

**THE BROWNSTONES AT WESTBARD SQUARE  
SITE PLAN NO. 820240160 & FINAL FOREST CONSERVATION  
PLAN NO. F20240760**



Request to develop the site with 32 townhouse units, including 12.5 percent MPDUs, as part of Phase II of the ongoing redevelopment of the Westwood Shopping Center project.


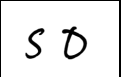
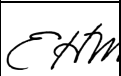
Site Plan No. 820240160 &  
FCP No. F20240760

Completed: 10/7/2024

MCPB  
Item No. 8  
10/17/2024

Montgomery County  
Planning Board  
2425 Reedie Drive, Floor 14  
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### LOCATION/ADDRESS

At the southwest quadrant of the intersection of River Road & Brookside Drive, Bethesda

### MASTER PLAN

2016 *Westbard Sector Plan*

### ZONE

CRT-1.0, C-0.25, R-1.0, H-45 & R-60

### PROPERTY SIZE

2.42 acres (site)

### APPLICANT

Westwood Associates, LLC

### ACCEPTANCE DATE

May 29, 2024

### REVIEW BASIS

Chapter 59, Chapter 22A

### Summary:

- Staff recommends approval with conditions of the Site Plan and Final Forest Conservation Plan.
- This Site Plan implements a portion of Phase II of the Westwood Shopping Center redevelopment as approved by Preliminary Plan No. 120170170.
- A Variance from Section 22A-12(b)(3)(D) of the Forest Conservation Law is requested, and supported by Staff, for a stormwater facility and a portion of one dwelling unit to be within a stream valley buffer.
- A Waiver from Section 2.2.2 of the Noise Guidelines is requested and supported by Staff.
- Alternative Compliance per Section 59.8 of the Zoning Ordinance is requested, and supported by Staff, for a minor adjustment to the Screening arrangement required per Section 59.6.5.3.
- The Applicant requested, and Planning Director approved, one extension of the regulatory review period for the Applications from September 26, 2024 to October 24, 2024.
- As of the date of this Report, community correspondence was received from two residents with general questions.

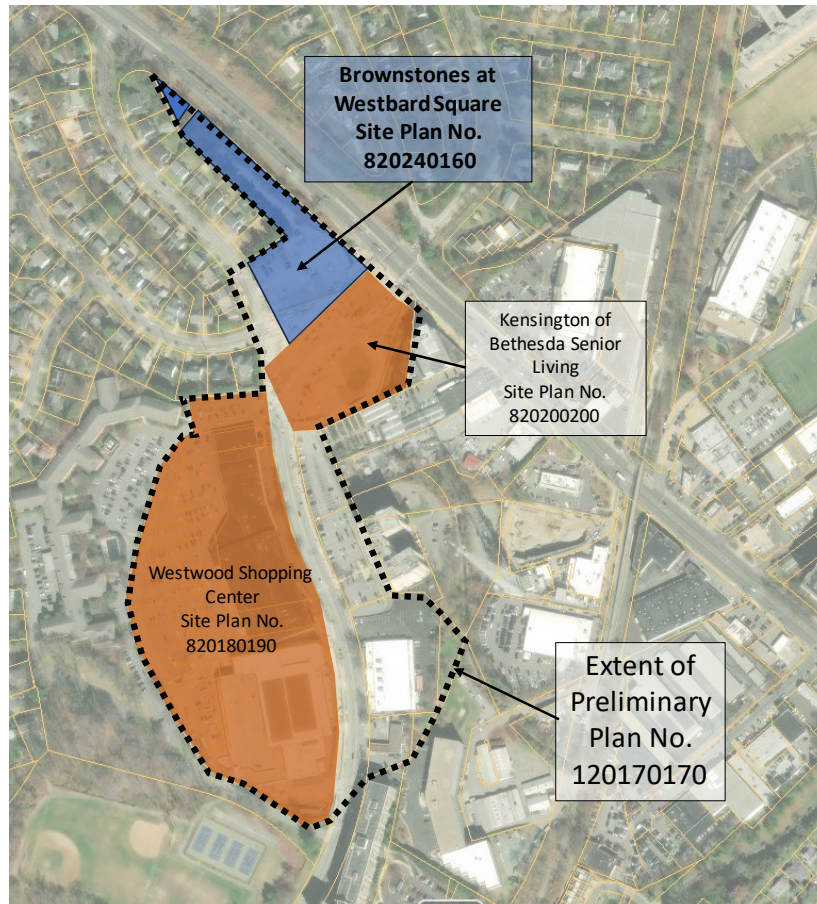
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## SECTION 1: EXECUTIVE SUMMARY

Westwood Associates, LLC. (the Applicant) requests approval of Site Plan No. 820240160 and Final Forest Conservation Plan No. F20240760 (collectively, the Applications) to implement a portion of Phase II of the larger redevelopment envisioned under Preliminary Plan No. 120170170. The Subject Applications build on the previously approved Phase I Site Plan for the Westwood Shopping Center (Site Plan No. 820180190) and Phase II Site Plan for Kensington of Bethesda Senior Living (Site Plan No. 820200200).

The Subject Applications, Site Plan No. 820240160 and Final Forest Conservation Plan No. F20240760 propose a new, 32-unit townhouse development, with 12.5 percent MPDUs, and environmental enhancements on approximately 2.42 acres at the southwest quadrant of the intersection of River Road and Brookside Drive.



*Implementation of the Westwood Shopping Center Preliminary Plan*

## SECTION 2: RECOMMENDATIONS AND CONDITIONS

### SITE PLAN 820240160

Staff recommends approval of Site Plan No. 820240160 for the construction of 32 townhouse units, with 12.5 percent MPDUs. The development must comply with the conditions of approval of Preliminary Plan No. 120170170, as reflected in MCPB Resolution No. 19-032 (dated May 6, 2019), as modified by Preliminary Plan No. 12017017A, as reflected in MCPB Resolution No. 20-135 (dated January 21, 2021). All site development elements shown on the latest electronic version of the Site Plan, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions.<sup>1</sup>

### DENSITY, HEIGHT & HOUSING

1. Density  
The Site Plan is limited to a maximum of 74,950 square feet of residential development on the Subject Property, for up to 32 townhouse dwelling units, with 12.5 percent MPDUs.
2. Height  
The development is limited to a maximum height of 45 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.
3. Moderately Priced Dwelling Units (MPDUs)
  - a) The Planning Board has reviewed and accepts the recommendations of Montgomery County Department of Housing and Community Affairs (DHCA) in its letter dated August 25, 2024, and incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.
  - b) The development must provide 12.5 percent MPDUs or MCDHCA-approved equivalent consistent with the requirements of Chapter 25A.
  - c) Before issuance of any building permit for any residential unit(s), the MPDU agreement to build between the Applicant and the MCDHCA must be executed.

### OPEN SPACE, FACILITIES AND AMENITIES

4. Common Open Space, Facilities, and Amenities
  - a) The Applicant must provide a minimum of 43,177 square feet of common open space (41% of net lot area) on-site.

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<sup>1</sup> For the purposes 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.

- b) Before any reduction of the surety bond for the residential development, all common space areas on the Subject Property must be completed.
- 5. Common Open Space Covenant  
The record plat must reference the Common Open Space Covenant recorded at Book 28045 Page 578 (Covenant).
- 6. Recreation Facilities
  - a) The Applicant must provide the required recreation facilities as shown on the Certified Site Plan (CSP). The CSP must include an exhibit delineating location and detail of recreation facilities, where appropriate, in a manner that is clear and corresponds to the posted surety and maintenance agreement.
  - b) Before any reduction of the surety bond for the residential development, all on-site recreational features shown on the CSP must be completed.
- 7. Maintenance of Public Amenities  
The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to common open spaces, recreational amenities, alleys, and sidewalks.

## ENVIRONMENT

- 8. Noise Attenuation
  - a) Before issuance of the first above-grade building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that the proposed fencing and building shell for residential dwelling units affected by exterior noise levels projected at or above 65 dBA Ldn, will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. Any noise impacted units must be identified on the Certified Site Plan.
  - b) If any changes occur to the Site or Preliminary Plan(s) which affect the validity of the noise analysis dated April 10, 2024, acoustical certifications, and/or noise attenuation features, a new noise analysis will be required to reflect the changes and new noise attenuation features may be required.
  - c) Before issuance of any Use and Occupancy Certificate or Final Inspection, whichever is relevant, for any of the noise impacted units, a Professional Engineer must certify to the Planning Department and Department of Permitting Services that the noise impacted units have been constructed in accordance with the certification of an engineer that specializes in acoustical treatments.
  - d) For all noise impacted residential dwelling units, the Applicant must disclose in writing to all prospective purchasers that those homes are impacted by transportation noise. Such notification may be accomplished by inclusion of this information and any measures to reduce the impacts in brochures and promotional documents and must be included in any noise impacted sales or lease contracts, and in Homeowner Association documents.
- 9. Stormwater Management  
The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Service (MCDPS) Water Resources Section in its stormwater

management concept letter dated September 5, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

## TRANSPORTATION & CIRCULATION

### 10. Transportation

- a) 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 August 13, 2024 and, except for Condition 3, incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in their memo, except for Condition 3, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

