



**Wilgus, Preliminary Plan No. 120200140**

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Completed: 7/13/20

**Description**

Request to subdivide the Property into 111 lots for a proposed mixed-use development with a maximum of 1,040,789 square feet of total development, including a maximum of 1,025,789 square feet of residential uses and 15,000 square feet of non-residential uses, for a maximum of 745 dwelling units, including several parcels for private roads, private parks/open spaces, and HOA parcels.

Location: Montrose Road to the north, Towne Road to the east, Montrose Parkway to the south, and East Jefferson Street to the west.

Sector Plan: White Flint 2 Sector Plan.

Current use: Undeveloped except for an automobile service station.

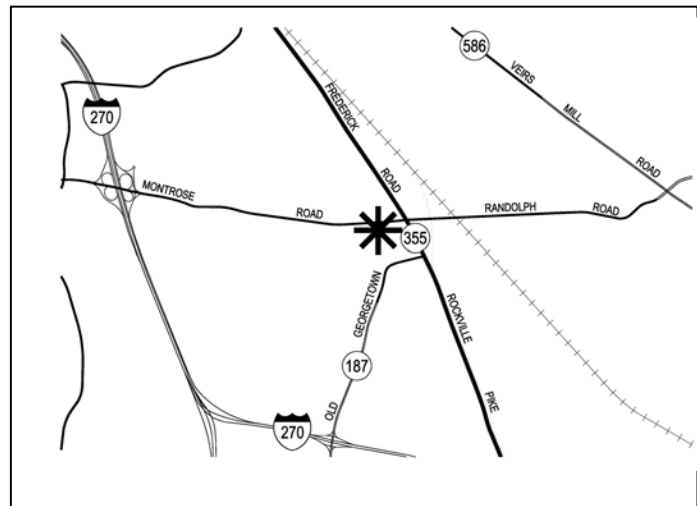
Zones: CR-2.0, C-1.0, R-1.5, H-200; CR-2.0, C-0.25, R-1.75, H-75; and CRN-0.75, C-0.0, R-0.75, H-50'

Size: 16.64-acre tract.

Applicant: Wilgus-Montrose Associates LLC.

Acceptance Date: February 21, 2020.

Review Basis: Chapter 50, Preliminary Plan.



**Summary**

- Staff recommends approval with conditions.
- On July 25, 2019, the Applicant received Sketch Plan approval with associated public benefits to support incentive density within the CR-zoned portion of the Site.
- Proposal to transform the Property from a single use gas station surrounded by wooded areas, into an infill development project with several housing types (including 15% moderately priced dwelling units (MPDUs), retail, and open spaces.
- The plan proposes the extension of Stonehenge Place between Montrose Parkway and Montrose Road.
- The plan proposes to construct various segments of separated bicycle facilities and a portion of the breezeway network – a master-planned bikeway along Montrose Parkway and Towne Road.
- The overall development is proposed to be built in four (4) phases.
- The abutting Cherington Homeowners Association has concerns about the Project including the landscape buffer, fencing, lack of a berm, stormwater run-off, traffic and parking.

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## SECTION 1: RECOMMENDATION AND CONDITIONS

### Preliminary Plan No. 120200140

Staff recommends approval with conditions of Preliminary Plan No. 120200140, including the Preliminary Forest Conservation Plan. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions:

#### General Approval

1. This Preliminary Plan is limited to a maximum of 1,040,789 square feet of total development, including a maximum of 1,025,789 square feet of residential uses and 15,000 square feet of non-residential uses, for a maximum of 745 dwelling units including up to 107 townhouse units on 107 lots, 638 multi-family units on four (4) lots (including two (2) lots for 34 stacked two-over-two townhouses and two (2) lots for multi-family buildings), and 15,000 square feet of non-residential uses on one lot shared with multi-family units, with additional various park/open space parcels, private road parcels, and HOA parcels.

#### Adequate Public Facilities, Preliminary Plan Validity, and Outside Agencies

2. The determination of Adequate Public Facilities (“APF”) and Preliminary Plan will remain valid for one hundred and twenty (120) months from the date of mailing of this Planning Board Resolution, according to the phases outlined below. Because the APF and Preliminary Plan validity periods are longer than the typical five years, phasing schedules in accordance with Sections 4.1.C.9.b, 4.2.G.2.b.iv, and 4.3.J.5.b of the Subdivision Regulations are required. The phasing schedule for the APF validity period is as follows:

Phase I: Building permits issued for a minimum of 23 dwelling units within 60 months from the 30th day after the resolution is mailed;

Phase II: Balance of building permits issued within 60 months from the expiration of the Phase I APF validity period;

With respect to the phasing schedule for the Preliminary Plan validity period, plats must be recorded and building permits issued as follows:

Phase I: Plats recorded for 24 lots (23 townhouse lots and 1 multi-family lot) and building permits issued for 127 dwelling units, including MPDUs, within 36 months from the 30th day after the resolution is mailed;

Phase II: Plats recorded for 22 lots (20 townhouse lots and two (2) stacked two-over-two townhouse lots) and building permits issued for 54 dwelling units, including MPDUs, within 36 months from the expiration of the Phase I preliminary plan validity period;

Phase III: Plats recorded for 64 lots (64 townhouse lots) and building permits for 64 dwelling units, including MPDUs, within 36 months from the expiration of the Phase II preliminary plan validity period;

Phase IV: Plats recorded for one (1) lot (one (1) lot for three (3) multi-family buildings) and building permits issued for 500 dwelling units, including MPDUs, and 15,000 square feet of retail shared with multi-family units within 12 months from the expiration of the Phase III preliminary plan validity period.

### Outside Agencies

3. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter July 9, 2020 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 MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
4. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
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 30, 2020 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 Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated May 4, 2020 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. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Housing and Community Affairs (“DHCA”), in its letter dated May 12, 2020 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

## **Environment**

### **Noise**

8. A noise study must be submitted with the initial Site Plan, showing existing noise impacts on the property and projected noise impacts based on the proposed development. The applicant will mitigate outdoor areas to below 65 dbA Ldn, where reasonable.

### **Forest Conservation**

9. The Applicant must comply with the following conditions of approval of the Preliminary Forest Conservation Plan, approved as part of this Preliminary Plan.
  - a) The applicant must submit a Final Forest Conservation Plan for the entire property with the first site. The Final Forest Conservation Plan must be consistent with the Preliminary Forest Conservation Plan.
  - b) Final Forest Conservation Plan must be approved prior to any demolition, clearing, grading or construction occurs on the property.
  - c) Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Cabin John Creek watershed to satisfy the off-site forest conservation requirements. If the credit is not available in the Cabin John Creek watershed, the offsite requirement may be met by purchasing from a mitigation bank elsewhere in the County, subject to Staff approval.
  - d) The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
  - e) The Limits of Disturbance (LOD) to reconstruct the Master-Planned Breezeway must be added to the Preliminary Forest Conservation Plan and the worksheet appropriately adjusted as a part of the Certified Preliminary Plan. Any other off-site improvements being required that will expand the LOD should be added as well.

### **Transportation**

10. Prior to the issuance of the final Use and Occupancy Certificate for the first phase of development, the Applicant must restripe the master-planned roadways along the site frontage including East Jefferson Street, Montrose Parkway, Montrose Road, and Towne Road (as applicable) to have travel lanes that are ten feet wide, subject to the satisfaction or deferment of the Montgomery County Department of Transportation.
11. Subsequent to MCDOT approval of the traffic signal construction plans and issuance of the right-of-way permit, the Applicant shall furnish and install a traffic signal at Montrose Parkway and Stonehenge Place, subject to the satisfaction of the Montgomery County Department of Transportation. The traffic signal must be operational prior to the issuance of the 43rd townhouse building permit for the site.
12. The Applicant shall construct a twelve-foot wide Breezeway along Montrose Parkway between E. Jefferson Street to Street C during Phase I of the development and the remaining section between Street C to Towne Road at the time of Use and Occupancy Permit for the first high-rise building, maintaining no less than six (6) feet separating the facility and the roadway per the

*Parking Lots to Places: White Flint 2 and Rock Spring Urban Design Guidelines.* The required facility and separation should be maintained along the entire extent of the Site's frontage.

13. The record plat shall show the dedication along the East Jefferson Street frontage ensuring no less than twenty-five feet is available between the edge of the eastern curb and the Property line.
14. Prior to issuance of the final Use and Occupancy Certificate of the first phase of development, the Applicant must provide a protected bicycle intersection at Montrose Parkway and East Jefferson Street and the master-planned separated bicycle lanes along East Jefferson Street. The Applicant may provide a fee-in lieu of construction to the Montgomery County Department of Transportation subject to MCDOT review and approval.
15. Prior to issuance of the final Use and Occupancy Certificate for the first high-rise multi-family building, along the Towne Road frontage, between the western curb edge and Property line, the Applicant must provide (from curb to Property line) a six-foot landscaped tree panel, a ten-foot two-way separated bike lane facility, and a sidewalk no less than six feet. The separated bike lanes should be depressed between the landscaping and sidewalk with a minimum of a 2.5" curb reveal.
16. Design and construct, prior to issuance of the final Use and Occupancy Certificate, a protected bicycle intersection, subject to the satisfaction of the Montgomery County Department of Transportation, where the separated bicycle lanes meet the sidepath (to be reconstructed to 12-foot-wide) on Montrose Parkway.
17. The Project must execute a Project-based Transportation Demand Management (TDM) Plan and must obtain approval from the Department of Transportation for the TDM Plan prior the first Use and Occupancy Certificate.
18. Design and construct prior to issuance of the final Use and Occupancy Certificate and dedicate the segment of "Street A" between Stonehenge Place and "Street C" as a private street, subject to the satisfaction of the Montgomery County Department of Transportation.
19. Prior to issuance of the final Use and Occupancy Certificate for the townhouses south of the Cherington community, provide appropriate pedestrian ramps and crossings connecting both sides of Street B at the two locations where the roadway bends sharply southward. Crossings may need to be raised or stop controlled due to poor visibility.
20. Prior to issuance of the final Use and Occupancy Certificate for the townhouses south of the Cherington community, provide speed calming measures at the two locations along Street B where the roadway bends sharply southward to reduce the potential for higher-speed, wide angled turns.
21. Prior to Site Plan approval, revise the loading program or execute a loading management plan governing the times of day trucks can enter the Site and associated operational safety requirements.

### Existing Frontage Improvements

22. To be shown on the record plat, the Applicant must meet the intent of the Bicycle Facilities Guidelines by dedicating 60-feet from centerline to the right-of-way along the Property's frontage of Towne Road for the future bicycle and pedestrian facilities along Towne Road.
23. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to construct 10-foot two-way separated bike lanes and a six-foot wide sidewalk along the Property frontage on Towne Road, and five-foot wide sidewalks along both E. Jefferson Street and Montrose Road, and a twelve-foot wide shared-use path along Montrose Parkway.

### New Streets

24. The Applicant must dedicate the rights-of-way for Street C and Stonehenge Plan extension to 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, or as modified by MCDOT's approved design exceptions.

