



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

Staff Report: Site Plan 820080100 Towns of Tanglewood (Formerly Kushner Property)

ITEM #: _____

MCPB HEARING

DATE: September 4, 2008

REPORT DATE: August 21, 2008

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Robert Kronenberg, Supervisor *RAK*
Development Review Division

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APPLICATION DESCRIPTION: Construct 36 one-family attached townhouses, including 5 MPDUs in the RT-8 Zone; Located on the east side of Dogwood Drive approximately 900 feet north of Briggs Chaney Road within Fairland Master Plan area.

APPLICANT: Kaz Brothers, L.C.

FILING DATE: October 16, 2007

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY: The Applicant proposes to construct thirty-six (36) one-family attached townhouses including five (5) MPDUs on a 4.97 acre property. The site has access from Guilford Run Lane and Dogwood Drive. The development is designed around internal private roads with 50% of the site to be retained as green space. Stormwater management is controlled with on-site water quality control. Public water and sewer serve this site.

TABLE OF CONTENTS

SITE DESCRIPTION

Vicinity	3
Site Analysis	4

PROJECT DESCRIPTION

Previous Approvals	5
Proposal	5

PROJECT ANALYSIS

Master Plan	8
Transportation	9
Environment	10
Forest Conservation	10
Development Standards	13

COMMUNITY OUTREACH

FINDINGS

RECOMMENDATION & CONDITIONS

ATTACHMENTS

ILLUSTRATIONS & TABLES

<i>Vicinity Map</i>	3
<i>Aerial Photograph</i>	4
<i>Illustrative Plan</i>	6
<i>Project Data Table</i>	14

SITE DESCRIPTION

Vicinity

The site is located on the east side of Dogwood Drive, at the “future” intersection with Guilford Run Lane extended. The site is flanked by a parcel of land to the south purchased by the State Highway Administration for the construction of the inter-county connector (ICC) and a future townhouse community to the north zoned RT-8, The Towns of Dogwood (820050160), approved by the Planning Board on February 10, 2005. Surrounding land uses are predominately apartment and condominium buildings and townhouses. The proposed construction of the ICC will disconnect the Dogwood Drive and Briggs Chaney Road intersection. Dogwood Drive will end in a cul-de-sac.



Vicinity Map

Site Analysis

The subject property is identified on the tax maps (Tax Map KR 51) as Parcel 14, is approximately five (5) acres in size and zoned R-T-8. An abandoned, 1-1/2 story, gable roof one-family brick home is sited at the front of the property with its principal elevation facing Dogwood Drive. The property also contains three detached outbuildings, which are associated with the existing house. Currently, Guilford Run Lane terminates across Dogwood Drive within the adjacent apartment community.

The subject property contains 3.57 acres of forest, which has been classified as high priority, due to the large number of specimen trees. An environmental buffer has also been demarcated along the northern property line to protect a small stream. The property is also inclusively within the Little Paint Branch watershed.



Aerial Photo (Looking North)

PROJECT DESCRIPTION

Previous Approvals/Background

The Planning Board approved the Preliminary Plan for this property at its Public Hearing on July 26, 2007. A formal resolution was issued on January 3, 2008 (Attachment A).

The Preliminary Plan included the following conditions that needed “to be addressed prior to Site Plan”:

1. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and other improvements will be determined at site plan approval. Final number of MPDUs will be determined at site plan approval.
2. The specific location of the off-site sewer line and grading limits must be established at the time of site plan in conjunction with a detailed tree save plan.
3. The issues regarding the improvements to Dogwood drive must be resolved prior to Planning Board action on the Site Plan.
4. The Applicant must construct the extension of Guilford Run Lane on the Property as shown on the preliminary plan. Final details concerning the specific terminus of this road must be determined at site plan.

Proposal

The proposed development is for thirty-six (36) one-family attached townhouses on the subject 4.97 acre property. The site’s proposed internal private streets will be accessed by two vehicular entrances: one from Dogwood Drive, and a second from Guilford Run Lane. The internal streets will serve the rear loaded, double-width driveways provided for each unit. This arrangement allows each unit to face either a public roadway or greenspace. Additionally, this Site Plan proposal contains stormwater management, and the necessary road dedications and improvements for Dogwood Drive and the construction of the Guilford Run Lane extension, with its 60’ ROW to be located on the subject property (Figure 1).



Figure 1: Illustrative Site Plan

A five foot (5') wide sidewalk will be constructed across the Dogwood Drive property frontage, while a 4' wide sidewalk will be constructed along the Guilford Run Lane frontage and within the interior of the site. Street trees along the fronts of the townhouses will be installed creating a pedestrian-friendly environment. Foundation planting beds will be installed along the front of each individual townhouse and groundcover will be planted between the driveways.

Recreation for the site includes a central “square garden” sitting area, which has been designed to be both a focal point as you enter the site from Guilford Run Lane, and community gathering spot for residents (Figure 2). A tot lot with a sitting area has also been added in the southeast corner of the site. The landscaping for each area has been designed to provide shade and visual interest for the user.

