

# Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-082  
Preliminary Plan No. 120230040  
The Diener School  
Date of Hearing: July 20, 2023

JUL 28 2023

## RESOLUTION

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

WHEREAS, on November 16, 2022, Kathy Chumas (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create one (1) lots on 2.52 acres of land in the R-60 zone, located at 9312 Old Georgetown Road, approximately 550 feet north of Alta Vista Road (“Subject Property”), in the Bethesda Chevy Chase Policy Area and 1990 *Bethesda-Chevy Chase Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120230040, The Diener School (“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 July 10, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on July 20, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120230040 to create one (1) lot on the Subject Property, subject to the following conditions:<sup>1</sup>

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<sup>1</sup> 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.

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Approved as to

Legal Sufficiency: /s/ Allison Myers

M-NCPPC Legal Department

**General Approval**

1. This Preliminary Plan is limited to one (1) lot for 27,000 square feet for a private educational institution in Phase 1 with the addition of an up to 12,000 square foot gymnasium in Phase 2, for a total of 39,000 square feet.
2. The Applicant must comply with the conditions of approval enumerated in the June 26, 2023 Notification of Decision letter from the Montgomery County Office of Zoning and Administrative Hearings approving Conditional Use No. CU202306.

**Adequate Public Facilities and Outside Agencies**

3. 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**

4. 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**

5. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated February 17, 2023 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.
6. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
7. The Planning Board has reviewed and accepts the recommendations of the Maryland State Highway Administration (“MDOT SHA”) in its letter dated May 24, 2023 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MDOT SHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
8. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration’s requirements for access and improvements.
9. 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 June 5, 2023 and incorporates them as conditions of the Preliminary Plan approval. The

Applicant must comply with each of the recommendations in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.

10. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated March 20, 2023 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

### **Other Approvals**

11. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of the Preliminary Plan and Final Forest Conservation Plan.

### **Environment**

#### **12. Forest Conservation & Tree Save**

- a) The Final Forest Conservation Plan (“FFCP”) must be consistent with the approved Preliminary Forest Conservation Plan (“PFCP”).
- b) 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.
- c) The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC Forest Conservation Inspection Staff.
- d) 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.
- e) The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of 3 caliper inches totaling 26 caliper inches. Planting locations must be shown on the FFCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
- f) Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for this development Application, the Applicant must:

- i. 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, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.
- ii. Submit the forest conservation fee-in-lieu payment to the M-NCPPC Planning Department for the 0.57 acres of afforestation/reforestation requirement.
- iii. Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.

## **Transportation**

### **Existing Frontage Improvements**

13. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing road:
  - a) All land necessary to accommodate sixty-five (65) feet from the existing pavement centerline along the Subject Property frontage for Old Georgetown Road.
14. Before issuance of any Use and Occupancy Certificate on the Site, the Applicant must replace the existing Old Georgetown Road sidewalk with a new 11-foot, asphalt side path, separated from the roadway by a vegetated street buffer measuring at least eight feet wide.

### **Off-Site Improvements Local Area Transportation Review (LATR)**

15. Before issuance of the first above-grade building permit or right-of-way permit (whichever comes first), the Applicant must make a payment of \$19,713.00 to the Montgomery County Department of Transportation towards the construction of ADA pedestrian crossing improvements in the Bethesda/Chevy Chase Policy Area. The payment will be indexed to the Federal Highway Administration’s National Highway Construction Cost Index from the mailing date of the Planning Board resolution to the date of application for the first above-grade building permit or right-of-way permit (whichever comes first). Proof of payment is required.

16. Within 12 months of the school's opening the Applicant must submit a Follow-up Report to evaluate delays, queues and safety to MCDOT, MDOT SHA and Planning staff.
  - a. The report will cover the following locations:
    - i. School driveways on Old Georgetown Road
    - ii. Westbound Spruce Tree Avenue at Old Georgetown Road
    - iii. Eastbound and westbound Alta Vista Road at Old Georgetown Road
  - b. If necessary, the Follow-Up Report will also include potential mitigation measures to address delays, queueing, and/or safety concerns at the locations listed above.