### Private Roads

25. The Applicant must provide the Private Roads, labeled as Street A and Street B on the Preliminary Plan, including any sidewalks, bikeways, storm drainage facilities, street trees, street lights, private utility systems and other necessary improvements as required by either the Preliminary Plan, with final details to be determined at subsequent Site Plan (collectively, the "Private Roads"), subject to the following conditions:
  - a) The record plat must show the Private Roads in a separate parcel.
  - b) The Private Roads must be subjected by reference on the plat to the Declaration of Restrictive Covenant for Private Roads recorded among the Land Records of Montgomery County, Maryland in Book 54062 at Page 338, and the terms and conditions as required by the Montgomery County Code with regard to private roads set forth at § 50-4.3.E et seq.
  - c) Before issuance of any residential building permit that requires access via a private road, the Applicant must deliver to the Planning Department, with a copy to MCDPS, certification by a professional engineer licensed in the State of Maryland that the Private Roads have been designed and the applicable building permits will provide for construction in accordance with the paving detail and cross-section specifications required by the Montgomery County Road Code MC-2005.02, as modified on this Preliminary Plan, with final details to be determined at subsequent Site Plan, and that the road has been designed for safe use including horizontal and vertical alignments for the intended target speed, adequate typical section(s) for vehicles/pedestrians/bicyclists, ADA compliance, drainage facilities, sight distances, points of access and parking, and all necessary requirements for emergency access, egress, and apparatus as required by the Montgomery County Fire Marshal.

### Underground Utilities

26. Applicant must underground existing and future utility poles located along the Property's frontage on Towne Road, between Montrose Road and Montrose Parkway. The existing utility pole located at the intersection of Montrose Road and Towne Road identified as PEPCO 766444-199097 may remain.

## **Record Plats**

27. There shall be no clearing or grading of the Site prior to recordation of plat(s).

## Easements

28. The record plat must show necessary easements.

29. Provide a five-foot Public Utility Easement (PUE) along the Property's Montrose Road frontage.

30. The record plat must reflect a minimum four-foot-wide public infrastructure area adjacent to all Private Streets.

31. The record plat must reflect common ingress/egress and utility easements over all shared driveways.

## Notes and Labels

32. The record plat must reflect all areas under common ownership.

33. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Liber 28045 Folio 578 ("Covenant").

## **Other Payments**

### School/Park Site

34. In lieu of satisfying the Sector Plan recommendation for the dedication of land for a school site or athletic fields that can be used by MCPS and approximate the size of a local park, the Applicant shall make a financial contribution to the M-NCPPC Parks Department for land acquisition for parks or capital project(s), based upon \$0.80 per square foot of non-MPDU optional method density used within the CR zoned portion of the Subject Property. The final calculation of payment and CIP will be determined at each Site Plan. The financial contribution shall be phased and paid on a per unit basis at the time of building permit, derived from the percentage of elementary school students generated by each unit type for the entire preliminary plan.

### **Moderately Price Dwelling Units (MPDUs)**

35. The Applicant shall provide a minimum of 15% MPDUs as required by the Sketch Plan approval and the future Site Plan shall provide 15% in each mid-rise apartment and within each building for the three (3) high-rises.

### **Certified Preliminary Plan**

36. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).



37. 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 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.*
38. Prior to submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
- a) Show resolutions and approval letters on the certified set.
  - b) The Towne Road Section/Bicycle Master Plan Detail adjacent to the Site should include the following elements between the roadway curb and the Property line:
    - i) 6-foot landscaped buffer adjacent to the roadway curb (minimum);
    - ii) 10-foot two-way separated bike lanes; and
    - iii) 6-foot sidewalk (minimum) adjacent to Property line.
  - c) Relabel Central Public Park to Central Park or Neighborhood Park.

#### **Future Site Plan**

39. Before clearing or grading of the Property or recording a plat for the Property, the Applicant must receive Staff certification of a Planning Board-approved Site Plan. The number and location of site elements, including but not limited to buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined through Site Plan review and approval.
40. 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.
41. Evaluate additional sustainable features, as previously conditioned with Sketch Plan approval, to enhance the development, including energy conservation to further the Sector Plan's recommendations.
42. Continue to coordinate with Planning and Parks on the previous design recommendations provided to enhance the Neighborhood Park.
43. The following items must be addressed prior to filing and during the review of subsequent Site Plans that are adjacent to the Cherington Community:
- a) The 20-foot wide landscape buffer abutting the Cherington HOA townhouse community must be installed as part of any Site Plan that is filed adjacent to the Cherington Community. The Cherington landscape design drawings dated April 7, 2020 must be given consideration in development of the landscape buffer to be included in the Site Plan submission.
  - b) Careful consideration must be given to the timing to install the buffer plantings. Frequency of watering and care for the new plantings must be included in the required planting schedule.

- c) Long-term maintenance of the buffer must be assured, with the newly formed HOA for the development being responsible for the buffer. These provisions must be included in the HOA bylaws.
- 44. The Site Plan(s) must include the installation of a 6 feet 6-inch-high fence the length of the vegetated buffer along the Cherington property line. The type of fence, a synthetic wood-like material, and installation timing must be reviewed and approved during review of the Site Plan.
- 45. The future Site Plan will coordinate with the adjacent community and Staff regarding surface drainage water that may adversely impact the Cherington community.
- 46. Understanding there are utility and easement conflicts adjacent to the extension of Stonehenge Place, the Applicant, at the time of applicable Site Plan, shall continue to explore with MCDOT and/or MCDPS the feasibility of providing a planted buffer between the row of townhomes on Castle Gate Road and Stonehenge Place Extended.
- 47. As part of the initial Site Plan, the Applicant shall submit a phasing plan addressing the planting of the buffer area between to the north and the townhouse development to the immediate south. This buffer area shall be planted as soon as feasibly possible after the clearing and grading of the entire site for the construction of the townhouses and stacked two-over-two townhouses included in the first phase of redevelopment.

## SECTION 2: VICINITY AND SITE DESCRIPTION

### Vicinity

The Subject Property (“Subject Property” or “Property”- outlined in red in Figure 1 below) consists of a gross tract area of 725,023 square feet (or approximately 16.64 acres) and is known as Part of Parcel N (N273, N279, and N231), Parcel Q (N208), and Parcel R (N174), in the Washington Science Center Subdivision. The Subject Property is generally bounded by Montrose Road to the north, Towne Road to the east, Montrose Parkway to the south, and East Jefferson Street to the west. The Subject Property is located within the White Flint district, and within a short walking distance to the White Flint Metrorail Station.



*Figure 1: Vicinity Map (Subject Property outlined in red)*

The Subject Property is within close proximity to a range of residential, office, retail, commercial, and institutional uses. Located across Towne Road to the southeast is the Pike and Rose mixed-use neighborhood, with restaurants, retail, entertainment, hotels, and multi-family homes. Located across Montrose Road to the north is the Jewish Community Center and Hebrew Home campuses, multi-family apartments, and office condominiums. The Property confronts the United States Postal Service annex and low-rise professional offices to the east along East Jefferson Street. Nearby are numerous retail shopping centers along Rockville Pike, including Montrose Crossing, the Pike Center, and Federal Plaza.

Additionally, the Property is within a mile of the White Flint Metrorail station, and has quick access to RideOn bus service, and the Montrose Road/Rockville Pike Park and Ride facility. The Subject Property also has proximity to major highways and arterial streets, including access to Interstate 270 to the west via Montrose Parkway and Rockville Pike (MD 355) and Randolph Road to the east.

To the north and west of the Subject Property is the Cherington townhouse community which is located at the corner of Montrose Road and East Jefferson Street, and accessed from surrounding arterials via Stonehenge Road and Kings Bridge Way. To the south of the Subject Property, between Montrose Parkway and Executive Boulevard, is a swath of commercial buildings containing approximately 2.3 million square feet of office uses.

## Site Location

The Subject Property's tract area comprises three recorded parcels in the Washington Science Center Subdivision as shown in Figure 3. The Subject Property contains a gross tract area of 725,023 square feet, with a net lot area of 561,128 square feet and 163,895 square feet of prior dedications for Montrose Parkway, Montrose Road, Stonehenge Place, and East Jefferson Street. Except for the 3,120 square foot automobile service station with access onto Montrose Road, the Subject Property is unimproved and has two distinctive tree stands, one which primarily consists of Black Walnuts and the other Tulip Poplars. There is one existing main access point onto Montrose Parkway via Stonehenge Place, which will be utilized for the proposed project. There is an existing shared use path along Montrose Parkway.

The Subject Property is located within the Rockville Pike-Montrose North district of the *White Flint 2 Sector Plan*. As one of five areas within the Rockville Pike-Montrose North district, the Property is identified as the Cherington Area. The Property is split zoned: CRN-0.75, C-0.0, R-0.75, H-50, adjacent to the Cherington townhouses; CR-2.0, C-0.25, R-1.75, H-75, for the middle portion of the Property, including the gas station; and CR-2.0, C-1.0, R-1.5, H-200, for the area immediately west of Towne Road.

## Site History

The Subject Property also includes "Wilgus East", which is in the southwest quadrant of Montrose Road and Towne Road, is approximately 6.6 acres, and consists of Parcel N174 and Parcel N231. Located east of East Jefferson Street and west of Towne Road, Wilgus East is a part of an original 40-acre tract which the Applicant purchased in 1967. Roughly 20 acres of this original tract was reserved for the right-of-way for the Rockville Freeway, presently known as Montrose Parkway. At the time of original approval, Wilgus East was zoned Employment Office (EOF) 1.5, H-75 and EOF-3.0, H-100. The Property is also situated within the White Flint Special Taxing District, whereas the western portion of the Site is not. The Special Taxing District, which is an ad valorem tax, uses the property taxes to fund mobility infrastructure required in the phasing recommendations of the *White Flint Sector Plan*. A Preliminary Plan was approved for Wilgus East for office use on one lot and associated parking on the adjacent lot.

While Wilgus East has existing preliminary plan approval, the remaining undeveloped portions of the Subject Property does not but has the greatest potential for new mixed-use development in this area. The *Sector Plan* envisions the Wilgus properties contributing to a walkable, pedestrian friendly environment.

The rezoning of vacant Parcel N231, which is part of the Wilgus property, from the EOF-3.0, H-100 Zone to the Commercial Residential CR-2.0, C-1.0, R-1.5, H-200 Zone, was to promote mixed-use development that contributes to the Sector Plan's public benefits, including housing options and a 1.25-acre neighborhood green. The Wilgus East Property is permitted to receive excess density transferred from the adjacent Parcel N279, as no commercial development is permitted directly south of the existing Cherington residential community.



Figure 2: Subject Property (outlined in red)



Figure 3: Parcels on the Subject Property

### Previous Approval

The Applicant filed Sketch Plan No. 320190070 on March 25, 2019, which received Planning Board approval on July 25, 2019. The Application proposed to demolish the existing gas station and redevelop the Subject Property with up to 1,025,789 square feet of residential uses in townhouses up to 50 feet in

height, apartment buildings up to 50 feet in height on the central and eastern portions of the Property, an apartment building up to 85 feet in height on the eastern portion of the Property, and mixed-use buildings up to 200 feet in height on the Property’s eastern edge. Up to 248,709 square feet of commercial uses were anticipated to be located in the proposed mixed-use buildings.

The Sketch Plan offers mixed-use development, including a range of residential building types including townhouses, stacked townhomes, apartment buildings, and high-rise multi-family housing in mixed-use buildings with ground-level activating commercial uses near existing employment, services, and transit. Combining various housing options, activating retail uses, and open spaces, the Project aims to strengthen links between the Pike and Rose neighborhood and the Executive Boulevard corridor. The Project will include the required 15% Moderately Priced Dwelling Units (MPDUs).