### 11. Private Roads

The Applicant must provide the Private Road, labeled as “Private Alley” on the Site Plan, including any sidewalks, storm drainage facilities, street trees, streetlights, private utility systems and other necessary improvements as required within the delineated private road area (collectively, the “Private Road”), subject to the following conditions:

- a) The record plat must clearly delineate the Private Road and include a metes and bounds description of the boundaries of the Private Road. The plat shall reflect the layout of lots and private streets as shown on the Certified Site Plan.
- b) The Private Road must be subjected by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions in the Montgomery County Code § 50-4.3.E et seq regarding private roads. The Covenant includes, but is not limited to the following requirements/conditions:
  - i. The Applicant, at its expense, shall design, construct, and maintain the Private Road.
  - ii. The Applicant, at its sole cost and expense, shall properly and continually maintain (including ordinary and capital maintenance and removal of snow, ice, litter, and other obstructions and hazards as soon as conditions reasonably allow), repair, and replace any portion of the Private Road and all improvements located within the Private Road, in good condition and repair for safe use and operation of the Private Road. The Applicant must maintain a commercially reasonable budget (operating and capital, as applicable) to address both short-term and long-term maintenance, and reserves for capital repairs. The Applicant must provide certification of the reserves to the Planning Board or its Staff every five (5) years. The reserves must be adequate to cover the costs of needed repairs.
  - iii. The Applicant must post and retain signage to notify the public that the Private Road is not publicly maintained and to provide contact information to handle complaints, concerns, or questions regarding the Private Road.

- c) Before issuance of the first building permit, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Road has been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified on this Site Plan, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.
- d) Before approval to release any portion of the site plan performance bond, the Applicant must deliver to the Planning Department and MCDPS inspector certification by a professional engineer licensed in the State of Maryland that the Private Road has been constructed in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code, as may be modified on the Preliminary Plan or Site Plan, including in-place density testing of the roadway soil sub-grade, aggregate base, and asphalt, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshall.

12. 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 August 23, 2024, 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.

13. Before the final use and occupancy permit for the last residential unit, the Applicant must submit a certification by a Maryland-licensed engineer that the fire and rescue access was installed as specified in the approved fire department access plan.

SITE PLAN

14. Architectural Character

- a) The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the Site Plan architectural drawings, as determined by M-NCPPC Staff.
- b) The exterior architectural character, proportion, materials, and articulation of the MPDUs must be substantially similar to the exterior architectural character, proportion, materials, and articulation of the market-rate units.



## 15. Lighting

- a) Before Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b) All onsite down-lights must have full cut-off or BUG-equivalent fixtures.
- c) Deflectors will be installed on fixtures to prevent excess illumination and glare.
- d) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at the lot line, excluding areas impacted by streetlights within the right-of-way.
- e) Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.

## 16. Site Plan Surety and Maintenance Agreement

Before issuance of any building permit, sediment control permit, or Use and Occupancy Certificate (excluding core and shell), whichever comes first, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by 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:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements only for facilities located on the Property including, but not limited to plant material, on-site lighting, outdoor recreational amenities, common open space elements, site furniture, retaining walls, fences, railings, private alleys and sidewalks, private utilities, storm drainage facilities, street trees, streetlights, and bollard lights. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

## 17. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved before the approval of the Certified Site Plan.

## 18. Plat

The lot and parcel configuration reflected on the Certified Site Plan must be shown on the plat.

## 19. 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 all applicable agency approval letters, including but not limited to DPS SWM approval letter, DPS Fire Access approval and DHCA approval letter.
- b) Include the development program, Preliminary Plan(s) resolution, and Site Plan resolution on the approvals or cover sheet(s).
- c) Remove the LOD and grading associated with the new SWF within the FC easement/SVB, as shown on Sheet LL-004.
- d) 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.”
  - iv. “Specified site furnishings and materials may be substituted with equivalent alternatives (of equal or better quality), through coordination with Planning Department Staff, without requiring a Site Plan Amendment.”
- e) Modify data table to reflect development standards approved by the Planning Board.
- f) Ensure consistency of all details and layout between Site and Landscape plans.
- g) Include an exhibit showing all noise impacted units.
- h) Revise the design and layout of stormwater facilities on the Site Plan to be consistent with the approved stormwater management concept plan.
- i) Include the approved Fire Access Plan as a sheet in the certified plan set.
- j) Adjust building labeling on Architectural Sheet A100 to be consistent with the Site Plan.

## FOREST CONSERVATION PLAN F20240760

Staff recommends approval of Final Forest Conservation Plan No. F20240760, which involves the development of 32 townhouse units with 12.5 percent MPDUs pursuant to accompanying Site Plan No. 820240160. The Application also includes the amendment of an existing Category I Conservation Easement. The approval is subject to the following conditions:

1. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
2. The Applicant must comply with all tree-protection and tree-save measures shown on the approved Final Forest Conservation Plan. Tree-save measures not specified on the Final Forest Conservation Plan (FFCP) may be required by the M-NCPPC Forest Conservation Inspection Staff. Alternate methods of invasive control may be required or permitted by the M-NCPPC Forest Conservation Inspector.
3. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved FFCP.
4. In accordance with the requirements of the existing Category I Conservation Easement recorded in Book 65350, page 62 of the Land Records of Montgomery County, after the Applicant has graded and reforested the easement area as shown the FFCP, the Applicant must:
  - a) Record an amended Category I Conservation Easement reflecting the entire easement area. The new easement agreement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records.
  - b) Install permanent conservation easement signage and split rail fence along the perimeter of the conservation easements as shown on the Forest Conservation Plan, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
5. Before the start of demolition, grading, or construction, whichever comes first, the Applicant must:
  - a) Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all mitigation tree plantings, landscape plantings credited toward meeting the requirements of the FFCP, and invasive plant control measures.
  - b) Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for all trees or landscape plantings credited toward meeting the requirements of the FFCP, and maintenance, including invasive management controls.

6. M-NCPPC Forest Conservation Inspection Staff may require additional plantings to mitigate for tree removals within the Category I Conservation Easement.
7. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the landscape plantings credited toward meeting the requirements of the FFCP on the Subject Property as shown on the approved FFCP.
8. Before certification of the FFCP, the Applicant must revise the plans per the following:
  - a) Make minor corrections/clarifications in coordination with M-NCPPC Planning Staff.

## SECTION 3: SITE DESCRIPTION

### VICINITY

The Property (“Subject Property” or “Property” or “Site”) is located at the southwest quadrant of the intersection of River Road and Brookside Drive in Bethesda. This is within the 2016 *Westbard Sector Plan* (“Sector Plan”) area. The Property is at a point of transition between established neighborhoods of single-family detached dwellings (primarily zoned R-60 and R-90) to the west and north, and the higher-density, emerging mixed-used redevelopment of the former Westwood Shopping Center to the east and south (primarily zoned CRT) as illustrated in Figures 1-3.

