

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

April 19, 2024

MCPB No. 24-035
Preliminary Plan No. 120230160
9801 Georgia Avenue
Date of Hearing: March 7, 2024

RESOLUTION

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

WHEREAS, on August 23, 2023, JLB Realty, LLC (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create one lot and one parcel on 3.78 acres of land in the CRT-2.5, C-2.5, R-2.5, H-120’ zone, located at the northeast quadrant of Georgia Avenue and Forest Glen Road (“Subject Property”), in the Kensington/Wheaton Policy Area and 2020 *Forest Glen/Montgomery Hills Sector Plan* (“Sector Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120230160, 9801 Georgia Avenue (“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 February 26, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on March 7, 2024, 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, Commissioners Bartley, Hedrick and Linden voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120230160 to create one lot and one parcel 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 lot for 390 multi-family dwelling units, including a minimum of 15% MPDUs, and 5,000 square feet of commercial uses and one parcel to be dedicated to MCDOT.

Adequate Public Facilities

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 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

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated February 23, 2024 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, except for Significant Comment #1 which is modified as follows: Notwithstanding DOT’s request for 3,824 square feet of dedication for the Forest Glen Passageway, and as a result of discussions held during the Planning Board’s public hearing on March 7, 2024, the Planning Board will require the Applicant to dedicate 1,904 square feet, at no cost, for the Forest Glen Passageway as shown in the Staff Report at page 26, Figure 8 and labeled as “Area of parcel that functions as part of the civic green” (outlined in yellow in Figure 1 below) prior to recordation of plats. The remaining 1,920 square feet needed for the Forest Glen Passageway (outlined in red in Figure 1 below), may be subject to purchase or other conveyance to DOT as needed.

