

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

October 11, 2024

MCPB No. 24-086
Preliminary Plan No. 120240110
PLD Lot 44 & 4702 West Virginia Avenue
Date of Hearing: September 12, 2024

RESOLUTION

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

WHEREAS, on May 1, 2024, BB 4702 Holding LLC with authorization from Montgomery County Department of Transportation (collectively the “Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create two (2) lots, and abandon a portion (596 square feet) of an adjoining alley to the south on 0.74 acres of land zoned CRT-0.5, C-0.25, R-0.5, H-70 and CR-3.0, C-2.0, R-2.75, H-70 within the Bethesda Overlay Zone (“BOZ”), located approximately 280 feet east of the intersection of Wisconsin Ave and West Virginia Ave (“Subject Property”) in the Bethesda CBD Policy Area and 2017 *Bethesda Downtown Sector Plan* (“Sector Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120240110, PLD Lot 44 & 4702 West Virginia 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 August 8, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on September 12, 2024, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Vice Chair Pedoeem, seconded by Commissioner Hedrick, 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. 120240110 to create two (2) lots and abandon a portion (596 square feet)

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Approved as to
Legal Sufficiency: /s/ Emily Vaias
M-NCPPC Legal Department

of an adjoining alley to the south on the Subject Property, subject to the following conditions:¹

General Approval

1. This Preliminary Plan is limited to one lot for up to 59 units, including up to 120,000 square feet for up to 53 multifamily units and up to 5,469 square feet of nonresidential uses, and one lot for dedication as public parkland. This approval also includes the abandonment of 596 square feet of the adjacent alley to the south for which a portion will be incorporated into one of the recorded lots and a portion conveyed to M-NCPPC for parkland pursuant to Condition No. 15 below.

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 August 14, 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.
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 Montgomery County Department of Permitting Services (“MCDPS”), Water Resources Section in its stormwater management concept letter dated August 2, 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

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.

Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

7. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated July 2, 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 the Preliminary Plan approval.
8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (“DHCA”), in its letter dated June 25, 2024, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Other Approvals

9. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of any subsequent Site Plan(s) associated with this Preliminary Plan. The number and location of site elements including but not limited to buildings, dwelling units, on-site parking, site circulation, and sidewalks is determined through site plan review and approval.
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. Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of an eight-foot-wide (8 ft) sidewalk along the Property frontage from the western boundary to the abutting park to the east on West Virginia Avenue.
12. Before the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a five-foot-wide (5 ft) sidewalk extending beyond the Site frontage from the east to Tilbury Street.

Record Plats

13. Except clearing and grading associated with the demolition of existing building and paving, there shall be no clearing or grading of the site before recordation of plat(s).
14. The record plat must show necessary easements.

Other Dedications

M-NCPPC Department of Parks

15. The Applicant must dedicate to Montgomery County the approximately 5,582 square-foot lot identified as “New Greenway Lot” on the Certified Preliminary Plan for use as public parkland to be managed by Montgomery Parks under the 1972 Agreement between the County and the M-NCPPC as per the 2017 *Bethesda Downtown Sector Plan* and as required by the General Development Agreement with the County (Eastern Greenway lot). The land must be dedicated to Montgomery County through notation on the plat and by a deed of dedication approved by the M-NCPPC’s Office of General Counsel and the Montgomery County Office of the County Attorney as to form and substance. The deed of dedication must be executed and delivered to Montgomery Parks before the recordation of the plat. Montgomery Parks will hold the deed of dedication in escrow until all other relevant Conditions of Approval and any conditions of the Park Construction Permit have been completed at which time Montgomery Parks will formally accept the dedication and record the deed. At the time of formal acceptance of the dedication, the land to be dedicated must be free of any trash and unnatural debris.
16. Any activity or work on existing parkland or the land to be dedicated for parkland requires an approved Park Construction Permit and is subject to the full Park Construction Permit process as directed by Montgomery Parks staff, including, but not limited to, construction of the Eastern Greenway lot and work in Chase Avenue Urban Park.
17. Before issuance of the first building permit for the multifamily building, M-NCPPC will provide a Free and Clear Fire Access Easement over a 10-foot by 21-foot portion of Chase Avenue Urban Park as shown on the Certified Preliminary Plan to ensure access to the multifamily building in a form and substance approved by the M-NCPPC’s Office of General Counsel, as required by the Montgomery County Fire and Rescue Service.
18. Per the GDA and in recognition of the provision of the Free and Clear Fire Access Easement the Applicant must perform the necessary design and work in Chase Avenue Urban Park to connect the Eastern Greenway lot to Chase Avenue Urban Park and extend the Eastern Greenway promenade trail through the park to Chase Avenue. This design and work will be performed in consultation with and under the direction of Montgomery Parks staff and requires an approved Park Construction Permit. The design and work in Chase Avenue Urban Park is estimated to cost approximately \$300,000 and is not to exceed a cost of \$330,000.