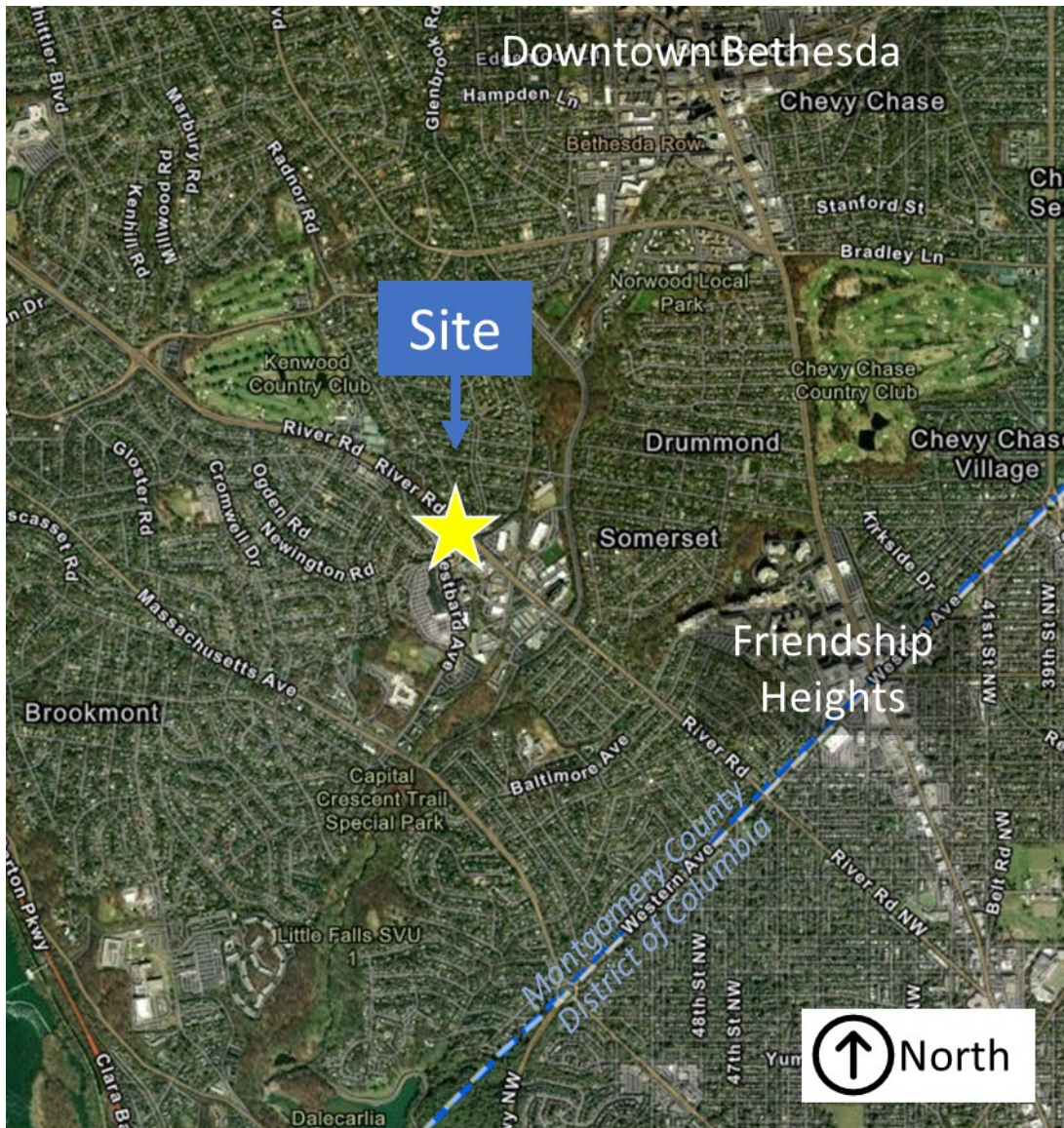


Figure 1 - Vicinity Map



Figure 2 –Zoning Map for Proposed Site Plan



Figure 3 – Neighborhood Map

## PROPERTY DESCRIPTION

The Site is comprised of Parcel A as recorded on Plat No. 7444 in the Land Records of Montgomery County, Parcel P902 and approximately 15,014 square feet of abandoned portions of rights-of-way of Ridgefield Road and Westbard Avenue<sup>2</sup>. The total tract area of the Property is approximately 2.79 acres, which is reduced to site area of approximately 2.42 acres after prior right-of-way dedications are factored. The Property is irregularly shaped, with a larger square area proximate to the intersection of Brookside Drive and narrow, linear rectangular portion extending to the northwest, located in between River Road to the north and single family detached homes along Westbard Avenue to the south as shown in Figure 4.

<sup>2</sup> County Council Resolution No. 19-1213 (Attachment D), adopted April 5, 2022, approved the abandonment of 5,891 square feet of rights-of-way of Westbard Avenue and 9,123 square feet of Ridgefield Road to allow for the redevelopment of the Westwood Shopping Center and realignment of Westbard Avenue and Ridgefield Road as envisioned by the *Westbard Sector Plan*.



Figure 4 – Aerial Image

This Property is the former Manor Care nursing home. The nursing facility was located proximate to Brookside Drive with a portion of its parking area extending into the narrow, linear section of the Property that parallels River Road. The nursing facility was demolished, and the Property is currently being used for construction staging and also includes a temporary sales office associated with the project. Representative photos of existing conditions at the Site are in Figure 5.

The narrow, linear section of the Site includes forested area and a steep embankment that leads to the Kenwood Tributary of Willet Branch which flows just offsite, in the right-of-way of River Road. This stream is characterized by steep embankments and proliferation of invasive plant species. The Site contains environmentally sensitive features such as steep slopes, high priority forests, stream, associated stream valley buffer (SVB) areas, and a few significant and specimen trees. Soils associated



with the property are classified as highly erodible. In addition, a section of the soil is considered urban land and is not considered highly erodible. There are no known occurrences of rare, threatened, or endangered species related to the Property. The site is located within the Willett Branch watershed, which is a tributary to Little Fall Branch and classified as a Use-Class I-P<sup>3</sup> watershed. The Kenwood Branch tributary, which is a tributary to Willett Branch, passes along the Property on the south side of River Road. There are no historic properties on-site.

The majority of the Property is zoned CRT-1.0, C-0.25, R-1.0, H-45, with its small, triangular-shaped northwestern corner zoned R-60 as shown in Figure 2. The CRT zoned portion of the Property is within the 2016 *Westbard Sector Plan*. It is further identified as “Site 2 – Manor Care” in the Westbard Avenue District of the Sector Plan area (page 71). The Property has frontage on three roadways, River Road to the north, Brookside Drive to the east and Westbard Avenue to the south and west. Detached single-family dwellings abut the southwestern portion of the Site and confront the southeast portion of the Site across Westbard Avenue. The redeveloping Westwood Shopping Center site confronts the Property to the south and the east. Construction along Brookside Drive abutting the Site, including at its intersections with River Road and Westbard Avenue, was recently completed, and realigned the roadway to its current configuration, as envisioned by the *Westbard Sector Plan* and Preliminary Plan 120170170. Improvements to the frontage area of the Subject Site along Brookside Drive and Westbard Avenue were approved under the Preliminary Plan and associated Site Plan No. 820200200 and appear largely completed as of the date of this Report.

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<sup>3</sup> WATER CONTACT RECREATION & PROTECTION OF AQUATIC LIFE, AND PUBLIC WATER SUPPLY

Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply, industrial water supply, and use as a public water supply.



Figure 5 - Existing Conditions (Aug. 29, 2024)

## SECTION 4: PROJECT DESCRIPTION

### PREVIOUS APPROVALS

Sketch Plan No. 320170010 was approved by the Planning Board on April 26, 2017, by Resolution MCPB No. 17-011, for an Optional Method development of up to 1.8 million square feet of new and existing mixed-use development, including 1.29 million square feet of residential uses and up to 510,000 square feet of commercial uses, over approximately 25.7 acres of land. This approval was abandoned in January 2018.

Preliminary Plan No. 120170170 (Westwood Shopping Center) was approved by the Planning Board by Resolution MCPB No. 19-032, (Attachment B) on May 6, 2019. This Preliminary Plan created up to 111 lots on 23 acres of CRT zoned land located along Westbard Avenue and Ridgefield Road, between River Road and Massachusetts Avenue, in support of the mixed-use redevelopment of the Westwood Shopping Center and series of adjacent properties with a total of approximately 410 multifamily residential units, 104 townhouse units and approximately 205,500 square feet of commercial uses. The Preliminary Plan also included the realignment of portions of Westbard Avenue and Ridgefield Road. The Subject Property is identified as the “Manor Care” Property within Phase II of Preliminary Plan No. 120170170, which approved the development of up to 34 townhouse units on the Property. The overall Preliminary Plan is shown in Figure 6. Condition No. 12 of the approved Preliminary Plan requires site plan approval for all properties/phases of the Westwood Shopping Center redevelopment project.

Site Plan No. 820180190 was approved by the Planning Board (concurrent with Preliminary Plan No. 120170170), by Resolution MCPB No. 19-033, dated May 6, 2019, for a standard method development of Phase I for up to 540,524 square feet of total development, including up to 369,292 square feet of residential uses on approximately 12.4 acres of land (the “Westwood Shopping Center”).

Preliminary Plan Amendment No. 12017017A was approved by the Planning Board by Resolution MCPB No. 20-135, (Attachment B) on January 21, 2021, to modify the previously approved site access concept by adding a new access point on the future Westbard Avenue Realignment for loading and service vehicles and modify the density to permit a residential care facility.

Site Plan No. 820200200 was approved by the Planning Board by Resolution MCPB No. 20-136 on January 21, 2021 (concurrent with Preliminary Plan Amendment No. 12017017A), within Phase II, for a 106,000 square foot residential care facility, with up to 155 beds on 3.05 acres.

Resolution 19-1213 was approved by the Montgomery County Council on April 5, 2022, for the abandonment of portions of the public rights-of-way of Westbard Avenue and Ridgefield Road to allow for roadway and intersection realignment of these roads proximate to River Road, pursuant to Preliminary Plan No. 120170170.

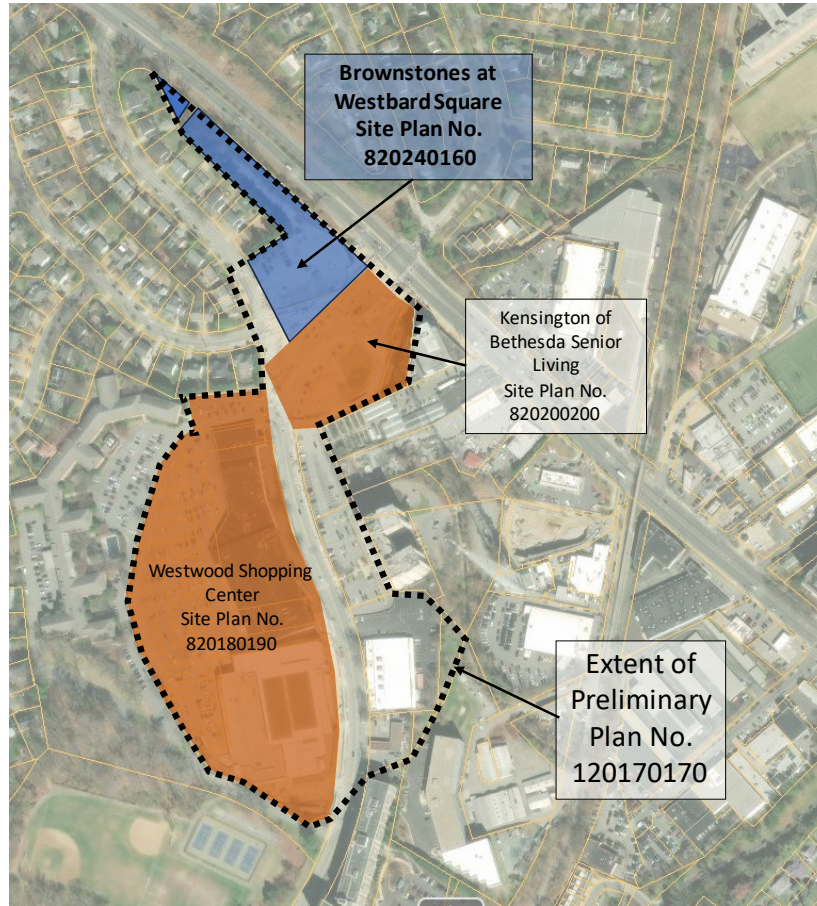


Figure 6 – Overall Preliminary Plan No. 120170170 Limits

## PROPOSAL

The Subject Site Plan and Forest Conservation Plan Applications implement a portion of Phase II of Preliminary Plan No. 120170170 with the development of 32 townhouse units, with 12.5 percent MPDUs<sup>4</sup>, and associated site features on the former Manor Care property. The proposal is made under the standard development method of the Zoning Ordinance (no Sketch Plan is required), with

