

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

November 22, 2024

MCPB No. 24-098
Site Plan No. 820240160
The Brownstones at Westbard Square
Date of Hearing: October 17, 2024

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on May 29, 2024, Westwood Associates, LLC (“Applicant”) filed an application for approval of a site plan to develop thirty-two (32) single-family attached (townhouse) units, with 12.5 percent MPDUs, on 2.42 acres of CRT-1.0, C-0.25, R-1.0, H-45 and R-60 zoned-land, located at the southwest quadrant of the intersection of River Road and Brookside Drive, Bethesda (“Subject Property”), in the Bethesda/Chevy Chase Policy Area and 2016 *Westbard Sector Plan* (“Sector Plan”) area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820240160, The Brownstones at Westbard Square (“Site 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 October 7, 2024, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on October 17, 2024, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Bartley, with a vote of 3-0; Chair Harris, and Commissioners Bartley, and Hedrick voting in favor, Vice Chair Pedoeem and Commissioner Linden were necessarily absent.

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Approved as to
Legal Sufficiency:

/S/ Emily Vaias
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820240160 for the development of thirty-two (32) townhouse units, with 12.5 percent MPDUs on the Subject Property, subject to the following conditions:¹

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 thirty-two (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.
- 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).

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.

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

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 issuance of 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.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Site Plan No. 820240160 submitted via ePlans to the M-NCPPC as of the date of the Staff Report are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or 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 development 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.

2. *The development satisfies 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.

3. *The development satisfies 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 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.

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

a. Development Standards

The Subject Property includes approximately 2.42 acres zoned CRT-1.0, C-0.25, R-1.0, H-45 and R-60. The Application satisfies the applicable development standards as shown in the following data table:

Data Table

Development Standard ²	Permitted/ Required	Approved
Tract Area	n/a	121,389 sf (2.78 acres)
Tract Area - Prior Dedication	n/a	15,741 sf (0.36 acres)
Tract Area - Proposed Dedication	n/a	0 sf
Site Area	n/a	105,648 sf (2.42 acres)
<u>Mapped Density</u>		
CRT-1.0, C-0.25, R-1.0, H-45'		
Residential (GFA/ FAR)	116,931 sf (1.0)	74,950 sf (0.64)
Commercial (GFA/FAR)	29,233 sf (0.25)	0 sf
<u>Mapped Density</u>		

² 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.

Development Standard ²	Permitted/ Required	Approved
R-60	4,458 sf	0 sf
Common Open Space (% & min s.f.)	10% / 10,565 sf	41% / 43,177 sf
Lot Area (min s.f.)	800 sf	800 sf
Lot Width at Front Building Line (min)	12 ft	14 ft
Townhouse Unit Quantity	34 ³	32
Massing (Units per row of townhouses)	12	11
MPDUs	12.5% ⁴	12.5%
Building Height	45 ft	45 ft
Principal Building Setbacks (min)		
Front	5 ft	5 ft

³ 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.

⁴ 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 Standard²	Permitted/ Required	Approved
Side (end unit)	2 ft	2 ft
Side Street	5 ft	5 ft
Rear, Alley	4 ft	4 ft
Accessory Building Setbacks		
Front setback, behind front building line	5 ft	n/a
Side	4 ft	n/a
Side Street	5 ft	n/a
Rear, Alley	4 ft	n/a
Build-to-Area (BTA, max setback and min % of building façade)		
Front setback	15 ft	15 ft
Building in front street BTA (min.)	70%	70%
Building Orientation		
Entrance facing street or open space	Required	Provided
Transparency		
Blank wall, front (max)	35 ft	35 ft
Blank wall, side/rear (max)	35 ft	35 ft

Development Standard ²	Permitted/ Required	Approved
Parking/Loading		
Vehicular Parking (min/max)		
28 market rate units	28/56 spaces	63 spaces
4 moderately priced dwelling units	2/8 spaces total: 30/64 spaces	
Bicycle Parking	0/0 spaces	0/0 spaces
Loading	0 spaces	0 spaces

b. General Requirements (Division 59-6)

i. *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 and none are provided. There is a substantial private alley network within the Site and no queuing is anticipated on the public roadways.

ii. *Open Space and Recreation*

Open Space: The 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 provided by the Site Plan is in-line with the requirements of Division 6.3.

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

iii. *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 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.

iv. *Screening*

The screening requirements of Division 6.5.2.C.2. apply as this Application 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 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 will be provided, as this is where 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 approved to provide this alternative screening treatment for the southern-most 40 feet of the boundary shared with 5507 Westbard Avenue and is approved by the Planning Board.

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

Section 6.8.1. Alternative Method of Compliance

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 is 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, one tree and low-growing plant material will be planted in this area. The screening requirements of Section 59.6.5.3.C, Option A are generally met, and adequate screening is provided. The Planning Board 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 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, one tree and low-growing plant material will be planted 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 provided 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. The public interest is served by preserving the driveway and providing limited screening.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

- a. Chapter 19, Erosion, Sediment Control, and Stormwater Management
A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on September 5, 2024. The plan will meet stormwater management requirements using micro bioretention and storm filters.
- b. Chapter 22A, Forest Conservation

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Chapter 22A of the County Code, and is in compliance with the Montgomery County Planning Department's Environmental Guidelines as detailed in the resolution for Forest Conservation Plan No. F20240760, approved concurrently with this Site Plan.

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

The 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 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.

7. *The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The 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 (3) on-street visitor parking spaces provided. The Site Plan meets this requirement by locating 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 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.

- 8. *The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

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 as part of 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. Because the adequate public facilities test for the Property remains valid and the impact of this development is equal to or less than what was approved, a new adequate public facilities test is not required.

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 and 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.

9. *The development is compatible with existing and 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).

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; and

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

November 22, 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 Bartley, with a vote of 3-0-2; Chair Harris, and Commissioners Bartley, and Hedrick, voting in favor of the motion, Vice Chair Pedoeem, and Commissioner Linden abstaining, at its regular meeting held on Thursday, November 14, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board