



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 12-114
Preliminary Plan No. 120120290
Travilah Grove
Date of Hearing: October 25, 2012

DEC 19 2012

RESOLUTION

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

WHEREAS, on October 25, 2012, Travilah Grove, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision that would create one lot where six parcels currently exist on 13.72 gross acres of land in the CR-0.5 C0.5 R0.5 H80 zone, located at 14211 Travilah Road, approximately 630 feet northeast of Unicorn Way and approximately 3,000 feet south of the Darnestown Road intersection ("Subject Property"), in the Great Seneca Science Corridor master plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120120290, Travilah Grove ("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 October 12, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 25, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on October 25, 2012, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Presley, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[Signature] 10/31/12
M-NCPPC Legal Department
www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120120290 to create one lot on the Subject Property, subject to the following conditions:¹

1. The Preliminary Plan is limited to one lot with a maximum of 298,938 square feet of development comprised of no more than 300 mid-rise apartments, of which at least 12.5% must be moderately priced dwelling units ("MPDUs").

2. The certified Preliminary Plan must contain the following note: "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 Site Plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for the lots. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

3. The Applicant must comply with the conditions of approval for preliminary forest conservation plan no. 120120290 approved as part of this Preliminary Plan², subject to:

- a. The Category I conservation easement areas as shown on the forest conservation plan must be recorded by plat prior to land disturbing activities occurring on-site.
- b. The 16.5' right-of-way in Afforestation Areas A and C must be removed before any afforestation credit can occur in that area. If the right-of-way is not removed no afforestation credit will be provided.
- c. The Applicant must show all proposed public utility and stormwater easements on the final forest conservation plan. No forest conservation credit will be provided within easement areas.
- d. The final forest conservation plan must include on-site, native mitigation plantings for the removal of the variance tree on-site.

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.

² Unless specifically indicated otherwise, the Board has reviewed the preliminary forest conservation plan and set forth conditions under which the Staff can approve the final forest conservation plan without further Board action.

4. Approval of the preliminary water quality plan is subject to the following conditions:

- a. The limits of disturbance depicted on the final water quality plan including the final stormwater concept plan and the final sediment control concept plan must be consistent with the limits of disturbance on the final forest conservation plan.
- b. The Applicant must conform to the conditions as stated in Montgomery County Department of Permitting Services ("DPS") Preliminary Water Quality Plan and Stormwater Management Concept Plan approval letter dated August 9, 2012.
- c. The final water quality plan must include an impervious surface area map that depicts the proposed imperviousness of the site.

5. The Planning Board has accepted the recommendations of the DPS Water Resources Section, in its stormwater management concept letter dated August 9, 2012, and hereby incorporates these as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by DPS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

6. At site plan review, address the six (6) comments from the Montgomery County Department of Housing and Community Affairs ("DHCA") letter dated September 19, 2012.

7. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated October 11, 2012, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, 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.

8. The Applicant must satisfy the Policy Area Mobility Review ("PAMR") test by contributing to transportation infrastructure improvements within the R&D Village Policy Area (to mitigate 43 PAMR trips) as follows:

- a. Constructing 2,260 linear feet of sidewalk offsite to mitigate the first 22 new peak-hour trips. The PAMR improvement must be under construction prior to issuance of any building permit.

- b. Paying at least \$245,700 (or \$11,700 times 21 new peak-hour trips) for unidentified off-site transportation-related infrastructure improvements. The PAMR payment must be made prior to issuance of any building permit.
9. The Applicant must enter into a Traffic Mitigation Agreement with MCDOT and the Planning Board to participate in the Greater Shady Grove Transportation Management District ("TMD") and assist the Transportation Management Organization ("TMO") in achieving the 2010 *Great Seneca Science Corridor Master Plan's* Stage 2 non-auto driver mode share goal of 18%. The Traffic Mitigation Agreement must be executed prior to certification of the site plan.
10. The Applicant must dedicate between 32 and 35 feet of additional right-of-way for a total of 35 feet from the centerline along the Subject Property frontage of Travilah Road.
11. The site plan must show bicycle parking spaces as required by the Zoning Ordinance based on the final unit count.
12. All necessary easements must be shown on the record plat, including the off-site access easement on the Traville Conservancy, Inc. site.
13. The Applicant must make a school facilities payment of \$1,112 for each market rate garden apartment unit with more than one bedroom, and \$941 for each market rate one bedroom garden apartment unit approved at site plan for inadequate capacity in the Thomas S. Wootton School Cluster based on the high school level. The timing of the payment is determined by DPS.
14. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
15. The record plat must specifically identify all stormwater management parcels.
16. A noise study is required that includes the baseline noise and the 20-year projected noise levels. If warranted, a further analysis will be required at site plan.
17. No clearing, grading, or recording of plats prior to certified Site Plan approval.