<sup>4</sup> Preliminary Plan No. 120170170 was submitted on December 20, 2016, when the 12.5 percent MPDU requirement was in place. Subsequently, in July 2018, the County Council enacted Bill No. 34-17 that increased the minimum MPDU requirement to 15 percent in some areas, including the area of the Property. However, Section 3 of that Bill contained the following provision: “Unless an applicant elects to be reviewed under the standards and procedures of Chapter 25A in effect on or after October 31, 2018, any such application accepted as complete or approved before October 31, 2018...must be approved or amended in a manner that satisfies Chapter 25A as it existed on October 30, 2018. The approval of any of these applications, or amendments to these applications, will allow the applicant to proceed through any other required application or step in the process within the time allowed by law or plan approval, under the standards and procedures of Chapter 25A in effect on October 30, 2018.” Because the Preliminary Plan was accepted prior to October 31, 2018, was subsequently approved, and the current site plan is a “further step in the process,” the 12.5 percent MPDU requirement in effect on October 30, 2018 applies.

development to be concentrated on the larger, eastern portion of the Property as shown in Figure 7. The former Manor Care parking area on the Property's western, narrow, linear strip parallel to River Road is to be removed, planted with new trees and vegetation, and included in a forest conservation easement. Vehicular access to the new townhome community will be from a single curb cut to Westbard Avenue to a looped private alley internal to the Site. Driveway and/or internal garage parking is provided with each townhouse unit, with three visitor parking spaces provided along the private alley. All development is proposed in the CRT zoned portion of the Property. No development is proposed on the 0.10-acre, R-60 zoned portion of the Property. The R-60 zoned portion of the Site is included in its forest conservation easement area.

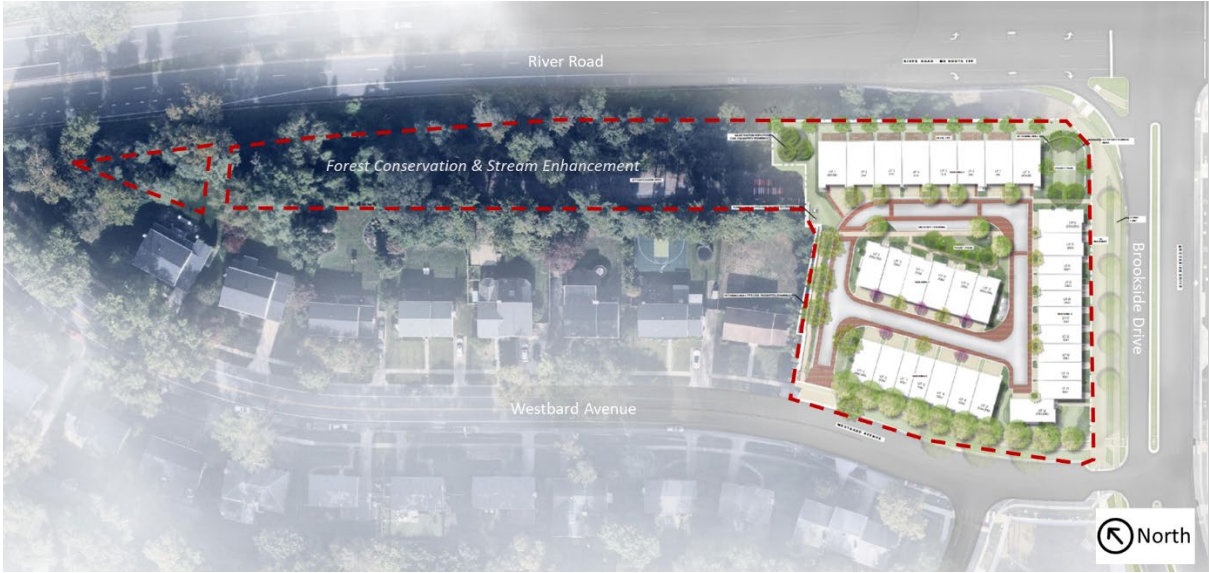


Figure 7- Illustrative Site Plan

**BUILDING/ARCHITECTURE**

The 32 townhouse units proposed are in four sticks or groups of units, with six to eleven units per stick. A mix of front and rear-loaded garage style units are provided. Townhouse sticks are arranged so units front toward an internal open space or address abutting Westbard Avenue and Brookside Drive. This arrangement of units helps to frame the public realm internal and external to the Site. The general architectural style of the development is rooted in traditional brownstones or rowhomes but with a modern, contemporary feel. Units are designed with a maximum height of 45 feet and generally will include three levels of living space and outdoor rooftop terrace. Facades are to primarily be clad in masonry materials and cementitious paneling and are to be articulated through full bay extensions, built-up cornice treatments and other architectural detailing as illustrated in Figure 8.



*Figure 8 – Representative Townhouse Architecture*

## OPEN SPACE

As a proposed townhouse development in a Commercial/Residential zone, the Site Plan is required to provide a minimum of 10 percent of the site area (10,565 square feet) as common open space in accordance with Section 59.4.5.3 and Section 59.6.3.5 of the Zoning Ordinance. The development program provides for 43,177 square feet (approximately 41% of the site area) of common open space in three spaces across the Site Plan area. The area of open space provided exceeds the minimum requirement. The common open spaces include two pocket parks with seating within the footprint of the proposed 32-townhome neighborhood, and a larger natural area taking advantage of the linear, stream valley portion of the Site, where reforestation is also planned, adjacent to River Road. These spaces are labeled “natural area”, “public art seating” and “picnic/seating” as shown on Figure 9.

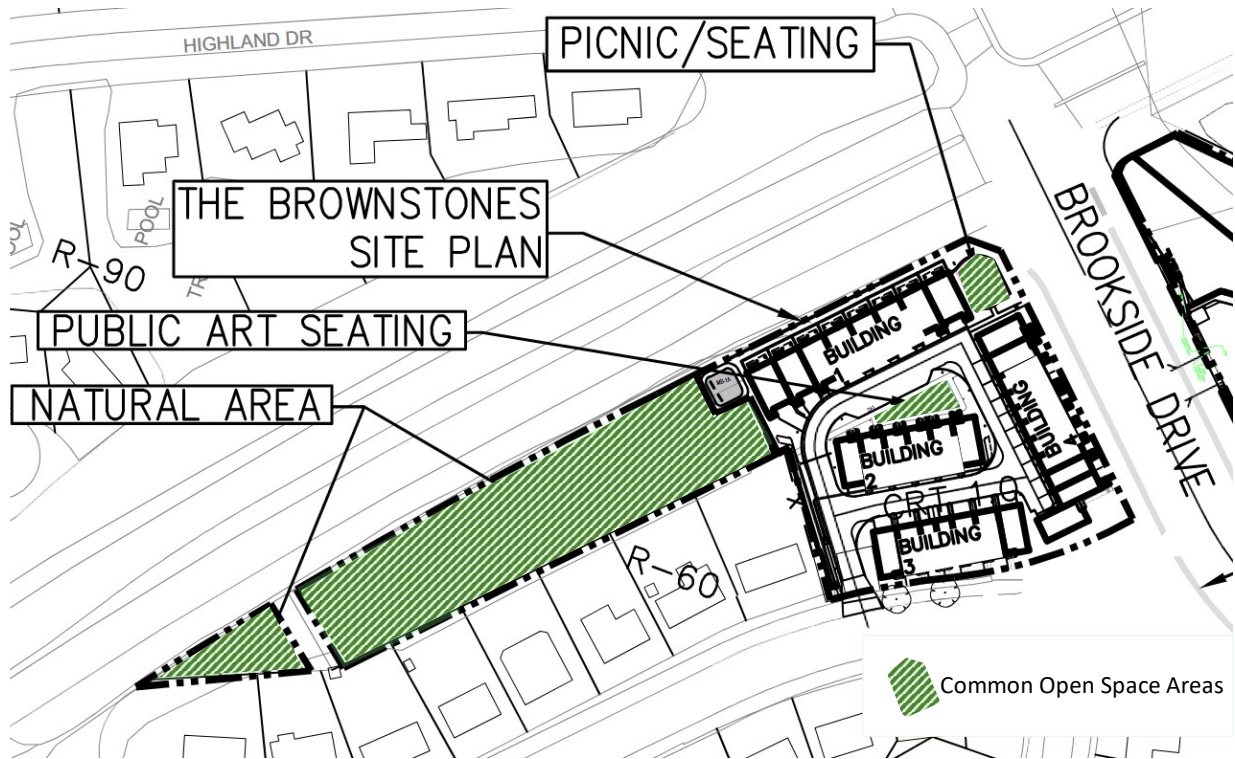


Figure 9 – Common Open Space

## RECREATION

The Site Plan includes a natural area, and two separate pocket park spaces with seating, landscaping, and art onsite as recreational amenities. These amenities are co-located with common open space. The Site’s location benefits from its proximity to existing off-site public recreation amenities, which includes bicycle lanes on Brookside Drive, the Capital Crescent Trail, sports fields and courts at the Westland Middle School. The Site is also very close to the future Springfield Park, an open space with recreational amenities including a tot lot, to be delivered with the redevelopment of the Westwood Shopping Center under Site Plan No. 820180190.