#### **Surety**

17. Before issuance of the first above ground building permit for each phase of the development, the Applicant must enter into a Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond or other form of surety, 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 site lighting, landscaping, open space amenities, walkways, trash enclosures, etc. as shown in the approved preliminary and Conditional Use plans.
  - c) Completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.
  - d) The bond or surety for each item shall be clearly described within the Surety & Maintenance Agreement, including all relevant conditions.

#### **Record Plats**

18. There shall be no building permits issued before recordation of plat(s).

#### **Easements**

19. The record plat must show necessary easements.

**Certified Preliminary Plan**

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

- 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 the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*
- b. *The Applicant must schedule an on-site preconstruction meeting with M-NCPPC inspection staff before any demolition, clearing, or grading occurs on-site. The Applicant, along with their representatives, must attend the preconstruction meeting with the M-NCPPC inspector. A copy of the approved Certified Preliminary Plan is required to be on-site at all times.*

21. Before approval of the Certified Preliminary Plan, the Applicant must make the following changes:

- a) Show resolutions and approval letters on the certified set;
- b) Include the approved Fire and Rescue Access plan in the certified set; and
- c) Provide notes regarding invasive species management and replanting to address bamboo in the rear of the property.

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.*
  - a) *The block design is appropriate for the development or use contemplated;*
  - b) *The lot design is appropriate for the development or use contemplated;*
  - c) *The Preliminary Plan provides for required public sites and adequate open areas;*

The proposed lot has been reviewed for compliance with Chapter 50, the Subdivision Regulations. The layout of the single-lot subdivision, including its size, width, shape, orientation is appropriate for a private educational institution within the R-60 Zone. The block design is existing and appropriate for the proposed development and use. The length, width and shape of the block are compatible with the development patterns in the Bethesda Chevy-Chase area.

The Preliminary Plan proposes one lot of approximately 2.5 acres. The size and dimensions of the lot currently serve an existing office use and are appropriate for the Project location and proposed private educational institutional use. The full length of the Site's eastern lot line abuts Old Georgetown Road, a public right-of-way.

The layout and density are appropriate for the use and the area. The surrounding area has lots of varying sizes and shapes interspersed among lots that are rectangular and of a similar size and includes a substantial number of non-residential lots with irregular sizes and shapes. The proposed subdivision will continue that pattern while combining parts of two parcels into a single lot. The proposed subdivision satisfies the applicable requirements of Chapter 59, with the exception of minor deviations from certain parking lot design standards which were reviewed and approved as part of the previous Conditional Use Application. The parking lot design and landscaping as proposed will satisfy the intent of the Zoning Code parking standards under Section 59-6.2.1 to ensure that adequate parking is provided in a safe, efficient and appropriate manner.

*Table 1: Preliminary Plan Development and Parking Standards (R-60 Zone)*

<b>Development Standard Section 3.4.5</b>	<b>Permitted/ Required</b>	<b>Proposed (Phase 1)</b>	<b>Proposed (Phase 2)</b>
<b>Minimum Lot Area</b>	6,000 SF	106,616 SF	106,616 SF
<b>Minimum Lot Width at Front Building Line</b>	60 SF	202 SF	202 SF
<b>Minimum Lot Width at Front Lot Line</b>	25 SF	211 SF	211 SF
<b>Maximum Density</b>	7.26 (UNITS/ACRE)	27,000 SF <sup>2</sup>	39,000 SF <sup>3</sup>

<sup>2</sup> Existing building, to remain, is approximately 25,783 square feet.

<sup>3</sup> Gymnasium addition is proposed to be 11,000 square feet.

<sup>4</sup> 1 space for each staff member on the largest shift.

<sup>5</sup> 20% NADMS Reduction Applied. Section 59-6.2.3.7.a.i.