The proposal includes significant additions to the Property’s internal roadway network and circulation patterns. It will transform key intersections in the 2018 *White Flint 2 Sector Plan* area at Montrose Road and Towne Road and Montrose Parkway and Towne Road, as well as enhance the appearance and activity along Towne Road. Additionally, the Applicant proposed the inclusion of significant environmental site design (ESD) facilities.

The Sketch Plan was not supported by the Cherington community to the north of the Site, due to a variety of concerns, including the proximity of the proposed abutting townhomes. At the July 2019 public hearing, the Planning Board did not accept Cherington’s request to remove the proposed townhouse units in the Plan to preserve a section of the existing forest and decided that further evaluation to save a portion or all of the forest would occur at subsequent Preliminary Plan and Site Plan review.



Figure 4: Approved Sketch Plan

## SECTION 3: PROJECT DESCRIPTION

### Proposal

The approved Sketch Plan permitted a cumulative maximum development of 1,274,498 square feet. The current Application proposes to utilize 1,040,789 square feet of total development. Consistent with the approved Sketch Plan, the current Application seeks to subdivide the Property into 107 residential lots for the development of 107 townhouses and four (4) residential lots for a total of 638 multi-family units. More specifically, of the four (4) lots, two (2) lots will be created for two-over-two units and two (2) lots for multi-family buildings. One of the multi-family buildings will combine residential units with 15,000 square feet of ground-floor retail oriented towards the intersection of Montrose Parkway and Towne Road.

Out of the 107 townhouse lots, a total of 64 townhouse lots will be located south of the existing Cherington townhouses. This unit total has been reduced from 69 townhomes envisioned in the Sketch Plan application. The remaining 43 townhouse lots are proposed for the central portion of the Site.



*Figure 5: Preliminary Plan*

### Access and Circulation

The Project proposes additional parcels for new streets. The Site is bounded by Montrose Road to the north, Montrose Parkway to the south, East Jefferson Street to the west, and Towne Road to the east. The Applicant proposes to extend existing Stonehenge Place from Montrose Parkway to Montrose Road, which will provide through movement circulation and internal connectivity to the proposed development. The proposed Stonehenge Place extension bifurcates the Site into eastern and western “halves,” which coincide with the extent of the White Flint Special Taxing District.

The eastern half of the Site falls within the Special Taxing District and will be served by a new curb cut created via the extension of Stonehenge Place north to Montrose Road, as well as two (2) new curb cuts connecting Montrose Road to Montrose Parkway, paralleling the proposed Stonehenge Place extension.

Proposed as Street C in Figure 6, this through connection improves porosity between Montrose Road and Montrose Parkway. Each of the new three (3) curb cuts on the eastern portion of the Site will be limited to right-in, right-out turning movements due to the existing median on Montrose Parkway and safety needs along Montrose Road.

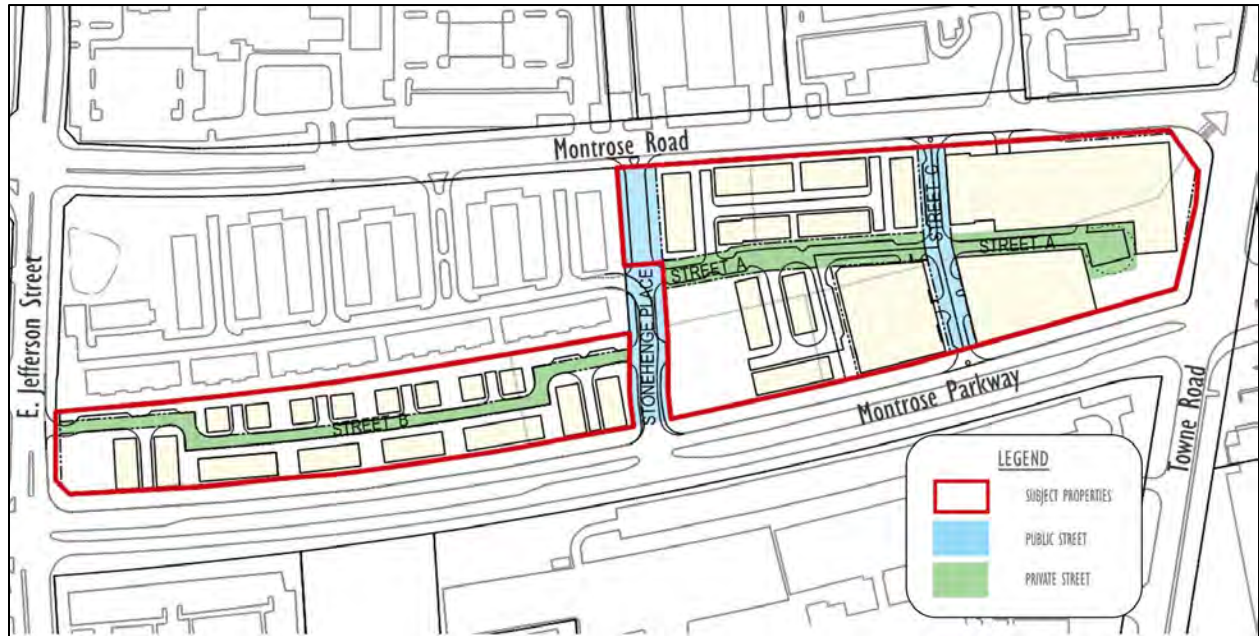


Figure 6: Proposed Internal Streets

The Applicant proposes to dedicate the proposed portion of the north-south segment of Stonehenge Place and “Street C” as a public street (Figure 6), with modified street standards. Per previous comments on the Sketch Plan, Planning Staff recommends and has conditioned for approval, that the Applicant dedicate the portion of “Street A” between proposed “Street C” and Stonehenge Place to public use as it is proposed to provide connectivity between two (2) public street segments. The segment of “Street A” east of “Street C” will remain private.

#### Pedestrian Facilities

The Applicant’s proposal provides adequately wide pedestrian facilities along the site’s frontage, including the existing 10-foot wide Montrose Parkway sidepath. Pedestrians can enter the Site through the proposed public open space located at the corner of Montrose Parkway and Towne Road, by the various sidewalks associated with roadway connections into the Site, or by using the lead walks that connect alley stubs to the proposed townhomes. The Applicant proposes to provide paths that align with anticipated pedestrian demand within the proposed park areas.

#### Affordable Housing

The Application is required to provide Moderately Priced Dwelling Units (MPDUs) per Chapter 25A-5 of the Montgomery County Code, as the Project results in the development of more than 20 dwelling units. The Project will provide 15% of the total number of residential units or residential square footage as MPDU’s as follows: 90 multifamily high rise MPDUs (900 sq. ft. per unit), seventeen (17) 2 over 2 MPDU’s (1,484 sq. ft. per unit), and 1 townhouse MPDU (1,440 sq. ft.).



### Height Requirements and Compatibility

As previously noted, the Subject Property falls within three distinct zoning categories. Therefore, the maximum building heights for the townhomes and multi-family units will adhere to the mapped zones. Specifically, the maximum building height for the CR-2.0 C-1.0 R-1.50 H-200 zoned portion of the Property is up to 200 feet for the mixed-use buildings with ground-floor retail and liner residential units, as well as a shorter multi-family building. The maximum building height for the CR-2.0 C-0.25 R-1.75 H-75 zoned portion of the Property is up to 75 feet for townhomes (with unit widths of 16 and 22 feet) and two-over-two stacked townhomes in multi-family buildings (with unit widths of 24 feet). The maximum building height for the CRN-0.75 C-0.0 R-0.75 H-50 is up to 50 feet for townhomes (with unit widths of 16 and 22 feet).

### Open Space

The Application includes additional lots and parcels for privately owned and maintained open spaces/parks that will be open to the public and other open spaces. Consistent with the approved Sketch Plan, the Application proposes to provide all required open space as public open space in three areas distributed through the Property: the approximately 0.21-acre Western Private Park, the approximately 0.75-acre Central Park, and the approximately 0.44-acre East Urban Plaza. The combined area of these proposed public open spaces is approximately 1.40 acres, which exceeds the 10% open space requirement of 1.25 acres.

The largest of the Project's public open space is the Private Central Park which is approximately 0.75-acre and is located in the middle of the Property fronting Montrose Parkway and Stonehenge Place as illustrated in Figure 7. The Central Park is intended to create active and passive recreation opportunities for the surrounding neighborhood. The preliminary concept for the park includes an entry feature visible from Montrose Parkway, lawn area with seating, public art and other features to invite users in from the adjacent planned breezeway network along Montrose Parkway. It has been determined that the Central Park will not be dedicated to the Parks Department, as previously requested by the Applicant.



Figure 7: Rendering for the Central Park

The Applicant submitted two (2) Neighborhood Park concepts for review by MCDPS, the Planning Department, and the Parks Department on programming, layout, and stormwater management. One was based on desired amenities identified by agency Staff. A second concept, as shown below, reflects feedback from DPS Staff, which encouraged replacing the above-grade and underground stormwater management facilities with bio-retention planting areas. Therefore, the Central Park concept shown includes a bio-retention planting area at the northern edge of the open space. Due to grading that creates a downward slope, much of the Park will not be readily visible from the street level and several staircases are proposed.



Figure 8: Central Park Programming & Stormwater Management Concept Recommended by MCDPS

The East Urban Plaza (Figure 9), which proposes approximately 0.44 acres of public open space, is located at the corner of Montrose Parkway and Towne Road along the Property’s eastern boundary. This open space area will contain seating, soft- and hardscaping, ground-level activating uses, and will create new pedestrian connections between the Subject Property, Pike and Rose Shopping Center, and the Rockville Pike corridor.



*Figure 9: East Urban Plaza Rendering*

The Project also includes the approximately 0.21-acre Western Park at the corner of East Jefferson Street and Montrose Parkway (Figure 10). The Application proposes this public open space to include lawn area, landscaping, seating, and pathways, abutting sidewalks, and townhouse lead-walks. The Western Park is designed to serve as a gathering area for the Project’s residents, as well as pedestrians and cyclists using the shared-use path along Montrose Parkway.



*Figure 10: Western Park Rendering*

Additional details for all proposed parks related to design, programming, and amenities will be coordinated with the Parks Department, Planning Department, and MCDPS Staff during development review and finalized as part of the Site Plan approval.

### Vegetated Buffer

In accordance with the White Flint 2 Sector Plan recommendations for screening and compatibility and the Sketch Plan approval, the Application must also include a minimum 20-foot-wide vegetated buffer with landscape screening between the existing Cherington townhomes to the north and the Project's proposed 64 townhouses to the south. This buffer area contains approximately 0.45 acres; however, this area is not public open space nor included in the public open space calculations. It was determined that a vegetated buffer that incorporates some of the existing specimen trees would not be the best long-term approach due to critical root zone impacts, and mature trees that were once located interior to the forest becoming exposed and vulnerable as exterior trees. The Application includes a landscaping concept for the buffer area that is 20 feet in width that emphasizes screening with over 250 new plantings such as deciduous trees, evergreen trees, ornamental trees, and shrubs, with the final buffer design to be determined at Site Plan.



*Figure 11: Proposed Vegetated Buffer with Newly Planted Trees*

The proposed planting schedule aims to maximize year-round screening at both the ground level and at elevation. Evergreen shrubs will be approximately three feet when planted and are expected to reach approximately six to eight feet in approximately 10 years. The adjacent community does not support the Applicant's proposed planting schedule. Therefore, the Cherington HOA provided a revised landscape schedule that requests the Applicant to establish a berm for plantings, incorporate species such as Norway Spruce, and improve spacing for a more desirable and effective year-round screen, noise reduction, and light mitigation between the communities. The final planting schedule and locations will be determined at the time of Site Plan approval, in consultation with Planning Staff and community representatives as appropriate regarding planting types and locations during review of the subsequent Site Plans.