## TRANSPORTATION

### Site Access and Internal Alleys

As illustrated in Figure 10, all vehicular access to the Site will be provided on Westbard Avenue through a full-movement driveway and an internal alley network. The access point from Westbard Avenue was approved with Preliminary Plan No. 120170170. Each townhouse lot includes an individual driveway and garage connected to the alley system. Alleys will generally be 20-feet in width, with larger radii provided at corners to allow for appropriate turning and movement space for fire and emergency services apparatus. These wider corner spaces will be paved with brick.



Figure 10 - Access and Circulation

### Parking

Private garage and/or driveway parking spaces are included with each residential unit, and three visitor spaces will be provided interior to the Site. Market-rate units will have two spaces per unit and MPDUs will have one space per unit. In total, 63 parking spaces are proposed for the townhouse community.

### Pedestrian and Bicycle Facilities

Along the Site's frontages, Brookside Drive and Westbard Avenue are improved with high quality bicycle and pedestrian facilities in their current condition. Brookside Drive was enhanced with a 13-foot-wide sidewalk, seven-foot-wide separated bike lane, and a six-foot-wide street buffer with an earlier phase of construction for the redevelopment of the Westwood Shopping Center. Westbard



Avenue is improved with a five-foot-wide sidewalk and a ten-foot-wide street buffer. These streetscape improvements were approved under Preliminary Plan No. 120170170 and implemented through previously approved Phase I and Phase II site plans. Photos of these improvements are shown in Figure 11. No further improvements to the existing streetscape sections of Westbard Avenue and/or Brookside Drive are proposed, nor recommended, as part of this Site Plan Application.



Figure 11 – Existing Streetscape Improvements (Left – Brookside Drive, Right – Westbard Avenue)

The 2024 *Complete Streets Design Guide* recommends a side path and street buffer along the Site’s frontage on River Road. However, for the following reasons, these infrastructure improvements are not to be required as part of this Site Plan:

- River Road is managed by MDOT State Highway Administration. There is an existing painted bike lane along the shoulder of River Road adjacent to the Site that the State Highway Administration has no immediate plan to remove or otherwise alter.
- Preliminary Plan No. 120170170, as approved, determined that no transportation improvements would be required along the Site’s River Road frontage as part of the redevelopment of the former Manor Care property.
- In between the edge of pavement of River Road and the Site, there is a steep embankment leading downgrade to the Kenwood Tributary of Willet Branch. The *Westbard Sector Plan* and Condition 34 of Preliminary Plan No. 120170170 emphasize limiting new development proximate to Kenwood Tributary and encouraging environmental enhancement of the surrounding embankment.
- Environmental enhancement of the Site area adjacent to Kenwood Tributary and River Road, primarily through invasive species management, slope stabilization and reforestation is

proposed. This is in-line with the recommendations of the Sector Plan and prescriptive requirements for treatment of this area as provided by the approved Preliminary Plan.

## ENVIRONMENT

The Property is subject to Chapter 22A, the Forest Conservation Law, and all forest conservation requirements are proposed to be met on-site. On-site environmental resources are concentrated in the linear portion of the Site abutting the River Road right-of-way. This area includes significant trees and specimen trees, forested area, a stream (Kenwood Tributary) and its associated buffer (Figure 13), eroded and unstable areas of embankment, and a proliferation of invasive plant species.



*Figure 13 – Stream Valley Buffer Area*

There is an existing Category I Forest Conservation Easement covering a portion of this area. In-line with the expectations and conditions of Preliminary Plan No. 120170170, the existing 0.74 acres of Category I Forest Conservation Easement located along River Road is proposed to be amended and replaced with approximately 0.86 acres of Category I Forest Conservation Easement; which will expand the on-site area to be preserved within a Category I Forest Conservation Easement (Figure 14). Amendment of the existing Category I Easement at the time of site plan review was expected.

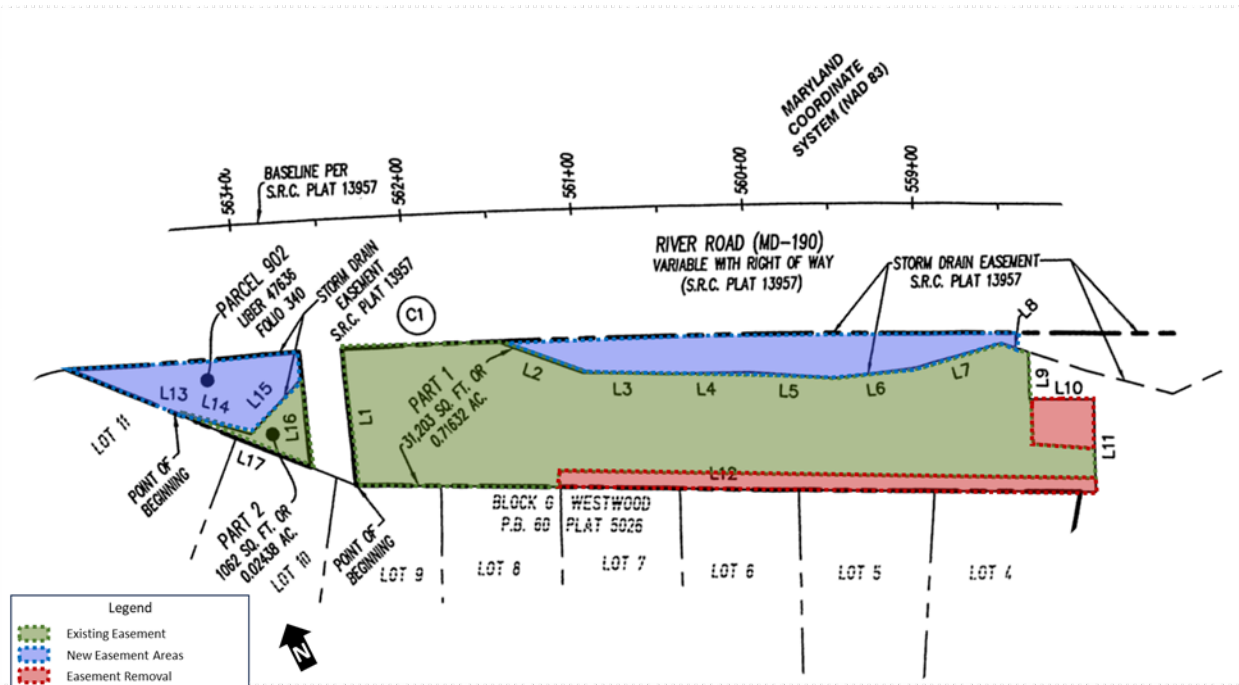


Figure 14– Proposed Easement Areas

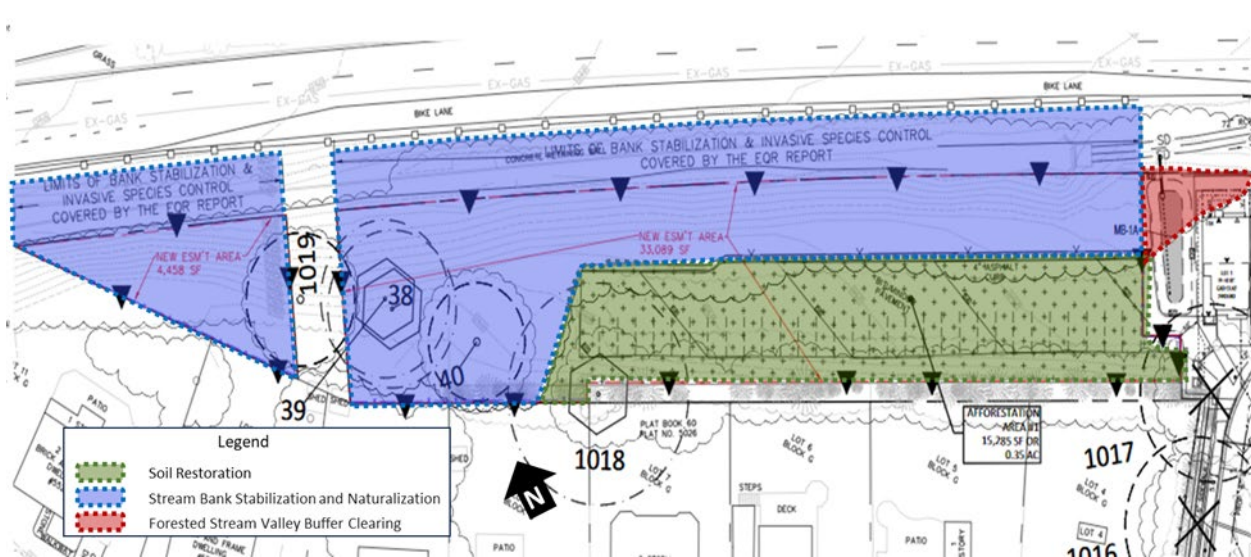


Figure 15 – Stream Valley Buffer Enhancement Areas

Generally, the Subject Applications propose environmental enhancement of this space by removing pavement and debris, managing invasive plant species, stabilizing eroded slopes and planting trees (Figure 15 above). This is further discussed in Section 6 Forest Conservation Plan Findings and Analysis.