Certified Preliminary Plan

19. The certified Preliminary Plan must contain the following note:

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

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

- a) Show resolutions and approval letters on the certified set.
- a) Modify plans as needed to show areas, density, units, etc. as approved by the Board.
- b) Revise labels on drawings from proposed Greenway Parcel to Greenway lot.

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 layout of the proposed subdivision is appropriate for the proposed mixed-use building and public park. The 2017 *Bethesda Downtown Sector Plan* recommended that the eastern portion of the blocks between Wisconsin Avenue and Tilbury Street become a linear park, referred to as the Eastern Greenway. The Proposal will include a 5,582 square foot lot for the Eastern Greenway to be dedicated to and managed by Montgomery Parks. The Proposal will locate the higher density and building height towards the western portion of the Property, closer to Wisconsin Avenue.

As demonstrated in Table 1 below, the Proposal complies with the basic requirements of Chapter 59.

Table 1: Lot 44 & 4702 West Virginia Avenue Preliminary Plan Data Table for CR & CRT Zone, Optional Method, Section 59.4.5

Development Standard	Permitted/ Required	Approved
Tract Area <u>CR-3.0, C-2.0, R-2.75, H -90'</u> Lots 11-14 Prior Dedication Proposed Dedication Subtotal CR-3.0	n/a	16,801 sf 3,875 sf 1,188 sf 21,875 sf¹
<u>CRT-0.5, C-0.25, R-0.5, H 70'</u> Lot 29 Prior Dedication Proposed Dedication Proposed Park Dedication Subtotal CRT 0.5		2,993 sf 1,500 sf 593 sf 5,391 sf 10,500 sf²
Total Tract Area		32,375 sf
Site Area (Square Feet) Prior Dedication Proposed ROW Dedication Proposed Eastern Greenway lot ^{3,4} + alley abandonment in site	n/a	5,375 sf 1,781 sf 5,391 sf ³ + 106 sf 19,901 sf^{1,2,4}
Site Area (Tract Area – Dedications)		
Mapped Density <u>Residential (GFA/ FAR)</u> CR-3.0, C-2.0, R-2.75, H-70' CRT-0.5, C-0.25, R-0.5, H-70' Residential Subtotal	60,156 sf (2.75) 5,250 sf (0.5) 65,406 sf (2.75)	60,156 sf (2.75) 5,250 sf (0.5) 65,406 sf (2.75)
<u>Commercial (GFA/FAR)</u> CR 3.0, C-2.0, R-2.75, H70' CRT 0.5, C-0.25, R-0.5, H70' Commercial Subtotal	43,750 sf (2.0) 2,625 sf (0.25) 46,375 sf (2.25)	5,469 sf (0.25) 0 sf 5,469 sf (0.25)
Total Mapped Density (GFA/FAR)		70,875 sf (2.19) ⁵
Bethesda Overlay Zone Density (GFA/FAR)		54,594 sf (1.34) ³
Total GFA/FAR		125,469 sf (3.87)

¹Tract Differential from recorded vs measured totals an additional 11 square feet

² Tract Differential from recorded vs measured totals an additional 23 square feet

³Projects utilizing BOZ Density are subject to a PIP payment and may reduce the square footage associated with MPDUs. This Project is also eligible for a PIP reduction based on the dedication of public parkland for the Eastern Greenway per Section 4.9.2.C.2.ii of the Zoning Ordinance. Eastern Greenway lot will total 5,582 sf when alley abandonment (+191 square feet) is added to 5,391 square feet.

⁴ Lot size is approximate and may be adjusted during final record plat review.

⁵The Application utilized the FAR Averaging provisions of Section 59.4.5.2.B.3 of the Zoning Ordinance.

