

# **Montgomery County Planning Board**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

AUG 17 2023

MCPB No. 23-077  
Preliminary Plan No. 120210210  
Kingsview Station  
Date of Hearing: July 13, 2023

## **RESOLUTION**

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

WHEREAS, on July 28, 2021, Kingsview Station ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create 61 lots for single-family attached dwelling units and two lots for Retail/Service Establishment uses on 9.94 acres of land in the CRNF-1.00, C-0.25, R-0.75, H-55 zone, located at the southeastern quadrant of the intersection of Clopper Road/MD117 and Germantown Road/MD 118 ("Subject Property"), in the Germantown West Policy Area and 1989 *Germantown Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120210210, Kingsview Station ("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 June 30, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 13, 2023, 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 Linden, 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. 120210210 to create 61 lots for single-family attached dwelling units and two lots for Retail/Service Establishment uses on the Subject Property, subject

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Approved as to

Legal Sufficiency: /s/ Matthew T. Mills

M-NCPPC Legal Department

to the following conditions:<sup>1</sup>

1. This Preliminary Plan is limited to 61 lots for single-family attached dwelling units including a minimum of 12.5% MPDUs and two (2) lots for up to a total of 12,000 square feet of commercial uses on 9.94 acres.
2. The Applicant must comply with binding elements of Local Map Amendment H-131 specified in County Council Resolution No. 19-402.
3. The Applicant must comply with all conditions of approval of the Preliminary Forest Conservation Plan No. H-131 specified in MCPB Resolution 19-130 approved February 3, 2020.
4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated June 1, 2023, and hereby incorporates them as conditions of Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
5. 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 29, 2021, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth 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.
6. The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated September 16, 2019 and reconfirmed on January 18, 2022, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.
7. Before the submittal of a record plat, the Montgomery County Council must have taken appropriate action on Abandonment Application No. AB 774. Before approval of any record plat, the Applicant must have gained fee simple title to the abandoned right-of-way associated with said Council action.

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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.

8. The Applicant must remove any existing above-ground power and utility lines along the right-of-way for Liberty Mill Road and on the Subject Property that are determined to no longer be in active use by a qualified utility consultant.
9. The Applicant must remove the existing channelized right turn “slip lane” serving northbound Germantown Road from the southern corner of the Germantown Road / Clopper Road intersection.
10. The Applicant must construct the following master planned pedestrian and bicycle facilities, the exact location, design and construction of which must comply with the requirements set forth by the Maryland State Highway Administration (“SHA”):
  - a. The Applicant must construct an eleven-foot-wide sidepath path along the property frontage on MD 118 (Germantown Road) from Leaman Farm Road to Clopper Road to include a minimum six-foot-wide street buffer. All road crossings must include ADA accessible ramps with a minimum width of eleven (11) feet.
  - b. The Applicant must construct an 11-foot-wide sidepath along the property frontage on MD 117 (Clopper Road) to include a minimum six-foot street buffer, subject to final adjustments at Site Plan approval for Phase 2. All road crossings must include ADA accessible ramps with a minimum width of 11 feet.
11. The Applicant must dedicate the rights-of-way and ensure construction of all necessary road improvements for the following public streets, as shown on the Preliminary Plan, to the design standards imposed by all applicable road codes.
  - a. Public Street “A” consistent with MC-2001.02 within a 48-foot right-of-way as modified by MCDOT.
  - b. Liberty Mill Road, consistent with MC-2002.02 within a 60-foot right-of-way as modified by MCDOT.
  - c. Dedication of all necessary right-of-way for Clopper Road/MD 117, Darnestown-Germantown Road/MD 188, and Leaman Farm Road as shown on the Certified Preliminary Plan.
12. Before the specified development triggers below, the Applicant must provide the following off-site improvements to meet LATR mitigation requirements as referenced in the MCDOT letter dated June 1, 2023:
  - a. Before the recordation of the plat, the Applicant must provide designs for review for either:
    - i. An 11-foot wide sidepath with a 6-foot wide street buffer along the east side of Germantown Road from the intersection of Clopper Road to extend 500 feet to the north, and from the intersection of Leaman Farm Road to 500 feet to the south, or comparable off-site bike and pedestrian

