3, 2023, and affirmed by the Planning Board.

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

There is no evidence, actual notice, or constructive notice of a burial site on the Subject Property. The Overall Site and the Subject Property are not included in the Montgomery County Inventory.

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

No other provisions apply to the subdivision.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is OCT 05 2023 (which is the date that this Resolution is mailed to all parties of record); and

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BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

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 Bartley, seconded by Commissioner Hedrick, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, at its regular meeting held on Thursday, October 5, 2023, in Wheaton, Maryland and via video conference.

A handwritten signature in blue ink, appearing to read 'Artie L. Harris', followed by a horizontal line.

Artie L. Harris, Chair
Montgomery County Planning Board

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Montgomery Village Marketplace (The
Learning Experience Child Care Center
Preliminary Plan No. 12009009A
Site Plan No. 82009006A