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

The Project substantially conforms to the recommendations for the Property included in the 2017 *Bethesda Downtown Sector Plan*. Specifically, this Sector Plan builds on the past successes of Downtown Bethesda to create a truly sustainable downtown by focusing on components that will bolster the elements most in need of enhancement. The major recommendations of the Sector Plan are as follows:

1. Parks and open spaces, including new civic greens at Veteran's Park, Bethesda Farm Women's Cooperative Market, Capital Crescent Trail and new urban parks, pathways and gateways. Many of these parks on the eastern edge are to be connected through the creation of the Eastern Greenway.
2. Affordable housing, including the preservation of existing market-rate affordable housing, providing a mix of housing options and the provision of Moderately Priced Dwelling Units in exchange for development incentives.
3. Environmental innovation, including more energy-efficient buildings, better stormwater management, improved sidewalks and bicycle routes, and other measures to enhance community health and quality of life.
4. Economic competitiveness, based on new development, public amenities and proximity to public transit to attract businesses and visitors from throughout the region, and foster entrepreneurship and innovation.

The Property is within the Eastern Greenway District designated as sites 211 and 212 on page 135 of the Sector Plan. The Eastern Greenway District is split into two sections, north and south of East-West Highway. The Property is in the northern district which is characterized by low-density, primarily residential development, green open spaces and paved parking lots which provides a transitional area between the commercial structures of the Central Business District (CBD) along the Wisconsin Avenue Corridor and the single-unit houses of East Bethesda. The Project addresses the following goals as outlined in the Overarching Goals and the Eastern Greenway District sections of the Sector Plan:

- *Ensure the stability of the land uses in the transitional area to preserve East Bethesda and the Town of Chevy Chase as single unit residential neighborhoods.*

The Proposal will redevelop an underutilized surface parking lot and one single family home to deliver a multifamily building and a portion of the Sector Planned Eastern Greenway public park and a transition to the residential neighborhood of East Bethesda.

- *Make the best use of land near the Bethesda Metrorail Station and future Purple Line station by promoting redevelopment of underutilized properties and private surface parking lots.*

The Project will transform an underutilized surface public parking lot into a multifamily building with important public facilities such as large unit type affordable housing and the dedication and construction of public parkland.

- *Provide a compatible transition between higher-density development along Wisconsin Avenue and the East Bethesda and Town of Chevy Chase.*

The Project has located the taller portion of the building towards the western portion of the Property, closer to Wisconsin Avenue. Facing the East Bethesda neighborhood, the building will decrease in height to 43'6" townhouses and provide a 43'6" wide Eastern Greenway as a compatible transition to the single-family neighborhood.

- *Provide a green connector and a transition along the eastern edge of the Sector Plan area.*

The 2017 *Bethesda Downtown Sector Plan* recommends the formation of a linear greenway along the western side of Tilbury Street from Maple Avenue down to Cheltenham Drive linking Cheltenham Urban Park, Chase Avenue Urban Park, and a proposed new park on Maple Avenue (County Parking Lot #25). This Eastern Greenway is envisioned to provide additional open space to the area and buffer the higher-density development along Wisconsin Avenue from the East Bethesda neighborhood. The parcels adjacent to and within this future space were rezoned to increase their development potential, as the Eastern Greenway is envisioned to be created through the redevelopment of these parcels. The Sector Plan and Design Guidelines describe how development adjacent to the Eastern Greenway should be oriented towards the open space and the type of uses on the ground floor should activate the space through placement of ground floor retail and/or residential unit entryways. To enhance compatibility with the adjacent residential neighborhood, the Sector Plan calls for the Eastern Greenway width to be equal to the amount of building height proposed. In this case, the building will be 43.5 feet in height facing the Greenway, and the proposed Eastern Greenway will be 43.5 feet in width, in substantial conformance with the Sector Plan recommendations. While the actual dedication width for the Eastern Greenway Public Park will be slightly less than the 43.5 feet in width, at 38 feet, as the five feet directly adjacent to the building will contain stormwater management facilities for the multifamily building, which is not appropriate for public parkland dedication. Given that there are several constraints on this Site including the

public alley to the west and the existing house on the corner of West Virginia Avenue and Tilbury Street, this exception is appropriate. At such time in the future when the corner Property redevelops and becomes incorporated into the Eastern Greenway, the functional width of the Eastern Greenway will be significantly wider than the Sector Plan recommendation.