## SECTION 5: COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements, and a pre-submittal public meeting was held on March 21, 2024 (Attachment E). Meeting minutes from the session show that the meeting attendees generally inquired regarding architectural features and price point of the proposed townhomes, management of construction related issues (parking, traffic, noise), on-site parking and Site circulation, traffic generation, stormwater management, and landscaping. The Applicant team provided responses to all inquiries.

As of date of this Staff Report, correspondence from two community members was received that asked general questions about the Proposal (Attachment F). No concerns or major issues were noted. Staff provided answers to questions received.

## SECTION 6: SITE PLAN 820240160 FINDINGS AND ANALYSIS

Site Plan Application review is required for the proposed development of the Subject Property by Condition No. 12 of Preliminary Plan No. 120170170. The Findings for site plans, pursuant to Section 59-7.3.4.E are set forth below.

- 1. *When reviewing an application, the approval findings apply only to the site covered by the application.***

The findings herein apply only to the Subject Property.

- 2. *To approve a Site Plan, the Planning Board must find that the proposed development:***
  - a) satisfies any previous approval that applies to the site;***

The Site Plan conforms to the applicable conditions and findings of Preliminary Plan No. 120170170, as amended.

- b) satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;***

This criterion is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

- c) satisfies under Section 7.7.1.B.5 any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of***

Brownstones at Westbard Square -Site Plan No. 820240160 & Final Forest Conservation Plan F20240760

**a Local Map Amendment;**

This section is not applicable as the Subject Property’s zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

**d) satisfies applicable use standards, development standards, and general requirements under this Chapter;**

**i. Division 4.5.3 - CRT Zone Standard Method Development Standards**

*Table 1: Site Plan Data Table*

<b>Development Standard<sup>5</sup></b>	<b>Permitted/ Required</b>	<b>Proposed</b>
<b>Tract Area</b>	n/a	121,389 sf (2.78 acres)
<b>Tract Area - Prior Dedication</b>	n/a	15,741 sf (0.36 acres)
<b>Tract Area - Proposed Dedication</b>	n/a	0 sf
<b>Site Area</b>	n/a	105,648 sf (2.42 acres)
<b><u>Mapped Density</u></b> <b>CRT-1.0, C-0.25, R-1.0, H-45'</b>		
<b>Residential (GFA/ FAR)</b>	116,931 sf (1.0)	74,950 sf (0.64)
<b>Commercial (GFA/FAR)</b>	29.233 sf (0.25)	0 sf
<b><u>Mapped Density</u></b> <b>R-60</b>	4,458 sf	0 sf
<b>Common Open Space (% &amp; min s.f.)</b>	10% / 10,565 sf	41% / 43,177 sf
<b>Lot Area (min s.f.)</b>	800 sf	800 sf
<b>Lot Width at Front Building Line (min)</b>	12 ft	14 ft
<b>Townhouse Unit Quantity</b>	34 <sup>6</sup>	32
<b>Massing (Units per row of townhouses)</b>	12	11
<b>MPDUs</b>	12.5% <sup>7</sup>	12.5%

<sup>5</sup> No alteration or development is proposed for the R-60 zoned portion of the Site. All development is proposed within the CRT zoned portion of the Site. Unless otherwise noted, this Table reflects development standards for the CRT zone that apply to the Application.

<sup>6</sup> The *Westbard Sector Plan* recommends townhouse development for the Subject Property. Preliminary Plan No. 120170170 limits the number of townhomes for development on the Site to a maximum of 34 units.

<sup>7</sup> As detailed in Footnote 4 on Page 20 of this Report, County Council Bill No. 34-17 includes provisions that allow for this Application to be subject to the 12.5 percent MPDU requirement in effect on October 30, 2018, rather than the 15 percent MPDU requirement otherwise generally applicable to this neighborhood.

<b>Development Standard<sup>5</sup></b>	<b>Permitted/ Required</b>	<b>Proposed</b>
<b>Building Height</b>	45 ft	45 ft
<b>Principal Building Setbacks (min)</b>		
<b>Front</b>	5 ft	5 ft
<b>Side (end unit)</b>	2 ft	2 ft
<b>Side Street</b>	5 ft	5 ft
<b>Rear, Alley</b>	4 ft	4 ft
<b>Accessory Building Setbacks</b>		
<b>Front setback, behind front building line</b>	5 ft	n/a
<b>Side</b>	4 ft	n/a
<b>Side Street</b>	5 ft	n/a
<b>Rear, Alley</b>	4 ft	n/a
<b>Build-to-Area (BTA, max setback and min % of building façade)</b>		
<b>Front setback</b>	15 ft	15 ft
<b>Building in front street BTA (min.)</b>	70%	70%
<b>Building Orientation</b>		
<b>Entrance facing street or open space</b>	Required	Provided
<b>Transparency</b>		
<b>Blank wall, front (max)</b>	35 ft	35 ft
<b>Blank wall, side/rear (max)</b>	35 ft	35 ft
<b>Parking/Loading</b>		
<b>Vehicular Parking (min/max)</b> 28 market rate units 4 moderately priced dwelling units	28/56 spaces 2/8 spaces total: 30/64 spaces	63 spaces
<b>Bicycle Parking</b>	0/0 spaces	0/0 spaces
<b>Loading</b>	0 spaces	0 spaces

ii. ***Division 59-6 General Development Standards***

***(1) Division 6.2 Parking, Queuing and Loading***

The minimum number of parking spaces for 28 market rate townhouses units and four (4) MPDU's in the CRT zone is 30 spaces and the maximum is 64. The

Applicant is providing 60 private spaces (1.8 spaces per unit) in the unit garages, and three (3) visitor spaces interior to the Site.

Loading spaces are not required for single-unit residential developments.

There is a substantial private alley network within the Site and no queuing is anticipated on the public roadways.

**(2) Division 6.3 Open Space and Recreation**

Open Space: The proposed townhouse development is required to provide a minimum of 10 percent of the site area (10,565 square feet) as common open space. The Site Plan provides for 41 percent for the site area (43,177 square feet) as common open space, in two landscaped pocket park spaces within the townhouse neighborhood, and in natural area in the linear site area to be reforested adjacent to Kenwood Tributary and River Road. The quantity, type, and location of common open spaces proposed by the Site Plan is in-line with the requirements of Division 6.3.

Recreation: There are sufficient proposed and existing recreational amenities proximate near the Property to serve future residents of the proposed townhouse development. The Recreation Guidelines are satisfied.

On-site recreational amenities are collocated with common open spaces. These include two landscaped pocket parks with seating and a natural area. The proposed townhouse development is within a 10-minute walk of multiple existing and future publicly accessible recreational amenities. Existing nearby are the Capital Crescent Trail to the east, and sports fields and sport courts at the Westland Middle School to the south. There is an existing bike lane on Brookside Drive abutting the Property. The future Springfield Park is planned to be completed with the redevelopment of the Westwood Shopping Center site, which is under construction now. This park will include a playground/tot lot, seating areas and other recreational amenities within a two-minute walk of the proposed townhouse development.

**(3) Division 6.4 General Landscaping and Outdoor lighting**

Landscaping and outdoor lighting are provided in accordance with Division 6.4 of the Zoning Ordinance to ensure compatibility with the surrounding community and environment. Trees, shrubs, and other plantings are provided throughout the proposed townhouse community and its open space areas.

Streetlights are provided along the Site's internal alley and bollard lights are provided in the outdoor seating areas.

**(4) Division 6.5 Screening**

The screening requirements of Division 6.5.2.C.2. apply as this Proposal is for a townhouse development that abuts existing single-family detached residential development in a residential detached zone (R-60) on its westside. The northwestern portion of the Site includes existing privacy fences that are to be retained, and new trees and vegetation are to be installed to improve the area directly adjacent to the Kenwood Tributary.