### Environment

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) for the Subject Property was approved on July 9, 2018 (NRI/FSD No. 420182300). The net tract area for the PFCP is 14.96 acres, of which 11.30 acres is forested. The Property contains no streams or stream buffers, 100-year floodplains, hydraulically-adjacent steep slopes, or known occurrences of rare, threatened, and endangered species. The forest includes approximately 120 mature trees of 30 inches diameter at breast height (DBH) or greater.

The Application proposes to clear all 11.30 acres of forest. A Forest Conservation Plan was submitted with the Preliminary Plan and will be reviewed again at the Site Plan review. The Sketch Plan approval required the Applicant to include in the Preliminary Plan a robust response to the Sustainability recommendations in the *White Flint 2 Sector Plan* in an effort to replace some of the environmental and human health benefits that will be lost when the forest is removed. This evaluation is included in the findings below.

#### Stormwater Management

The Application includes environmental site design (“ESD”) techniques that will filter and retain stormwater on-site such as micro-bioretenment areas, swales, planter boxes, and green roofs. Plantings will also be used in ESD’s to the greatest extent feasible. The Applicant submitted a stormwater concept to MCDPS which was reviewed and approved with conditions on June 30, 2020.

## SECTION 4: COMMUNITY CORRESPONDENCE

The Applicant has met all proper signage, noticing, and pre-submission meeting requirements under the Zoning Ordinance and the Manual of Development Review Procedures for Montgomery County.

### Pre-Submittal Meeting

On December 17, 2019, the Applicant held the required pre-submittal public meeting at the Bethesda North Marriott Hotel and Conference Center. A total of 33 residents and interested parties were in attendance. Public concerns and questions were raised about the following issues:

- Increasing traffic, inadequate traffic control signage, and parking;
- The loss of mature forest, timing of clearing, and feasibility of tree retention;
- Impact of an economic downturn on the Project;
- Storm-water management;
- Treatment and maintenance of the landscape buffer proposed between the existing community;
- The architecture of the townhomes;
- Light spill-over on surrounding properties; and
- Duration of construction and phasing.

### Cherington Homeowners Association

The Project abuts the Cherington townhouse community, which is located at the southeast corner of E. Jefferson Street and Montrose Road. Since the Sketch Plan review process, Cherington has been active in the regulatory review process to voice their concerns about this Project. On behalf of the Cherington Homeowners Association (HOA), the President of the Board of Directors submitted a review of this Preliminary Plan to the Planning Department on March 12, 2020 (Attachment 7).

Issues raised included the following:

- Landscape design and fencing for the required buffer to separate Cherington from the Project;
- Construction of a 2- to 3-foot berm to give added height to the landscape planting to help manage storm-water run-off;
- Reuse of topsoil to create the required landscape buffer as a form of green recycling;
- Strategic timing for the removal of trees on the 6.5 acres of land south of Cherington;
- Managing the sequence of activities to avoid leaving Cherington exposed to Montrose Parkway when the forest stand is removed;
- Plant an evergreen buffer behind the row of townhomes on Castle Gate Road that will become exposed when Stonehenge Place is extended; and
- Address traffic concerns at the intersection of Montrose Parkway and Stonehenge Place and parking issues generated near the proposed central park.

As previously noted, the Cherington HOA submitted a planting schedule designed by a licensed Landscape Architect for the vegetated buffer that lists requested improvements to the Application. A final revised version was submitted on April 7, 2020 (Attachment 8).

The Applicant has acknowledged the requested changes in tree species to achieve the greatest screen between the two developments. The final planting schedule will be determined at the time of Site Plan approval.

The Applicant has met with representatives of the Cherington HOA to review their concerns, conditions for approval, and discuss solutions, to be addressed either with this Application or at the time of a

subsequent Site Plan. Planning Staff also met with the Cherington representatives on March 11, 2020, and held two conference calls on May 15, 2020, and May 26, 2020, to answer questions about the Application and to review their comment submittals found in Attachments #7 and #8.

Staff also received a telephone call reporting the lack of property maintenance at the Site.

## SECTION 5: PRELIMINARY PLAN ANALYSIS AND FINDINGS

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 proposed lot sizes and layout of the subdivision are appropriate given its location, the type of use contemplated, and the applicable requirements of Chapter 59 of the Montgomery County Code. The Preliminary Plan will accommodate development on the Property at an appropriate and efficient location, with appropriate building setbacks from existing and proposed roadways and the abutting property. Generally, the parcel plan for the 16.64-acre tract is largely in response to land constraints of the western 6.5-acre portion of the Site, the abutting townhouse development, the larger surrounding roadway network, and internal circulation needs. Consistent with the recommendations of the Sector Plan, the proposed lots accommodate a variety of uses at various development intensities, which includes traditional townhomes, stacked townhomes, high-rise multi-family, and high-rise mixed-use buildings.

The 6.5-acres of land on the western portion of the Site is narrow and has frontage along two existing roadways – Montrose Parkway and E. Jefferson Street. The proposed layout of the 64 townhouse lots seeks a compatible relationship with the existing Cherington townhouse community to the north, which will be separated by a proposed vegetated buffer. A wide range of lot arrangements is fairly limited due to the overall size of the 6.5 acres of land, the desired unit yield, and feasible road and alley layouts. However, there have been previous iterations of lot arrangements for this portion of the Site. In particular, the current arrangement of the 16 townhouse lots closest to the Cherington townhomes has been rotated west to east so that the side facade only of a few units are exposed to the north, which addresses privacy needs and concerns.

The proposed townhouse lots located in the center of the Site are arranged to take advantage of site features such as the proposed Central Park. Also, the proposed townhomes on the west and central sections of the Site can yield smaller lots that are compatible with the existing lot sizes of the abutting townhouse development. Finally, the proposed residential lots in the Project are oriented both north to south and west to east which offers variation in the arrangement and therefore visual interest at the street level.

The Project's roadway design also achieves improved pedestrian, bicycle, and vehicular circulation. Additional parcels are proposed for an internal roadway network that connects with surrounding roadways and the provided rights-of-way are adequate to support transportation and utilities. As required, all proposed lots front onto a public or private road, sidewalks are provided, and access is adequate to serve the lots for emergency vehicles. As previously noted, the Project includes two new north-south streets (Stonehenge Place extension and Street C) connecting Montrose Parkway and Montrose Road, two new east-west streets (Streets A and B) connecting from East Jefferson Place to Stonehenge Place to Public Street C, and a new through-block shared street connecting two new street intersections with the East Urban Plaza. A third new north-south street (Private Street D) will offer access between Street A and an alley for those townhouses located between the Central Park and the adjacent apartment building.

The internal streets are designed as short blocks to comply with Chapter 50 of the Montgomery County Code. Additionally, a significant length of Private Street B (through the western 6.5-acre



portion of the Site) is shifted south towards Montrose Parkway to create a greater degree of separation between the roadway and the Cherington townhouses.

Further, in accordance with Section 50.4.3.B of the Subdivision Regulations, the subdivision layout for the four (4) lots for multi-family and mixed-use buildings provide for efficient accessibility and circulation via appropriate sidewalks that connect to other uses within the Site and orients access points for direct building access and parking.

For the above-stated reasons, the proposed lot sizes and layout of the subdivision are appropriate given the location of the Site, the type of use contemplated, and the applicable requirements of Section 50.4.3.C the Subdivision Regulations.

*a. The Lot(s) and Use comply with the basic requirements of Chapter 59.*

The Preliminary Plan meets the dimensional requirements for the CRN and CR zones as specified in the Zoning Ordinance, as shown in Table 1 below, in relation to maximum density, height, setback compatibility, and minimum open space. Additionally, the Application must provide the minimum required amount of parking spaces for residents and visitors. The final number, configuration, and location of parking spaces will be determined at Site Plan(s) based on the square footage of non-residential uses, and number and type of residential dwelling units.

Table 1: Development Standards in the CR and CRN Zones

Description	Required/ Permitted (CR-2.0, C-1.0, R-1.5, H-200)	Required/ Permitted (CR-2.0, C-0.25, R-1.75, H- 75)	Required/ Permitted (CRN- 0.75, C-0.0, R-0.75, H-50)	Proposed
<b>Tract Area</b>	410,253 sf.	174,332 sf.	140,438 sf.	725,023 sf. (16.64 ac.)
<b>Maximum Density</b>				
Total	820,506 sf.	348,664 sf.	105,328 sf.	up to 1,040,789 sf.
Commercial	410, 253 sf.	43,584 sf.	0 sf.	15,000 sf
Residential	615,380 sf.	305,082 sf.	105,329 sf.	up to 1,025,789 sf
<b>Maximum Height</b>	200 ft.	75 ft.	50 ft.	up to 50 - 200 ft.
<b>Height Compatibility</b>	No structure may protrude beyond a 45-degree angular plane projecting over the subject property, measured from a height equal to the height allowed for a detached house in the abutting or confronting Residential zone.			Height compatibility complies
<b>Minimum Public Open Space</b>	10%/54,450 sf			Minimum 10%/54,450 sf to be provided; Sketch Plan anticipates up to 11%/60,984 sf
<b>Setbacks</b>	Determined by site plan.			To be set by site plan

<b>Setback Compatibility</b>	The minimum rear setback is equal to 1.5 times the minimum rear setback required for a detached house on the abutting property.	Project complies with setback compatibility requirements as measured from property lines with all abutting residential lots
<b>Form</b>	Determined by site plan.	To be addressed by site plan
<b>Minimum/ Maximum Parking Spaces Permitted</b>	3.5 /1,000 sf of gross leasable area (commercial)/ 1 DU or 2 DU (by residential density)	Determined by site plan.

*b. Private Roads*

Private Roads - Section 50-4.3.E.4

Street B is proposed as an internal private road in the Project. Under the Sketch Plan, Street A was previously identified as a private road; however, by request of MCDOT and Planning Staff, the Applicant has agreed to provide this private road, located between Stonehenge Place and proposed Street C, as a modified public street.

The Applicant proposes Private Road B. Per Section 50.4.3.4.c., in requesting a private road, the Applicant agrees, per the conditions of approval, that the proposed private roads must be built to the construction specifications of the corresponding, modified public road standards including paving detail and design data, and surface depth and structural design. The proposed private road must be fully accessible to the public; accessible to fire and rescue vehicles, as needed; and designed to the modified public road standards (See Attachment 10 – Applicant’s Justification for Private Road).

For this subdivision, the proposed private internal street meets the minimum standards necessary for approval. The private road will be constructed to the minimum public road structural standards, will have a minimum 20-feet of pavement width and adequate turning radii where needed for emergency access, an appropriate paving cross-section elsewhere for private vehicles, and an appropriate circulation and turnaround pattern. The private road will modify public road standards MC-2005.02. The private road will be located within a separate private road parcel and will be shown on the Certified Preliminary and Site Plans and Record Plat, with the standard covenant that ensures they are adequately maintained and remain fully accessible to the public.

The private road is intended to provide necessary flexibility in right-of-way width and road design, that cannot be achieved under Chapter 49, to provide enhanced sidewalk, curb and crosswalk design features that promote pedestrian circulation. Designed primarily for townhouse access and not be used as a through street, Private Road B will be a 20-foot right-of-way with 23 feet of area for planter boxes, 6-foot wide tree panel, and a five-foot wide sidewalk on the southern side, and 5 foot-wide Public Utility Easements (PUEs) on both sides.

