

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-103
Site Plan No. 82009006A
Montgomery Village Marketplace
Date of Hearing: September 28, 2023

OCT 05 2023

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 October 21, 2009, the Planning Board, by Resolution MCPB No. 09-124, approved Site Plan No. 820090060 Montgomery Village Marketplace, for a 3,172 square-foot bank with three drive-thru lanes, a 12,896 square-foot retail/restaurant building, and an 8,800 square-foot retail/restaurant building on 3.32 acres of land in the Town Sector (TS) zone, under the standards and procedures of the Zoning Ordinance 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 site plan on the Subject Property to construct a two-story, 11,972 square-foot building for a Day Care Center on one lot (in place of the previously approved but unbuilt 8,800 square foot retail/restaurant building) and to make publicly accessible improvements on a new open space parcel; and

WHEREAS, the Applicant's application to amend the site plan was designated Site Plan No. 82009006A, Montgomery Village Marketplace (The Learning Center) ("Site Plan," "Amendment," 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 September 18, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

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www.montgomeryplanningboard.org | mcp-chair@mncppc.org

Approved as to

Legal Sufficiency: /s/ Emily Vaias

M-NCPPC Legal Department

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 Site Plan No. 82009006A for the construction of a Day Care Center on the new lot and associated amenities on the open space parcel by modifying and adding the following conditions, with all other conditions remaining in full force and effect:¹

Modified Conditions

Condition Nos. 6, 9, 10, 14 Site Plan No. 82009006, as modified herein (the deleted text is in strikethrough, and new text is underlined):

6. Architecture

~~The final design of the building façade must substantially conform to the architectural renderings received by MNCPPC on August 10, 2009, including fenestration, rooflines and materials labeled.~~

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet SA-1.2 of the submitted architectural drawings, as determined by M.-NCPPC Staff.

9. Lighting

- ~~a. On site street and parking lot down lighting fixtures must be full cut off fixtures;~~
- ~~b. Deflectors must be installed on all up lighting fixtures causing potential glare or excess illumination;~~
- ~~c. Illumination levels, excluding Streetscape light fixtures, must not exceed 0.5 footcandles (fc) at any property line abutting county roads.~~
- ~~d. The height of the light poles shall not exceed 20 feet excluding the mounting base.~~
- a. Before approval of the 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

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.

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 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, rooftop light poles, and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

10. Performance Bond and Agreement-Site Plan Surety and Maintenance Agreement

The Applicant is subject to the following provisions for surety as described in Section 59-D 3.5 of the Montgomery County Zoning Ordinance and Site Plan approval:

- a. The Applicant must provide a cost estimate from the landscape architect or landscape contractor indicating the installed costs of site plan elements such as but not limited to landscaping, lighting, recreation facilities, special paving, art work and site furnishings. The cost estimate should include a 10% inflation factor for the site plan elements to account for changes in price and materials and modifications to the approved plans.
- b. The Applicant must submit a Performance Bond or other satisfactory form of Surety as approved by M-NCPPC to cover the installed costs of site plan elements such as but not limited to landscaping, lighting, recreation facilities, special paving, art work and site furnishings as shown and described in the cost estimate.
- c. The Applicant must execute an agreement for site plan elements in conjunction with the performance bond indicating the Applicant's agreement to install, construct and maintain the site plan elements.
- d. The Bond must be submitted along with the agreement prior to the release of the first building permit.

Before issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, whichever comes first, 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 of the Montgomery County Zoning Ordinance, with the following provisions:

- 1) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- 2) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, site furniture, trash receptables, retaining walls, fences, railings, private roads and sidewalks, private utilities, paths 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.

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.

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, Development Program, Inspection Schedule, and Site Plan Resolution on the approval or cover sheet.
- b) Add a note to the site plan stating that "M-NCPPC Staff must inspect all tree save areas and protection devices prior to clearing and grading".
- c) Provide a list of equivalent trees to be approved by Site Plan Review Staff and add the note "In the event that any of the species listed in the plant schedule are not available, select species from the alternative plant list. Contractor to ensure that the replacements are of equivalent sizes."
- d) Show at-grade pedestrian crosswalk on Stedwick Road to reflect final approval from Montgomery County Department of Transportation.
- e) Modify the data table to reflect all development standards enumerated in the Staff report and approved by the Planning Board.
- f) Provide details of all light fixtures proposed showing full cut-off devices.
- g) Provide details of new design for the open space in the northeast corner ("grove area") including selection of hardscape materials, if applicable.
- h) Show zone of influence for each building on the plans.