- improvement as approved by Staff. The design must be reviewed and approved by Staff from Planning, MCDOT, and MDOTSHA; or
  - ii. Improvements to the Darnestown-Germantown Road (MD 118) / Clopper Road (MD 117) intersection for increased bike and pedestrian safety and comfort as approved by Staff.
  - iii. If (i) and (ii) are determined to be infeasible, an alternative off-site improvement as identified in the LATR Study, as agreed to by Staff ("Off-Site Improvement").
  - b. Before the release of the first building permit, the Applicant must receive approval of designs for all Off-site Improvements from staff from Planning, MCDOT, and MDSHA.
  - c. Before the release of the 40th building permit, the Applicant must construct all Off-Site Improvements.
13. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements.
14. The record plat must show all necessary easements.
15. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Book 28045 Page 578 ("Covenant").
16. The final number of MPDUs as required by Condition No. 1 above will be determined at the time of site plan approval.
17. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for seven (7) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).
18. If an approved site plan or 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 or site plan amendment.
19. The Preliminary Plan will remain valid for seven (7) 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. The Applicant must record plats based on the following phasing schedule:
- a. Phase I: Plats for all residential lots and open space/ private alley parcels must be recorded in the Montgomery County Land Records within five (5) years from the initiation date.

- b. Phase II: Plats for the commercial Parcel A and Parcel J must be recorded in the Montgomery County Land Records within seven (7) years of the initiation date, or a request for an extension filed.
20. The Preliminary Plan must contain the following note:  
*"Unless specifically noted on this plan drawing or in the 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 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. Other limitations for site development may also be included in the conditions of approval."*
21. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
  - a. Show resolutions and approval letters on the certified set.
  - b. Correct all plan sheets to accommodate a 48-foot right-of-way for Public Street "A" as shown in the cross-section.
  - c. All driveways for MPDUs must measure a minimum of 18 feet in depth as measured from property line to the garage façade.
  - d. Submittal of a phasing plan sheet, which meets the requirements of Section 50.4.2.G.2.b and 50.4.3.J.5 of the Subdivision Regulations, for review and approval by Staff.
  - e. Submittal of a right-of-way dedication plan encompassing Clopper Road/MD 117, Darnestown-Germantown Road/MD 118, and Leeman Farm Road showing all necessary right-of-way dedications with locations and approximate square footages for the implementation of Planning Board conditioned frontage improvements.

**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 Preliminary Plan meets all applicable sections of the Subdivision Regulations. The size, width, shape and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the

recommendations of the Master Plan, and for the building type (single-family attached structures and commercial) and uses contemplated for the Preliminary Plan Area.

The lots were reviewed for compliance with the dimensional requirements for the CRNF as specified in the Zoning Ordinance and consistent with the Local Map Amendment. The lots will meet all the dimensional requirements for area and frontage and can accommodate the single-family attached dwelling units and Retail/Service Establishment structures which can reasonably meet the width and setbacks requirements in that zone. A summary of this review is included in Table 1. The Application is approved under the standard method in accordance with Section 4.4.8.A of the Zoning Ordinance. The Preliminary Plan has been reviewed by other applicable County agencies, all of which have recommended approval.

**Table 1: CRNF-1.00 C-0.25, R-0.75, H-55 (Standard Method)**

| CRNF-1.00, C-0.25, R-0.75, H-55                         | Allowed / Required by the Zone | Approved                                    |
|---------------------------------------------------------|--------------------------------|---------------------------------------------|
| <b>FAR (Floor Area Ratio)</b>                           |                                |                                             |
| Residential                                             | 0.75 FAR<br>(324,740 sq. feet) | 0.38 FAR<br>(164,700 sq. feet) <sup>2</sup> |
| Commercial                                              | 0.25 FAR<br>(108,246 sq. feet) | 0.03 FAR<br>(12,000 sq. feet) <sup>2</sup>  |
| Total FAR                                               | 1.00 FAR<br>(432,986 sq. feet) | 0.41 FAR<br>(176,700 sq. feet)              |
| MPDUs                                                   | 12.5% (8 DUs)                  | 12.5% (8 DUs)                               |
| Minimum Lot Area                                        | N/A                            | 800 sq. feet                                |
| <b>Common Open Space</b>                                |                                |                                             |
| Common Open Space                                       | 10% min.                       | 10% min.                                    |
| Public Open Space                                       | 10% min.                       | 10% min.                                    |
| Minimum Lot Width at B.R.L.                             | 0 feet                         | 16 feet                                     |
| Maximum Lot Coverage                                    | No limit                       | 100%                                        |
| <b>Principle Building, Min. Setbacks (for all lots)</b> |                                |                                             |
| From Public Street (Front/side)                         | 10 feet min.                   | 10 feet min.                                |
| Front (Open Space)                                      | 0 feet min                     | 10 feet min.                                |
| Side (Abutting Site Boundary)                           | 5 feet min.                    | 5 feet min                                  |
| Side (End unit)                                         | 2 feet min                     | 2 feet min.                                 |
| Side (Internal Unit)                                    | 0 feet min                     | 0 feet min.                                 |
| Rear (Abutting Site Boundary)                           | 5 feet min.                    | 5 feet min.                                 |
| Rear (Alley)                                            | 0 feet min.                    | 5 feet min.                                 |