As explained earlier in this Report, the Applicant proposes to provide a restricted right-out exit onto East Jefferson Street. The right-out curb cut will be located approximately 125 feet from the intersection of Montrose Parkway. While the location of the proposed exit is not ideal due to proximity, restricting the access point to be right-out limits the potential queue spillback into the

existing intersection of Montrose Parkway and East Jefferson Street and restricts turns over multiple lanes of traffic.

To improve safety and potentially introduce full access, Staff discussed the potential to extend the existing east-west portion of Stonehenge Place (extending through the existing Cherington Community) through to East Jefferson Street as an alternative east-west connection; however, a curb cut which previously existed at the potential location was removed per coordination with the Cherington Community and MCDOT following the construction of Montrose Parkway. Because the connection is privately held by the adjacent Cherington Community, Staff cannot compel the provision of this safer option.

The design of Street B is undesirable due to poor visibility at the four “corners” where the road bends southward. The Plan does not include dimensions, but it appears that the centerline curve radii are not compliant with the 100-foot curve radii requirement of Chapter 49 § 4.3.E.2.g. Staff typically prefers private roadways to be designed to public street standards; however, the private connection allows for the provision of additional housing units. The roadway is traversable by fire and safety vehicles. As a condition of approval, Staff recommends that the Board condition the Applicant to provide speed calming measures at the two locations along Street B where the roadway bends sharply southward to reduce the potential for higher-speed, wide angled turns, which could result in conflicts. Additional crossing treatment needs at these two locations are discussed in the “Pedestrian Facilities” section of this Report.

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

The Preliminary Plan substantially conforms to the recommendations within the 2018 *White Flint 2 Sector Plan* (“Sector Plan”), as outlined below for various areas of emphasis.

a. Land Use

Generally, the Sector Plan intends to:

- Concentrate additional density in areas with potential to create mixed-use activity centers in support of ongoing County efforts to transform these areas;
- Highlight properties that will improve connections between districts, if redeveloped;
- Promote compatibility among new development, adjacent high-density development, and existing low-density residential communities; and
- Identify properties that could develop as unique mixed-use neighborhood centers to serve established residential communities.

More specifically, this review of the Subject Project is guided by language that forms the recommendations of the Sector Plan. The *White Flint 2 Sector Plan* is organized into four districts. The Subject Property is located within the Rockville Pike-Montrose North District. These districts are further divided into smaller areas to provide more specific recommendations. The Sector Plan identified the Wilgus property and indicated that “undeveloped portions of the Wilgus property have the greatest potential for new development. Redevelopment in this area would serve as an important link between the Executive Boulevard District and the Pike and Rose development” (p.37). The Sector Plan envisions the Wilgus properties contributing to a walkable, pedestrian-friendly environment.

Further, for the Wilgus property, the Sector Plan notes that the “land use and zoning recommendations for the Wilgus property will permit greater intensities and building heights via the CR Zone on the eastern portion, and lower heights and densities via the CRN Zone on the western portion adjacent to the existing Cherington townhouses. At least 1.25 acres of open space should be provided in the Wilgus property when it is developed, either on the area south of the existing townhouses and/or as a neighborhood green on the central or eastern portion of the Wilgus property. If the area south of the Cherington townhouses is developed with residential units, there should be appropriate transitions between the two communities, including landscaping”.

Additionally, for the 3.5-acre property (Parcel N273) that is east of the intersection of Montrose Parkway and East Jefferson Street, the Sector Plan recommends that “during the development review process, pursue options for preserving all or a portion of the wooded area along Montrose Parkway for passive use. Ensure that new residential development is compatible with the adjacent townhouse community”. The Application is compatible with the abutting residential use because the proposed townhouses will face the existing townhouses. Staff has provided an assessment of this requirement under the Forest Conservation Plan discussion in Chapter 5.

#### Density and Building Height

The proposed density and building heights are consistent with the Sector Plan’s recommendations. Proposed residential townhouses west of Stonehenge Place are within the 50-foot height limit; residential townhouses and mid-rise buildings, within the middle segment of the development are within the 75-foot height limit; and the area west of Towne Road is within the 200-foot height limit. The Project’s overall density is within the Sector Plan’s density recommendations.

#### Design and Connectivity

The Sector Plan’s design and connectivity recommendations for the Wilgus Property are to:

- Establish a pattern of short blocks and internal streets to promote walkability.
- Locate maximum building heights at the eastern end of the Property along Towne Road.
- Reduce building heights toward the existing Cherington townhouse development to establish a compatible relationship with the existing residential development.
- Enhance pedestrian areas along Towne Road to improve pedestrian connectivity between northern and southern districts.
- Extend Stonehenge Place as a public street to connect between Montrose Parkway and Montrose Road.
- Create open spaces, including an area with a minimum of 1.25 acres, for public use that are connected to the overall open space network.
- Provide screening via fencing, a hedge, tree planting or other appropriate means between the existing Cherington townhouses to the north, and any new development to the immediate south (p.38).

Overall, the Preliminary Plan achieves these design and connectivity requirements, including providing a total of 1.43 acres of public open space, including a .75-acre central park. This park and the western open space are linked to the Montrose Parkway. Stonehenge Place and Street “C” are proposed as public streets and building heights transition from the tallest along Towne

Road to lower level townhouses, which are primarily adjacent to the existing Cherington townhouses.

#### Affordable Housing

The Sector Plan's housing chapter requires that "15% MPDUs as the highest priority public benefit for all new residential development unless the property is required to dedicate land for a school site or athletic fields can be used by Montgomery County Public Schools (MCPS) and approximate the size of a local park." The development is proposing 15 percent MPDUs for the development; therefore, it is consistent with the Sector Plan recommendations for affordable housing. The Applicant proposes that 17 of its required 22 MPDUs for Phase 1 be comprised of lower-level units of 2-over-2 townhomes with the remaining dispersed though the townhouses. The final MPDU location plan will be finalized at the time of Site Plan.

#### Public Facilities

The 2018 Sector Plan recommends that "each and every development application should be thoroughly evaluated for a potential school site, notwithstanding any previous development approvals. It is this Plan's direction that the Planning Department will negotiate for maximum dedication of land for a school site and that this be the top priority benefit under the review process of projects proceeding under these plans" (p.96). During Sketch Plan, it was determined that the Applicant would be subject to a proportional financial contribution towards compliance with the Sector Plan recommendation for dedication of land for a school site or athletic fields that can be used by (MCPS) and approximate the size of a local park, and would be further addressed at the subsequent Preliminary Plan. As part of this Application package, the Applicant is required to make a payment to the Commission which is required as a condition of approval of the Preliminary Plan to gain public benefit points. The contribution from the Applicant will be used for new parkland and/ or new parks facilities within the boundary of the White Flint or White Flint 2 Sector Plans.

#### Public Open Space

The Parks section of the 2018 White Flint 2 Sector Plan also recommends to "create a minimum 1.25 acre open for public use at the Wilgus property when it redevelops." The Plan illustrates more than 1.25 acres of Public Open Space, which includes a central park and the required Common Open Space for the townhouse development on the Property.

As previously noted, a Central Park concept was provided by the Applicant during the pre-submission phase. In addition to MCDPS's input for a design that achieves optimal stormwater management, the Planning and Parks Departments reviewed and provided joint input for the Central Park. Feedback for revisions to the earlier concept included a focus on three key areas: public ownership, park design, and tree conservation.

Regarding ownership, the Parks Department will not accept the Neighborhood Park; therefore, it will remain in private ownership but with public access. Regarding park design, the topography needs to be addressed to make the park visible from the street for broad public invitation and use to overcome the existing down sloping of the proposed park. Additionally, Planning and Parks have requested: 1) the expansion of the proposed buffer between the proposed bikeshare station and adjacent townhomes to help with tree save and appropriate separation from a public-serving park facility and 2) a terraced approach to dividing up the park by seamlessly transitioning to

address the significant grading issues, and 3) addressing park fragmentation and lack of gathering spaces.

Planning and Parks have emphasized to the Applicant that tree preservation throughout this development is critically important; therefore, the proposed Neighborhood Park design should be revised to demonstrate the feasibility of the tree saving by reconsidering unit layout, location, and number related to the tree saving. The Park Concept was previously based upon saving three large specimen trees. Staff also explored with the Applicant the preservation of these few variance trees in the Central Park but determined that the extent of critical root zone disturbance to construct the park would preclude saving these trees.

Additional Staff comments included: 1) Conduct more on-the-ground assessment to determine the extent that additional forest can be saved in the neighborhood park area and western park, 2) Consider an approach that preserves small trees with smaller root zones that have a greater chance of survival than larger trees that may become hazards to adjacent new homes, and 3) address the requirement to provide an alternative assessment for forest preservation per the approving resolution of the Sector Plan. These items were addressed in the Application submittal and further explained under the Forest Conservation Plan section of this report.

#### Forest Retention on Western Portion of Property

Montgomery County Council Resolution 18-979 approving the White Flint 2 Sector Plan included the following requirement to: “pursue options for preserving all or a portion of the wooded area along Montrose Parkway for passive use.”

Virtually the entire Property is forested, so no development of any consequence can occur without clearing forest. The eastern portion of the Site is within the comfortable walkshed to reach the White Flint Metro Station. The *White Flint 2 Sector Plan* recognizes the value of this Property to create dense development near Metro, enabling people to reduce or eliminate single-driver automobile trips. This results in significant environmental benefits, including reduced air pollution and reduced carbon emissions.

In response to the Sector Plan requirement, the Applicant submitted a response dated April 21, 2020, which outlined three options that were considered: (1) To preserve all of the wooded area in this parcel; (2) to preserve a portion of the wooded area; and (3) to try to preserve individual trees within the required 20-foot landscaped buffer between the new development and the adjacent Cherington townhouse community. The justification detailed in this letter broadly speaks to the hardship of preserving variance trees and the forest on the Property.

Per the April 21 letter, the Applicant states that “The first option Applicant considered is retaining the entire forested area south of the existing Cherington townhouses.” The Applicant notes that the proposed development is consistent with the recommendations of the *White Flint 2 Sector Plan*. Parcel N273 comprises three acres, or 20% of the 14.96 Net Tract Area of the Site and lies just along the outer edge of the walkshed to the White Flint Metro Station. It is both a County and a Planning Department priority to locate development near transit. Retaining the entire forest on Parcel N273 would deny the Applicant the ability to build residential units on 20% of their site near a Metro Station in conformance with County and Planning Department plans and policies. This appears to constitute denial of a reasonable and significant use of this Property.

The second option is to retain a portion of this forested area. This is complicated by both the form of the trees in this area, the shape of the Property, and the required road (Street B). Because the trees in this parcel have grown in a forest setting, their form is different from trees that are grown in the open. Notably, forest-grown trees have tall trunks with their leaf canopy at the top. In addition, their root systems are intertwined with the trees around them. Such trees are stabilized against storms and windthrow by growing as a forest unit. The interior trees are also protected from sun damage and changes to the forest microclimate. Preserving these trees therefore would require that they be saved as part of a large enough block of forest to continue to stand as a unit.

Retaining a forest unit of sufficient size and shape to function as forest is further complicated by both the shape of the Property, which is long and narrow, and the road that is required to serve the development with safe and adequate circulation. The required road narrows the forest area to the point that the remaining trees will become subject to storm damage, windthrow, and sun damage. Furthermore, because the Property drains from east to west, the trees at the western end of the Property will be impacted by required stormwater management treatment facilities. This also compromises the ability to preserve a functional block of forest at that end of the site. The result is that any forest saved is likely to include impacted trees that could become a hazard to safety.

