

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-078

Site Plan No. 820210130

Kingsview Station

Date of Hearing: July 13, 2023

AUG 17 2023

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 July 28, 2021, Kingsview Station ("Applicant") filed an application for approval of a site plan for sixty-one (61) single-family attached dwelling units, including 12.5% MPDUs, on 7.45 acres of CRNF-1.00, C-0.25, R-0.75, H-55 zoned-land, located at the northeastern quadrant of the intersection of Leaman Farm Road and Germantown Road/MD 118 ("Subject Property"), in the Germantown West Policy Area and *1989 Germantown Master Plan* ("Master Plan") area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820210130, Kingsview Station ("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 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 Site Plan No. 820210130 for sixty-one (61) single-family attached dwelling units, including 12.5% MPDUs, on the Subject Property, subject to the following conditions:¹

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.

Density, Height & Housing

1. **Density**

The Site Plan is limited to a maximum of 61 single-family attached dwelling units, including 12.5% MPDUs, on 7.45 acres.

2. **Height**

The development is limited to a maximum height of 50 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 the Montgomery County Department of Housing and Community Affairs (MCDHCA) in its letter dated May 1, 2023, 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 and the applicable Master Plan.
- 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 0.75 acres of common open space (10% of Site Plan area) on-site.
- b) Before the final inspection for residential units, all common open spaces areas on the Subject Property must be completed on the following schedule as shown on the Certified Site Plan:
 - i. Prior to issuance of Use and Occupancy Certificate / or Final Inspection (whichever is relevant) for residential unit #16 on Block C, the common open space located between Liberty Mill Road and Lots 11-16 must be completed.
 - ii. Prior to issuance of Use and Occupancy Certificate / or Final Inspection (whichever applies) for residential unit #27 on Block B, the common open space area located south of Lots 21-27 and west of Private Alley A must be completed.
 - iii. Prior to issuance of Use and Occupancy Certificate / or Final Inspection (whichever applies) for residential unit #45 on Block B, the common open

space area located north of Lots 38-41 and west of Lots 33-37 must be completed.

5. Recreation Facilities

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.

6. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities within HOA parcels including, but not limited to landscaping, benches, retaining walls, bike racks, playground equipment, trash cans, lighting, mailboxes, walkways, and other hardscapes.

Environment

7. Forest Conservation

- a) 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.
- b) The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan ("FFCP"). Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
- c) 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.
- d) 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. Record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved FFCP, excluding the existing Forest Conservation Easement area that is authorized to be removed. The new Category I Conservation Easements must be in a form approved by the M-NCPPC Office of General Counsel and must be recorded in the Montgomery County Office of Land Records by deed prior to recordation of the deed of abandonment for the existing conservation easement. The entirety of the existing easement remains in full force and effect until the abandonment document and the revised easement have been approved and recorded in the Land Records. The Book/Page for the easements must be referenced on the record plat.

- ii. The Applicant must abandon the entirety of the original Category I Conservation Easement recorded among the County Land Records in Book 33824, Page 251, in a form approved by M-NCPPC Office of the General Counsel. The abandonment document must be recorded in the Montgomery County Land Records by deed.
- iii. Record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Seneca Creek watershed to satisfy the reforestation requirement for a total of 1.40 acres of afforestation/reforestation mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Seneca Creek watershed or by making a fee-in-lieu payment to M-NCPPC if mitigation credits are not available at any bank.
- iv. Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the 1.50 acres of new forest planting and maintenance, including invasive species management controls, credited toward meeting the afforestation/reforestation requirements of the FFCP.
- e) Prior to the initial planting acceptance inspections of the required on-site reforestation, the Applicant must install the permanent conservation easement signage along the perimeter of the conservation easements as shown on the FFCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.

8. Noise Attenuation

- a) Before the issuance of the first building permit, the Applicant must provide certification to M-NCPPC Staff from an engineer who specializes in acoustical treatments that the building shell for residential dwelling units affected by exterior noise levels projected at or above 65_{L_{dn}} dBA, will attenuate the projected exterior noise levels to an interior level not to exceed 45_{L_{dn}} dBA.
- b) 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.