<sup>2</sup> Set by binding element in Local Map Amendment H-131.

| CRNF-1.00, C-0.25, R-0.75, H-55 | Allowed / Required by the Zone | Approved                     |
|---------------------------------|--------------------------------|------------------------------|
| Building Height                 | 55 feet max.                   | 50 feet or less <sup>2</sup> |
| Parking                         |                                |                              |
| Residential                     | 61 – 122 spaces                | 114                          |
| Commercial – Parcel “A”         | 21-36 spaces                   | 26 spaces                    |
| Commercial – Parcel “L”         | 21-36 spaces                   | 31 spaces                    |
| Site Plan Required              | Yes                            | Yes                          |

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

The Preliminary Plan substantially conforms to the recommendations included in the 1989 *Germantown Master Plan* and to the determinations made in Zoning Case H-131.<sup>3</sup> The approved Kingsview Station development is located in the Clopper Village section of Germantown. The Master Plan included it in analysis area CL-6 of Clopper Village, and the Master Plan provides detailed recommendations for this and adjacent properties, all of which are in the vicinity of the intersection of the relocated Germantown Road (MD 118) and Clopper Road (MD 117).

For the purposes of the Master Plan, Germantown Road is oriented from east to west, and Clopper Road is oriented from north to south. The Application is in the eastern part of the analysis area along the southeast intersection of Clopper and Germantown Roads.

The Master Plan recommends that most of the analysis area include a village center for Kingsview Village (west of the subject site across Germantown Road), planned to be located adjacent to Clopper Village, but lacking suitable space for a center within its designated boundaries. “The portion of the eastern section of the Analysis Area not developed as the Village Center is recommended for garden apartments at a density of 11 units per acre.”

This Application includes a mix of commercial and residential development in the CRNF Zone. The overall density approved is 0.38 for the residential and 0.03 FAR for the commercial which is less than the overall density of 1.0 FAR for the mapped CRNF zone, of which 0.75 FAR of that total is devoted to single-family attached units. The Application will have up to 12,000 square feet of commercial

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<sup>3</sup> Limited Map Amendment H-131 approved rezoning from R-200/TDR 6.0 to CRNF CRNF-1.00 C-0.25, R-0.75, H-55 in February 2022.

development and 61 residential units, fewer than the 11 dwelling units to the acre recommended in the Master Plan.

The Master Plan's central goal is to provide a "greater sense of community" within Germantown, in part, by providing an "appropriate mix" of housing choices. While the Application does not include garden apartments, as originally recommended, the single-family attached dwelling units will contribute to an overall mix of single-family attached and garden apartment units in the analysis area of the Master Plan, which is both consistent with the Master Plan recommendations and desirable.

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

**Roads and Transportation Facilities**

i. *Existing Facilities*

- a. Germantown Road (MD 118) is a Major Highway as designated in the Master Plan of Highways and Transitways and a Boulevard in the *2021 Complete Streets Design Guide* with a master planned width of 120 feet. An existing 4 to 5-foot wide sidewalk exists along the frontage of the Preliminary Plan Area. The *2018 Bicycle Master Plan* and *2021 Complete Streets Design Guide* recommend an 11-foot wide sidepath along the frontage of the Preliminary Plan Area. The approved dedication as provided by the Preliminary Plan is adequate to serve the development and all master plan requirements.
- b. Clopper Road (MD 117) is a Major Highway as designated in the Master Plan of Highways and Transitways and a Boulevard in the *2021 Complete Streets Design Guide* with a master planned width of 150 feet. The dedication, as proposed, by the Preliminary Plan is adequate to serve the development and all master plan requirements. An 8-foot wide concrete sidewalk currently is built along the Preliminary Plan Area frontage. The *Bicycle Master Plan* and *Complete Streets Design Guide* recommend an 11-foot wide sidepath along the frontage.
- c. Leaman Farm Road (MD 117) is an Arterial as designated in the *Master Plan of Highways and Transitways* and a Boulevard in the *2021 Complete Streets Design Guide* with a master planned width of 100 feet. The dedication, as proposed, is adequate to serve the development. An 8-foot wide asphalt sidepath currently is built along the Leaman Farm Road frontage. The *Bicycle Master Plan* and *Complete Streets Design Guide* recommend an 11-foot wide sidepath along the frontage of the Preliminary Plan.