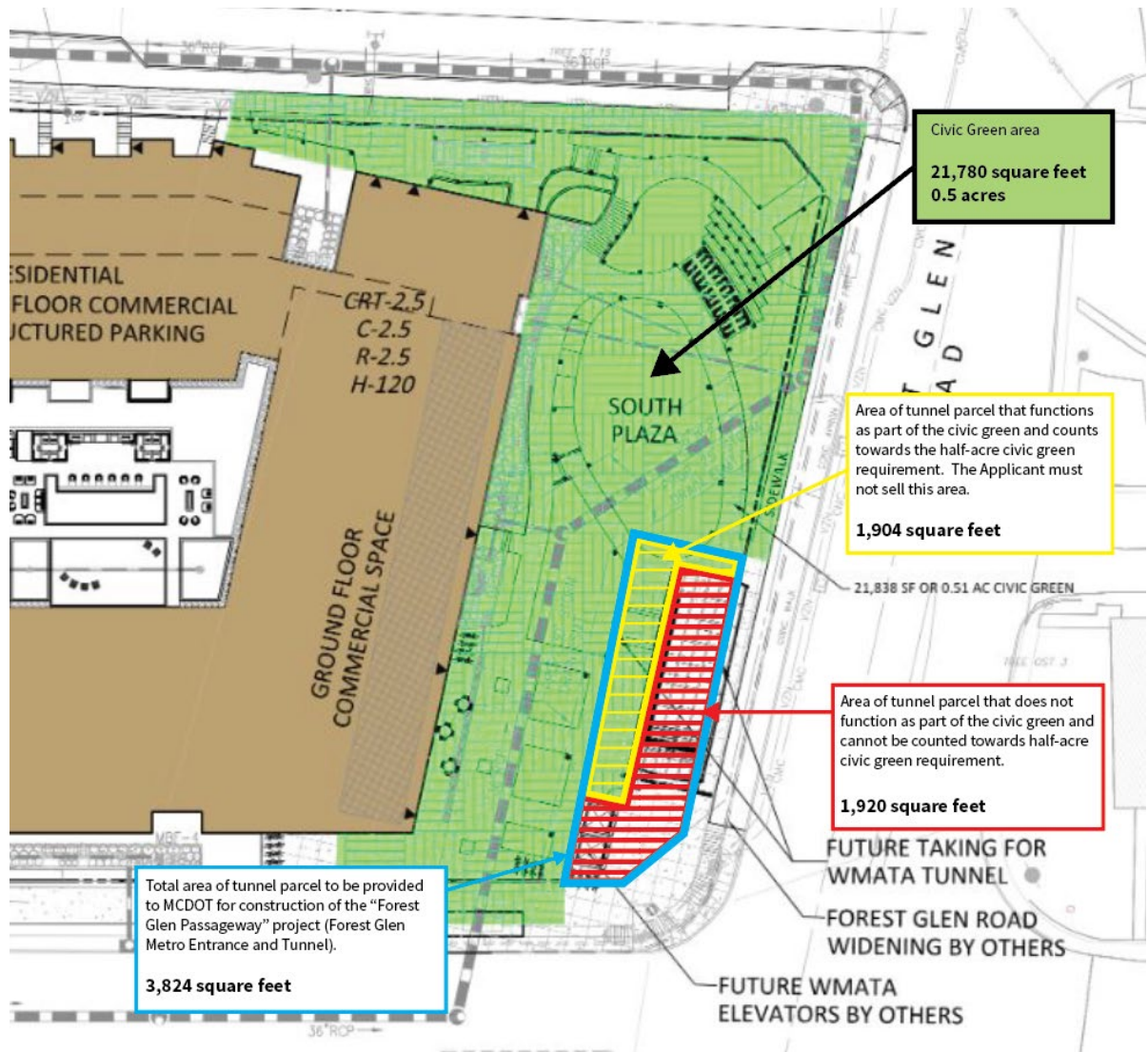


Figure 1 – Tunnel Parcel Diagram

5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements.
6. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration ("MDOT SHA") in its letters dated January 24 and January 29, 2024 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 MDOT SHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
7. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration's requirements for access and improvements.

8. 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 January 11, 2024, 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.
9. 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 January 15, 2024, 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

10. 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

Frontage Improvements on Existing Roads

11. 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 forty-four (44) feet from the existing pavement centerline along the Property frontage for Forest Glen Road.
 - b. All land necessary to accommodate sixty (60) feet from the existing pavement centerline along the Property frontage for Georgia Avenue (MD 97).
12. Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MDOT SHA to ensure construction of an eleven-foot-wide (11ft) sidepath and eight-foot-wide (8ft) street buffer along the Property frontage on Georgia Avenue (MD 97).
13. Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of:
 - a. A six-foot-wide (6ft) sidewalk and six-foot-wide (6ft) street buffer along the Property frontage on Woodland Drive.
 - b. A seven-foot-wide (7ft) sidewalk and a minimum five-foot-wide (5ft) street buffer along the Property frontage on Forest Glen Road, unless MCDOT accepts responsibility for the construction of this frontage improvement as part of the “Forest Glen Passageway” project (MCDOT Project Number P501911) within one year of the date of this Resolution.

Off-Site Improvements/LATR

14. Before the release of the first residential use and occupancy certificate, the following off-site improvements must be completed pursuant to MDOT SHA requirements:
 - a. New traffic signal located at the intersection of Georgia Avenue (MD 97) and Bonnywood Lane/Tilton Drive.

Record Plats

15. There shall be no clearing or grading of the site before recordation of plat(s).
16. The record plat must show necessary easements.

Certified Preliminary Plan

17. The certified Preliminary Plan must contain the following notes:

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 issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.

18. 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 lotting plan to reflect the accurate size and configuration of the Tunnel Parcel.

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 Preliminary Plan will consolidate six different lots or parcels into a single lot with a site area of 3.78 acres. The new lot will continue with the existing block design that was established by the previous development of the Forest Glen Medical Center. The size, width, shape, orientation, and density of the new lot are all appropriate given

the Property’s location and status as a lot for significant mixed-use development. There are no new roadways included as part of the Subject Application. The Application provides for the appropriate dedications pursuant to the Sector Plan. The Preliminary Plan will also create one parcel to be dedicated to MCDOT which will be the site of the “Forest Glen Passageway” project providing a new entrance for the Forest Glen Metrorail Station.

Table 1: 9801 Georgia Avenue Preliminary Plan Data Table for CRT-2.5, C-2.5, R-2.5, H-120’ Zone, Optional Method, Section 59.4.5.4

Development Standard	Permitted/ Required	Approved
Tract Area	n/a	4.93 acres (214,627 sf)
Prior Dedication	n/a	0.96 acres (41,741 sf)
Proposed Dedication	n/a	0.11 acres (4,489 sf)
Tunnel Parcel	n/a	0.09 acres (3,824 sf)
Site Area	n/a	3.78 acres (164,573 sf)
Density		
Total Density	536,567 sf (2.5 FAR)	425,000 sf (2.01 FAR*)
Commercial Density	536,567 sf (2.5 FAR)	5,000 sf (0.02 FAR*)
Residential Density	536,567 sf (2.5 FAR)	420,000 sf (1.99 FAR*) 390 multi-family dwelling units

*FAR calculations account for subtraction of the tunnel parcel area from tract area.