- *Increase overall tree canopy cover and subcanopy cover by encouraging the planting of trees on public and private land, along rights-of-ways, and within open space and existing neighborhoods.*

The development proposes tree plantings along the West Virginia Avenue and throughout the Eastern Greenway. These streetscape improvements will be finalized at the time of Site Plan based on conformance with the Bethesda Streetscape and Design Guidelines, as well as final design in coordination with Parks staff for the Eastern Greenway.

- *Bird-Safe Design, to design glass buildings to protect local and migratory birds from deadly strikes. Integrate elements into the building and site design to warn birds before they collide.*

The building has been designed with the primary material of masonry, with only punched glass openings. As such, the building design will be bird-safe, and the glazing is not highly reflective. Due to the modeled façade with projections and glazing within masonry openings, the shadow will often be present that helps mitigate against birds being attracted to the structure in flight. Lighting will include full cutoff fixtures with an emphasis on not illuminating the night sky.

- *On private property, provide a minimum of 35 percent green cover, which may include either singularly or a combination of intensive green roof and/or tree canopy cover.*

The green cover may include a consolidated space or a combination of intensive green roof (6 inches or deeper) or tree canopy cover. This Application consists of a Site Area of 20,000 square feet (SF) which results in a green cover requirement of at least 7,000 SF. Currently, the Application proposes to meet this requirement entirely through the installation of a 6-inch-deep green roof at various levels of the proposed development.

Transportation

West Virginia Avenue is a Neighborhood Local Street, per the 2017 *Bethesda Downtown Streetscape Guidelines*, with a master-planned right-of-way of 60 feet total. There are no designated bikeways master planned along the Site frontage.

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

a) Roads and other Transportation Facilities

- i. **Existing Facilities:** West Virginia Avenue is a Neighborhood Local Street with a 60-foot right-of-way. No further right-of-way dedication is needed. The street consists of two travel lanes; one in each direction. West of the north-south public alley, short-term parking is permitted on both the north and south sides of the street. East of the alley no parking is permitted. Buffered sidewalks are present along the north side, and unbuffered, intermittent sidewalks are present along the south side.
- ii. **Proposed public transportation infrastructure:** Along the Site frontage the Applicant will install an 11.5-foot-wide vegetated street buffer with an eight-foot-wide sidewalk. The Applicant is extending the buffered sidewalk east of the property within the public right-of-way to complete the sidewalk on the block, ending at Tilbury Street. This streetscape will include a five-foot-wide street buffer and a five-foot wide sidewalk. Within the Eastern Greenway, an area to be dedicated as a public park, there will be a 10-foot-wide paved bicycle and pedestrian pathway which will help to connect to the future dedicated portions of the Eastern Greenway to the north of the Site and to Chase Avenue Urban Park and future extensions of the Eastern Greenway to the south.

Additionally, the Subject Application proposes to construct a public, on-street loading facility located between the Site and the entrance to the Eastern Greenway. The loading space will be carved into the streetscape, so as not to hinder the eastbound travel lane or the improved sidewalk. The design of the loading space has been evaluated and determined sufficient for an SU-30 box truck by the Montgomery County Department of Transportation. The intent of the loading space is to serve many functions for the adjacent land uses including move-in/move-out activities for the proposed residential building (and other residential uses on the street), queuing space for ridesharing, and short-term parking for deliveries. Although the space will be constructed by the Applicant, the space is available to the general public.

- iii. **Proposed private transportation infrastructure:** There is no private transportation infrastructure proposed with the Subject Application.

a) Local Area Transportation Review (LATR)

The previous use on the Site was a single-family house and a public parking lot. The proposed 53 mid-rise residential units, and 6 live/work units, are estimated to generate a combined net increase of 26 person trips in the morning peak hour and a net increase of 40 person trips in the evening peak hour. The 2020-2024 *Growth and Infrastructure Policy* requires a transportation impact study for any project that is estimated to generate a net increase of 50 or more person trips in either the morning or evening peak hours. As that is not the case for this Application, the LATR review is satisfied with a transportation exemption statement. A summary of the trip generation analysis is provided in Table 2 below.

Table 2: Trip Generation Analysis

		ITE Trip Generation Vehicle Rates		Adjusted Vehicle Rates Bethesda CBD Policy Area		Total Person Trips	
		AM	PM	AM	PM	AM	PM
Existing	1 Single-family unit	1	1	1	1	2	2
Proposed/studied ²	68 mid-rise multi-family units ¹	18	27	14	21	28	42
Net Change						26	40

Source: Transportation Exemption Statement from Gorove Slade., March 28, 2024, modified by staff

¹The Project studied the potential impact 53 residential units and 15 live/work units. For the purposes of estimating trips, the Institute of Transportation Engineers (ITE) Trip Generation Manual, treats these units the same.