- d. Existing Liberty Mill Road is a remnant of the original alignment of Germantown Road that exists as an unimproved right-of-way inaccessible to the public. As part of abandonment request AB 774, the existing right of way is to be abandoned and re-platted as a realigned road.

ii. *Proposed public transportation infrastructure*

The Application approves two new roads, and as conditioned, will provide bike and pedestrian improvements on two of the three existing frontages.

- a. Liberty Mill Road will be extended from the existing intersection with Clopper Road and run through the center of the Preliminary Plan Area as a modified secondary residential street with a 60 feet right-of-way ("ROW") with two travel lanes and meet the standards of a neighborhood street under the *Complete Streets Design Guide*. It will access Leaman Farm Road at the existing Ale House Road intersection. The existing residual right of way will be abandoned as part of the abandonment application AB 774 and be replaced by the new alignment.
- b. Street A is approved to run from Liberty Mill Road in the south approximately 320 feet within the Preliminary Plan Area to Germantown Road in the north. The road is approved as a modified tertiary residential street with a reduced 48 feet ROW that will meet the standards for a two-lane neighborhood street.
- c. Germantown Road is a 4 to 6 lane boulevard, which will be maintained with the Application. As conditioned, the Applicant will remove an existing right turn lane and construct an 11-feet wide sidepath with a 6-feet wide street buffer in the location of the existing turn lane along the frontage from Leaman Farm Road to Clopper Mill Road. As conditioned, the applicant will remove the existing right-turn slip lane from the southern corner of the Germantown Road / Clopper Road intersection.
- d. Clopper Road is a 4 to 5 lane boulevard which will be maintained with the Application. As conditioned, the Applicant will construct an 11-feet wide sidepath with a 6-feet wide street buffer along the frontage.
- e. Leaman Farm Road is a 2 to 3 lane boulevard which will be maintained in its current condition with the Application.

- f. Germantown Road / Clopper Mill Intersection – as conditioned, the Applicant will provide off-site bike and pedestrian improvements equivalent to \$325,151 to fulfill mitigation requirements as determined by the LATR transportation study. As conditioned, the Applicant will construct an 11-feet wide sidepath along the east side of Germantown Road from the intersection of Clopper Road to extend 500 feet to the north, and from the intersection of Leaman Farm Road to 500 feet to the south, or comparable off-site bike and pedestrian improvement as approved by staff.

iii. *Proposed private transportation infrastructure*

The Applicant will construct private alleys A, B, C, and D to serve the rear of all townhouse units; these alleys exist to provide rear driveway access to homes as well as fire access. The alleys are constructed to be 20 feet in paved width. These alleys will not serve the general public and do not offer through connectivity and will be maintained by the HOA.

Local Area Transportation Review (LATR)

The Application proposes 61 attached townhouse dwelling units and up to 12,000 square feet of Retail/Service Establishment uses. The uses are estimated to result in 61 AM and 215 PM peak-hour person trips. This exceeds the 50 peak-hour person trip LATR threshold, requiring a Transportation Impact Study (TIS). The Applicant has provided the study for review.

Table 2: Trip Generation Analysis

|            |                                                 | ITE Trip Generation Vehicle Rates |     | Adjusted Vehicle Rates Germantown West Policy Area |     | Total Person Trips |     |
|------------|-------------------------------------------------|-----------------------------------|-----|----------------------------------------------------|-----|--------------------|-----|
|            |                                                 | AM                                | PM  | AM                                                 | PM  | AM                 | PM  |
| Proposed   | 61 Single-Family Attached Units                 | 30                                | 37  | 28                                                 | 13  | 46                 | 58  |
|            | 12,000 square foot Retail/Service Establishment | 11                                | 113 | 10                                                 | 104 | 15                 | 157 |
| Net Change |                                                 |                                   |     |                                                    |     | 61                 | 215 |

*Source: Transportation Impact Study from Lenhart Traffic Consulting, Inc. revised January 6, 2022, modified by staff*

Eight intersections were studied (Table 3). No intersection exceeds the Germantown West Policy Area congestion standard; therefore, no mitigation is required.