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

2020 Forest Glen/Montgomery Hills Sector Plan

The Subject Property is in the 2020 *Forest Glen/Montgomery Hills Sector Plan* area. Due to the Subject Property’s prominent location east of the Forest Glen Metrorail Station at the intersection of Georgia Avenue and Forest Glen Road, the 2020 Sector Plan includes specific recommendations for the site to advance the Plan’s themes of reconnect, reinvest, and reimagine.

Land Use and Zoning

A Sectional Map Amendment to implement the Sector Plan rezoned the Site from R-60 to CRT-2.5, C-2.5, R-2.5, H-120 to achieve a mixed-use, pedestrian-oriented development at the Forest Glen Metrorail Station. The Applicant proposal is for a mixed-use development with 5,000 square feet of ground-floor commercial and 390 multifamily residential units, a floor area ratio of 2.01. The building transitions in height from approximately 80 feet along Georgia Avenue, at its maximum height, to 35 feet along Woodland Drive to achieve compatibility with the single-family community east of the Site. While additional height is permitted pursuant to existing

zoning, the development will be wood construction over a concrete podium thereby limiting the height to a maximum of 80 feet, which also dictates the number of units.

Affordable Housing

The Sector Plan prioritizes affordable housing and habitat preservation and restoration as the top public benefits for optional method development on the 9801 Georgia Avenue Site. The Sector Plan further states: “Any optional method project that includes residential dwelling units should provide a minimum of 15 percent MPDUs. In addition, with redevelopment, a minimum of 25 percent of the units should be two-bedroom units and five percent of the units should be three-bedroom units. Additionally, given the substantial investment by the County in the Metro access tunnel construction, the Plan recommends 10 percent of the units also be provided as affordable to households earning at or below 100 percent of Area Median Income (AMI).” (page 74.) As conditioned by DHCA in its approval letter dated February 8, 2024, to achieve substantial conformance with the Sector Plan the Applicant will provide a minimum of 15 percent Moderately Priced Dwelling Units (MPDUs), a minimum of 25 percent of the units as two-bedroom units, and a minimum of 5 percent of the units as three-bedroom units.

Habitat Preservation and Restoration

The Sector Plan includes environmental recommendations for the Plan area, as well as site-specific recommendations. In combination, these recommendations seek to sequester carbon, improve air and water quality, reduce surface temperatures, provide habitat, and decrease greenhouse gases. To achieve these environmental outcomes, the Sector Plan recommends that all properties 2.5 acres or larger strive to achieve a minimum of 35 percent green cover, defined as intensively planted green roof, tree canopy cover, lawn with at least 30 inches of soil, or a combination thereof. The Sector Plan also indicates that the 35 percent recommendation can be altered or decreased with the provision of on-site energy generation. The Applicant will include a combination of elements to achieve the 35 percent recommendation, including tree canopy cover, lawn areas, biofiltration areas, and a solar array for on-site energy generation.

In addition to the green cover recommendation, the Sector Plan also includes recommendations related to energy conservation and generation, building orientation to reduce heating and cooling loads, and incorporation of sustainable design principles and initiatives. With this Preliminary Plan Application, the Applicant will have 9,184 square feet of solar array on the roof for energy generation and has committed to orient the building to reduce heating and cooling loads to the extent possible given site constraints. The Applicant will also build additional energy efficient strategies into the design, which may include high-efficient HVAC systems. Final details will be determined through the energy model required at Certified Site Plan.

The Sector Plan also includes a specific environmental recommendation for the site, which states:

“The 3.9-acre property contains approximately 1.25 acres of remnant forest dominated by native black locust trees. With respect to the remnant forest, at the time of redevelopment, maximum flexibility on the site should be given for providing an area of

equal environmental benefit that also provides for improved community benefit and access. Equal environmental benefits may include improved water and air quality, strategies that provide for reduced greenhouse gas emissions and increased biodiversity and habitat protections, including improved tree canopy. Development should also, as a part of its open space requirement, preserve healthy indigenous trees and replant stratified vegetation where possible.” (Pg. 74)

According to the approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD), approximately 0.43 acres of remnant forest exist on the Site. To achieve equivalent environmental benefit, the Applicant will plant stratified vegetation throughout the site, as well as micro-bioretenion planters along the perimeter of the building, some of which will accommodate the stormwater needs associated with the Maryland Department of Transportation State Highway Administration’s Montgomery Hills/MD 97 project. In addition, the Applicant will construct two consolidated open spaces, on the northern and southern portions of the Site, with landscaped areas, terraces, and outdoor seating, both of which are accessible for the benefit of the surrounding community.