<b>Maximum Lot Coverage</b>	20%	8%	12.9%
<b>Minimum Front Setback</b>	25 FT	93 FT	93 FT
<b>Minimum Side Setback</b>	8 FT	48 FT	38 FT
<b>Minimum Sum of Side Setbacks</b>	18 FT	97 FT	87 FT
<b>Minimum Rear Setback</b>	20 FT	198 FT	101 FT
<b>Maximum Height</b>	35 FT	30 FT	30 FT
<b>Vehicle Parking Requirement (Section 59.6.2.4.B)</b>	46 spaces (min) <sup>1.5</sup>	65 spaces	46 spaces
<b>Bicycle Parking (short-term/long-term) (Section 59.6.2.4.C)</b>			
<b>Employees</b>	0/6		
<b>Students</b>	6/0		
<b>Total</b>	6/6	6/6	6/6
<b>Loading</b>	1	1	1

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

The Site is located within the 1990 *Bethesda Chevy-Chase Master Plan* (Master Plan) area, which has recommendations and goals towards protecting the quality of life and residential character of neighborhoods within the plan area. Specifically, the Old Georgetown Road corridor has recommendations which include maintaining residential character along major highways through a Green Corridors policy that discourages front-yard parking and encourages landscaping; discouraging concentration of office-related uses except in designated locations; and discouraging new special exception (i.e. conditional use) approvals except for community-serving uses. The Master Plan also notes that a 1981 master plan for this area designated certain properties as suitable for non-residential professional offices, including 9300 and 9020 Old Georgetown Road, and confirms this designation in the area relevant to the present application. While the address 9312 Old Georgetown Road is not among those listed, the Old Georgetown Road Plan drawing designates the geographic area from 9300 to 9020 Old Georgetown Road, including the Subject Property, as suitable for non-residential professional offices.

The proposed use is substantially consistent with the Master Plan and its recommendations for the Old Georgetown Road corridor. The Subject Property is within an area designated for non-residential professional offices, indicating that non-residential use is acceptable at this location. Moreover, the proposed school will contribute to quality of life in the surrounding area by providing a



community-serving use, offering an educational option for children whose needs would be met by Diener's special focus (the Applicant is aware of at least three current and former Diener families that live in the immediate vicinity of the Subject Property). Thus, this Application is appropriate at this location because the location is master-plan-designated as appropriate for a non-residential use and The School does not perpetuate the over-concentration of office uses in the area; rather, the proposal will convert an existing office use into a community-serving use, which the Master Plan considers appropriate throughout the plan area.

The proposed project will maintain the attractive, well-landscaped appearance of the Subject Property's front yard, implementing many of the applicable landscape and design guidelines. The vast majority of the parking will be at the sides and in the rear, leaving landscaping and an attractive building façade as the main features visible from Old Georgetown Road. The proposed addition will be at the rear of the site, barely visible from Old Georgetown Road or neighboring properties and will increase the square footage of the existing building by less than 50%. The addition has been carefully designed to be compatible with and complement the architecture and scale of the existing building and will look like a seamless extension of the building with some modern updates. Lighting has been designed to meet all applicable standards. Signage, as shown on the plan, is expected to meet zoning code standards, as approved by the Montgomery County Department of Permitting Services (DPS) in the future. Signage will be designed to be compatible with the surrounding area. As detailed above, school hours will be limited, with a modest number of evening and weekend activities to minimize impacts on residential neighbors outside of normal business hours.

#### Master-Planned Roadways and Bikeways

The Site fronts on Old Georgetown Road, which is master planned as a Major Highway with a total right-of-way width of 130 feet. As conditioned, the Applicant will dedicate the necessary right-of-way to achieve 65 feet between the property line and the roadway centerline.

The 2021 Complete Streets Design Guide (CSDG) classifies Old Georgetown Road as a Boulevard. In compliance with the CSDG, the Applicant will install an eight-foot-wide vegetated street buffer, and an 11-foot-wide asphalt sidepath 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***

The Site fronts on Old Georgetown Road, which has a master-planned right-of-way of 130 feet. As conditioned, the Applicant will dedicate the necessary right-of-way to achieve 65 feet between the property line and the roadway centerline.

***ii. Proposed public transportation infrastructure***

As conditioned, the Applicant will construct a buffered sidepath along the Site frontage. The sidepath grade and materials will continue across the two driveways to remind motorists that they are entering a potential conflict with bicyclists and pedestrians. The new CSDG compliant frontage improvements will taper on either side of the Site to provide a continuous pathway with the existing sidewalks off-site.