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 June 29,

2021, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

Transportation & Circulation

10. Transportation

- a) The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services Right-of-Way Section (DPS-ROW) in its memo dated January 20, 2022, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.
- b) Before the release of the 10th building permit, 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.
- c) Before the specified development triggers below, the Applicant must construct the following master planned pedestrian and bicycle facilities along the frontage of the Subject Property. The exact location, design and construction of which must comply with the requirements set forth by the Maryland State Highway Administration (“SHA”):
 - i. Before the release of the first building permit, the Applicant must obtain approval for designs for all offsite improvements from staff from Planning, MCDOT, and MDSHA.
 - ii. Before the issuance of the 20th building permit, the Applicant must construct an eleven-foot-wide sidepath 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.
 - iii. Before the release of the 40th building permit, the Applicant must construct all off-site improvements.

11. 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 January 18, 2022, 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.

Site Plan

12. Site Design

The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the submitted architectural drawings, as determined by M-NCPPC Staff.

13. 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 all 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.

14. Site Plan Surety and Maintenance Agreement

Before issuance of any above-grade building permit, sediment control permit, or Use and Occupancy Certificate, whichever comes first, the Applicant must enter into a Site Plan 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(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, including, but not limited to plant material, on-site lighting, outdoor recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads and sidewalks, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm

drainage facilities, street trees and streetlights. 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.

15. 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.

16. 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 the stormwater management concept approval letter, development program, and Site Plan resolution on the approval or cover sheet(s).
- b) 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."
- c) Include the approved Fire Department Access plan in the Certified Site Plan.
- d) Modify the data table to reflect development standards approved by the Planning Board.
- e) Ensure consistency of all details and layout between Site and Landscape plans.
- f) Applicant must improve access from the alley to Lot 20 as approved by Staff.
- g) Exterior elevations for townhouse units to be reviewed by Staff in connection with the Certified Site Plan.

- h) All driveways for MPDUs must measure a minimum of 18 feet in depth as measured from the property line to the garage façade.
- i) Applicant must provide an exhibit showing the location and materials of all recreational amenities, including but not limited to bikeways, open grass area lawn, natural areas, the play area, picnic and seating areas, and the bicycle support station.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Kingsview Station, Site Plan No. 820210130, 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 approval findings will only apply to the Subject Property being reviewed as part of this Application.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

- a) *satisfies any previous approval that applies to the site;*

This Site Plan application is being reviewed concurrently with Preliminary Plan No. 120210210. LMA H-131, approved on February 19, 2020, rezoned the Preliminary Plan Area and Site Plan Area from R-200 and R-200/TDR 6.0 to Commercial/Residential Neighborhood Floating Zone – CRNF-1.0, C-0.25, R-0.75, H-55. The LMA included three binding elements to be addressed during development:

1. No more than 12,000 square feet of commercial building area.
This binding element does not apply to the Site Plan application, which is limited to Phase 1 consisting of the residential development with townhouse dwelling units.
2. No more than 61 townhouse dwelling units.
This Site Plan application meets this binding element by providing 61 townhouse dwelling units.

3. A maximum building height of 50 feet.

This binding element is met by the townhouse dwelling units being 50 feet or less in height.

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

This section is not applicable as LMA H-131 was approved on February 19, 2020.

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

This section is not applicable since the Site Plan Area's zoning classification on October 29, 2014 was not the result of a Local Map Amendment.

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

i. *Division 4.5.3 CRNF-1.00, C-0.25, R-0.75, H-55 Zone*

The Site Plan satisfies the use standards, development standards, and general requirements for single-family attached unit living in the Commercial Residential Neighborhood Zone (CRNF), under the Standard Method Development in Division 4.5.3 and the development standards for Commercial/Residential Floating Zones under Section 5.3.5 of the Zoning Ordinance.

Use and Development Standards

The Application is to construct 61 single-family attached dwelling units within the Site Plan Area, a permitted use in the CRNF Zone. As demonstrated in Table 1 below, the Application meets the general requirements and development standards of the CRNF Zone and Commercial/Floating Zones, under the standard method of development.