Urban Design

The Sector Plan includes several urban design recommendations to guide future redevelopment of the Site. These recommendations provide guidance on the building height, density, scale, and character, as well as recommendations related to parking and curb cuts. The Preliminary Plan application substantially conforms with the Sector Plan’s urban design recommendations.

The Sector Plan recommends that the building height and density be concentrated at the intersection of Georgia Avenue and Forest Glen Road with transitions in size and scale to the surrounding residential neighborhoods. The single building will transition in height from six stories along Georgia Avenue to three and four stories along the Woodland Drive frontage. In addition to locating greater height along the Georgia Avenue frontage, the applicant will also locate the ground-floor retail and building amenities at the southwest corner of the Site, both to embrace this prominent location as well as activate the Civic Green along Forest Glen Road. To ensure compatibility along Woodland Drive, the Applicant included transitions in building height as well as the introduction of building breaks in the façade to create the sense of multiple buildings.

The Sector Plan also recommends a minimum setback of 25 feet from the building face to the curb along both Georgia Avenue and Forest Glen Road to accommodate generous sidewalks at this Metro-adjacent site. The Applications include a setback between the building face and the curb along Georgia Avenue that ranges from approximately 32 feet to 35 feet, and approximately 98 feet between the building face and the curb along Forest Glen Road to accommodate the plaza and planned Forest Glen Metrorail Station tunnel. Within the setback along Georgia Avenue, there will be an eight-foot landscaped buffer adjacent to the curb and an 11-foot sidewalk. The Sector Plan also “recommends a designated pick-up/drop-off area completely contained on the Forest Glen Medical Center site” to provide a safe and efficient pick-up/drop-off area that

will deter use of Georgia Avenue and Woodland Drive. The Applicant will accommodate a pick-up/drop-off area along the Woodland Drive frontage of the Subject Property in reserved, on-street parking spaces, rather than on-site. Throughout review of the Subject Application, it was determined that the combination of an on-site facility internal to the structured parking garage and associated circulation would result in inefficiencies and displace other activating ground floor uses. The pick-up/drop-off on Woodland Drive creates a more direct pedestrian route to the future pedestrian tunnel planned for the southwest corner of the Site. A Metro pick-up/drop-off area contained in the parking garage would also be less likely to be used due to the grade change on the site, which would create a circuitous route within the parking garage to access an internal pick-up/drop-off area. The pick-up/drop-off area will also be closer to the Civic Green and Metro Tunnel at its location along Woodland Drive than it would be if located internal to the building. Planning Staff acknowledges the challenges associated with a pick-up/drop-off area on the Subject Property and that the designated pick-up/drop-off area on Woodland Drive achieves substantial conformance with the Sector Plan.

The Sector Plan also recommends reducing parking to the greatest extent possible, including providing shared parking and/or unbundled parking. According to the Zoning Ordinance, the maximum number of parking spaces permitted for the residential units and commercial use is 545 spaces, and the minimum number of parking spaces permitted is 379. The Applicant will provide 457 parking spaces in a structured garage lined by the building and 466 spaces² when on-street parking on Woodland Drive is included, a reduction of 74 spaces from the approved parking in the Sketch Plan application. Additionally, per Staff's direction and as conditioned, the Applicant will unbundle the parking from the residential units to discourage tenants from having unnecessary cars at this Metro-proximate location.

Parks

The Sector Plan recommends a civic green urban park ranging in size between one-half and one-acre at the Site. A civic gathering space is defined by the Sector Plan as a contiguous space of one-half acre or more that can accommodate cultural programs, community events and neighborhood festivals. The Applicant will provide a plaza and open space of approximately one-half acre along the southern portion of the Site. The plaza includes a series of stepped terraces, with a combination of hardscape, lawns, landscaped plant beds, and outdoor seating. The combination of terraces provides opportunities for gathering spaces and performances, as well as informal outdoor seating to serve patrons of the adjacent retail as well as the Forest Glen Metrorail Station.