***iii. Proposed private transportation infrastructure***

Sidewalks and pedestrian pathways interior to the Site will be ADA compliant and reflect best practices for design. Wheel stops will be installed to ensure a minimum of five feet of clear width where parking confronts pedestrian pathways and to ensure safety of play areas.

***b) Local Area Transportation Review (LATR)***

The Applicant is proposing a maximum enrollment of 120 children. As such, the Site is expected to generate approximately 150 net new peak-hour person trips in the peak travel period, and therefore a Transportation Impact Study (TIS) was completed to comply with the 2022 Local Area Transportation Review (LATR) Guidelines.

The trip generation for the Diener School was derived from existing operations and trip generation observed at The School's existing location on Danville Drive during morning arrival, school dismissal and evening commuter peak periods. The data accounts for travel modes, travel times (before- and after-care). From this data, a private vehicle rate per-student was determined. As the auto-driver trips were based on actual user data rather than the ITE Trip Generation Manual as is typically required by the 2022 LATR Guidelines, the vehicle rates were not adjusted for the Policy Area. This represents a more accurate and conservative estimate of trips generated by the Site and was approved by Staff at the time of scoping the transportation impact study.

Nearly all of those accessing the Site will travel by either personal vehicles or Diener School-provided buses. Trips made by public transit, walking and biking are unlikely or estimated to be very few, based on the transportation survey data collected. For this reason, the Applicant was not required to estimate the total number of trips by non-auto driver modes.

Due to the Diener School's hours of operation, the Applicant studied two evening peak hour periods: one during The School's afternoon peak hour (3:00-4:00 PM) and the other during the regional travel network's evening peak hour (5:00 PM-6:00 PM), as determined by the observed turning movement counts. This was done to ensure that the Applicant accounted for both the Diener School's time of peak volume, and the surrounding travel network peak volume. The study determined that the peak trip generation was during the morning peak period (7:30-8:30 AM), which coincides with the regional travel network peak. The breakdown of the trip generation by peak travel period is shown in Table 2.

*Table 2: Trip Generation for the Proposed Use*

	AM Peak Hour	School PM Peak Hour	Regional Network PM Peak Hour
<b>Existing</b>			
Office, 25,783SF	42	35	44
<b>Proposed</b>			
Students, 120 <sup>4</sup>	154	115	0
Buses, 2	4	4	0
Staff/Faculty, 66 <sup>5</sup>	34	30	10
<b>Net New Trips</b>			
	150	114	-34

Source: Gorove/Slade Transportation Impact Study dated January 20, 2023

Vehicle Adequacy

With approximately 150 net new trips estimated during the morning peak period, the Applicant was required to study one tier of intersections for motor vehicle adequacy.

<sup>4</sup> As described in the body of the staff report, this number represents the rate at which personal vehicles will be used to transport students to and from the Diener School.

<sup>5</sup> The conditions of approval limit the number of faculty and staff persons on-site to 57 at any given time, but at the time the traffic study was conducted a conservative estimate of 66 was studied.

The Applicant evaluated a total of eight intersections, including the two Site driveways, in proximity to the Site.

The Site is in the Bethesda/Chevy Chase Policy Area, which is designated as an Orange Policy Area by the 2020-2024 *Growth and Infrastructure Policy* (GIP). Traffic congestion in Orange Policy Areas is measured using Highway Capacity Manual (HCM) delay-based level of service standards, which applies to all signalized study intersections. The HCM average vehicle delay standard for the Bethesda/Chevy Chase Policy Area is 80 seconds. In compliance with the 2022 LATR Guidelines, all eight intersections were evaluated collectively as a corridor to determine the average vehicle delay along Old Georgetown Road between the I-495 outer loop ramps and W. Cedar Lane. The Old Georgetown Road corridor was found to be within the 80-second delay standard for the Bethesda/Chevy Chase Policy Area. Per the 2022 LATR Guidelines, no mitigation is required for motor vehicle adequacy.