- i) Provide detail of railings proposed on top of the retaining wall.
- j) Label materials of retaining wall to match materials used on building facades.
- k) Minor revisions to landscape and paving details.
- l) Include the stormwater management concept approval letter, development program, and Site Plan resolution and other applicable resolutions on the approval or cover sheet(s).
- m) Fire and Rescue Access plan should be included in the Certified Site Plan.
- n) Ensure consistency of all details and layout between Site and Landscape plans.
- o) Update the parking data table to show the required and proposed long-term bicycle parking.
- p) 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.
- q) Add the following notes:
 - i. "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
 - ii. "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."
 - iii. "The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur before any site development work commencement and before any work that is covered by the site plan surety and maintenance agreement. The Applicant, along with their representatives, must attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times."

New Conditions

The below conditions continue the numbering from the prior approval.

Density & Height

15. Density

The Site Plan for Lot 32 is limited to a maximum of 11,972 square feet of total development for a Day Care Center with up to 171 students.²

16. Height

The development for Lot 32 is limited to a maximum height of 32 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

Open Space, Facilities and Amenities

17. Public Open Space, Facilities, and Amenities

- a) The Applicant must provide a minimum of 5,220 square feet of public open space on Lot 33 (10% of Site area of former Lot 31).
- b) Before the issuance of the final use and occupancy certificate for the two-story building on Lot 32, all public open space areas on Lot 33 of the Subject Property must be completed.

18. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to pedestrian paths, benches, trash receptacles, and bicycle racks.

Transportation & Circulation

19. Transportation

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services, Right-of-Way Section (DPS-ROW) in its memo dated June 12, 2023 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in their memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

20. Bicycle Circulation

- a) The Applicant must provide four (4) long-term and four (4) short-term bicycle parking spaces.

² The day care center use space can be changed to other Civic/Institutional uses if there is no adverse impact on the Site Plan and APF findings and it is approved by Staff.

b) The long-term spaces must be in a secured, well-lit bicycle room on the ground floor, and the short-term spaces must be inverted-U racks (or approved equal) installed in a location convenient to the main entrance (weather protected preferred). The specific location(s) of the short-term bicycle rack(s) must be identified on the Certified Site Plan.

21. Fire and Rescue

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 March 26, 2009 and amended on July 11, 2023, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

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

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Montgomery Village Marketplace Site Plan No. 82009006A, 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 provided 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 site plan and all findings not specifically addressed remain in effect.

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

The Application meets all the binding elements and conditions of approval of Preliminary Plan No. 12009009 as amended.

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

a. Use Standards

A Day Care Center is a limited use in the CRT Zone and the Site Plan fulfills the general purposes of the zone, as shown in Site Plan data table below. Per Section 59.3.4.4.F of the Zoning Code, where a Day Care Center (Over 30 Persons) is allowed as a limited use in any Commercial/Residential or Employment Zone, and the subject lot abuts or confronts property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 59.7.3.4 regardless of the proposed intensity (units, gross floor area in square feet, or building height in feet). The Applicant's submission of a Site Plan for the Day Care Center satisfies the limited use requirements and development standards.

b. Development Standards

The Subject Property includes approximately 1.94 acres out of the 3.32-acre Overall Site which is zoned CRT. The Application satisfies the applicable development standards as shown in the following data table:

Table 1: Site 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. ³	28,040 sq. ft. ⁴ (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

³ 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).

⁴ 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 the new Lot 32 of the Subject Property through this Amendment Application.

Building Orientation & Entrance

Per Section 59.4.5.3.C.5. of the Zoning Code regarding building orientation, the entrance must face a street or open space. In this instance, orienting 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 and circulation of traffic on the Site. Therefore, the Applicant requested an alternative method of compliance.