At one-half acre, the civic green urban park is the minimum size recommended by the Sector Plan. The half-acre of functional civic green space includes areas within a separate parcel that will be the location of the "Forest Glen Passageway" MCDOT project that will create a new entrance and tunnel connecting to the Forest Glen Metro Station. These areas, shown in Figure 8 on page 26 of this Staff Report, will function as part of the larger civic green despite being on

² Parking may be reduced as part of the Certified Site Plan.

land dedicated to or eventually owned by MCDOT. Per Site Plan Condition 3.b, the Applicant may not receive credit for this space (1,904 square feet) towards the half-acre civic green requirement if that land is conveyed for consideration to MCDOT.

Transportation

The Sector Plan embraces Vision Zero, a proven approach to eliminate roadway-related severe and fatal crashes and identifies several strategies to further this countywide goal. These strategies include reducing vehicular speeds, eliminating conflicts between users, and providing designated space for each mode of transportation. One strategy that the Plan recommends is to consolidate driveways to minimize interruptions for pedestrians and bicyclists, as well as to minimize conflicts between cars turning and those walking, biking, and rolling. While the Plan states that “redevelopment opportunities along Georgia Avenue should eliminate or consolidate driveways to reduce conflicts among travel modes,” (Pg 16) 9801 Georgia Avenue is not identified in the Plan as a location where the elimination or consolidation of driveways is necessary. Rather, the Plan recommends the following for the Subject Property: “Maintain existing curb cuts on Georgia Avenue at the present location or farther north from the intersection.” (Pg 75). The Applicant will move the curb cut for the garage entrance farther north from the intersection, consistent with the Plan recommendation. The existing driveway access on Forest Glen Road will also be eliminated, removing an existing conflict point on a heavily trafficked multimodal corridor. Staff has reviewed the project and found it to be in conformance with the goals of Vision Zero.

Based on the findings outlined above, the Subject Application substantially complies with the recommendations of the 2020 *Forest Glen Montgomery Hills Sector Plan*.

- a) *Public facilities will be adequate to support and service the area of the subdivision.*

Roads and other Transportation Facilities

Existing Facilities

Georgia Avenue (MD 97) is a Town Center Boulevard with six travel lanes and a center median. Sidewalks are present along both sides of the roadway. However, there is no buffer between the sidewalk and travel lanes.

Forest Glen Road is a Town Center Street with five lanes. This includes one shared through-right westbound lane, two westbound left-turn lanes, and two eastbound lanes that transition to one eastbound lane approaching Woodland Drive. Sidewalks are provided on both sides of the roadway. However, there is no buffer between the sidewalk and the travel lanes.

Woodland Drive is a Neighborhood Street with two travel lanes. Sidewalk is only provided along the west side (Site side) of the roadway. The buffer between the sidewalk and the roadway varies in width.

There is an existing bus shelter located on the northeastern corner of the Georgia Avenue (MD 97) and Forest Glen Road intersection which is served by the following routes:

- Route Q2 provides service between the Silver Spring Metro Station and Shady Grove Metro Station.
- Route Q4 provides service between the Silver Spring Metro Station and Rockville Metro station.
- Route Y2 provides service between the Silver Spring Metro Station and Montgomery General Hospital and Prince Philip Drive.
- Route Y7 provides service between the Silver Spring Metro Station and the Georgia Avenue ICC Park and Ride Lot.
- Route Y8 provides service between the Silver Spring Metro Station and Montgomery General Hospital and Prince Philip Drive.

Proposed public transportation infrastructure

Along the Georgia Avenue (MD 97) frontage, the applicant will dedicate 14-feet and construct an 11-foot-wide sidepath with an 8-foot-wide street buffer. The existing bus shelter at the corner of the Georgia Avenue (MD 97) and Forest Glen Road intersection will be retained.

Along the Forest Glen Road frontage, the applicant will dedicate 10 feet and coordinate with MCDOT and MDOT SHA to ensure construction of a 7-foot-wide sidewalk. If the development occurs before the MDOT SHA Safety and Accessibility Project, an 11-foot-wide buffer will be provided. Following the MDOT SHA widening project, a 5-foot-wide buffer will remain.

Along the Woodland Drive frontage, the applicant will construct a 6-foot-wide sidewalk with a 6-foot-wide street buffer. On-street 8-foot-wide parking will also be provided, with 6 parking spaces dedicated for Metrorail tunnel access pick-up/drop-off use.

The Forest Glen Passageway CIP project (P501911) will add a new grade separated connection under Georgia Avenue to improve access to the Forest Glen Metro Station from neighborhoods and institutions located on the east side of Georgia Avenue. While the project will not construct the CIP project, it will accommodate the tunnel entrance on the southwest corner of the site.