18. Final approval of the number and location of buildings, dwellings units, on-site parking, site circulation, and sidewalks will be determined at site plan.

19. The site plan must show ADA accessible pedestrian connections between the apartment buildings and the club house.

20. If a subsequent site plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to right-of-way location, width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the site plan.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and 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 Preliminary Plan substantially conforms to the Master Plan.*

The Travilah Grove development is proposed to occupy the area identified as the Rickman Property site in the Life Sciences Center ("LSC") South District of the Great Seneca Science Corridor ("GSSC") Master Plan. The site was rezoned from the R&D zone to CR-0.5 C0.5 R0.5 H80 by Sectional Map Amendment following the approval of the GSSC Master Plan adopted on May 4, 2010. The Property is in the LSC South District and, most of the Property is also in the Piney Branch Special Protection Area ("SPA").

The Preliminary Plan proposes locating three of the five high-rise multi-family residential buildings, plus an in-ground swimming pool and associated clubhouse, to the west of two Washington Suburban Sanitary Commission's ("WSSC") water mains, closer to Travilah Road as suggested by the Master Plan. Subsequent to the May 2010 approval and adoption of the Great Seneca Science Corridor Master Plan, WSSC initiated a new policy encouraging establishment of an 80-foot building restriction line from large, high-pressure water mains. Two such water mains traverse the center of the Property from north to south, roughly midway through the Property. This policy results in construction of buildings to the eastern and western portions of the Property, complicating attempts to make the site design comply fully with the Master Plan recommendations. In addition, prior use of the Property as a landfill makes the use of stormwater management treatments that promote infiltration less desirable. These treatments would ordinarily be encouraged in an SPA.

Further, the densities proposed on the Property are not viable with structured parking; therefore other approaches must be employed to minimize impervious surfaces on the Property. The Applicant has proposed to reduce imperviousness through a reduction in parking by reconfiguration of 3 of the 5 proposed residential buildings. This reconfiguration results in a 5% reduction in imperviousness from the initial preliminary plan submittal.

The Applicant also proposed significant tree planting throughout the Property. The increased canopy coverage will help address water quality, air quality, and climate protection goals of the Master Plan.

The Applicant proposes to re-orient buildings on the western portion of the Property to maximize the use of passive solar light and heating.

The Master Plan encourages the provision of housing to improve the area's job-housing balance. The Master Plan recommends a range of housing options to help meet County housing goals, including MPDUs and workforce housing. The Preliminary Plan for the Property proposes 12.5% of the total 300 apartment units (or 38 dwelling units) as MPDUs.

Development of the Property using the CR-0.5 zone (standard method) implements a primary objective of the GSSC Master Plan for the transformation of the LSC into a dynamic live/work community while ensuring growth opportunities for research, medical, and bioscience interests. The Master Plan specifically exempts the Property from the Staging restrictions. Based on an analysis of the proposed Preliminary Plan elements, the Planning Board finds the Application is in substantial conformance with the GSSC Master Plan.

- 2. Public facilities will be adequate to support and service the area of the approved subdivision.*

Transportation Planning

Site Location and Vehicular Site Access Point

The Property is located between Travilah Road and Shady Grove Road south of Darnestown Road with site access points from both roads. The median along Shady Grove Road limits site access to only right-turns in and right-turns out. The vehicular site access point from Shady Grove Road in the northeast portion is via a recorded access easement (Deed of Easements with a Liber 28318, Folio 753) from the Traville Conservancy, Inc. The Conservancy owns the 2.63-acre parcel located between the Property and Shady Grove Road.