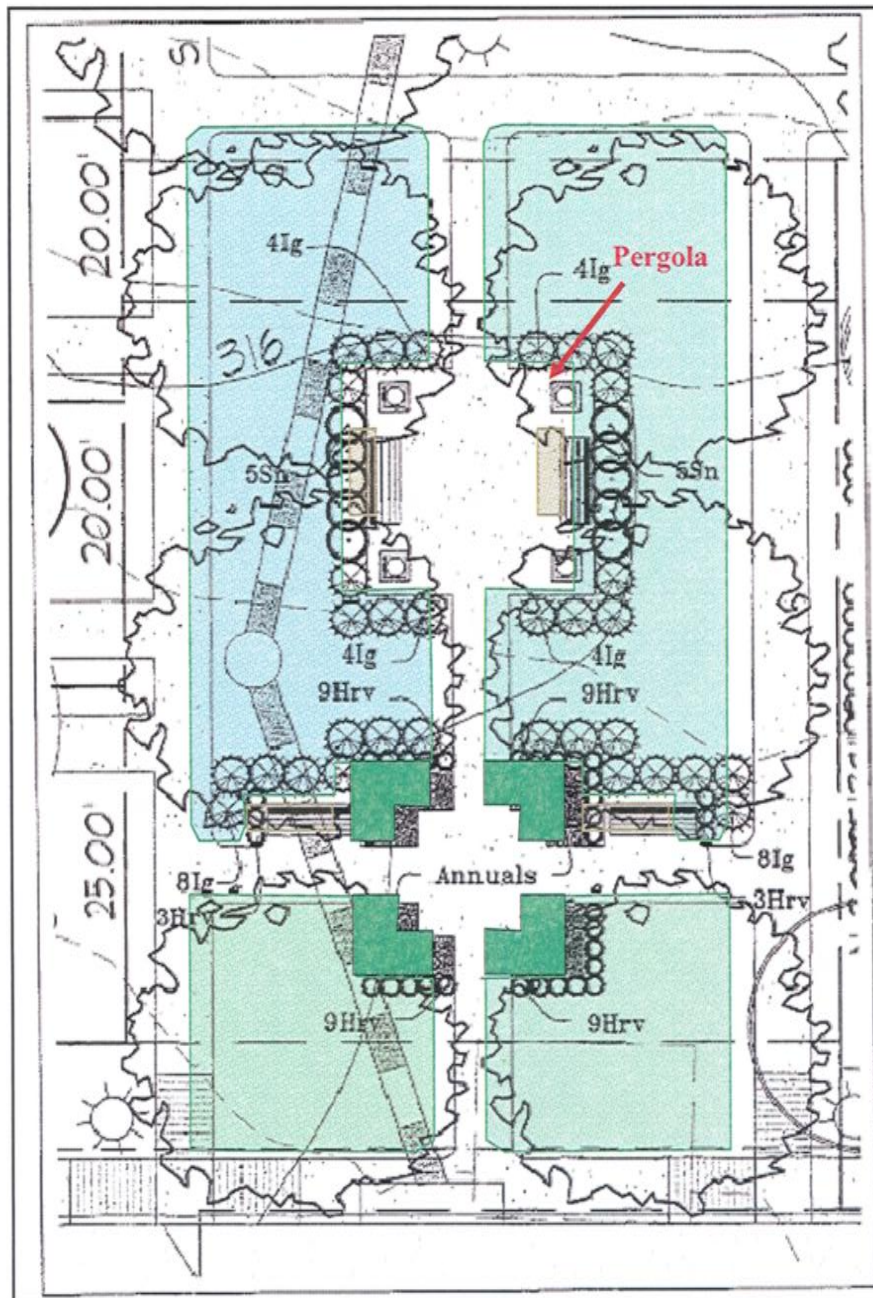


Figure 2: Detail of Garden “Square”

The current plan has been re-submitted after a couple of design revisions. The Applicant has been very responsive to requested design changes to address reducing the number of retaining walls, increasing open space, landscape design changes for the green space, and architectural detailing concerns. The current design has significantly reduced the number of retaining walls proposed in the original submittal; the size of the units has been reduced, which has increased the amount of open space; and the design and layout of the entire plan has shifted to align proposed Doveridge Lane with the green space located at the Guilford Run Lane entry. This green space has also been completely redesigned into a central “square garden” to address staff’s concerns. Architectural examples of the product type to be utilized on the site (Figure 3) have also been provided by the Applicant.



PROJECT ANALYSIS

Master Plan

The subject site is located within the boundaries of the Fairland Master Plan. This area is subject to design guidelines outlined for the Greencastle/Briggs Chaney area, as well as guidance specified for Area 3a as outlined in the Master Plan, and the criteria outlined in the underlying zone in the Zoning Ordinance.

The applicable Master Plan design guidelines are (page 42):

- Provide sidewalks on both sides of all local streets.
- Establish wooded stream buffers along all tributaries to Little Paint branch.
- Cluster development to protect stream buffer areas and high-quality forest in the northern end of the site.
- Locate stormwater management facilities and erosion and sediment control measures outside stream buffers where feasible.
- Connect Dogwood Drive to Guilford Run Lane to improve overall circulation.

The Master Plan development recommendation for Area 3a specifies that a:

“Townhouse development under the RT-8 zone would be appropriate for the smaller parcels with access to Dogwood Lane as a transition between the existing R-30 development and the R-90 zoning recommended in this plan.” (Page 42)

This thirty-six (36) lot development, zoned R-T-8, incorporates all of the above Master Plan goals and objectives in its design. The development has been sited in the southwest corner of the site, enabling the environmental features to be collectively housed on Parcel A. These features include a tributary of the Little Paint Branch with its associated stream valley buffer and forested wetlands. The stream buffers will not be affected by the proposed stormwater management facilities or erosion and sediment control measures. However, 0.03 acres of the onsite environmental buffer will be disturbed by three unavoidable storm drain outfalls.

Sidewalks have been detailed along Guilford Run Lane and Dogwood Drive. Internal sidewalks have also been added to connect into public sidewalks creating a pedestrian friendly environment throughout the site.

Transportation

The approved and adopted Preliminary Plan Resolution for this case (120061090) requires that the Applicant construct “all required road improvements within the rights-of-way (ROW) shown on the approved preliminary plan to the full-width mandated by the Master Plan and to the design

standards imposed by all applicable road codes, unless otherwise designated on the preliminary plan. The Applicant must construct the extension of Guilford Run Lane on the property as shown on the preliminary plan...”