Adjacent to the Brownstones vehicular access point at Westbard Avenue, screening is provided along the 140-foot lot line shared with the abutting residential property at 5507 Westbard Avenue. Here trees and evergreen shrubs are to be planted in combination with the installation of a private fence atop of a retaining wall along the shared property line. The quantity of plantings provided along this property line exceeds the minimum requirement specified in Section 59.6.5.3.C, Option A for screening in between townhouses and existing single-family development. The majority of screening plantings are concentrated in the northern 100 feet of the lot line. However, along 40 linear feet of the southern-most section of this boundary, which is shared with the adjoining neighbor at 5507 Westbard Avenue, minimal plantings are proposed, as this is where a portion of the boundary that the neighbor's driveway extends into the screening area. The neighbor's driveway is to be retained, as the Applicant is allowing them to retain the portion of their driveway on the townhouse property. Here screening will include a privacy fence atop a retaining wall, with one tree and low-growing plant material. Alternative Compliance, under 59.6.8.1 of Zoning Ordinance, is being requested to provide this alternative screening treatment for the southern-most 40 feet of the boundary shared with 5507 Westbard Avenue and is supported by Staff.

To approve an alternative method of compliance, the Planning Board must make the following findings:

***Section 6.8.1. Alternative Method of Compliance***

***A. The Planning Board 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 Planning***



**Board 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:**

**1. satisfy the intent of the applicable Division;**

The intent of Division 6.5 Screening is to ensure appropriate screening between different building types and uses. The prescribed screening treatment is provided as required along the majority of the Property boundary shared with abutting single-family dwellings. A 40-linear foot portion of the boundary shared with 5507 Westbard Avenue, where this neighbor's driveway to be retained extends into the screening area, is to be screened with a privacy fence sited atop a retaining wall to provide screening between the uses. In addition, with one tree and low-growing plant material will be plated in this area. The screening requirements of in Section 59.6.5.3.C, Option A are generally met, and adequate screening is provided. Staff finds this alternative treatment to be in-line with the intent of the screening requirement.

**2. modify the applicable functional results or performance standards the minimal amount necessary to accommodate the constraints;**

The Application provides a greater number of plantings than the minimum required along the lot line shared with 5507 Westbard Avenue but concentrates them mainly along the northern portion of the boundary. The alternative screening method proposed results in a 40-linear-foot section of the screening area including fewer plantings than prescribed. However, a privacy fence provided atop of a retaining wall in this space will provide functional screening, while allowing the abutting property owner to retain the existing driveway. In addition, with one tree and low-growing plant material will be plated in this area.

**3. provide necessary mitigation alleviating any adverse impacts; and**

Full conformance with the screening requirement would necessitate the Applicant and neighbor to remove a portion of the neighbor's existing driveway, which is undesired in this instance. Retention of the driveway and the provision of sufficient screening are proposed to work in tandem to address this site-specific condition.

**4. *be in the public interest***

Screening is fully provided where required, with the exception of the aforementioned 40-linear foot section where the full planting treatment cannot be accommodated without negatively impacting the existing driveway of the abutting single family property at 5507 Westbard Avenue.

**e) *Satisfies the applicable requirements of:***

**i. *Chapter 19, Erosion, Sediment Control, and Stormwater Management; and***

DPS approved a Site Development Stormwater Management Plan by letter dated September 5, 2024. The Site Plan proposes to meet required stormwater management goals via micro bioretention and storm filters.

**ii. *Chapter 22A, Forest Conservation***

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department’s Environmental Guidelines as further discussed in the findings for Final Forest Conservation Plan F20240760

**f) *Provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;***

The proposed development will provide safe, well-integrated parking, circulation, building massing, common open space, and site amenities, as envisioned by the *Westbard Sector Plan* and Preliminary Plan No. 120170170, as amended. Parking and circulation are to be internal to the Site and utilize the previously approved vehicular access connection point at Westbard Avenue. As is discussed in other Findings herein, common open space, recreational features and other site amenities are provided and well-integrated in the proposed development. The location and massing of townhouse sticks provides a compatible relationship and transition from the redeveloping mixed-use and commercial areas to the north and east, and residential neighborhoods to the west and south.

**g) *Substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;***

The 2016 *Westbard Sector Plan* identifies the Property as “Site 2 – Manor Care” within the Westbard Avenue District of the Sector Plan area (page 71). The Site Plan substantially

conforms with the applicable general and site-specific recommendations of the Sector Plan that apply to the Property, as follows:

i. ***Rezone the Property from R-60 to CRT Zone.***

The Sector Plan recommended rezoning the Property from R-60 to CRT-1.0, C-0.25, R-10, H-45'. This change was realized with the adoption of the Sectional Map Amendment, with the intent of allowing townhouse development of the Site in a manner that is compatible with adjacent single-family neighborhoods.

ii. ***Limit new development to townhouses; allow a residential FAR of up to 1.0; and limit height of proposed townhouse to 45 feet with appropriate transition to the adjacent single-family neighborhood.***

The Site Plan proposes to develop the Property with 32 townhouse units, with a maximum height of 45 feet at an FAR of 0.64. The site design includes landscaping and privacy fencing and is compatible with adjacent single-family development.

iii. ***Encourage residential as the predominant use for this parcel and strongly discourage commercial uses for the site.***

The Site Plan proposes an all-residential, townhouse-style, development with no commercial uses, as envisioned by the Sector Plan.

iv. ***Naturalize the area proximate to the tributary to Willet Branch (Kenwood Tributary) that runs along River Road. Coordinate with the State Highway Administration to remove debris blocking flow, and conduct site restoration.***

The Site Plan and associated Final Forest Conservation Plan No. F20240760 propose to remove remaining remnants of the former Manor Care facility parking lot in the linear area of the Site paralleling River Road, adjacent to the Kenwood Tributary of Willet Branch, and complete environmental improvements there; including invasive species removal, slope stabilization and installation of reforestation plantings.

v. ***Deconstruct and reforest portions of the linear parking lot on the Manor Care site as part of the stream stabilization.***

As noted above, the remaining remnants of the former Manor Care facility parking lot in the linear area of the Site paralleling River Road, are to be

removed and area reforested in conjunction with stream bank stabilization improvements.

- vi. ***Establish a minimum 50 percent canopy cover for all roads, on-street parking and ground level parking lots.***

The development will be served by a shared private alley; there are no internal public roads, or parking lots provided, therefore the applicability of this criterion is limited to the three on-street visitor parking spaces provided. The Site Plan meets this requirement by locating proposed tree plantings directly north and south of the group of three parking spaces and including tree plantings in the pocket park space abutting the three parking spaces.

- vii. ***Use building materials for new construction that have significance in the area and, if they are unavailable, use similar substitutes.***

The design of the proposed townhouses makes significant use of brick veneer, which is an appropriate substitute for the specific stone-type building materials recommended by the Sector Plan, which are reported to be challenging to source generally.

- h) 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. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;***

Preliminary Plan No. 120170170, as amended, included an adequate public facilities test that remains valid. Condition 2 of the Preliminary Plan provided a 120-month validity period for the overall adequate public facilities test and allocated time periods within this overall timeframe, for each phase of the Preliminary Plan. The overall validity period of this Preliminary Plan and adequate public facilities test was extended by two-years by action of the County Council during the COVID pandemic to extend validity periods of all such approvals. The development proposed by this Site Plan falls within Phase II of the Preliminary Plan, for which the adequate public facilities test will remain valid until May 6, 2027.

The FY25 Annual School Test, approved by the Planning Board on June 20, 2024 and effective July 1, 2024, was completed for this Site Plan (Attachment G). The Test confirmed

that the local public elementary, middle, and high schools serving the Property have capacity to intake the projected number of new students associated with the proposed townhouse development. No Utilization Premium Payment (UPP) is required.

- i) on a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and***

The Subject Property is in the CRT zone, not a rural residential or residential zone; therefore, this criterion is not applicable to this Application.

- j) on a property in all other zones, is compatible with existing, approved or pending adjacent development.***

The Site Plan is designed to be compatible with existing, approved and pending adjacent development. Both the *Westbard Sector Plan* recommended, and Preliminary Plan No. 120170170 committed to, the redevelopment of the Subject Site with a townhouse community of no more than 34 units. The Site Plan application provides the detailed design for a 32-unit townhouse neighborhood, where all units have been placed and oriented to interact with frontages on Westbard Avenue and Brookside Drive. Units are set away from the abutting single-family detached dwellings to the west, with privacy fencing and vegetative screening provided in between the housing types. Pending development nearby is ongoing or approved under the Westwood Shopping Center Preliminary Plan No. 120170170 and its subsequent Site Plan No. 820180190 for Phase I (Westwood Shopping Center) and Site Plan No. 820200200 for a portion of Phase II (Kensington of Bethesda Senior Living).

- 3. To approve a Site Plan for a Restaurant with a Drive-Thru, the Planning Board must also find that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood.***

This criterion is not applicable, as this Site Plan does not include a restaurant with a drive-thru.

- 4. For a property zoned C-1 or C-2 on October 29, 2014 that has not been rezoned by Sectional Map Amendment or Local Map Amendment after October 30, 2014, if the proposed development includes less gross floor area for Retail/Service Establishment uses than the existing development, the Planning Board must consider if the decrease in gross floor area will have an adverse impact on the surrounding area.***

This criterion is not applicable, as the Subject Property was not zoned C-1 or C-2 on October 29, 2014.