On-Site Circulation

Internal circulation will be adequate with a two-way private street with interconnected parking lots for the five proposed residential buildings.

Relevant Transportation Project

MCDOT Capital Improvements Program ("CIP") Project No. 500101, Travilah Road, Phase II will construct two missing segments of sidewalk on the east side of Travilah Road. In addition, Phase II includes construction of a bike path along the south side of Darnestown Road from Travilah Road to Great Seneca Highway. Phase II is projected to be completed by September 2013.

Phase I of this CIP project was completed in June 2009 and included the following:

- i. Widening the travel lanes along Travilah Road between 400 feet west of Nolan Drive to Dufief Mill Road;
- ii. Constructing an 8-foot-wide bike path with a 4-foot-wide green panel on the northwest side of Travilah Road; and
- iii. Improving the intersection of Travilah Road and Piney Meetinghouse Road.

Transportation Demand Management

The site is located within the boundary of the Greater Shady Grove TMD, thus the Applicant must participate in the TMD and assist the County in achieving and maintaining the Master Plan's Stage 2 non-auto driver mode share goal of 18% and the ultimate goal of 30%. The Master Plan does not explicitly differentiate between vehicular trips generated by residents and employees nor limit participation with the TMD to only non-residential developments. With fewer than 25 employees on site at any one time, however, a traffic management plan is not required as part of the Traffic Mitigation Agreement.

Public Transit Service

Transit service is available along Shady Grove Road via Ride-On route 67. The Maryland Transit Administration's preferred alignment of the Corridor Cities Transitway ("CCT") does not operate along the adjacent roadways. The nearest CCT station is planned approximately 3,000 feet to the north of the site, located on the north side of Darnestown Road at its intersection with Travilah Road.

Pedestrian and Bicycle Facilities

A 6-foot-wide sidewalk exists along the Shady Grove Road frontage. Shared-use paths exist on the opposite sides of Shady Grove Road and Travilah Road. The Applicant proposes a 5-foot-wide sidewalk with a green panel along the property frontage as recommended by the Master Plan.

As conditioned, the internal pedestrian connections must be ADA accessible between the apartment buildings and the club house, which are not shown on the plans received on September 7, 2012. Internal pedestrian connections with the necessary handicapped ramps must be delineated from the sidewalk on the east side of Buildings A, B, and C, through the parking area, and to the sidewalk on the west side of Buildings D and E. In addition, handicapped ramps must be provided at the pedestrian crossing between the terminus of the lead-in sidewalk from Shady Grove Road and the opposite sidewalk between the club house and Building C.

Under Section 59-C-15.62 of the County Zoning Ordinance, the Applicant must provide bicycle parking spaces for each residential building with 20 or more dwelling units. Based on the Preliminary Plan unit count, the required bicycle parking for the five proposed apartment buildings is as follows:

Building	No. of Units	Type of Bike Parking	
		Publicly Accessible (0.1 space per unit)	Privately Accessible (0.35 space per unit)
A	70	7	25
B	40	4	14
C	70	7	25
D	60	6	21
E	60	6	21
Total	300	30	106

The publicly accessible spaces must be inverted-U bike racks or an approved equivalent, and the privately accessible spaces must be bike lockers or a secured bike storage row, the capacity of which will be finalized according to the final unit count.

Local Area Transportation Review

The proposed 300 mid-rise apartments generate 123 peak-hour trips during the weekday morning peak period (6:30 to 9:30 a.m.) and 142 peak-hour trips during the evening peak period (4:00 to 7:00 p.m.).

The Applicant submitted a traffic study to satisfy the LATR test because the proposed development generates 30 or more total peak-hour trips within the

weekday morning and evening peak hours. The table below shows the calculated Critical Lane Volume (CLV) values at the analyzed intersections for the following traffic conditions:

1. Existing: Existing traffic conditions as they exist now.
2. Background: The existing condition plus the trips generated from approved but un-built nearby developments.
3. Total: The background condition plus the site-generated trips.