An 8-foot-wide sidewalk that provides a through-block connection linking Woodland Drive and Georgia Avenue (MD 97) will be constructed along the Subject Property’s northern boundary.

b) Local Area Transportation Review (LATR)

As a development with 390 units and 5,000 square feet of retail, the Project is estimated to generate 266 total peak hour person trips in the morning and 291 total peak hour person trips in the evening. After accounting for peak hour person trips currently associated with the existing 31,590 square feet of Medical-Dental Office use on the Site, (106 morning peak hour person trips and 156 evening peak hour person trips), the Project is estimated to generate 160 net new morning peak hour person trips and 135 net new evening peak hour person trips. As a result of the estimated transportation impact, the Project was required to submit a Transportation Impact Study with the Preliminary Plan to satisfy the Local Area Transportation Review (LATR).

Table 2: 9801 Georgia Avenue Estimated Person Trip Generation

Land Use	Morning Peak Hour	Evening Peak Hour
Existing (credit)		
Medical-Dental Office 31,590 sqft.	106	156
Proposed		
Residential Mid-Rise Multifamily 390 units	242	230
Strip Retail (<40k) 5,000 sqft.	24	61
TOTAL PROPOSED	266	291
Net New Person Trips	+160	+135

Source: Transportation Impact Study by Lenhart Traffic dated November 6, 2023, amended by staff

Travel Mode Adequacy Test

The 2020-2024 *Growth and Infrastructure Policy* requires evaluation of all transportation modes, including: auto-driver, 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 only exception is that projects within Red Policy Areas (such as the Subject Site) are not required to evaluate motor vehicle adequacy. The adequacy tests for transit, pedestrians, and bicyclists are still required. The mode split of the total person trips for the Project are summarized by travel mode in Table 3. The Project's estimated transportation impact necessitates that the Transportation Impact Study evaluate three (3) of the four (4) travel mode adequacy tests.

Table 3: 9801 Georgia Avenue Trip Estimate by Mode

	Total Person-Trips	Auto-Driver
Morning Peak Hour	266	138
Evening Peak Hour	291	151

Source: Transportation Impact Study by Lenhart Traffic dated November 6, 2023, amended by Staff

- As the Site is located within a Red Policy area, a motor vehicle adequacy test is not required for the Project.
- Transit system adequacy was evaluated by inventorying two bus stops located within 1,000 feet of the Property. Where shelters and associated amenities are not provided, the Applicant must install the standard amenities in coordination with MCDOT.

There is a total of 13 bus stops within the study area, only 5 of which have bus shelters. However, through coordination with MCDOT staff it was determined that adding bus shelters was not a priority over other off-site improvements.

- Pedestrian system adequacy was evaluated within 750 feet of the Property. Mitigation will be required to achieve a Pedestrian Level of Comfort (PLOC) greater than 2 (Somewhat Comfortable), and/or deficiencies identified for streetlamps within the scoped boundary. The Pedestrian system adequacy also requires mitigation for ADA deficiencies identified within 375 feet of the Property.

Several segments in the study area do not meet PLOC standards, generally due to inadequate buffers, high speed limits, and uncontrolled crossings. The prioritized

LATR mitigation project list, discussed later, addresses some of the noted deficiencies.

Street lighting in the study area generally met standards. However, some street lighting spacing and distance to curb/sidewalk deficiencies were noted. However, the deviation from standards is minor and through coordination with MCDOT staff it was determined that other off-site improvements were a higher priority to address.

There were 10 ADA deficiencies identified. Several of these deficiencies will be addressed through the project development through required frontage improvements. While some deficiencies will remain, through coordination with MCDOT it was determined that other off-site improvements were of greater priority to address. Additionally, some of these deficiencies may be addressed as part of the MDOT SHA MD 97 Safety and Accessibility project.

- Bicycle system adequacy was evaluated by analyzing bikeways within 750 feet of the Property. Mitigation will be required to achieve a Level of Traffic Stress 2 (LTS-2) or lower, consistent with the Bicycle Master Plan.