## SECTION 7: FOREST CONSERVATION PLAN F20240760 FINDINGS AND ANALYSIS

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

The Property is subject to the Montgomery County Forest Conservation Law, Chapter 22A of the County Code, and requires a Forest Conservation Plan. In accordance with Preliminary Forest Conservation Plan No. 120170170, as provided in the conditions of approval of Preliminary Plan No. 120170170, separate Final Forest Conservation Plans are to be submitted for each phase of the overall project as it is approved. The Preliminary Forest Conservation No. 120170170 preserved 0.74 acres of forest in a Category I Conservation Easement, which is recorded on the record plat for this portion of the overall property. Moreover, FFCP No. F20240760 proposes to remove 0.08 acres of the Easement and record approximately 0.86 acres as an amendment to the existing Category I Forest Conservation Easement. Environmental enhancements in this area include removing an existing parking lot within the easement and allowing the stream valley buffer area to be naturalized and eroded stream banks stabilized. There will be mitigation for the easement removal and forested stream valley buffer areas, as discussed further in the sections below.

### Environmental Guidelines

The proposed plan will protect and enhance the stream valley buffer and remove invasive plant species from the adjacent on-site forested areas. FFCP No. F20240760 complies with the current Forest Conservation Law and the Environmental Guidelines.

The Subject Property includes about 0.95 acres of a Stream Valley buffer, with an existing encroachment of 0.064 acres behind existing single-family homes. However, the proposed plan will reduce the encroachment to 0.019 acres. The FFCP also involves removing approximately 0.02 acres of forest within the stream valley buffer while adding 0.20 acres to the stream valley buffer and the forest conservation easement, exceeding a 10:1 replacement ratio. Additionally, the plan includes reforesting 1.19 acres, controlling invasive species, and stabilizing stream banks. Out of the 1.19 acres to be reforested, 0.85 acres onsite will be protected by a Category I Forest Conservation Easement.

Importantly, the land use remains unchanged, and the overall environmental land cover/features are ultimately improved rather than diminished under this Application. As part of the Project, there will be additional forest plantings within the new easement areas, along with supplemental plantings and the control of invasive species within existing easement areas and stream valley buffers. The project also involves the naturalization of stream areas to enhance water quality, contributing to the stream enhancement efforts and creating a more comprehensive area for easements, protection, and

conservation. Furthermore, the work will proceed under the direction of the Department of Permitting Services to ensure appropriate water quality standards are followed.

### Forest Conservation Plan

The Property is zoned as CRT-1.0, R-0.25, R-1.0, H-45, and R-60. It falls under the category of Mixed-used Development Areas ("MDP") as defined in Section 22A-3 of the FCL and specified in the Trees Technical Manual. In the Preliminary FCP, a 0.74-acre Category I Forest Conservation Easement was recorded on the Subject Property. Final Forest Conservation Plan No. F20240760 proposes to amend the Easement by removing 0.08 acres of area currently within it and adding 0.20 acres of new area to the Category I Conservation Easement (this is a 2.5:1 replacement ratio).

The new easement areas will include a mix of existing vegetation and proposed plantings in more desirable locations to enhance the stream buffer. Additionally, invasive species will be controlled, and reforestation will be implemented to restore the nature and function of the stream valley buffer. Currently, there is an existing encroachment of 0.064 acres behind existing single-family homes. The Final Forest Conservation Plan proposes removing a total of 0.08 acres of stream valley buffer area, including 0.054 acres for encroachment and 0.033 acres for the installation of a stormwater facility. The project also includes an additional 0.20 acres of stream valley buffer area in the existing Forest Conservation Easement, resulting in a total footprint of approximately 0.86 acres for the new Forest Conservation Easement, as depicted in Figure 14. The overall project will result in a net increase of stream valley buffer that is protected within a Category I Conversation Easement and also provides a larger, more contiguous easement footprint that fills in previous gaps that separated conservation easement areas from utility easements.

### Forest Conservation Variance

The Project is subject to Section 22A-12(b)(3)(D) of the Montgomery County Forest Conservation Law. This section outlines criteria for leaving a stream valley buffer undisturbed, as these areas are identified as environmentally sensitive and are high priority for retention and protection ("Priority Areas for Retention"). Any impact to the forest with stream valley buffers, including grading and clearing, requires a variance under Section 22A-21 ("Variance"). The stream valley buffer is shown on Figure 13. Accordingly, a variance request is included with the Application (Attachment H) and is supported by Staff.

In addition, the variance provision under Sec. 22A-21(f) necessitates a 2:1, or 2 ½:1 reforestation ratio for the removal of forest within a stream valley buffer. The reforestation ratio is determined by whether the replacement is taking place within the same 8-digit watershed as the project or a priority 8-digit watershed, as opposed to a location outside of the same 8-digit watershed and outside of a priority 8-digit watershed. The removal of 0.02 acres of forested stream valley buffer will be fully mitigated onsite by the new easement areas within the stream valley buffer (with some of the additional stream valley buffer easement replacement being credited toward the overall mitigation

requirements). A proposed removal of approximately 0.02 acres of forested stream valley buffer is planned, while an additional 0.20 acres of stream valley buffer will be planted, protected, and added to the new Category I Forest Conservation Easement. The updated easement areas are shown in Figure 14.

### Unwarranted Hardship

The plan entails the development of 32 single-family attached (townhouse) units, with 12.5 percent of them designated as MPDUs. Furthermore, the plan involves the removal of small sections of the existing Category I Conservation Easement and the establishment of a larger, continuous new Category I Conservation Easement. Additionally, there is a proposal to expand, improve, and preserve the stream valley buffer with Final Forest Conservation Plan No. F20240760. In accordance with Section 22A-21(a), the Applicant requested a Variance. Staff agrees that the Applicant would experience unwarranted hardship if denied reasonable and significant use of the property to allow for the construction of a stormwater facility and a portion of one dwelling unit located within the stream valley buffer without the variance. The Applicant has shown that the Property is constrained by a significant number of sensitive environmental features located within an existing forest conservation easement and the stream valley buffer. Furthermore, relocating the stormwater facility and reconfiguring the dwelling unit would not be possible without requiring a variance. After reviewing the application, Staff agrees that there is indeed unwarranted hardship.

### ***Variance Findings***

The following determinations are based on the required findings for granting of the requested variance:

***1. Will not confer on the applicant a special privilege that would be denied to other applicants.***

The Applicant proposes to construct 32 dwelling units, remove existing parking lot surfaces, and expand the on-site Category 1 Forest Conservation Easement, along with stream enhancements. The Property is constrained by environmentally sensitive areas such as steep slopes, erodible soils, streams, and associated buffers. The proposal aims to address the need for housing while also increasing open space and making environmental improvements in the new development area. Considering these factors, Staff concludes that the variance request would be granted to any applicant in a similar situation and does not represent a special privilege granted to this Applicant.

***2. 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 that are the result of the



actions of the Applicant. The Applicant's variance request demonstrates efforts to minimize overall site impacts and improve the stream buffer where feasible.

**3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.***

The requested variances are a result of the proposed improvements and not a result of land or building use on a neighboring property.

**4. *Will not violate State water quality standards or cause measurable degradation in water quality.***

The granting of the variance will not violate State water quality standards, or degrade water quality, but rather it will improve water quality. By promoting groundwater recharge, the proposed bioretention feature, located within the stream valley buffer, will improve the effectiveness of the Site's proposed stormwater management system.

Mitigation for Resources Subject to the Variance Provisions

The forested stream valley buffer impacts triggering the variance are fully addressed onsite by the relatively sizable increase of protected stream valley buffer. The variance provision Section 22A-21(f) requires a 2:1 (onsite) reforestation ratio for the removal of forest within a stream valley buffer. Approximately 0.02 acres of forested stream valley buffer removal is proposed. Whereas an additional 0.20 acres of stream valley buffer will be added and protected by a Category I Forest Conservation Easement (which is more than a 10:1 replacement ratio). Notably, under this particular Application, the land use does not change the, and overall environmental land cover and features are enhanced rather than diminished. Furthermore, the Final Forest Conservation Plan results in more contiguous and larger easement within the onsite priority areas for environmental improvement and conservation.

Recommendations on the Variances

The Application satisfies all applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and complies with the Montgomery County Planning Department's Environmental Guidelines. Staff recommends approval of the variance, with the overall onsite and offsite easement mitigation as conditioned, to address the forest clearing within the stream valley buffer.

## SECTION 8: CONCLUSION

As conditioned, the Site Plan and Final Forest Conservation Plan applications each satisfy the findings under Sections 59.7.3.3 & 7.3.4 and the applicable standards of the Zoning Ordinance and Chapter 22A Brownstones at Westbard Square -Site Plan No. 820240160 & Final Forest Conservation Plan F20240760

Forest Conservation Law, and substantially conform to the recommendations of the 2016 *Westbard Sector Plan*. Therefore, Staff recommends approval of the Site Plan and Final Forest Conservation Plan with the conditions specified at the beginning of this report.

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## ATTACHMENTS

*Attachment A: Site Plan & Forest Conservation Plan Sheet*

*Attachment B: Prior Approvals*

*Attachment C: Agency Letters*

*Attachment D: County Council Resolution No. 19-1213 regarding Abandonment of portions of Westbard Avenue and Ridgefield Road*

*Attachment E: Affidavit Regarding Community Meeting and Meeting Minutes*

*Attachment F: Community Correspondence*

*Attachment G: FY25 School Adequacy Test*

*Attachment H: Forest Conservation Variance Request*