<i>Analyzed Intersection</i>	<i>Week day Peak Hour</i>	<i>Traffic Condition (CLV)</i>		
		<i>Existing</i>	<i>Back ground</i>	<i>Total</i>
Darnestown Road & Travilah Road	Morning	937	1,074	1,148
	Evening	939	1,193	1,234
Shady Grove Road & Traville Gateway Drive	Morning	442	456	456
	Evening	614	645	670
Travilah Road & Northwestern Site Access	Morning	CLV values are not shown because these site access points do not currently exist.		652
	Evening			681
Travilah Road & Southwestern Site Access	Morning			581
	Evening			679
Shady Grove Road & Eastern Site Access	Morning			392
	Evening			428

As shown on the table above, the CLV at the five intersections are less than the congestion standard of 1,450 for these intersections located in the R&D Village Policy Area. Thus, the Local Area Transportation Review test is satisfied.

Policy Area Mobility Review (PAMR)

Under the Subdivision Staging Policy in effect when the subject plan was filed, the PAMR test requires the Applicant to mitigate 30% of the 142 (i.e., 43) new peak-hour trips generated by the proposed development within the weekday morning and evening peak hours. To satisfy the PAMR test, the Applicant proposed to pay \$11,700 per trip multiplied by 43 trips or \$503,100 towards the

off-site LATR intersection improvements within the R&D Village Policy Area. A portion of the PAMR payment could fund the construction of the missing and unfunded segment of the shared-use path on the west side of Medical Center Drive between Medical Center Way and Blackwell Road that is part of the master-planned dual bikeway, LSC Loop LB-1.

Other Public Facilities

Schools

The Property is located in the Thomas S. Wootton School Cluster that currently has inadequate capacity at the high school level. The Schools Facility Payment is based on a pre-determined fee by unit type. An adjusted payment will be based on the unit type fee in effect at the time of application of any building permit. This payment must be made to the Montgomery County Department of Permitting Services.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and sewer systems. Electrical, gas, and telecommunications services are available to serve the Property. The Application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities such as police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect. Therefore, based on the analysis above and with the conditions of approval, the Planning Board finds other public facilities and services are adequate to support and service the area of the Preliminary Plan.

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50 of the Subdivision Regulations, and Chapter 59, of the Zoning Ordinance. The Planning Board finds that the proposed lot size, shape, width, and area are appropriate for the location of the subdivision. The lot was reviewed for compliance with the dimensional requirements for the CR zone as specified in the Zoning Ordinance. The lot as proposed will meet all dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Furthermore, the Planning Board finds the Application meets the requirements of Chapter 50 of the Subdivision Regulations and Chapter 59, the Zoning Ordinance.

CR zone (C0.5, R0.5, H80) standard method with 12.5% MPDUs

PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan
Maximum Height	80'	60'
Minimum Setbacks (59-C-15.72)		
Front	0 ft	Determined at Site Plan
Side/Rear (Abutting residential zone)	25 ft.	25 ft.
Side/Rear (Abutting non-residential zone)	0 ft.	Determined at Site Plan
Maximum Density (FAR)	0.5 FAR or 298,938 sq. ft.	298,938 sq. ft.
Maximum Units	n/a	300
MPDUs	12.5% or 38	38
Minimum Public Use Space	1.35 acres	1.35 acres
Site Plan Required	YES – per 59-D-3	--

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

The Property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code), and the approved preliminary forest conservation plan provided for the removal of 0.00 acres of forest and requires 2.00 acres of forest planting. The Applicant will meet the planting requirements by forest retention of the high priority forest on-site, planting of on-site forest cover, landscaping areas, and tree cover. In addition, the Applicant will place the high priority forest and a forest planting area adjacent to the high priority forest in a Category I conservation easement.

Environment

Environmental Guidelines

Forest Conservation Exemption 42012018E was confirmed on October 10, 2011 to allow for a soil remediation, removal, and fill project on the Property. The exemption was confirmed only for remediation of a contaminated site. However, a development application did not qualify for an exemption from submitting a forest conservation plan. The Applicant submitted a new Natural Resources Inventory/Forest Stand Delineation, and this plan was approved on April 19,

2012. As part of the soil remediation project, erosion and sediment control devices including a sediment basin are located on the Property. The remainder of the Property consists of open non-maintained field, areas of tree cover, and a 0.10-acre high priority forest stand in southeastern portion of the Property. The Property contains no streams, stream valley buffers, wetlands, or wetland buffers. One specimen tree is located within the northwestern portion of the Property and is proposed for removal.