Table 3: CLV Methodology

| Intersection                                                  | CLV Analysis |     |            |     |              |     |
|---------------------------------------------------------------|--------------|-----|------------|-----|--------------|-----|
|                                                               | Existing     |     | Background |     | Total Future |     |
|                                                               | AM           | PM  | AM         | PM  | AM           | PM  |
| <b><i>Germantown West Policy Area (1,425)</i></b>             |              |     |            |     |              |     |
| Germantown Rd & Clopper Road                                  | 443          | 638 | 473        | 653 | 476          | 666 |
| Germantown Rd & Site Access                                   | N/A          | N/A | N/A        | N/A | 195          | 295 |
| Germantown Rd & Leaman Farm Road                              | 340          | 482 | 396        | 496 | 347          | 504 |
| Clopper Road and Liberty Mill Road (Site Access)              | 271          | 430 | 284        | 448 | 297          | 466 |
| Clopper Road and Kingsview Village Ave.                       | 362          | 603 | 373        | 629 | 381          | 641 |
| Clopper Road and Great Seneca Hwy                             | 581          | 834 | 622        | 857 | 634          | 869 |
| Leaman Farm Road and approved Liberty Mill Road (Site Access) | 88           | 199 | 88         | 199 | 94           | 213 |
| Leaman Farm Road and Kingsview Village Ave.                   | 113          | 251 | 113        | 251 | 117          | 256 |

The study found extensive bike, pedestrian and ADA deficiencies as outlined in the TIS. These are in part to be mitigated by the offsite improvements to the bike and pedestrian network on Germantown Road to improve bike and pedestrian safety and comfort.

As conditioned, transportation access is safe and adequate for the proposed residential and commercial uses. This Application is consistent with the *2018 Bicycle Master Plan*, the *1989 Germantown Master Plan* and satisfies the Adequate Public Facilities (APF) test under the 2020 Growth and Infrastructure Policy.

The Applicant has requested 7 years of plan validity rather than the standard time period of 3 years. In addition, the Applicant has requested 7 years of APF rather than the standard 5 years. This additional time will allow the applicant to move forward with plats for the residential portion of the Application (Phase 1) and follow up with a plat, or plats, for the non-residential lots at a later date (Phase 2). The Subdivision Regulations require a phasing plan to be approved by the Planning Board. The project will be developed into 2 phases with the residential portions in Phase 1 and the non-residential portions in Phase 2. The Preliminary Plan application covers both phases, and the Site Plan application only covers Phase 1. This modest request for an extended APF and Plan Validity period is not adverse to the public interest.

### **Other Public Facilities and Services**

Other public facilities and services are available and adequate to serve the proposed commercial and residential lots. The Preliminary Plan Area is in the W-1 and S-3 water and sewer service categories, respectively, and will utilize public water and sewer.

The Application was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on September 16, 2019 and reconfirmed on January 18, 2022. The Fire Department Access Plan indicates that fire access will be provided by a combination of new public streets and fire access compliant private alleys.

### **Overhead Utilities**

The Preliminary Plan Area is currently bisected by existing overhead power and communications lines running north to south along the Liberty Mill Road right-of-way. The fronts of approximately two dozen multi-story townhouses will be within close proximity to overhead powerlines. Although Staff recommended that the overhead power and other utilities be relocated underground within the right-of-way of Liberty Mill Road, the Planning Board did not endorse this recommendation. This recommendation was identified as cost prohibitive for the scale and location of this project by the Applicant. Instead, the Planning Board accepted the Applicant's proposal to leave the existing operational overhead power and utility lines and to remove or clean up any power and utility lines that were no longer in use. The Planning Board was re-assured that the distance between the new townhouses and the existing overhead power lines met all requirements for safety under the Maryland High Voltage Line Act.

Other utilities, public facilities and services, such as telecommunications, police stations, firehouses and health services are currently operating within the standards set by the 2020-2024 Growth and Instructure Policy ("GIP") in effect at the time that the Application was accepted.

### **School Facilities Test**

#### ***Overview and Applicable School Test***

The FY24 Annual School Test, approved by the Planning Board on June 22, 2023 and effective July 1, 2023 is applicable to this Application. This Application proposes a net total of 61 single-family attached units.