As submitted, the proposed site plan addresses the conditions set forth in the Preliminary Plan. The plan illustrates the Planning Board required Guilford Run Lane extension from its current terminus west of Dogwood Drive onto the subject property. This road is detailed to terminate in a hammerhead turnaround at the south end of the property. This proposed design is supported by the Department of Permitting Services, Right-of-way Permitting Section and the Transportation Planning staff as an appropriate terminus since the adjacent neighbor, State Highway Administration, has asked for access to the adjacent property. This new road, constructed by the Applicant, will provide a connection between the adjacent apartment community to Dogwood Drive and ultimately to this new townhouse development.

As of August 1, 2008, Dogwood Drive, south of Guilford Run Lane, will be permanently closed for the ICC's early construction phases. Part of the ICC Master Plan, Dogwood Drive terminates into a cul-de-sac south of Guilford Run Lane. The Applicant is showing 26' of dedication along Dogwood Drive on the proposed site plan for a total of 70' of ROW.

The proposed development is subject to the Local Area Transportation Review (LATR). This review was completed at the preliminary plan stage. The staff review found that the study complied with the guidelines and the traffic study scope provided to the Applicant. A Policy Area Mobility Review (PAMR) trip mitigation was not required as the APF test was accepted with the Preliminary Plan No. 120061090 approval on July 26, 2007, before the commencement date of the program (November 13, 2007).

The Planning Board supported the use of internal private streets for this development in their Preliminary Plan approval. The private street detail will include a 20 foot pavement width and four-foot wide sidewalks. This road detail provides the resident and pedestrian safe and adequate access, and is consistent with the existing development pattern found in the neighboring communities.

Environment

The subject site is within the Little Paint Branch Watershed (Use I waters). The forest is classified as high priority as it is in good condition, contains a large number of significant trees and exists within an environmental buffer. A tributary of Little Paint Branch is located to the north of the property, flows eastward through the northeastern corner of the property and into the SHA property that lies to the east of the subject property. Forested wetlands exist within the environmental buffer on and adjacent to the subject property.

Forest Conservation

The Applicant proposes to retain 0.99 acre of onsite forest. The retained forest lies within the site's environmental buffer. A Category I conservation easement will be placed over the onsite environmental buffer and forest retention area.

Section 22A-12(f)(2)(B) of the Forest Conservation Law states that for a site that uses an optional method of development in a one-family residential zone, "*on-site forest retention must equal the applicable conservation threshold...*". The site is zoned R-T-8 and the subdivision uses MPDU optional method of development. Therefore, forest retention on the site must be at least 0.99 acre, which is the conservation threshold that is calculated for the site itself (excluding all offsite clearing). The Forest Conservation Plan provides for the minimum forest retention on the site.

Not all of the required 1.11 acres of reforestation can occur on the subject site. Only a very small portion, about 0.05 acre, of the reforestation will be on site. An additional 0.12 acre of reforestation is proposed within the sewer line easement on the adjoining SHA property, but staff does not support this. In addition, the applicant proposes to reforest an environmental buffer area within another subdivision that is also being developed by the applicant (Kruhm Property, preliminary plan no. 120060940). Staff finds that the use of the Kruhm Property subdivision as an offsite forest planting area for this project is acceptable.

The applicant proposes to clear 2.91 acres of existing forest on and off the site. The forest clearing is associated with the proposed dwelling units, roads, SWM facilities and their outfalls, and the offsite sewer line. About 0.33 acre of the forest clearing is for the offsite sewer line construction. It lies mostly within an unavoidable environmental buffer. The Forest Conservation Plan must be revised to remove any forest planting within the offsite clearing for the sewer line on SHA property. The proposed planting on SHA property conflicts with the current ICC plans to clear and grade within the environmental buffer. Staff recommends the subdivision's entire offsite forest planting requirement be met by planting forest on the above mentioned Kruhm Property.

The Forest Conservation Plan, in combination with staff's proposed recommendations, meets the requirements of the Forest Conservation Law.

Environmental Buffers

About 0.97 acre of the 1.00 acre of onsite environmental buffer will remain undisturbed. Forest clearing and land disturbance will occur on about 0.03 acre of the onsite environmental buffer due to the location of three unavoidable storm drain outfalls from the proposed subdivision.

Land disturbance will occur within two offsite environmental buffer areas. In one area, an unavoidable sewer line extension will clear about 0.33 acre of forest, most of which is in an environmental buffer, as previously discussed.

In its review of the preliminary plan for this proposed project, the Planning Board found that the connection of Guilford Run Lane to Dogwood Lane is necessary to provide access to Briggs Chaney

Road for properties along Dogwood Drive since the ICC will cut off the current access from Dogwood Lane to Briggs Chaney Road. The NRI/FSD identified the eastern, un-built part of the Guilford Run Lane ROW and a small swale to the north of the ROW as a wetland. This wetland information was taken from SHA's roadway concept plan for the ICC, dated December 4, 2006.

The applicant's consultant indicated that they field-checked the area of the Guilford Run Lane ROW and the adjacent swale and did not find any indications of wetlands in the area. A field meeting with the applicant's consultant, M-NCPPC staff, and Ms. Pavla Cervova, the Maryland Department of the Environment (MDE) environmental specialist and principal reviewer for wetlands permits in Montgomery County, was held in late July 2008. The MDE reviewer determined that the area in question is not a regulated wetland and that the applicant does not need to include this area in his wetland permit application for work related to the wetland impacts of the subdivision. Staff concurs in this assessment. Therefore, the proposed extension of Guilford Run Lane does not require an MDE wetland permit.