Several deficiencies were noted in the area along Forest Glen Road and Georgia Avenue (MD 97). However, no bicycle facilities are planned in the *2018 Bicycle Master Plan* on Georgia Avenue north of Forest Glen Road, with a parallel planned neighborhood greenway along Woodland Drive. Planned sidepaths would address other noted deficiencies along Forest Glen Road and the southern segments of Georgia Avenue (MD 97). However, through coordination with MCDOT staff it was determined that these improvements did not take priority over other off-site improvements in the area. Under Section 8 of the *2023 Local Area Transportation Review Guidelines* (LATR Proportionality Guide), the maximum cost of mitigation improvements the Applicant is required to construct or fund for a project consisting of 390 residential units and 5,000 square feet of commercial is not to exceed \$2,079,332(see calculation below).

$$\begin{aligned} \text{LATR Proportionality Guide} &= (\text{Extent of Development}) (\text{LATR Proportionality} \\ &\quad \text{Guide Rate}) (\text{LATR Proportionality Guide Adjustment Factor}) \\ \$2,079,332 &= (390 \text{ units}) (\$10,976) (48\%) + (5,000 \text{ square feet}) (\$19.70) (25\%) \end{aligned}$$

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 prioritized projects was finalized by the reviewing agencies and are now conditioned for approval of the Preliminary Plan. Table 4 identifies those projects which could be feasibly constructed, as well as those projects that could not be feasibly constructed (due to unattainable right-of-way or would require changes to traffic operations outside the control of the Applicant) and are addressed by way of mitigation payments. The final list of projects is included in Table 4 and a map of the projects is provided on Figure 2 below.

Table 4: 9801 Georgia Avenue LATR Mitigation Project List

Map ID	Project Location	Project Description	Construct/ Mitigation Payment	Project Cost
1	Intersection of Georgia Avenue and Bonnywood Lane/Tilton Drive	Construct new traffic signal	Construction	\$579,483
2	Forest Glen Road (north side): Forest Glen Road Sidewalk CIP #502506	New sidewalk and street buffer for approximately 2,400 feet along the north side of Forest Glen Road from Woodland Drive to Sligo Creek Trail	Payment	\$1,499,849
MPDU Credit ¹				\$224,213
Adjusted Mitigation Payment Subtotal				\$1,275,636
Total				\$1,855,119
Proportionality Guide				\$2,079,332

¹ Consistent with Section TA4 of the 2020-2024 *Growth and Infrastructure Policy*, any mitigation payment will be reduced proportionally based on the share of the project’s LATR Proportionality Guide that is generated by MPDUs.

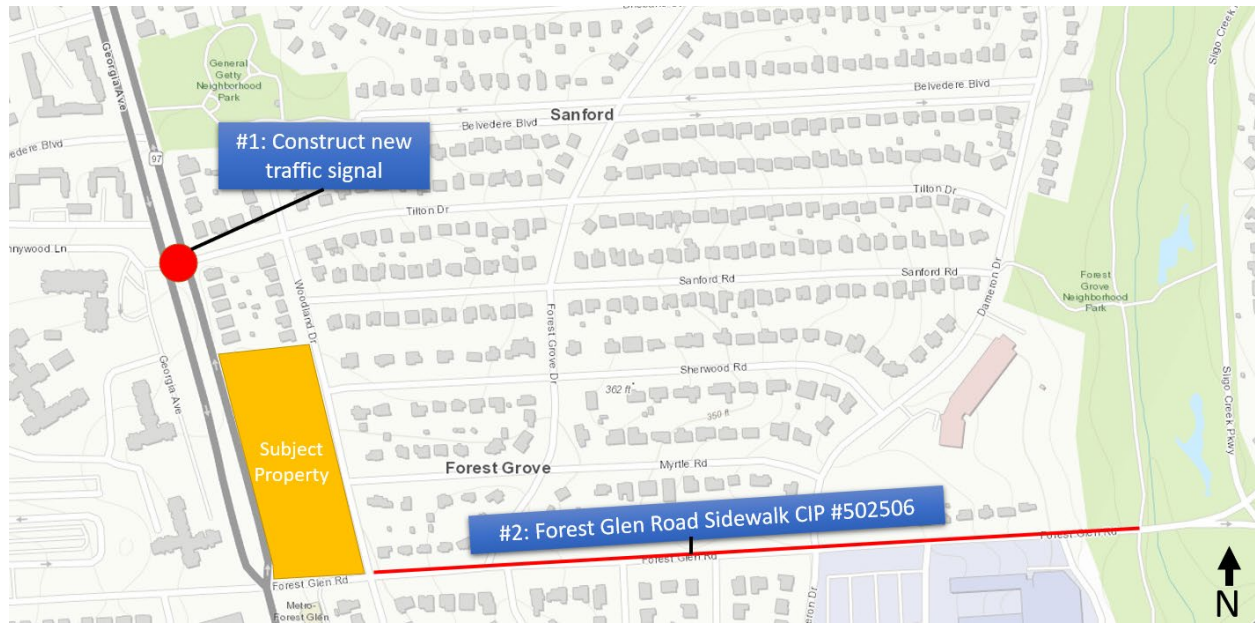


Figure 2: Map of Off-site LATR Mitigation Projects

Montgomery County Planning, MCDOT, and MDOT SHA staff reviewed the Transportation Impact Study 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.