Per Section 59.6.8.1 of the Zoning Code, the applicable deciding body may approve an alternative method of compliance with any requirement of Division 6.1 and Division 6.3 through Division 6.6 if it determines that there is a unique site, a use characteristic, or a development constraint, such as grade, visibility, an existing building or structure, an easement, or a utility line. The applicable deciding body must also determine that the unique site, use characteristic, or development constraint precludes safe or efficient development under the requirements of the applicable Division, and the alternative design will: a) satisfy the intent of the applicable Division; b) modify the applicable functional results or performance standards the minimal amount necessary to accommodate the constraints; c) provide necessary mitigation alleviating any adverse impacts; and d) be in the public interest.

The Project will locate the building entrance on the east façade to face the parking area to facilitate safe pick-up and drop-offs of up to 170 children at the Day Care Center. In lieu of an entrance, the south façade facing the open space and Stedwick Road, includes enhanced architectural features, lighting, and landscaping to improve the view and the pedestrian experience along Stedwick Road. Additionally, the south façade will have a finished façade and will have the look and feel of an entrance, including fenestration.

The Planning Board granted approval of the Applicant's request for a modification from the standard of having the main entrance facing a street or open space and to allow the entrance to be on the east façade facing the pick-up and drop-off and parking area for safe and efficient circulation. The Board found that the unique constraints of the Property such as the easement encumbrances along the street frontage and the use characteristics of the day care center create constraints for full compliance. The building's orientation towards the eastern parking lot does not cause any adverse impacts on circulation and remains within the public interest.

Transparency for Building Walls

The Applicant must also comply with zoning requirements for building walls that face a street or open space. Based on the requirements of Section 59.4.5.3.C.5 of the Zoning Code, the Planning Board granted approval of the Applicant's request for a modification where the transparency for the building walls requirement is not met for the ground story of the building, as demonstrated in Table 2 below. The upper stories of the building will meet the transparency requirements.

Table 2: Transparency for Building Walls

Development Standard	Permitted/ Required	Approved (Lot 32)
South Elevation, Front		
Ground story (min.)	40%	26%*
Upper story (min.)	20%	35.8%
East Elevation, Side		
Ground story, side (min)	25%	23.1%*
Upper story (min.)	20%	20.8%
West Elevation, Side		
Ground story (min.)	25%	20%*
Upper story (min.)	20%	24.6%
North Elevation, Rear		
Ground story (min.)	25%	23%*
Upper story (min.)	20%	21.3%
Blank Wall, Front (max.)	35 ft.	35 ft.
Blank Wall, Side/Rear (max.)	35 ft.	35 ft.

**Transparency modification approved.*

Per Section 59.6.8.1 of the Zoning Code, the applicable deciding body may approve an alternative method of compliance with any requirement of Division 6.1 and Division 6.3 through Division 6.6 if it determines that there is a unique site, a use characteristic, or a development constraint, such as grade, visibility, an existing building or structure, an easement, or a utility line. The applicable deciding body must also determine that the unique site, use characteristic, or development constraint precludes safe or efficient development under the requirements of the applicable Division, and the alternative design will: a) satisfy the intent of the applicable Division; b) modify the applicable functional results or performance standards the minimal amount necessary to accommodate the constraints; c) provide necessary mitigation alleviating any adverse impacts; and d) be in the public interest.

The approval granted for the ground floor transparency modification is based on the nature of the land use and the unique context of the surrounding setting. The Applicant's statement of justification explains that maximizing views into the building with larger windows of a Day Care Center pose a privacy and security issue. Further, the south façade faces a public open space and the west façade's ground floor directly

faces a parking area serving the adjoining use to the west, a licensed medical marijuana dispensary, Curaleaf.

Therefore, the Planning Board finds that the design reduces the transparency on the ground floor while still engaging the open space, providing architectural building elements, and meeting the requirement to avoid blank walls. The upper stories on all four facades have been designed to exceed the minimum Code requirements and therefore contribute to the building by providing adequate air, natural light, and a sense of openness.