Since the NRI/FSD shows the Guilford Run Lane ROW and adjacent swale as a wetland, staff recommends that the NRI/FSD is revised to remove the wetland designation, consistent with MDE's field review and determination in July 2008.

Traffic Noise Impacts

An ICC ramp that connects to Briggs Chaney Road will be located adjacent to the subject property. SHA had conducted a noise study that included the subject property. However, the study assessed the noise impact of the ICC on the existing one-family house on the property, not on the proposed townhouse subdivision. The noise study estimates that the ICC will generate traffic noise levels in the year 2030 of 61 dBA, Leq (steady sound pressure level for a given period of time) at the existing single-family house. This would result in a 15 dBA(A-weighted decibels) increase over existing peak ambient noise levels. This level of increase warrants the investigation of a noise barrier for the property. The noise study also predicts that a noise barrier will decrease traffic noise levels by 7 dBA to 54 dBA, Leq, which is comparable under typical conditions to roughly the same decibel level in Ldn (Day-night averaged sound level).

The SHA noise study and additional information from SHA's consultant indicates that the noise wall would be adjacent to the segment of the ICC ramp that fronts the subject site and would extend westward and wrap around Briggs Chaney Road. The section of the noise wall adjacent to the subject site is proposed to be about 16 to 20 feet high.

Staff is concerned that the SHA's proposed noise wall may not provide adequate noise attenuation for the proposed townhouses. The proposed units are closer to the ICC than the existing single-family house. In addition, the townhouses are two stories high, compared to the one-story structure of the existing home. Based on cross-sections of the townhouses, the proposed noise walls, and the ICC, the noise walls may not be tall enough to provide sufficient noise mitigation for the upper levels of the eastern townhouses on Guilford Run Lane.

Therefore, staff recommends that the applicant submit a traffic noise study prior to the approval of the certified site plan. The noise study may use the analysis data generated from the SHA noise study, and adjust for distance and height. As another alternative, the applicant would conduct a new study to determine noise impacts of the ICC on the proposed townhouses. The existing house is lower than the proposed townhouses and is further away from the ICC than the proposed row of townhouses on

Guilford Run Lane. These townhouses would be subjected to higher noise levels than the existing house on the site because the townhouses are closer to the ICC and are higher than the existing house.

If the applicant's noise study determines that ICC noise walls will not mitigate the upper levels of the townhouses to an exterior level of 65 dBA, Ldn, then the applicant must be required to construct the affected residential units so as to mitigate the interior noise due to ICC traffic to acceptable levels of 45 dBA Ldn or below.

Stormwater Management

The Department of Permitting Services staff has approved a stormwater management concept for the subject site. The proposed plan consists of on-site water quality control via construction of a Montgomery County Sand Filter (MCSF); and on-site recharge via disconnection of rooftop flows and additional storage below the sand filter. Channel protection volume is not required as the one year post development peak discharge is less than or equal to 2.0 cfs.

Development Standards

The subject site is zoned R-T-8. The purposes of the R-T zones are to provide the maximum amount of flexibility in the design of townhouses and their grouping and layout within the areas classified in this zone, to provide the amenities normally associated with less dense zoning categories, to permit the greatest possible amount of freedom in types of ownership of townhouses and townhouse developments, to prevent detrimental effects to the use or development of adjacent properties or the neighborhood and to promote health, safety, morals and welfare of the present and future inhabitants of the district and the County as a whole.

Section 59-C-1.75 of the Zoning Ordinance requires that a Site Plan must be submitted and approved in accordance with the provisions of Division 59-D-3 for any R-T zoned development.

The following data table outlines the development standards for the R-T-8 as specified in the Zoning Ordinance.

Project Data Table for the R-T-8

Development Standard	Permitted/Required	Proposed for Approval
Gross Tract Area	20,000 sq. ft. min	4.97 acres (216,276 sq.ft.)
Development Density(d.u./acre) in the R-T-8 Zone	9.76/Ac = 48 DU	7.24/Ac =36 DU incl MPDUs
(MPDU Optional Method)		
Density Tabulation		
Base Density RT-8 9.76 du/ac (Including MPDU's)	9.76/D.U/Ac. = 48 D.U	7.24 .U./Ac. = 36 D.U.
MPDU's	12.5% (7)	36 D.U. x 12.5% = 4.5 (5)
Min Lot Area (sq. ft.)	None Required	1,500 sq. ft.
Min Tract Area	20,000 sq. ft.	216, 276 sq. ft / 4.97 acres
Max Building Height (feet)¹		
Main Building	35	35
Accessory Building	25	25
Min Building Setbacks (feet)		
SF Attached – Main Building		
From Public Street	25'	25'
From Adjoining Lot – Side (End Unit) ²	10'	10'
From Adjoining Lot –Side (Interior Unit)	Not specified	20'
From Adjoining Lot - Rear	20	20'
Other than Adjoining Lot – side (End Unit)	Not specified	4'
Other than Adjoining Lot - Front	Not specified	10'
Other than Adjoining Lot - Rear	Not specified	10'
Accessory Building³		
Side Setback	Not specified	1'
Rear Setback	Not specified	10'
Min Lot Width at Street (feet)	25	25
Total On-Site Parking	2Sp/DU x 36 DU = 72 Sp	143 Spaces
Garage Parking		67 Spaces
Driveway Parking		67 Spaces
Surface Parking		9 Spaces
Maximum Building Coverage	40% x 4.97 = 1.99 Ac	(16.9%) 0.84 Ac
Min. Green Space	45% x4.97 Ac= 2.24 Ac	(50%) 2.49 Ac
HOA Open Space Parcel A (acres)		2.27
HOA SWM Facility Parcel B (acres)		0.33
Area to be acquired by SHA (acres)		0.03

¹ Building height as measured either from the level of approved street grade opposite the middle front of a building or the average grade in front of the building to the highest point of the roof surface of a flat roof; to mean the height level between eaves and ridge of a gable, hip, mansard, or gambrel roof; street grade and as referenced in the building height table and on the site plans. See the Building Height Data Table on the Site Plan.