The third option is to attempt to save some individual specimen trees as a part of the 20-foot landscaped buffer between the new development and the Cherington townhouse community. While a few specimen trees appear to be within that proposed 20-foot-wide buffer strip, the strip itself is not wide enough to contain enough of the trees' critical root zones to ensure survival of the trees. In addition, the forest-grown form of the trees, as indicated above, makes them subject to storm damage, sun damage, and windthrow. These trees would become a safety hazard. Furthermore, a more effective landscaped screen can be designed and planted if the larger trees, which will not serve the screening function as well, are preserved. Therefore, Staff concurs that saving individual specimen trees within the landscaped buffer is not feasible. Staff also explored with the Applicant the preservation of a few of the variance trees in the proposed Central Park but determined that the extent of critical root zone disturbance to construct the park would preclude saving these trees.

Because all of the variance-sized trees are within the forest that will be cleared, and because Staff has determined that it is infeasible to preserve all or some of the forest, on Parcel N273 as well as the remainder of the forested site closer to Metro, for the reasons stated above, Staff concludes that the inability to remove the variance trees would render the Site undevelopable.

Given the proposed development and the Site configuration, the existing wooded areas are difficult to preserve while still maintaining a healthy and viable tree population. Instead, the Cherington Community is communicating very helpful and clear expectations on the elements they would prefer to be provided in the landscape buffer and screening. Thus, Staff is working with the Cherington Community and the Applicant to develop a robust landscaped buffer and screening plan. The proposed conditions of approval require extensive landscape screening, a fence, evaluation of the existing retaining wall to be provided to the Applicant from the Cherington Community, evaluation of replacing and/or extending the retaining wall to ensure adequate water retention, and maintenance of landscaping and the fence to ensure the plantings survive and aesthetic appeal is retained. Final details of this buffer/screening area are to be determined at Site Plan.

b. Environment

The *White Flint 2 Sector Plan* provides broad environmental sustainability recommendations, including preserving natural resources, improving water and air quality, and reducing carbon emissions.

Important natural resources recommendations are to:

- Incorporate multiple layers of native vegetation in landscaping, including plants that are highly attractive to pollinators, to provide food sources for declining populations of native pollinator species.
- Direct infill development to existing surface parking lots to preserve green spaces.

Important water quality recommendations are to:

- Prioritize environmental public benefit points for tree canopy cover in the CR zone.
- Promote the use of environmental site design (ESD) techniques to reduce impervious areas.

Significant air quality recommendations are to:

- Increase forest and tree cover.
- Incorporate building design features that keep roofs cool, such as green roofs or cool roofs.
- Prioritize environmental public benefit points for tree canopy cover and energy conservation.
- Promote site and building design for energy conservation.

A variety of public open spaces and cool roofs for the mid-rise and high-rise buildings, along with Building Lot Terminations (BLTs) are the primary environmental sustainability measures included with this Proposal. However, the Applicant was directed to pursue additional sustainable features, as conditioned with Sketch Plan approval, to enhance the development, including energy conservation to further the Sector Plan's recommendations. No additional sustainability measures are proposed with this Application. Therefore, Staff recommends carrying this condition into the Site Plan review to be addressed.

Specific to the Wilgus Property and preserving natural resources, the Sector Plan recommends to "establish a landscaped area between the southern boundary of the existing Cherington townhouse community and the proposed new development on the Wilgus Property."

c. Transportation

The Application is constructing and upgrading master planned transportation facilities.

Roadway Network

Montrose Parkway, Montrose Road, Towne Road, and East Jefferson Street all surround the Wilgus property. The Sector Plan recommends the extension from Stonehenge Place Extended (B-2), which is classified as a commercial business street with a minimum right-of-way of 60 feet, from its current terminus to Montrose Road.



Both Montrose Road (A-90), between East Jefferson Street and Towne Road, and Montrose Parkway (A-270), also between East Jefferson Street and Towne Road, are classified as arterials with minimum rights-of-way of 80 feet and 130 feet, respectively. Towne Road (M-4a) is classified as a major highway with a minimum 120-foot right-of-way, and East Jefferson Street (B-6) is classified as a commercial business street with a minimum 80-foot right-of-way.

Therefore, the Preliminary Plan shows the surrounding streets and adheres to the Sector Plan's recommended rights-of-way. However, some of the street cross-sections are not consistent with the County's Road Code standards. The Applicant has submitted a design exception request to MCDOT to modify the County's Road Code standards, which has been accepted by MCDOT staff in their letter, dated July 9, 2020.

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

a. Roads and Other Transportation Facilities

Transportation access is adequate to serve the proposed development by this Preliminary Plan; however, there are several Staff concerns as noted below.

i. *Existing Facilities*

Bikeway Network

Montrose Parkway (SP-50) has an existing 10-foot-wide shared-use path along the southern portion of the Wilgus property. The 2018 *White Flint 2 Sector Plan* proposes a Shared Use Path along Montrose Road (LB-1), a separated bike lane is proposed for Towne Road (LB-11), and either a standard bike lane or separated bike lane is proposed for East Jefferson Street (LB-4). As conditioned, the Preliminary Plan will be revised to reflect the Bike Plan recommendation of a twelve-foot-wide Shared Use Path along Montrose Road and the two-way bicycle lanes on Towne Road.

Transit Service

The furthest point of the Subject Property is located just under one mile from the Washington Metropolitan Area Transportation Authority's (WMATA) White Flint Metrorail Station. Ride On Bus service is also conveniently located adjacent to the Site with stops serving the 5, 26, 42, and 81 lines. The Ride On 5 line provides service between Twinbrook and Silver Spring with approximately 20-minute weekday peak hour headways; the Ride On 26 line provides service between Glenmont Station and Montgomery Mall with approximately 15 to 20 minute weekday peak hour headways; the 42 line provides service between White Flint Station and Montgomery Mall with approximately 20 minute weekday peak hour headways; and the 81 line provides service between Rockville Station and White Flint via Wootton Parkway and Montrose Road with approximately 30 minute weekday peak hour headways. The service times listed above may vary currently and/or are subject to change based on COVID-19 related service reductions.

ii. *Proposed public transportation infrastructure*

Master-Planned Roadways & Bikeways

The Site is located within the White Flint 2 Bicycle and Pedestrian Priority Area (BiPPA), where road widths may be no greater than ten (10) feet wide, unless adjacent to parking, to support 25 mile-per-hour target speeds. The Applicant must coordinate with the Montgomery County Department of Transportation (MCDOT) to restripe the master-planned roadways along the Site frontage, subject to the satisfaction or deferment of the agency.

**Montrose Parkway:** Montrose Parkway, classified as a four (4) lane divided parkway, is master-planned to be 130 feet wide. The right-of-way segment adjacent to the Site currently meets this width. The *2018 Bicycle Master Plan* calls for a sidepath along the Site frontage, which will accommodate both pedestrians and bicyclists and function as part of the County's breezeway network. As such, the Applicant will be required to widen the existing sidepath along the Site frontage from ten (10) feet to twelve (12) feet. The Bicycle Master Plan typically calls for 16-foot wide breezeway facilities; however, the *Parking Lots to Places: White Flint 2 and Rock Spring Urban Design Guidelines* recommend a twelve-foot facility at this location based on right-of-way constraints. Because a twelve-foot facility is not shown in the Applicant's current submission package, we recommend the Board require a twelve-foot facility as a condition of approval. Striping should be provided on the Breezeway to adequately delineate the direction of travel. Widening the path is expected to impact the existing young trees along Montrose Parkway.

**Montrose Road:** The *2018 White Flint 2 Sector Plan* classifies Montrose Road as an 80-foot wide four (4) lane arterial. Today, the ROW segment adjacent to the Subject Property exceeds 80 feet. The *Parking Lots to Places: White Flint 2 and Rock Spring Urban Design Guidelines* recommend an 82' wide section with a six-foot sidewalk and seven-foot planting strip adjacent to the Site. The Applicant proposes to furnish a six-foot-wide sidewalk with a planting buffer of varied width (no less than seven feet near driveway entries). The Applicant proposes to provide a five-foot public utility easement (PUE) adjacent to the Site. The master-planned bicycle facility along Montrose Road is located on the north side of the road across from the Property and will not be implemented through this project.

**East Jefferson Street:** The White Flint 2 Sector Plan classifies East Jefferson Street as a four (4) lane 80-foot wide business street; however, the Draft *Parking Lots to Places: White Flint 2 and Rock Spring Urban Design Guidelines* (page 122) recommends that the Site dedicate an additional ten (10) feet of ROW to provide a six (6) foot planting strip separating the bicycle and pedestrian facilities from the cartway, a ten (10) foot bidirectional separated bicycle lane, and a six (6) foot sidewalk. The Applicant proposes to meet the intent of the Guidelines by providing an additional dedication to ensure no less than 25 feet is available between the roadway curb and the Applicant's Property line for the future bicycle and pedestrian facilities. However, since the Applicant's frontage along East Jefferson Street is minimal, the Applicant has offered to pay an in-lieu fee rather than construct the master-planned separated bicycle lanes and associated protected intersection. Both the right-of-way and the in-lieu payment proposals are acceptable and recommended as conditions of approval.

**Towne Road:** The *2018 White Flint 2 Sector Plan* classifies Towne Road as a four (4) lane divided major highway with a 120' width (exclusive of turn lanes). The Draft *Parking Lots to Places: White Flint 2 and Rock Spring Urban Design Guidelines* do not include the segment directly adjacent to the Site, likely because it is constrained by capacity needs. Currently, the portion of Towne Road adjacent to the Site is seven (7) lanes wide, including turn lanes

generally understood to service high volumes. After a review of the master-planned facilities adjacent to the Site and overall context of the area, between the western curb edge and the Property line, Staff recommends the Applicant provide (from the curb to Property line) a six-foot landscaped tree panel, a ten-foot two-way separated bike lane facility, and a sidewalk no less than six feet. The separated bike lanes should be depressed between the landscaping and sidewalk with a 2"-3" curb reveal.

The 2018 *Bicycle Master Plan* requires protected intersections where bicycle facilities meet. The separated bike lanes will need to transition into the sidepath on Montrose. The Applicant must provide a protected intersection where the separated bicycle lanes meet the sidepath on Montrose Parkway.

Stonehenge Place Extended: The *White Flint 2 Sector Plan* classifies the existing north-south segment of Stonehenge Place and its associated extension as a 60-foot business street. The existing right-of-way is approximately 70 feet, and the Applicant proposes to maintain the dimensions of the cartway through the Site. Since the road is proposed to have a target speed of 25 miles per hour, there are no formal bicycle facilities recommended.

#### Bicycle Parking

The amount and location of bicycle parking will be determined at the time of Site Plan. Staff notes that the Applicant should be aware that the 100-space maximum requirement is applied to each separate multifamily building rather than the development program as a whole.