c) Schools

Overview and Applicable School Test

Preliminary Plan 120230160 and Site Plan 820230130 for 9801 Georgia Avenue went before the Planning Board on March 7, 2024. Therefore, the FY24 Annual School Test, approved by the Planning Board on June 15, 2023, and effective July 1, 2023, is applicable to this application. This plan includes 390 multifamily high-rise units.

School Adequacy Test

The project is served by Flora M. Singer ES, Sligo MS and Albert Einstein HS. Based on the FY24 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 5: Applicable FY2024 School Adequacy

School	Projected School Totals, 2027				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/Deficit		Tier 1	Tier 2	Tier 3
Flora M. Singer ES	598	585	97.8%	+13	No UPP	98	133	223
Sligo MS	958	686	71.6%	+272	No UPP	398	464	608
Albert Einstein HS ³	1,602	1,567	97.8%	+35	No UPP	215	356	596

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school’s adequacy status and ceilings, as determined in the Annual School Test. Under the FY24 Annual School Test, Flora M. Singer ES, Sligo MS and Albert Einstein HS do not require any UPP as identified in Table 5. If the project is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

Calculation of Student Enrollment Impacts

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

With a net of 390 multifamily high-rise units that are not age-restricted, the project is estimated to generate the following number of students based on the subject property’s location within an Infill Impact Area:

Table 6: Estimated Student Enrollment Impacts

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	0	0.202	0.000	0.096	0.000	0.141	0.000
SF Attached	0	0.161	0.000	0.087	0.000	0.126	0.000
MF Low-rise	0	0.065	0.000	0.030	0.000	0.040	0.000
MF High-rise	390	0.039	15.210	0.016	6.240	0.018	7.020
TOTALS	390		15		6		7

³ Projected enrollment reflects the estimated impact of CIP P651908, which will reassign students between the Down County Consortium, Bethesda-Chevy Chase HS, Walter Johnson HS, Walt Whitman HS, and Charles Woodward HS in 2026.

As shown in Table 6, on average, this project is estimated to generate 15 elementary school students, 6 middle school students and 7 high school students. The estimated number of students generated does not exceed the adequacy ceilings identified for each school in Table 5. Therefore, no UPPs are required and neither are partial payments across multiple UPP tiers.

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

A. Forest Conservation

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

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as a 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.

This Application will require the removal or CRZ impact to nine Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property 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.*

The Applicant is redeveloping the Property to meet the goal of providing housing at the Forest Glen Metro Station, as well as providing stormwater management for Georgia Avenue, space for the new Forest Glen Metro Station entrance, urban civic green, and frontage improvements along Woodland Drive to reduce traffic speed and provide a safe pedestrian experience. These requirements require the disturbance generating the impacts on the Protected Trees. Because these goals are provided in the site-specific recommendations in the Sector Plan, they would be applicable to any

redevelopment of the Property. Therefore, 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 on existing site conditions and the requirements to meet development standards, Sector Plan goals and recommendations and County Code requirements.

- 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 required improvements on the 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 a special protection area. Mitigation trees will be planted on the Subject Property to replace the lost form and function of the Protected Trees being removed.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approves the replacement of Protected Trees at a ratio of approximately 1 caliper inch replaced for every 4 inches of trunk diameter removed, in addition to other forest planting and landscape credit plantings. No mitigation is required for Protected Trees impacted but retained.

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

This finding is based upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

DPS approved a Stormwater Management Concept on January 11, 2024. The plan proposes to meet required stormwater management goals via the use of planter box microbioretentions. The approval letter also specifies that “Due to project constraints a partial waiver of stormwater management requirements was requested and hereby granted.”

BE IT FURTHER RESOLVED that this 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 that before the expiration 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 must be filed; 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

April 19, 2024

(which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal 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 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 of the motion, at its regular meeting held on Thursday, April 4, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board