² When the side lot of an end unit abuts a public street, the side yard setback must equal the required front yard setback.

³ Must be located in rear yard

Recreation Calculations

Housing Type: 36 Townhouse					
36 D.U.					
Demand per 100 D.U.:					
Required	Tots	Children	Teens	Adults	Seniors
TH	17	22	18	129	7
Demand for Tanglewood Property:					
Required	Tots	Children	Teens	Adults	Seniors
TH (0.36)	6.12	7.92	6.48	46.44	2.52
TOTAL	6.12	7.92	6.48	46.44	2.52
Off-Site Recreation within 1 mile:					
Greencastle Elementary School					
Provided:	Tots	Children	Teens	Adults	Seniors
2 Baseball Fields (Jr.)	4	30	30	60	4
2 Multi-Purpose Courts	6	20	30	20	5
Soccer Field (Jr)	2	15	15	30	2
Tot Lot	9	2	0	4	1
East County Community Center					
Provided:	Tots	Children	Teens	Adults	Seniors
3 Multi-Purpose Courts	9	30	45	30	7.5
2 Sitting Areas	2	2	3	10	4
Tot Lot	9	2	0	4	1
TOTAL	41	101	123	158	24.5
Supply for Tanglewood Property					
Provided:	Tots	Children	Teens	Adults	Seniors
Off-site (Max. 35% of Demand)	2.14	2.77	2.27	16.25	0.88
Pedestrian System	0.61	1.58	1.30	20.90	1.13
2 Sitting Areas	2	2	3	10	4
Tot Lot	9	2	0	4	1
TOTAL	13.75	8.35	6.57	51.15	7.01
PERCENTAGE	225%	105%	101%	110%	278%

COMMUNITY OUTREACH

The Applicant sent a notice and copy of the proposed plan to Adjacent and Confronting Property Owners, Homeowner and Civic Associations and Parties of Record on October 16, 2007. The File of Record contains a copy of this Notice of Application.

A notice and copy of the proposed plan was sent to the area Community and Citizen Associations of record by M-NCPPC on October 25, 2007. Staff also supplied the File of Record with a copy of the Notice of Application.

Signage required by the Montgomery County Planning Board was posted on or about October 18, 2007 within ten (10) feet of the property line facing Dogwood Drive. The Applicant has supplied the File of Record with an Affidavit of Posting and photo documentation.

A pre-submittal meeting was held by the Applicant on Thursday, October 11, 2007 at the Fairland Community Recreation Center. A notification was sent to the adjoining and confronting property owners and to the list of civic associations on September 26, 2007. A copy of the notice and the sign-in sheet from the public meeting has been supplied for the File of Record.

FINDINGS

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

Neither a development plan, a diagrammatic plan nor a project plan was required for the subject project.

2. *The site plan meets all the requirements of the underlying zone.*

As amended in accordance with the recommended conditions, the Site Plan meets all of the requirements of the R-T-8 zone as demonstrated in the Project Data Table above.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

- a. Buildings

The locations of the buildings coupled with the sidewalk and the road to driveway linkages provide for a harmonious, safe pedestrian and vehicular community. The passive recreation is adequately provided through the “garden square” sitting area and the tot lot with sitting area. The “garden square” is a focal point and community gathering place on the property. Additionally, a couple of the townhouse units have been oriented to face this amenity. The more active recreation, the tot lot, has been sited farther away from the units and from the vehicular activities on the site.

The retaining walls are proposed only in the northwest and southwest corners of the site with the majority of the walls located on land owned by the HOA. The number of walls has been significantly decreased from the original retaining wall proposal which included walls throughout the site including the individual lots. This new design reduces the burden of future costs associated with repairs and maintenance to on-lot retaining walls for individual homeowners.

b. Open Spaces

The plan proposes 2.49 acres of green space, or 50% of the property, mainly at the northeast end of the property. The green space preserves the forest and natural areas of the site while providing a visual amenity for the units that front onto it.

c. Landscaping and Lighting

The proposed landscaping enhances the building and street design, when the site is experienced internally and when it is viewed from the public right-of-ways.

The proposed design incorporates rear loaded garage townhouses. Thus, the front facades of the units will be facing either a public street or green space.

The lighting plan provides for adequate levels of lighting for the community and will provide for a compatible, safe and efficient environment for its residents and their surrounding neighbors.

d. Recreation

The Applicant has exceeded the requirements for the site's recreation demand for every age category, by taking credit for off-site facilities, as shown in the recreation calculation table above.⁴ The proposed on-site sitting areas, and tot lot facilities are satisfactory.

e. Vehicular and Pedestrian Circulation

Vehicular access points to the site are to be provided from Dogwood Drive and Guilford Run Lane. Three private streets, measuring 20' in width, will serve as the internal street network for the site. The proposed circulation pattern will serve the proposed 36 units adequately and efficiently. The extension of Guilford Run lane will facilitate future vehicular access for properties further to the west.