The following table, Table 1, shows the Application's conformance to the development standards of the zone.

Table 1: Site Plan Data Table for CRNF-1.00, C-0.25, R-0.75, H-55 Zone, Standard Method, Section 59.4.5.3

CRNF-1.00 C-0.25, R-0.75, H-55	Allowed / Required by the Zone	Approved
FAR (Floor Area Ratio)		
Residential	0.75 FAR (324,740 sq. feet)	0.38 FAR (164,700 sq. feet) ²
Total FAR	0.75 FAR (324,740 sq. feet)	0.38 FAR (164,700 sq. feet) ⁵
MPDUs	12.5% (8 DUs)	12.5% (8 DUs)
Minimum Lot Area	N/A	800 sq. feet
Common Open Space	10% min.	10%
Minimum Lot Width at B.R.L.	0 feet	16 feet
Maximum Lot Coverage	No limit	100%
Principle Building, Min. Setbacks (for all lots)		
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)	0 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.
Building Height	55 feet max.	50 feet or less ³
Parking		
Residential	61 – 122 spaces	114

iii. Division 59-6 General Development Standards

(1) Division 6.1 Site Access

Site access is safe, adequate, and efficient to serve the approved development. Access to the Site Plan Area is from three points: a northern intersection of Liberty Mill Road and Clopper Road, a southern intersection of Liberty Mill Road and Leaman Farm Road, and an intersection with Germantown Road and Street A. All streets serving through circulation will be public streets. Alley serving private garages for rear accessed townhomes will be private and maintained by the HOA.

(2) Division 6.2. Parking, Queuing, and Loading

² Set by binding element in Local Map Amendment H-131.

³ Set by binding element in Local Map Amendment H-131.

Parking, queuing, and loading is adequate to serve the Site Plan Area. Parking for all townhouse units will be provided in private garages (and driveways) to be accessed from alleys in the rear of units. Additional public street parking for visitors will be provided in 14 on-street spaces on Liberty Mill Road.

(3) Division 6.3. Open Space and Recreation

Open Space

Within the CRNF zone, per Section 59.4.5.3.C.1, Standard Method, and Sections 59.5.3.5.D.2.a and 59.6.3.2., the Application is required to provide a minimum of 10% Common Open Space for townhouse development. The Site Plan meets the required amount of open space within the Site Plan Area by exceeding the minimum 10 percent, by providing approximately 1.28 acres of 7.45 acres of residential land area. Additionally, in accordance with Sections 59.6.3.5.B and 59.6.3.5.B.1, the open space meets the Common Open Space requirements for the 50-foot minimum width, location within a contiguous area, and at a location that takes advantage of the natural features of the Site Plan Area. The smallest open space area is located on the east side of Liberty Mill Road and includes a lawn area with seating that overlooks some of the natural features of the Site Plan Area to the southeast. The largest open space area is located on the west side of Liberty Mill Road and includes smaller lawn areas distributed throughout the area as well as a large portion of existing forest to remain. All the Common Open Space areas include opportunities for active and passive recreation, as well as select locations for connection and reflection with nature. Within the residential development, there are three Common Open Space areas that include an open grass area lawn, a play area, picnic and seating areas, and a bicycle support station. There is also available open space from the setbacks between the different buildings, streets, and areas along the pedestrian walkways and sidewalks, all of which provide locations for landscaping and greenery. The Common Open Space will provide ample opportunities for residents to gather and recreate.

Recreation Facilities

The location and quantity of provided recreation facilities is adequate, safe, and efficient. Construction of 61 new dwelling units requires the Site Plan to meet the 2017 Approved and Adopted Recreation Guidelines. Consistent with the Guidelines, the Site Plan supplies recreation amenities to meet the recreation demand.