² The Project studied the impact of 15 live/work units but ultimately proposes a total of six. As the studied density is higher and therefore more conservative than the proposal, the Applicant was not required to adjust the transportation exemption statement.

b) Schools

The proposed Preliminary Plan 120240110 is subject to the FY25 Annual School Test, approved by the Planning Board on June 20, 2024 and effective on July 1, 2024. This Preliminary Plan proposes the development of 59 high-rise dwelling units.

The project is served by Somerset ES, Westland MS and Bethesda-Chevy Chase HS. Based on the FY25 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 3: FY2025 Annual School Test Projections (2028-2029 School Year)

	Program Capacity	Enrollment	% Utilization	Surplus/ Deficit
Bethesda ES	561	590	105.2%	-29
Westland MS	1,064	865	81.3%	+199
Bethesda-Chevy Chase HS ²	2,475	2,341	94.6%	+134

Table 4: FY2025 School Test Results

	Adequacy Status	Tier 1 Adequacy Ceiling	Tier 2 Adequacy Ceiling	Tier 3 Adequacy Ceiling
Bethesda ES	No UPP	261	286	369
Westland MS	No UPP	325	412	572
Bethesda-Chevy Chase HS	No UPP	314	629	1,001

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 FY25 Annual School Test, Bethesda ES, Westland MS and Bethesda-Chevy Chase HS do not require any UPP as identified in Table 4. 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.

To calculate the number of students generated by the proposed 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.

² Projected enrollment is modified to estimate the impact of the Charles W. Woodward High School Reopening (CIP P651908) and the Northwood HS Addition/Facility Upgrades (CIP P651907), reflecting the scope of the boundary study approved by the Board of Education on March 28, 2023.

With the development of 59 high-rise dwelling units that are not age-restricted, the proposed project is estimated to generate the following number of students based on the subject property’s location within an Infill Impact Area:

Table 5: 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	59	0.039	2.301	0.016	0.944	0.018	1.062
TOTALS	59		2		0		1

As shown in the table above, on average, this amendment is estimated to generate 2 elementary school students, 0 middle school students and 1 high school student. The estimated number of students generated do not exceed the adequacy ceilings identified for each school in Table 3. Therefore, no additional UPPs are required and neither are partial payments across multiple UPP tiers.

c) Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Subject Property is proposed to be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service which has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as electrical, telecommunications, gas, police stations, firehouses, and health services are operating according to the current GIP and will be adequate to serve the Property.

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

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 the accompanying Forest Conservation Plan F20240720.

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

The Montgomery County Department of Permitting Services Water Resources Section approved a Combined Stormwater Management Concept/Site Development Stormwater Management Plan on August 2, 2024. The plan proposes to meet required stormwater management goals via the use of green roof, micro-bioretenion practices, and a partial waiver.

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

Not applicable to this Property as there is no known burial site.

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

Pursuant to Section 49-68 of the County Code, the Preliminary Plan proposes to abandon a large portion of an unimproved and unused 10-foot-wide paper alley that runs east/west at the southern property line from Tilbury Street to the east to an existing north/south alley to the west. The portion of the paper alley proposed for abandonment has never been used or improved for the purposes for which it was intended or dedicated (such as a service alley for vehicles), and the right-of-way is not necessary for the anticipated public use. The easternmost portion of the paper alley is proposed for abandonment because it is contiguous to Chase Avenue Urban Park and the future Eastern Greenway public park to the north that is proposed for dedication by the Applicant. The westernmost portion of the paper alley, adjacent to the lot proposed for the multifamily building, must be maintained to satisfy fire department access and building code requirements.

The proposed abandonment satisfies Section 49-68(e) of the County Code as the right-of-way is not necessary for anticipated future public use given that the Sector Plan does not recommend improving or otherwise putting this paper alley into public use. The Sector Plan does recommend a linear park along the eastern portion of the blocks to the west of Tilbury Street, and the abandonment will ultimately assist in the realization of this public park.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is

October 11, 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 Commissioner Linden, with a vote of **5-0**; Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, at its regular meeting held on Thursday, October 3, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board