#### Pedestrian Facilities

The Applicant's proposal provides adequately wide pedestrian facilities along the Site's frontage, including the Montrose Parkway sidepath, which Staff recommends be widened to be twelve feet wide. While the pedestrian connections on the eastern side of the Property are sufficient, Staff has concerns with the connections proposed near "Private Street B." As shown in Figure 12 below, the proposed sidewalk near the intersection of proposed "Street B" and Stonehenge Place is not separated from traffic. Staff generally prefers six feet of landscaped separation between the sidewalk and road. Additionally, ramps and adequate crossings are not provided over proposed "Street B" at this location, nor at the western bend near East Jefferson Street. This is problematic as sidewalk facilities are not provided continuously on both sides of the Site. At minimum, Staff recommends the Board require the Applicant to provide adequate crossing facilities over proposed "Street B" to facilitate safe and accessible pedestrian movements. Crossings should be adequately marked and may need to be raised or stop controlled due to the poor visibility for turning vehicles.

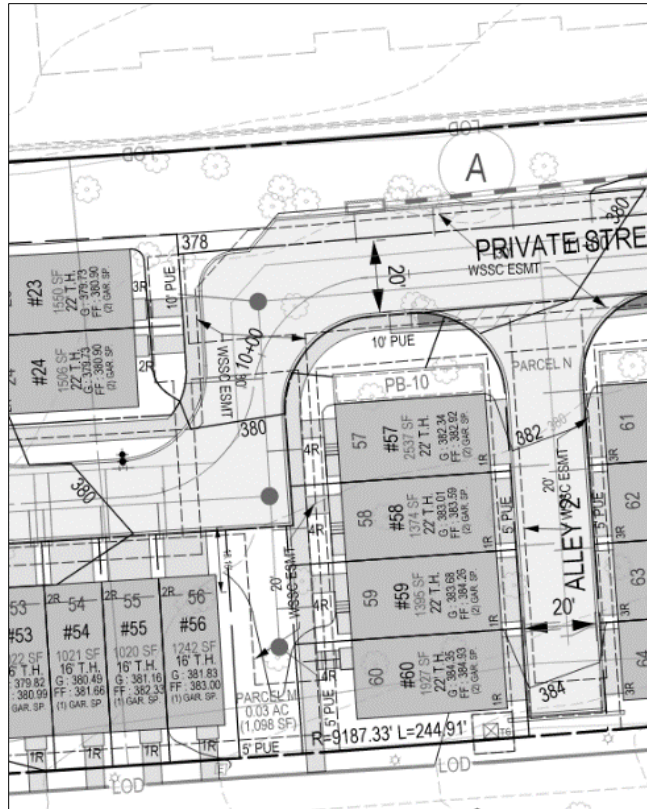


Figure 12: Sidewalk Facilities Along Eastern End of Proposed Street B

**Loading**

Trucks must back into proposed Parking Garage C (the easternmost multifamily building on Montrose Parkway) from proposed Street C. Street C will be dedicated as public right-of-way. However, backing movements along public streets are not acceptable. Therefore, at Site Plan, the Applicant will need to enter into a loading management plan governing the times of day trucks can enter the Site and associated operational safety requirements.

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

Based on the 2016-2020 Subdivision Staging Policy (SSP), the extension of the White Flint Metrorail Station Policy Area (MSPA) and modifications to the Local Area Transportation Review (LATR) standards only impact portions of the Subject Property. Parcels N208, N279, N174, and N231, are excluded from the LATR standards because they are included in the White Flint Special Taxing District. Since the portion of the Site west of Stonehenge Place falls beyond the White Flint Special Taxing District, the Applicant provided a LATR study to assess the impact of the proposed program for the units located west of Stonehenge Place (impacts for the project along the eastern portion of the Site are included as background traffic on the roadway network).

The study was initially submitted on October 19, 2018 and was revised on May 15, 2020. While the counts in the study are over a year old, the current COVID-19 traffic count guidelines allow the use of counts up to three years old due to reliability concerns for counts generated during the pandemic. The Applicant’s trip generation for the 68 units west of Stonehenge Place follows in Table 2 below. Table 2 demonstrates that the Applicant’s program did not trigger the pedestrian, bicycle, or transit adequacy tests.

Table 2: Trip Generation

<b>Multimodal Trip Generation</b> (LATR Guidelines, North Bethesda Policy Area)	<b>Percentage</b>	<b>AM</b>	<b>PM</b>
New Vehicle Driver Trips	53.8%	27	35
New Vehicle Passenger Trips	25.9%	13	17
New Transit Trips	8.0%	4	5
New Non-Motorized Trips	12.3%	6	8
<b>New Person Trips</b>	<b>100.00%</b>	<b>51</b>	<b>65</b>
<b>Local Area Transportation Review Adequacy Tests</b>		<b>AM</b>	<b>PM</b>
<b>Local Area Transportation Review Required?</b> (Are AM or PM person trips > 50?)		Yes	Yes
<b>Pedestrian Adequacy Test Required?</b> (Are non-motorized + transit trips > 50?)		No	No
<b>Bicycle Adequacy Test Required?</b> (Are non-motorized trips > 50?)		No	No
<b>Transit Adequacy Test Required?</b> (Are transit trips > 50?)		No	No

The North Bethesda Policy Area is an “orange” policy area. As such, the Applicant was required to use delay as the appropriate measure of intersection congestion. Average intersection delay for total, background, and future conditions can be found in Table 3.

Table 3: Average Intersection Delay

<b>Intersection</b>	<b>Delay Standard (sec/veh)</b>	<b>Morning Peak Hour</b>			<b>Afternoon Peak Hour</b>		
		<b>Existing Conditions</b>	<b>Background Conditions</b>	<b>Future Conditions</b>	<b>Existing Conditions</b>	<b>Background Conditions</b>	<b>Future Conditions</b>
Montrose Road & East Jefferson Street	71	44.9	43.9 <sup>2</sup>	43.9	50.7	54.6	54.6
Montrose Road & Towne Road	120	28.4	27.6 <sup>2</sup>	28.1	26.7	27.8	27.8
Montrose Parkway & East Jefferson Street	71	42.2	52.4	53.3	43.5	<b>84.2</b>	<b>86.2</b>
Montrose Parkway & Stonehenge Place <sup>1</sup>	120	0.2	0.6	0.7	0.2	0.7	0.7
Montrose Parkway & Towne Road	120	18.8	32.8	33	18.8	<b>102.8<sup>3</sup></b>	<b>102.5<sup>3</sup></b>
East Jefferson Street & Proposed Access	71	N/A	N/A	8.5	N/A	N/A	9.0

<sup>1</sup>The Applicant studied this intersection as a stop-controlled intersection; however, the provision of the recommended signal (discussed in “Warrant Analysis” below) will increase the average intersection delay.

<sup>2</sup>The improvement in delay as compared to existing conditions occurs because the signals are set to an “actuated-coordinated” phasing program, which adjusts green time for given movements based on vehicle volumes.

<sup>3</sup>The significant delay increase results from the assumption that the “western workaround” project will be open and operational. The improvement is projected to significantly increase the eastbound right and northbound left turn volumes. The eastbound right turn does not have a dedicated lane and the northbound left is a single lane with limited green time. As such, increased volumes for these movements significantly impact delay.

The Study suggests the intersection of East Jefferson Street will operate above acceptable levels of delay. The Applicant proposes signal optimization to mitigate the intersection. The proposed mitigation is projected to reduce average intersection delay to 60.2 seconds.

*LATR Review Pipeline Development Assumptions:* Staff notes that the LATR study's assumptions reduce the trips generated by background (or "pipeline") developments by 50 percent when falling within the boundary of the White Flint Special Taxing District.

This approach is acceptable for this preliminary plan application.

#### Warrant Analysis

The Applicant prepared a signal warrant analysis to assess whether a signal is necessary at the intersection of Montrose Parkway and Stonehenge Place per the *Manual of Uniform Traffic Control Devices* (MUTCD). The Applicant's analysis suggests that a signal is not warranted; however, the Applicant's assumptions for Montrose Parkway do not factor in prevailing speeds or appropriate assumptions about the number of lanes of the minor approach (Stonehenge Place). Based on coordination with the Montgomery County Department of Transportation, Staff recommends the Applicant furnish and install a signal at Montrose Parkway and Stonehenge Place. More information about the warrant analysis can be found in Appendix 2, "Warrant Analysis."

To help achieve the County's goal of Vision Zero, the provision of a signal will:

1. Provide pedestrians a safe, stop controlled protected movement across Montrose Parkway;
2. Slow vehicle speeds on Montrose Parkway;
3. Improve safety for vehicles making lefts out of the Site onto Montrose Parkway; and
4. Improve safety for vehicles making lefts onto Stonehenge Place from Montrose Parkway.

#### Transportation Demand Management

The Site falls partially within the North Bethesda Transportation Demand Management (TDM) District and will be subject to two TMAGs. The 2018 *White Flint 2 Sector Plan* specifically states that the eastern portion of the Wilgus property will be subject to the *White Flint Sector Plan* goals, which has an aggressive 50 percent Non-Auto Driver Mode Share (NADMS) goal. White Flint properties within the plan area are typically required to support the mode share goals of the Sector Plan. As such, stabilized projects are subject to enforcement surveys and—when necessary—mitigations based on various stages of development per the Master Plan. Staff will continue working with the Applicant during the review of the Site Plan to develop a TMAG program for the entire Site that supports the NADMS goals of the *White Flint* and *White Flint 2* Sector Plans.

#### TDM Agreement

In accordance with County Code Section 42A-26 Transportation Demand Management Plans for New Development Projects (Project-based TDM Plans), the Wilgus project will be required to execute a Project-based TDM Plan. Applicants must obtain approval from the Department of Transportation for the TDM Plan prior to issuance of any building permit by the Department of Permitting Services. TDM Plan requirements apply to developments located in Transportation Management Districts (TMDs). The level of TDM Plan required is determined by the Subdivision

Staging Policy (SSP) area in which the project is located and the amount of gross square footage (gsf). The Wilgus project is located within the following areas:

- North Bethesda TMD
- Red Subdivision Staging Policy (SSP) Area
- Orange SSP Area
- White Flint Sector Plan Area
- White Flint 2 Sector Plan Area

#### Plan Requirements

An owner or applicant for a development located in a Red Policy Area must submit a Level 3 TDM Results Plan for a project with more than 40,000 gross square feet. The portion of Wilgus east of Stonehenge Drive, with its mixed-use components, is in the Red White Flint Metro Station Policy Area and is proposed for more than 40,000 gsf. of mixed-use development.

An owner or applicant for a development located in an Orange Policy Area must submit a Level 2 TDM Action Plan for a project with between 80,000 and 160,000 gsf. The portion of Wilgus west of Stonehenge Drive is in the Orange North Bethesda Policy Area and the amount of gross square footage proposed falls within this range.

New developments that consist solely of single-family detached housing, townhouses or a mixture of both are excluded. Although the western portion of the Project is proposed to be all townhouses, the total project is a mixed-use development and therefore comes under the requirements of Section 42A-26.