The northwestern portion of the Property drains to the Muddy Branch watershed, designated as Class I-P Waters by the State of Maryland. The remainder of the Property drains to Piney Branch Tributary of the Watts Branch Watershed, designated as Class I-P Water by the State of Maryland. The entire eastern, southern, and central portions of the Property are located within the Piney Branch Special Protection Area ("SPA").

The Piney Branch SPA was established to protect the globally rare Serpentine Barrens, an ecosystem underlined by serpentine bedrock supporting a unique composition of plant species. The Property contains serpentine bedrock throughout the project area, and is bordered on the east by a forested community meeting the characteristics of the rare serpentine ecosystem. This forest currently supports a community of the State-listed endangered potato dandelion (*Krigia dandelion*) and is protected with an easement owned by Traville Conservancy Inc.

Forest Conservation Variance

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30-inches or greater diameter at breast height ("DBH"); are part of a historic site or designated with a historic structure, are designated as a national, State, or County champion trees, are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The Applicant submitted a variance request on June 19, 2012 for the removal of trees as depicted on the PFCP. The Applicant proposes to remove one tree that is 30 inches and greater, DBH, and is considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. This tree is a 36-

inch DBH sweet cherry (*Prunus avium*) in fair condition, and located within the northwestern portion of the Property.

Unwarranted Hardship Basis

Under Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested tree in an undisturbed state would result in unwarranted hardship to the Applicant. Due to the proximity of the subject tree to the entrance from Travilah Road and the intensity of the development north and west of the Piney Branch SPA, protecting this tree would require significant changes to the proposed plan, which would be inconsistent with the goals of the Master Plan and the CR zone. The Planning Board concurs that the Applicant has a sufficient unwarranted hardship to support a variance request.

Variance Findings

Section 22A-21 of the County Forest Conservation Law sets forth the findings that the the Planning Board must make to grant a variance. The Planning Board has made the following determinations in the review of the variance request and the proposed forest conservation plan:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant, as this Property will require extensive grading to accommodate the construction of the proposed mixed-use development as recommended in the Master Plan. The development is focused in the northern and northwestern portions of the Property to reduce the imperviousness within the Piney Branch SPA to the south, east and northeast and to protect the critical habitat of the State-listed endangered potato dandelion located within the southern and eastern portions of the Property along Shady Grove Road. In addition, the developable area of the Property is constrained by an existing 50-foot WSSC easement that transects the central portion of the Property.

2. *Is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The Planning Board concurs with the Staff recommendation and finds that the requested variance is based on the constraints of the Property, the proposed development density, and the public facilities and amenities, rather than on conditions or circumstances that are the result of actions by the Applicant.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The Planning Board finds that the requested variance is a result of the proposed site design and layout on the Subject Property and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The specimen tree requested for removal on-site is not located in an environmental buffer or the Piney Branch SPA. Therefore, the Planning Board finds that the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions. The Applicant proposes to remove one tree as a result of the proposed development. Mitigation should be at a rate that approximates the form and function of the trees removed. Therefore, replacement should occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" caliper trees. This means that for the 36" DBH of trees removed, the required mitigation will be three native canopy trees with a minimum size of 3" caliper. While these trees will not be as large as the tree lost, they will provide some immediate canopy and will help augment the canopy coverage. The Planning Board finds that the addition of three native canopy trees with a minimum size of 3" caliper to the final forest conservation plan to be sufficient mitigation. Because these trees are in mitigation for a specimen tree removed, these trees do not count toward requirements identified in the forest conservation worksheet.