The internal and external sidewalks have been designed to facilitate pedestrian circulation throughout the site and to make connections with adjacent neighborhoods.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed development is compatible with the adjacent residential communities, with respect to height, scale, massing and use. The principal facades of these units have been

⁴ Per M-NCPPC Recreation Guidelines for Off-Site Amenities, March 1992; Page 9 "All publically owned recreation facilities within approximately 1 mile from the site boundary, and which do not restrict any segments of the public, may be counted. In order to qualify the facility must be safely linked to the site and reasonably accessible by foot or bicycle to the site."

intentionally oriented to face the public roadways. This relationship helps to define a public streetscape pattern, and a sense of community.

The Applicant's architectural illustrations detail the side elevations of the end units with the same level of treatment as the principal facades (i.e. trim, projecting eaves, windows, shutters, foundation details etc). This uniformity provides for a more compatible and cohesive neighborhood.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

- a. Forest Conservation

The Forest Conservation Plan satisfies the requirements of Chapter 22A of the Montgomery County Code. However, the items outlined in the environmental planning staff's August 4, 2008 memorandum are required prior to the issuance of the sediment and erosion control permits. The submitted NRI/FSD will be revised to reflect staff's requested changes to the wetland designation, and resubmitted for review and approval by environmental planning staff. Per the final forest conservation plan, the Applicants are required to retain approximately 1 acre of forest and reforesting 0.05 acres on-site and are reforesting 1.06 acres off-site (total of 1.11 acres of reforestation).

- b. Water Quality

The approved stormwater management plan consists of on-site water quality control via construction of a Montgomery County Sand Filter (MCSF), on-site recharge via disconnection of rooftop flows, and additional storage below the sand filter. Channel protection volume is not required as the one year post development peak discharge is less than or equal to 2.0 cfs.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of site plan 820080100, Towns of Tanglewood, for thirty-six (36) one-family attached townhomes on 4.97 acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on May 28, 2008 are required except as modified by the following conditions.

1. Preliminary Plan Conformance

The proposed development shall comply with the conditions of approval for Preliminary Plan 120061090, approved by the Planning Board on July 26, 2007.

2. Site Plan

The orientation of the front of each building shall match that shown on the submitted site plan.

3. Recreation Facilities

- a. Ensure that the play equipment is certified by the National Playground Safety Institute and in conformance with M-NCPPC Recreation Guidelines.
- b. Recreation facilities shall consist of a tot lot and seating areas, as shown on the Site Plan.

4. Moderately Priced Dwelling Units (MPDUs)

- a. The proposed development shall provide 5 MPDUs on-site (12.5 percent of the total number of units) in accordance with Chapter 25A.
- b. Evenly distribute the required number of MPDUs between the phases of construction. The Applicant shall build MPDUs concurrently with the other units in the phase, ensuring compliance with the MPDU requirements (Attachment E).
- c. The Applicant shall enter into an "Agreement to Build" with DHCA before certified site plan.

5. Lighting

- a. Applicant will submit the formal lighting plan with the certified site plan submittal.
- b. The height of the on-site light poles and fixtures shall not exceed 12 feet including the mounting base.

6. Forest Conservation

Applicant shall comply with the following conditions of approval from M-NCPPC's Environmental Planning office in the memorandum dated August 4, 2008 (Attachment D):

Compliance with the conditions of approval for the final forest conservation plan dated July 1, 2008. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit(s), as appropriate. Conditions include, but are not limited to, the following:

- o The final forest conservation plan must be revised to include the following items:

Remove the proposed offsite forest planting along the area that will be cleared for the sewer line construction within the ICC right-of-way.

Provide a planting plan for 1.06 acres of offsite planting at the Kruhm Property subdivision.

Correct the forest conservation plan worksheet to show a minimum of 0.05 acre of onsite reforestation, 1.06 acres of offsite reforestation, and no reforestation on the offsite sewer line easement.

The NRI/FSD must be revised to include the proposed disturbance area for the extension of Guilford Run Lane and its associated storm drain outfall. In addition, the revision must remove the wetland delineation in the Guilford Run Lane ROW and adjacent area, consistent with staff and the Maryland Department of the Environment (MDE) assessment of the area. The revised NRI/FSD must be

submitted for MNCPPC staff review and approval prior to the approval of the certified site plan.

7. Noise Analysis

Applicant shall comply with the following conditions of approval from M-NCPPC's Environmental Planning office in the memorandum dated August 4, 2008 (Attachment D):

- a. Submit a traffic noise study to the environmental planning staff for review and approval prior to the approval of the certified site plan.
- b. Prior to the approval of the certified site plan, the applicant must submit a detailed analysis of projected noise levels affecting the townhouses. This analysis may use the existing SHA noise projections and adjust for distance, or have a traffic noise study conducted by a professional engineer with competency in acoustical analysis.
 - o The report must provide documentation that SHA's proposed noise wall design will mitigate future ICC traffic noise levels to 65 dBA, Ldn or lower for the exterior areas of all proposed townhouses. If SHA's proposed noise wall does not adequately mitigate traffic noise levels to meet the above criteria, the report must identify what modifications are needed to affected townhouse units so that the interior noise level criteria of less than or equal to 45 dBA Ldn can be met for affected units.
 - o Prior to building permit approval for affected units, the builder must provide a binding commitment to construct noise mitigation measures in accordance with recommendations of the noise analysis and with acoustical specifications as identified by the acoustical professional. Any subsequent changes in building materials (e.g., doors, windows, skylights) or coverage that may affect acoustical performance shall be approved by an acoustical engineer prior to approval of building permits for the affected units.

8. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated January 25, 2008, unless amended by the Montgomery County Department of Permitting Services.

9. Transportation

- a. The Applicant must construct all private streets to the widths shown on the Site Plan. The streets must be built to the structural standards of a tertiary road, as specified in Section 50-25(h) of the Subdivision Regulations.
- b. The certified site plan will be modified to include the following items:
 - o Align the handicapped ramps across Tanglewood Manor Drive at Dogwood Drive (to the northwestern corner of the site).
 - o Extend the proposed sidewalk along Guilford Run Lane (to the west of Dogwood Drive) to Hampton Hollow Drive to provide an appropriate terminus.