#### ***School Adequacy Test***

The Application is served by Germantown ES, Roberto W. Clemente MS, and Northwest HS. Based on the FY24 Annual School Test results, the student

enrollment and capacity projections for these schools are noted in the following table:

**Table 4: Applicable FY2024 School Adequacy**

| School                    | Program Capacity | Projected School Totals, 2027 |               |                   | Adequacy Status | Adequacy Ceilings |        |        |
|---------------------------|------------------|-------------------------------|---------------|-------------------|-----------------|-------------------|--------|--------|
|                           |                  | Enrollment                    | % Utilization | Surplus / Deficit |                 | Tier 1            | Tier 2 | Tier 3 |
| Germantown ES             | 292              | 263                           | 90.1%         | +29               | No UPP          | 114               | 131    | 144    |
| Roberto Clemente MS       | 1,218            | 844                           | 69.3%         | +374              | No UPP          | 500               | 618    | 801    |
| Northwest HS <sup>4</sup> | 2,291            | 2,189                         | 95.5%         | +102              | No UPP          | 282               | 561    | 904    |

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school's adequacy status and ceilings, as determined in the Annual School Test. Under the FY24 Annual School Test, Germantown ES, Roberto Clemente MS and Northwest HS do not require any UPP as identified in Table 4. If the application is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required.

*Calculation of Student Enrollment Impacts*

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

With a net of 61 single family attached units that are not age-restricted, the approved Application is estimated to generate the following number of students based on the Preliminary Plan Area's location within a Turnover 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                   | 0.185               | 0.000                 | 0.102               | 0.000                 | 0.154               | 0.000                 |
| SF Attached   | 61                  | 0.218               | 13.298                | 0.119               | 7.259                 | 0.167               | 10.187                |
| MF Low-rise   | 0                   | 0.116               | 0.000                 | 0.061               | 0.000                 | 0.081               | 0.000                 |
| MF High-rise  | 0                   | 0.073               | 0.000                 | 0.042               | 0.000                 | 0.053               | 0.000                 |
| <b>TOTALS</b> | <b>61</b>           |                     | <b>13</b>             |                     | <b>7</b>              |                     | <b>10</b>             |

<sup>4</sup> Projected enrollment reflects the estimated impact of CIP P651909, which will reassign students between Gaithersburg HS, Richard Montgomery HS, Northwest HS, Quince Orchard HS, Wootton HS and Crown HS in 2027.

As shown in Table 5, on average, this Application is estimated to generate 13 elementary school students, 7 middle school students and 10 high school students. The number of students generated does not exceed the adequacy ceilings identified for each school in Table 4. Therefore, no additional UPPs are required, and neither are partial payments across multiple UPP tiers.

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

**Natural Resource Inventory/Forest Stand Delineation**

The Natural Resource Inventory/Forest Stand Delineation ("NRI/FSD") 420182510 for this Preliminary Plan Area was approved on July 24, 2018. The NRI/FSD identifies the Preliminary Plan Area to be located within the Middle Great Seneca Creek watershed, a Use Class IV-P as designated by the State of Maryland. The Preliminary Plan Area contains 3.52 acres of forest, 0.61 acres of wetlands, 2 streams, 2.55 acres of stream buffers of which 0.71 acres are forested and 3 onsite trees with a diameter breast height ("DBH") of 30 inches or more.

**Preliminary Forest Conservation Plan**

The Preliminary Forest Conservation Plan ("PFCP"), including a variance request for the removal of three trees designated as high priority for retention under 22A-12(b)(3) ("Protected Trees") was approved with the application for a Local Map Amendment No. H-131 by the Planning Board with MCPB Resolution Number 19-130 dated February 3, 2020. A Final Forest Conservation Plan ("FFCP") is included with Site Plan No. 820210130.

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

The Preliminary Plan received an approved stormwater concept plan from the Montgomery County Department of Permitting Services, Water Resources Section on June 29, 2021. The Application will meet stormwater management goals through the use of microbioretention, microbioretention planter boxes, permeable paving, and submerged gravel wetland.

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

There is no evidence, actual notice, or constructive notice of a burial site on the Preliminary Plan Area. The Preliminary Plan Area is not included in the Montgomery County Inventory.

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

There are no other applicable provisions specific to the Preliminary Plan Area that are necessary for approval of this Application.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for seven (7) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G, and that before the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 17 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 adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, at its regular meeting held on Thursday, July 27, 2023, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair  
Montgomery County Planning Board