To satisfy the recreation demand, the Applicant will provide several outdoor recreation amenities. The primary recreational amenity is the common open space areas. The common open space areas are located on the east and west sides of Liberty Mill Road and to the south of the attached single-family dwelling units numbered 21 through 27. The open space areas will serve as the focal points for the approved development and will include an open grass area lawn, a play area, picnic and seating areas, and a bicycle support station. There will be an additional recreation amenity provided in the form of bikeways for residents and visitors. As conditioned, the Applicant will provide landscape design, including both large and small canopy trees, shrubs, and herbaceous plantings. All residents will have unfettered access to all recreation amenities.

Although the recreation amenities fully meet the recreational demand for the approved development, the Site Plan is eligible to claim the maximum 35% of Total Demand Points from the existing facilities provided by the nearby Germantown Community Center, Fountain Hills Local Park, and Kingsview Local Park.

The recreation supply both onsite and offsite is adequate to meet the recreation demand, therefore the recreation facilities provided are adequate for this Site Plan.

(4) Division 6.4. General Landscaping and Outdoor Lighting

The Site Plan meets the standards for the provision of landscaping and outdoor lighting as required by Division 6.4. The Application includes a variety of landscaping and lighting throughout the Site Plan Area, primarily along Liberty Mill Road, Public Street A, alleys, and community access to the Common Open Space.

Per Section 6.3.8, the Common Open Space design requirements state that landscaping within the Common Open Space is preferred to be native species, impervious surfaces are limited to 20 percent, and a minimum of 20 percent tree canopy. The Applicant is planting a variety of native trees and shrubs within the Common Open Spaces and along the streets. The plantings will provide shade and visual interest throughout the open spaces and along the public realm of the sidewalk and streets. A mix of shade and ornamental trees, such as Red Maples, River Birch, Dogwoods, and Eastern Redbuds, are being planted along or near the street which will help to shade pedestrians using the

sidewalk, soften the street edge, differentiate the outdoor spaces, and visually accentuate the public realm. The only impervious elements within the Common Open Space are the sidewalks; therefore, imperviousness will be well below 20 percent. The diversity and number of shade trees and ornamental trees surpasses the 20 percent minimum tree canopy for open space landscaping.

Lighting on-site consists of twenty privately owned and maintained freestanding light emitting diode (LED) streetlights with decorative luminaires mounted on poles at 12 feet above finished grade. The light poles will be installed throughout the Site Plan Area to illuminate the pedestrian and vehicular circulation environment.

The photometric plan submitted by the Applicant shows that the lighting will adequately illuminate the site creating a safe environment without creating light spillage or excessive glare on adjacent properties or the rights-of-way. All site lighting provides adequate, safe, and efficient illumination.

(5) Division 6.5. Screening

The Zoning Ordinance does not require screening between the approved development and adjacent properties; however, at the terminus of Alley B and the terminus of Alley C, the Applicant is providing a visual buffer between the sides of townhouses 1, 7, 8, and 27 and Germantown Road on the west and the existing park-and-ride facility located to the east. The visual buffer is achieved through the planting and grouping of River Birch and Red Maple shade trees, as well as Crape Myrtle and Magnolia ornamental trees.

e) Satisfies the applicable requirements of:

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

The Site Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Section on June 29, 2021. The Application will meet stormwater management goals using microbioretention, microbioretention planter boxes, permeable paving, and a submerged gravel wetland. This Application provides full environmental site design (ESD) to the maximum extent practicable (MEP).

ii. Chapter 22A, Forest Conservation.

Final Forest Conservation Plan

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As required by the County Forest Conservation Law (Chapter 22A of the County Code), a Preliminary Forest Conservation Plan was approved with the application for Local Map Amendment No. H-131. The Preliminary Forest Conservation Plan approval included a tree variance request to remove three specimen trees subject to the tree variance section of the Forest Conservation Law.

A Final Forest Conservation Plan ("FFCP") was submitted with the application for a combined Preliminary/Site Plan. The FFCP is in conformance with the approved PFCP.