Given the nature of the civic/institutional use and the transparency off-set on the upper stories, the Planning Board approved the Applicant's request for the de minimis deviation of the ground floor transparency requirements. The general purpose and intent of the standard is met and lack of relief from strict compliance would cause undue hardship because of the existing surrounding uses and the nature of this development. Any future change in use from civic/institutional may require a re-evaluation of transparency standards for building walls.

c. General Requirements

i. *Site Access*

Vehicular access occurs via the private drive access to the east and the west of the Site utilizing Stedwick Road, which runs east-west on the south side of the Site. A private driveway that serves the Sandy Spring Bank is located between the two private drives and can also be used to access the site. However, this access primarily serves existing bank employees and customers. Internal circulation is provided through drive aisles. Existing vehicular access to the Site and Subject Property will not be modified.

Pedestrian and bicycle access is primarily provided off the frontage on Stedwick Road. The sidewalk on the Subject Property frontage is eight-feet-wide with a six-foot-wide landscape buffer. The existing at-grade mid-block crossing located directly south of the Subject Property will be maintained. A new eight-foot brick paver sidewalk will connect to the existing public sidewalk to the building entrance. Additionally, a new stretch of sidewalk connecting the west parking lot will run along the building frontage, providing access from the parking lot to the building entrance. A new segment of sidewalk is also provided along the north side of the Property, allowing for those parking at that location to easily access the building entrance.

An uncovered bus stop is located at the southwest corner of the Subject Property frontage, in front of Curaleaf. It is served by four (4) Montgomery County Ride On routes (59, 60, 64, and 65). No modifications will be made to this existing bus stop.

ii. *Parking, Queuing, and Loading*

Parking is provided along the west, north, and east side of the building for the Daycare Center. The existing parking in the remainder of the Montgomery Village Marketplace shopping center, under a reciprocal easement for cross access between the properties (Buildings A, B, and C) within the Montgomery Village Marketplace shopping center, will not be modified. Internal circulation is provided through drive aisles. The entrance to the day care center will face the parking area on the east side of the building, allowing for safe and efficient pick-up and drop-off operations.

A total of 152 parking spaces will be provided, as shown in Table 3. This includes 7 standard ADA spaces, 6 van accessible ADA spaces, 4 motorcycle spaces, and 1 electric vehicle ready space. The parking provided is above the minimum requirement of 82 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. Additionally, the existing parking was constructed under the previous Zoning Code and only the parking associated with the daycare center is being modified. Per Section 59.6.2.8 of the Zoning Code, off-street loading is not required for civic/institutional use.

Table 3: Required and Approved Vehicle Parking

<i>Use</i>	<i>Metric</i>	<i>Minimum Required</i>	<i>Maximum Required</i>	<i>Approved</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 ⁵
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

Four (4) long-term bicycle parking spaces are required and will be provided within the building on the first floor. Required short-term bicycle parking is located outside the building at the southeast corner, adjacent to the sidewalk leading to the building entrance. Bicycle parking requirements were only calculated for the new Day Care Center use since the existing retail and restaurant uses were developed under the previous zoning code.

⁵ The existing retail/service establishments and restaurant uses are not being modified therefore the existing parking will remain.

iii. *Open Space and Recreation*

Per Section 59.6.3.1 of the Zoning Code, open space must provide adequate light, air, circulation, and recreation and encourages preservation and enhancement of natural resources, including improvement of water and air quality. As required, the Applicant is providing public open space exclusively associated with the new Lot 33. This provision of open space also addresses the initial regulatory approvals for three (3) separate public open spaces spread across the 3.32-acre Montgomery Village Marketplace property. Two open space areas were previously provided, and this Project, as amended, will deliver the last of the three open spaces in conformance with the Zoning Ordinance requirements.

The Property is not subject to Section 59.6.3.9.C of the Zoning Code which requires that any development of a property with more than 19 residential units offer recreational facilities in accordance with *M-NCPPC's Recreation Guidelines*.

iv. *General Landscaping and Outdoor Lighting*

Division 6.4 of Chapter 59 of the Zoning Code provides minimum standards for quantity, size, location, and installation of general landscaping and outdoor lighting on private property. These standards intend to preserve property values, strengthen the character of communities, and improve water and air quality. The modifications to landscaping and lighting satisfy all applicable recommendations of the Master Plan which prioritize exceptional site design and adequate lighting.