Preliminary Water Quality Plan

As part of the requirements of the Special Protection Area law, a preliminary water quality plan must be reviewed in conjunction with a preliminary subdivision plan.³ DPS and the Planning Board have different responsibilities in the review of a water quality plan. DPS reviews and acts on those elements of the water quality plan that relate to water quality protection performance goals, stormwater management, sediment and erosion control, and monitoring of best management

³ Section 19-62 (b) of the Montgomery County Code states that "except as otherwise expressly provided in this Chapter, the requirements for a water quality inventory and a preliminary and final water quality plan apply in any area designated as a special protection area to a person proposing a land disturbing activity on privately owned property:....who is required by law to obtain approval of a development plan, diagrammatic plan, schematic development plan, project plan, special exception, preliminary plan of subdivision, or site plan.

practices. DPS has reviewed and approved the elements of the Preliminary Water Quality Plan under its purview. The Planning Board's responsibility in Section 19-65(a)(2)(A) is to determine if environmental buffer protection, SPA forest conservation and planting requirements, and site imperviousness limits have been satisfied.

Site Performance Goals

As part of the Preliminary Water Quality Plan, two performance goals were established for the site: minimize storm flow run off and minimize sediment loading and land disturbances with an emphasis on immediate stabilization.

Site Imperviousness

The Piney Branch SPA does not require a specified impervious limit on land development projects. However, the Applicant has reduced the impervious surface areas within the project area from the 41% in the initial Application to 36% imperviousness by reducing the surface parking. Due to previous dumping operations on the Property, encouraging methods to enhance groundwater recharge and infiltration on the Property may not be permissible. DPS has required a geotechnical report be provided with the Final Water Quality Plan for the Property that addresses whether areas are present within the Property to allow for groundwater recharge/infiltration. Staff required the Applicant to provide an impervious surface area map to depict locations where the Applicant has made an effort to reduce the imperviousness of the project area and will further explore other opportunities with the Applicant to reduce imperviousness before submission of the Final Water Quality Plan.

Environmental Buffers

There are no environmental buffers on the Property.

Forest Conservation

The Master Plan identified the Piney Branch SPA as containing remnants of a globally rare habitat supported by the serpentinite rocks that underlie parts of the area. The forest conservation plan identifies one high priority forest community within the southeastern portion of the project area. This forested area is an extension of the forest stand located along the eastern boundary of the Property and along Shady Grove Road. This entire forest stand, underlain with serpentine bedrock, supports a community of State-listed endangered potato dandelion. The Applicant proposes to retain this forest stand and to enhance it with additional forest and along a significant portion of the eastern boundary of the Property. The Applicant also proposes to place this forested buffer in a Category I conservation easement to further protect the forest community around the State-listed plant, and the Planning Board concurs with this requirement.

Stormwater Management Concept

The stormwater management concept plan proposes to meet required stormwater management goals via installation of a combination of micro-bioretenion facilities. The Board has required the Applicant to revise the limits of disturbance of the final stormwater management concept plan to match the limits of disturbance as depicted on the final forest conservation plan.

Sediment and Erosion Control

DPS is requiring redundant sediment controls to be used throughout the Property. The use of sediment traps with forebays that provide for containment of 125% of the normally required storage volume will be acceptable for larger disturbed areas. Silt fences alone will not be allowed as a perimeter control; the use of super silt fences will be acceptable for small areas of disturbance. In order to protect the high priority forest on-site and to reduce the amount of off-site forest removed, the Applicant must revise the limits of disturbance of the final sediment control concept plan to be consistent with the limits of disturbance depicted on the final forest conservation plan.

Noise

Noise impacts are anticipated from Shady Grove Road, an existing arterial road (A-34). A noise study is required to determine baseline noise, and the 20-year projected noise levels. If the study finds any outdoor recreation area and/or residential units are inside the 65 dBA Ldn noise contour, then further analysis is warranted at site plan.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months (5 years) from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to 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

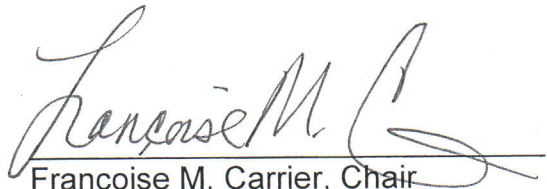
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is DEC 19 2012 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of

this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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 Vice Chair Wells-Harley, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, November 8, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board