2) Architecture

- a. The Applicant must construct the side elevations of the townhouse units similar in materials and detail as the principal facades.
- b. The dominant exterior cladding material installed on the principal facades, including the foundation and the main body of the elevation, will also be utilized on the side elevation of the end units.

3) Development Program

Applicant shall construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the certified site plan. Development Program shall include a phasing schedule as follows:

- a. Street lamps and sidewalks must occur within six months after street construction is completed. Tree planting may wait until the next growing season.
- b. The tot lot shall be completed no later than six months after completion of the first stick of units.
- c. The installation of the "garden square" recreation feature will be completed no later than six months after completion of the two rows of sticks that flank it.
- d. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- e. Landscaping and lighting shall be completed as each stick of units is complete, but no later than six months after completion of each stick of units.

4) Clearing and Grading

No clearing or grading prior to M-NCPPC approval of certified site plans.

5) Fire and Rescue

The proposed development is subject to the conditions of approval from the Montgomery County Fire and Rescue Service dated May 29, 2008 (Attachment B).

6) Certified Site Plan

Prior to certified site plan approval, the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Modify notes to include M-NCPPC Staff approval required for planting plan substitutions.
- c. Include a cut-sheet for specific manufacturer for retaining walls on site plan.
- d. Limits of disturbance.

ATTACHMENTS

- A. Preliminary Plan Corrected Resolution; January 3, 2008
- B. Fire and Rescue Memorandum; May 29, 2008
- C. DPS Stormwater Management Concept Approval Letter; January 25, 2008
- D. Environmental Planning Memorandum; August 4, 2008
- E. DHCA Memorandum; dated May 14, 2008



MONTGOMERY COUNTY PLANNING BOARD
 THE MONTGOMERY COUNTY CAPITAL PARK AND PLANNING COMMISSION

JAN - 3 2008

MCPB No. 07-208
Preliminary Plan No. 120061090
Kushner Property
Date of Hearing: July 26, 2007

MONTGOMERY COUNTY PLANNING BOARD

CORRECTED RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on April 26, 2006, Mr. Craig C. Kazanjian, KAZ Development ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 36 lots on 4.94 acres of land located on the east side of Dogwood Drive opposite the intersection with Guilford Run Lane ("Property" or "Subject Property"), in the Fairland master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120061090, Kushner Property ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated July 13, 2007, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on July 26, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, on July 26, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Bryant; seconded by Commissioner Lynch; with a vote of 4-0, Commissioners Bryant, Cryor, Hanson, and Lynch voting in favor; Commissioner Robinson absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120061090 to create 36 lots on 4.94 acres of land located on the east side of Dogwood Drive opposite the intersection with Guilford Run Lane ("Property" or "Subject Property"), in the Fairland master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to a maximum of 36 lots for 36 one-family attached dwelling units including a minimum 12.5% Moderately Priced Dwelling Units ("MPDUs").
- 2) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and other improvements will be determined at site plan approval. Final number of MPDUs per Condition 1 will be determined at site plan approval.
- 3) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan. The Applicant must meet all conditions prior to the recording of plat(s) or MCDPS issuance of sediment and erosion control permit(s) as applicable. Conditions include but are not limited to the following:
 - a. Final forest conservation plan that is submitted with the site plan must include:
 - i. A detailed tree survey with a critical root zone analysis for trees greater than or equal to 6 inches in diameter at breast height within 25 feet on either side of the limits of disturbance along the environmental buffer boundary and along the offsite limits of disturbance.
 - ii. Planting plan for the area along the boundary of the environmental buffer area to mitigate for the loss of trees along the limits of disturbance.
 - iii. Location of offsite planting area or forest bank to meet the forest-planting requirement.
- 4) The specific location of the offsite sewer line and grading limits must be established at the time of site plan in conjunction with a detailed tree save plan.
- 5) Record plat to reflect a Category I conservation easement over the environmental buffer.
- 6) No clearing, grading or recording of plats is permitted prior to certified site plan approval.

- 7) The Applicant must comply with the conditions of the MCDPWT letter dated July 7, 2006, unless otherwise amended. All issues regarding improvements to Dogwood Drive must be resolved prior to Planning Board action on the site plan.
- 8) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated March 5, 2007.
- 9) The Applicant must dedicate all road rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan unless otherwise designated on the Preliminary Plan.
- 10) The Applicant must construct all required road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes, unless otherwise designated on the Preliminary Plan. The Applicant must construct the extension of Guilford Run Lane on the Property as shown on the Preliminary Plan. Final details concerning the specific terminus of this road must be determined at site plan.
- 11) The Applicant must construct the connection of Guilford Run Lane from Dogwood Lane, west, to the built section of Guilford Run Lane to the design criteria specified by the Montgomery County Department of Public Works and Transportation, provided that the Maryland Department of the Environment and other appropriate agencies involved with the wetland permitting process approve the connection of Guilford Run Lane and issue the appropriate permits. The timing and completion dates of all road improvements associated with this project shall be determined at site plan.
- 12) The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant must provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.
- 13) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
- 14) The record plat must reflect a public use and access easement over all private alleyways.
- 15) Other necessary easements shall be shown on the record plat.
- 16) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff and the discussion of the Fairland Master Plan as it relates to the completion of Guilford Run Road from Dogwood Lane west to existing Guilford Run Lane, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS with the conditions of approval that:

1. The Preliminary Plan substantially conforms to the Master Plan.

The Fairland Master Plan specifies that the unbuilt but dedicated section of Guilford Run Lane is to be constructed in the event that the ICC is built. The Planning Board finds that with the construction of Guilford Run Lane along the Property frontage and to the west to connect to the existing built portion of Guilford Run Lane to Dogwood Lane, the development as proposed substantially conforms to the recommendations in the Fairland Master Plan.