#### Project-Specific Requirement

One Project-based TDM Plan will be required that addresses the residential and mixed uses located east of Stonehenge Place (in the Red SSP area) and west of Stonehenge Place (in the Orange SSP area). The plan must include transportation demand management strategies that will enable the west side to contribute to achieving the TMD goal and the east side to achieving the commuting goals for the North Bethesda TMD and the White Flint area. Those goals include achieving a 42% NADMS for both employees and residents and apply under both the *White Flint and White Flint 2 Sector Plans*. The basic components of the plan are providing a contact person to work with MCDOT, facilitating outreach on-site and providing transportation-related information. Additional plan components include the following:

#### Level 2: Action Program (Wilgus West/Orange Area)

The Applicant must contribute to achieving the TMD goal. In addition to providing a contact person to work with MCDOT, facilitating outreach on-site, providing transportation-related information, and other basic Transportation Demand Management (TDM) actions, components are:

- Commitment to implement additional specific TDM strategies
- Minimum funding commitment for on-site TDM program
- Self-monitoring, reporting
- Addition/substitution of program elements if progress not being made
- Modest increases required in funding of on-site program for non-performance (based on TDM fee)
- Performance incentives available for ongoing contribution toward area goal

Level 3: Results Program (Wilgus East/Red Area)

The Applicant must achieve TMD/Project goal. Actions must include all strategies outlined above, plus additional strategies to ensure achievement of the 50/51 percent NADMS goal for the White Flint Sector Plan (50% for employees/51% for residents):

- Independent monitoring
- More substantial increases in on-site funding if goal not met after multiple monitoring periods (based on TDM fee)
- Performance incentives available for ongoing project goal achievement

c. Other Public Facilities and Services

The Subject Property is located within the W-1 and S-1 water and sewer categories. Therefore, there are adequate water and sewerage facilities to serve the Project. Additionally, the Project will be serviced by adequate police, fire, and health services.

i. Utilities

While existing and proposed dry utility lines located within the townhouse portions of the Project were previously proposed to be located underground, existing utilities in other portions of the Site were not. During the time of Sketch Plan, Staff recommended that the Applicant add the undergrounding of existing utilities to public benefits to be provided by the Project, due to a specific recommendation of the Sector Plan. Per the Sector Plan, the priority public benefits for optional method development for the portions of the Site zoned CRT and CR includes “the provision of major public facilities other than school sites, including but not limited to: land for school athletic fields; new neighborhood parks and open spaces; public transportation (new Metro Station entrance); and undergrounding of utilities.”

There is a total of eight (8) existing utility poles along the Site’s frontages of Montrose Road, Towne Road, and Montrose Parkway. Segments of Towne and Montrose Roads are not included in the list of approved projects to be completed from the White Flint Special Taxing District funds, of which a portion of the Project would apply. Per the condition of Sketch Plan approval, the Applicant must underground utilities within all public rights-of-way, unless there is a Capital Improvement Program (CIP) project that is already undergrounding the utilities. There is no CIP project planned to address these utilities.

Accordingly, the Applicant has agreed to underground three (3) existing utility poles and associated overhead wires along the Subject Property’s frontage on Towne Road, which will substantially improve life safety for the multi-family high-rise portion of the Project. Beyond addressing public benefit points, this major infrastructure improvement addresses the existing fire and rescue safety concerns that would persist if the poles and wires were to remain. By undergrounding the utilities, the Property will have an enhanced designated area on the ground for operational access, while also allowing aerial access to upper stories, and will substantially increase emergency response time.

The undergrounding of utilities in this major mixed-use project is supported by Montgomery County’s Fire and Rescue Services. Furthermore, this improvement will address compliance with the Fire Department Access Performance-Based Design Guide approved in August 2019 (after Sketch Plan approval). The removal of these three (3)



utility poles will eliminate conflicts with the proposed shared-use pathway along Towne Road as recommended by the Design Guide. Also, another pole to be relocated will eliminate a conflict with the proposed building entrance on Towne Road.

4. *All Forest Conservation Law, Chapter 22A requirements are satisfied*

a. Environmental Guidelines

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) was approved by Staff on July 7, 2018 (NRI/FSD No. 420182300). The Site contains no streams or stream buffers, wetlands or wetland buffers, hydraulically adjacent steep slopes, 100-year floodplains, or known habitats of Rare, Threatened and Endangered species. This Site drains to Cabin John Creek, which is a Maryland State Use Class I-P stream. This watershed is not in a Special Protection Area. The submitted Preliminary Plan is in conformance with the Montgomery County Planning Department's Environmental Guidelines.

b. Preliminary Forest Conservation Plan

The Subject Property is mostly forested, with 11.3 acres of forest on the Site. None of the forest occurs within regulatory buffers. All 11.3 acres of forest will be cleared for this development. Based on the net tract area of 14.96 acres and the CR and CRN zoning designations, development of this Site will result in a total planting requirement of 8.06 acres. The forest contains 110 trees that are 30 inches diameter or greater at 4.5 feet above the ground. All of these trees will be removed as part of the forest clearing. A variance approval is required for the disturbance of these trees.

c. Forest Conservation Variance

Section 22A-12(b) (3) of the 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 DBH; are part of an historic site or designated with an historic structure; are designated as 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.

Variance Request

The Applicant submitted a variance request in a letter dated April 20, 2020. The Applicant proposes to impact 110 trees that are 30 inches or greater DBH, and that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. These trees are all to be removed as part of the forest clearing. The list of variance trees to be removed is attached to this Staff Report (Appendix 9).

Unwarranted Hardship Basis

Per 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, denying the Applicant reasonable and significant use of its Property.

As previously stated in the Master Plan section above, virtually the entire Property is forested, so no development of any consequence can occur without clearing forest. No variance trees occur outside of forest on this Property. The eastern portion of the Site is within the comfortable walkshed to reach the White Flint Metro Station. The *White Flint 2 Sector Plan* recognizes the value of this Property to create dense development near Metro, enabling people to reduce or eliminate single-driver automobile trips. This results in significant environmental benefits, including reduced air pollution and reduced carbon emissions.

While recommending development of the Subject Property, the *White Flint 2 Sector Plan* approved by the County Council also included a requirement specific to Parcel N273 that, "During the development review process, pursue options for preserving all or a portion of the wooded area along Montrose Parkway for passive use."

In a letter from the Applicant dated April 21, 2020, in response to the Master Plan requirement, three options were considered: (1) To preserve all of the wooded area in this parcel; (2) to preserve a portion of the wooded area; and (3) to try to preserve individual trees within the required 20-foot landscaped buffer between the new development and the adjacent Cherington townhouse community. The justification detailed in this letter broadly speaks to the hardship of preserving variance trees on the entire site.

In the April 21 letter, the Applicant states that "The first option Applicant considered is retaining the entire forested area south of the existing Cherington townhouses." The Applicant notes that the proposed development is consistent both with the recommendations of the *White Flint 2 Sector Plan* and approved Sketch Plan No. 320190070. Parcel N273 comprises three acres, or 20% of the 14.96 Net Tract Area of the Site and lies just along the outer edge of the walkshed to the White Flint Metro Station. It is both a County and a Planning Department priority to locate development near transit. Retaining the entire forest on Parcel N273 would deny the Applicant the ability to build residential units on 20% of their site near a Metro Station in conformance with County and Planning Department plans and policies. This constitutes denial of a reasonable and significant use of this Property.

The second option is to retain a portion of this forested area. This is complicated by both the form of the trees in this area, the shape of the Site, and the required road (Street B). Because the trees in this parcel have grown in a forest setting, their form is different from trees that are grown in the open. Notably, forest-grown trees have tall trunks with their leaf canopy at the top. In addition, their root systems are intertwined with the trees around them. Such trees are stabilized against storms and windthrow by growing as a forest unit. The interior trees are also protected from sun damage and changes to the forest microclimate. Preserving these trees therefore would require that they be saved as part of a large enough block of forest to continue to stand as a unit.

Retaining a forest unit of sufficient size and shape to function as forest is further complicated by both the shape of the Property, which is long and narrow, and the road that is required to serve the development with safe and adequate circulation. The required road narrows the forest area to the point that the remaining trees will become subject to storm damage, windthrow, and sun damage. Furthermore, because the Property drains from east to west, the trees at the western end of the Property will be impacted by required stormwater management treatment facilities. This also compromises the ability to preserve a functional block of forest at that end of the site.

The result is that any forest saved is likely to include impacted trees that could become a hazard to safety.

The third option is to attempt to save some individual specimen trees as a part of the 20-foot landscaped buffer between the new development and the Cherington townhouse community. While a few specimen trees appear to be within that proposed 20-foot-wide buffer strip, the strip itself is not wide enough to contain enough of the trees' critical root zones to ensure survival of the trees. In addition, the forest-grown form of the trees, as indicated above, makes them subject to storm damage, sun damage, and windthrow. These trees would become a safety hazard. Furthermore, a more effective landscaped screen can be designed and planted if the larger trees, which will not serve the screening function as well, are preserved. Therefore, Staff concurs that saving individual specimen trees within the landscaped buffer is not feasible. Staff also explored with the Applicant the preservation of a few of the variance trees in the proposed Central Park but determined that the extent of critical root zone disturbance to construct the park would preclude saving these trees.

Because all of the variance-sized trees are within the forest that will be cleared, and because Staff has determined that it is infeasible to preserve all or some of the forest, on Parcel N273 as well as the remainder of the forested site closer to Metro, for the reasons stated above, Staff concludes that the inability to remove the variance trees would render the Site undevelopable. Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to justify a variance request.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, for a variance to be granted.

#### Variance Findings

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 the disturbance of the trees is due to the fact that they are within forest that must be cleared to allow any development to occur on the site. The forest, including the variance trees, is not within regulatory buffers. Other applicants are permitted to clear forest outside of regulatory buffers to enable development. Therefore, granting of this variance is not a special privilege that would be denied to other applicants.

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

The variance trees are being removed due to normal circumstances that require forest clearing to allow for development, and not due to unique choices made by the Applicant that could be changed to save the trees. Therefore, the requested variance is not based on conditions or circumstances which are the result of actions by the Applicant but due to the design and infrastructure requirements of the Project.

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

The requested variance is a result of the requirements of development and not 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 variance trees being removed are part of a forest being cleared under the auspices of the Forest Conservation Law. The law requires mitigation in the form of forest planting or preservation. The mitigation will provide water quality functions to replace the benefits of the trees lost. Therefore, the removal of the variance trees will not violate State water quality standards or cause a measurable degradation in water quality.

#### Mitigation for Protected Trees

No mitigation is required for variance trees removed within a forest where mitigation is already being provided for forest removed under the Forest Conservation Law.

#### County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist.

#### Variance Recommendation

The FFCP meets all applicable requirements of Chapter 22A of the County Code. Therefore, Staff recommends that the Planning Board approve the Final Forest Conservation Plan and variance request with the conditions cited in this Staff Report.

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

The Preliminary 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 division on June 30, 2020. The Application will meet stormwater management goals through a variety of techniques including micro-bioretenment areas, swales, planter boxes, and green roofs.

- 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.*

*Not applicable.*

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

*Not applicable.*

## **SECTION 6: CONCLUSION**

The Application meets all applicable requirements of County Code Chapter 50, the Subdivision of Land. The Preliminary Plan meets all applicable Forest Conservation requirements of Chapter 22A of the County Code. Access and public facilities will be adequate to serve the proposed subdivision, and the proposed development conforms with the 2018 *White Flint 2 Sector Plan*. The Application has been reviewed by other applicable County agencies, all of which have recommended approval of the application. Therefore, Staff recommends approval of Preliminary Plan No. 120200140, with the conditions listed at the beginning of the Staff Report.

## **ATTACHMENTS**

1. Wilgus Lots and Parcels
2. Warrant Analysis
3. Montgomery County Department of Transportation – July 9, 2020
4. Montgomery County Department of Fire and Rescue Services – May 4, 2020
5. Montgomery County Department of Permitting Services Water Resources Section – June 30, 2020
6. Montgomery County Department of Housing and Community Affairs – May 12, 2020
7. Cherington HOA Review of the Wilgus Preliminary Plan Submission – March 12, 2020
8. Cherington HOA Evergreen Buffer Planting Design and Description – April 7, 2020
9. List of Variance Trees Removed
10. Applicant's Justification for Private Road