*Table 3: Motor Vehicle Adequacy  
Highway Capacity Manual Methodology  
Seconds of Vehicular Delay*

Intersection	Congestion Standard	Existing			Background			Total Future		
		AM	School PM	Regional Network PM	AM	School PM	Regional Network PM	AM	School PM	Regional Network PM
1. Old Georgetown Road Corridor	80 seconds	12	10	14	24	22	37	26	24	37

*Source: Gorou/Slade Transportation Impact Study dated January 20, 2023, Revised April 25, 2023*

During review of the TIS, MDOT SHA also requested supplemental analysis of the individual intersections and updated signal timings. Review of these results prompted concerns on behalf of MDOT SHA staff about potential queuing on Old Georgetown Road and as well as possible delays to and from the side streets intersecting with Old Georgetown Road. In response, the Applicant revised the Transportation Management Plan (TMP) such that it included a commitment to conduct a follow-up report to evaluate delays, queues, and safety at the following locations:

1. School driveways on Old Georgetown Road (ingress and egress)
2. Westbound Spruce Tree Avenue at Old Georgetown Road
3. Eastbound and westbound Alta Vista Road at Old Georgetown Road

The objective of the follow-up report is to determine whether the proposed school operations result in a measurable increase in delays and queues at the locations listed above. This will be done by comparing traffic volumes analyzed in the 2022 LATR,

before the Diener School relocates to the Old Georgetown Road Site, and after the proposed relocation. A review of crash data at the listed locations will also be included in the follow-up report. If necessary, the follow-up report will also include potential mitigation measures to address delays, queueing, and/or safety concerns at the locations listed above.

The report will be submitted to MDOT SHA, MCDOT, Montgomery County Planning staff, the Maplewood Citizens' Association, and the Wyngate Citizens' Association within 12 months of the school's opening.

#### *Summer Camp*

The Applicant proposes offering a Summer Camp on the Subject Property outside of the Academic Program offered during the fall and spring semesters. The operating hours of the camps will be from 8:00 AM to 4:00 PM Monday through Friday. The daily enrollment will be limited to a maximum of 50 students and up to 24 staff. Because summer activity does not exceed the school-year trip generation, no additional analysis was needed or conducted.

#### *Peak Hour Traffic Signal Warrant Analysis*

A partial traffic signal warrant analysis was conducted at the Old Georgetown Road and Spruce Tree Avenue intersection and the Old Georgetown Road and Alta Vista Road intersection to determine if future volumes with The School warrant a traffic signal based on MDOT SHA Standards.

The warrants were performed using methodologies prescribed in Section 4C.04 of the MDOT SHA Manual on Uniform Traffic Control Devices (MDMUTCD), 2011 Edition. Neither of the two intersections met the Warrant 3 "Peak Hour Vehicle Volume", and therefore signalization is not warranted. MCDOT and Planning staff agreed with these findings and the Applicant was not required to participate in the installation of a new traffic signal at either intersection. MCDOT and MDOT SHA have agreed that the necessary warrants for new traffic signals have not been met and therefore the Board has not required implementation of new traffic signals as a condition of approval.

#### *Pedestrian, Bicycle, and Bus Transit Adequacy Tests*

The 2022 LATR Guidelines provide guidance on establishing the maximum costs of improvements an applicant is required to construct or fund to address deficiencies identified in the review of Pedestrian System Adequacy, Bicycle System Adequacy, and Bus Transit System Adequacy. Section VIII of the 2022 LATR includes a methodology by which the extent of development determines the maximum cost of mitigation projects.

$$LATR \text{ Proportionality Guide} = \left( \frac{\text{Extent of Development}}{\text{Development}} \right) \times \left( \frac{LATR \text{ Proportionality Guide Rate}}{\text{Guide Rate}} \right) \times \left( \frac{LATR \text{ Proportionality Guide Adjustment Factor}}{\text{Adjustment Factor}} \right)$$

Source - Page 54 of the 2022 LATR Guidelines

For the Subject Application, the maximum cost of construction for mitigation project is \$22,622. After evaluating the adequacy of each of the required transportation modes, the Applicant identified a comprehensive list of deficiencies, by which a prioritized list of mitigation improvements was submitted to staff for review. A total of 22 deficiencies were identified and the Applicant provided cost estimates for each of them. None of the deficiency projects were estimated to cost less than \$22,622.