All new trees and plant materials meet the minimum required caliper and height at the time of planting, and some of the site landscaping elements may contribute to stormwater management measures (where approved by MCDPS).

The Property's illumination levels, energy efficiency, and pedestrian scale lighting height meets the minimum standards to ensure visibility and public safety and enhance the building's architecture and pedestrian and bicycle usage. The Project will provide lighting along the building entrance and the perimeter of the property, including the southern façade. Light illumination on the southern façade will improve the safety, view, and experience of pedestrians traversing the sidewalk between the new building and the new open space parcel. Pole mounted lighting is also provided within the parking areas.

v. Screening

Per Section 59.6.5.2.C.2 of the Zoning Code, within the Commercial/Residential zoning districts, any use in a townhouse, apartment, multi-use, or general building type must provide screening as defined under Section 6.5.3 if the subject lot abuts property in an Agricultural, Rural Residential, or Residential zone that is vacant or improved with an agricultural or residential use. Further, per Section 59.6.5.3.A, screening is required along a lot line shared with an abutting property that is vacant or improved with an agricultural or residential use.

The Subject Project is a general building type with a non-industrial use (daycare center), which abuts properties to the west, east, and north that are commercial uses and located within the same CRT-1.5 zoning district as the Property.

While properties to the south of the Subject Property are residential uses and within the R-20 zoning district, these properties are confronting and not abutting and separated from the civic/institutional use (daycare center) by the Stedwick Road 80-foot-wide road right-of-way. In this instance, additional screening is not required. Therefore, the Site Plan Amendment complies with the zoning ordinance regarding screening beyond the standard landscaping requirements.

3. 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

The Preliminary Plan received approval for Stormwater Management Concept Plan File No. 289185 with a partial waiver from the Montgomery County Department of Permitting Services, Water Resources Section July 26, 2023. The Application will meet stormwater management goals using micro-bioretenention facilities along the building's eastern facade.

b. Chapter 22A, Forest Conservation

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.

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

The Project will provide safe, efficient, and integrated off-street parking to serve the land use, will construct the final of 3 required open spaces anticipated for the Overall Site, and will deliver a compact footprint and a lower building height than the maximum permitted to reduce the bulk of the building from the street view. One of the main parking areas is located to the east of the building façade and behind the front building line. Internal circulation is provided by circulation aisles. There is perpendicular parking and adequate areas for dropping off and picking up the children.

5. *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 conforms with the major recommendations of the 2016 Montgomery Village Master Plan and other county-wide policy documents such as the Countywide Bicycle Master Plan and the Thrive Montgomery 2050 General Plan. The Master Plan recommends the creation of attractive mixed-use areas during redevelopment opportunities. The Site 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. 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 open space 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.

6. *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.*

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. The Property will also be served by other utilities, public facilities, and services, such as electric, telecommunications, police stations, firehouses, and health services that are adequate.

7. The development is compatible with existing and approved or pending adjacent development.

The infill development of the vacant Subject Property into a civic/institutional use is in substantial conformance with the recommendations of the 2016 *Montgomery Village Master Plan* as well as compatible with the adjacent and confronting uses. There are no pending developments under review within a one-mile radius of the Property.

The Day Care Center will: 1) contribute to the mix of uses by adding an important community service to the existing retail, personal services, and eating establishments and is within walking distance to nearby neighborhoods; 2) establish a compatible relationship with the nearby existing structures, including residential uses due to a lower building height; and 3) provide necessary buffering via Stedwick Road, landscaping, and separation via opaque fencing between the civic/institutional use and the use to the west, further ensuring compatibility between the uses.

The Montgomery County Zoning Code does not impose distance standards between a marijuana dispensary establishment and school/educational facilities. Therefore, the siting of the daycare center is not within any restrictive geographic boundaries. The Planning Board's support of the Applicant's modification request for transparency for building walls on the ground floor also further ensures compatibility between the uses.

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 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 Vice Chair Pedoeem, 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.



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