The net tract area for forest conservation purposes is 10.98 acres which includes the gross tract area of 9.94 acres plus 1.31 acres of off-site disturbance minus 0.27 acres of dedication. The FFCP includes 3.25 acres of existing forest which includes 0.71 acres located within the stream valley buffers. The Application will remove 2.37 acres of forest outside of the stream buffers and retain 0.88 acres of forest (see the FFCP Worksheet for a breakdown of these numbers). The approved forest clearing generates a reforestation requirement of 2.90 acres. The Applicant will meet the planting requirement by planting 1.50 acres on-site and taking 1.40 acres off-site to an approved forest bank or by paying a fee-in-lieu if no bank is available. All the retained and planted forest will be protected in Category I Conservation Easements.

Tree Variance

A tree variance request was previously approved with the PFCP under Local Map Amendment No. H-131 for the removal of three trees protected under 22A-12(b)(3) ("Protected Trees"). The removal of these Protected Trees was approved by the Montgomery County Planning Board with the PFCP on February 3, 2020. The FFCP does not alter this approval because there are no new impacts to Protected Trees beyond what was approved with the PFCP. No mitigation plantings are required in this case because the Protected Trees being removed are within a forest stand within Site Plan Area and under the 2021 Forest Conservation Law the mitigation is provided under the FFCP Worksheet requirements.

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

The approved layout provides, safe, well-integrated parking, circulation, building massing and open space. The 61 dwelling units are distributed throughout the eastern, western, and southern portions of the Site Plan Area along the extension and new alignment of Liberty Mill Road with most units located within the western portion. The 61 dwelling units are rear loaded, providing building fronts along the streets and public open space, with building separation consistent with surrounding existing subdivisions. The Site Plan provides well-integrated circulation patterns including sidewalks on both sides of the streets that connect with public open space, amenities, recreation, and lead sidewalks. The approved layout provides usable public open space within the western and eastern portions of the Site Plan Area. With the pedestrian and bicycle facilities conditioned along the property frontages, the Application provides well-integrated circulation patterns for both pedestrians and bikers.

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

As demonstrated and analyzed herein, the Site Plan is consistent with the *1989 Germantown Master Plan*, the *2018 Bicycle Master Plan*, and the *2021 Complete Streets Design Guide*.

Noise Requirements

At time of Application submittal and initial review, the roadway classification as designated in the Master Plan of Highways ("MPOH") and the Average Daily Traffic counts ("ADT") as documented by the Maryland State Highway Administration ("SHA") did not trigger a noise analysis under the 1983 Noise Guidelines for either Germantown or Clopper Roads. The 2020 ADTs for Germantown Road was 5,543 and for Clopper Road was 18,671, which are below the trigger point of 20,000 – 50,000. As a result of these ADTs, no noise analysis was warranted or requested from the Applicant.

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

schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;

As detailed in Preliminary Plan No. 120210210 Finding 3, the Application will be served by adequate public services and facilities, including schools, health services, police and fire protection, electric, telecommunications, public roads, storm drainage, and other public facilities, as determined as part of the Preliminary Plan approval process and are currently operating within the standards set by the *Growth and Infrastructure Policy* currently in effect. 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.

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

Not applicable, the Site Plan Area for this Application is zoned CRNF.

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

The approved use and structures for the Site Plan Area are compatible with existing and approved or pending adjacent development, as well as the Master Plan and prior approvals. The townhouse dwelling units complement the existing housing mix in the surrounding area encouraged in the Master Plan, while being similar in design, height, massing, and at a compatible scale with surrounding development. Approved units are consistently oriented towards the street and rear-loaded from alleys.

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

Not applicable, this Site Plan does not include a restaurant with a drive-thru.

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

Not applicable, the Site Plan Area is not zoned C-1 or C-2.

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

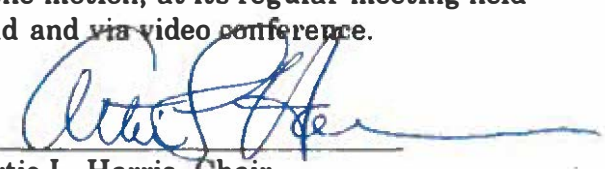
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 17 2023 (which is the date that this resolution is mailed to all parties of record); and

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