After discussing the list of deficiencies with MCDOT, consensus was reached that in this instance, MCDOT would be willing to accept a payment for select mitigation elements based on the cost estimates provided for Deficiency Items 17 and 18 which included updating curb ramps at the intersection of Charles Street at Old Georgetown Road to be ADA compliant. The payment of \$19,713 will be collected by MCDOT into P509325 ADA Compliance. As conditioned, the payment must be made before the first above-grade building permit or right-of-way permit, whichever comes first.

Table 4: LATR Mitigation Payment Cost Breakdown

Description	Quantity	Unit Cost	Price
Remove and dispose sidewalks & Ramps	600	\$2.70	\$1,620.00
Aggregate stone base	70	\$6.75	\$473.00
Asphalt Paving	20	\$45.00	\$900.00
Concrete Curb	70	\$26.00	\$1,820.00
Concrete Sidewalk	465	\$10.00	\$4,650.00
Sidewalk ramp w. detectable warning surf.	2	\$2,500.00	\$5,000.00
Crosswalk striping	40	\$50.00	\$2,000.00
Temporary Traffic Control	1	\$3,000.00	\$3,000.00
Sodding	25	\$10.00	\$250.00
		<b>Total</b>	<b>\$19,713.00</b>

***c) Schools***

This section is not applicable to this Application as no additional dwelling units are proposed, thus there is no impact on school capacity.

***d) 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 Growth and Infrastructure Policy resolution currently in effect 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.***

**A. Forest Conservation**

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

The Final Forest Conservation Plan shows that the Subject Property contains 0.19 acres of forest. This minor area of forest will be maintained and efforts to reduce the impact of the nearby invasive bamboo stand will be implemented in order to enhance the overall wooded area onsite.

Although the forest will be maintained, a forest conservation easement is not proposed for the site given the small size of forest and isolated location in the rear of the Property; these factors create an obstacle for maintaining the integrity of the easement on a routine basis. As such, the 0.19 acres of forest are counted as cleared in the Forest Conservation Worksheet. In total, as a result of the tract area, the 0.19 acres of forest onsite not being proposed for an easement, as well as the intended use of the project as a private educational institutional, the Forest Conservation Worksheet included in the Forest Conservation Plan shows a calculated afforestation/reforestation requirement of 0.57 acres which will be met via payment of a fee-in-lieu, as conditioned, due to the constrained size and limited access of the site.

**B. Forest Conservation Variance**

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as a high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise, such resources must be left in an undisturbed condition.

As approved with the Preliminary Forest Conservation Plan, this Application will require the removal three (3) Protected Trees and CRZ impact to four (4) Protected Trees as identified in the Staff Report. The Board approved the replacement of Protected Trees at a ratio of approximately one-inch caliper for every four inches DBH of removal, using onsite trees that are a minimum of three inches caliper, overstory trees native to the Piedmont Region of Maryland. For the approved 101 diameter-inches of protected trees to be removed, the Applicant must provide mitigation of at least 26 caliper-inches of replacements. No mitigation is required for Protected Trees impacted but retained.

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

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

This Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Division on June 5, 2023. There are no known stormwater management facilities existing on the Property. The Application will meet stormwater management goals through micro-bioretenment and a storm filter to treat stormwater runoff without the use of waivers. A detailed stormwater management review will occur at the time of detailed plan review and all facilities will be designed using the latest MCDPS guidelines.

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.*

This section is not applicable to this Property, as the Applicant does not have actual or constructive notice of a burial site on the Subject Property.



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

No other provisions apply to the Subdivision.

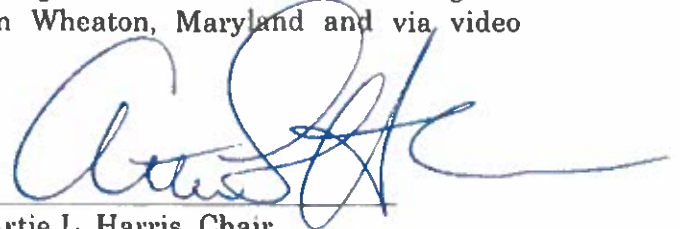
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 28 2023 (which is the date that this Resolution is mailed to all parties of record); and

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 approved and adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Vice Chair Pedoeem, seconded by, Commissioner 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, July 20, 2023, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair  
Montgomery County Planning Board