2. Public facilities will be adequate to support and service the area of the proposed subdivision.

The Planning Board finds that the public facilities required to serve the Property, specifically, roads, public transportation facilities, sewerage and water service, schools, police stations, firehouses and health clinics are adequate to serve the proposed development.

Constructing the unbuilt portion of Guilford Run Lane is necessary to coordinate roads, avoid premature subdivision, and ensure the continuation of existing roads. Because the impending construction of the ICC will cut off the current access from Dogwood Lane to Briggs Chaney Road, connecting Guilford Run Lane to Dogwood Lane is necessary to provide a substitute access to Briggs Chaney Road for properties along Dogwood Drive. Unless the connection is constructed, access to Briggs Chaney Road would be highly circuitous, though not impossible, for this new development. And if Guilford Run Lane is not connected as part of the development of this property, there is only one other property, the adjacent SHA property adjacent, that might possibly be responsible for developing it. But allowing this development to move forward on the chance that this important road connection will be built in the future would be inconsistent with the Board's obligation to coordinate roads, avoid premature subdivision, and ensure the continuation of existing roads.

The Applicant expressed concern over a small pocket of wetlands within the Guilford Run Lane right-of-way that for which the Maryland Department of Environment ("MDE") would need to issue disturbance permits, which the Applicant believes could hamper efforts to build the road. The Applicant requested that if the Board were to require construction this road, there should be flexibility in any conditions if permits could not be secured. The Board believes that it should be possible to obtain the necessary permits, and expects that the Applicant will diligently seek them. In the event that the Applicant diligently seeks the necessary permits and is unable to obtain them, Condition 11 provides that

the road connection may not have to be built. However, if the Applicant is unable to obtain the necessary permits, and if in the future the Board is presented with evidence that the Applicant did not diligently seek to obtain the necessary permits, the Board may reconsider its decision to approve this Preliminary Plan.

The Board recognizes that the adjacent SHA property has development potential, and would benefit from the completion of the currently dedicated but unbuilt section of Guilford Run Lane and extension the of Guilford Run Lane. But because the development of the SHA property is independent from this Application, the Board cannot condition the development of that property in this case. If there is an application to develop the SHA property in the future, the Board may determine that the developer of that property should also be responsible for constructing or contributing to the construction of the Guilford Run Lane connection and extension. If and when an application for subdivision of the adjacent SHA property is submitted, the Staff and the Board should consider the appropriateness of seeking a pro rata contribution from the developer of the SHA property toward the construction of the connection and extension of Guilford Run Lane.

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

The Planning Board finds that the size shape, width and orientation of the proposed lots are appropriate for the location of the subdivision based on a review of the guidance in the Fairland Master Plan and the R-90 zoning standards for MPDU development.

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

The Planning Board finds that the proposed development complies with all applicable sections of Chapter 22A, the Montgomery County forest conservation law based on their review and approval of the preliminary forest conservation plan for the Subject Property.

5. *The Application meets all applicable storm water management requirements and will provide adequate control of storm water runoff from the site.*

Pursuant to Chapter 19 of the Montgomery County Code, the Montgomery County Department of Permitting Services approved a stormwater management concept plan of the proposed development on March 5, 2007. Therefore, the Planning Board finds that the development complies with the requirements of

Section 50-24(j) of the Montgomery County Subdivision Regulations that requires compliance with Chapter 19.


BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

~~BE IT FURTHER RESOLVED~~, that the date of this Resolution is JAN -3 2008 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

At its regular meeting, held on Thursday, December 13, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner Lynch, seconded by Commissioner Cryor, with Commissioners Hanson, Cryor, and Lynch voting in favor, and with Commissioner Robinson abstaining and Commissioner Bryant absent, ADOPTED the above Corrected Resolution, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan No. 120061090, Kushner Property.


Royce Hanson, Chairman
Montgomery County Planning Board



FIRE MARSHAL COMMENTS

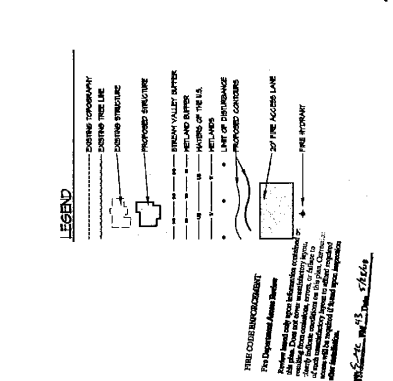
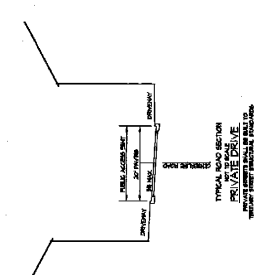
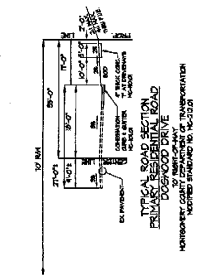
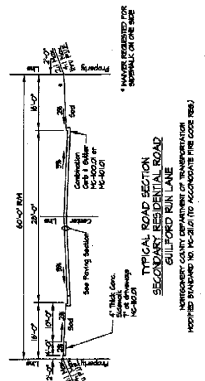
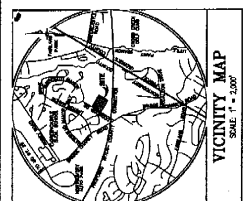
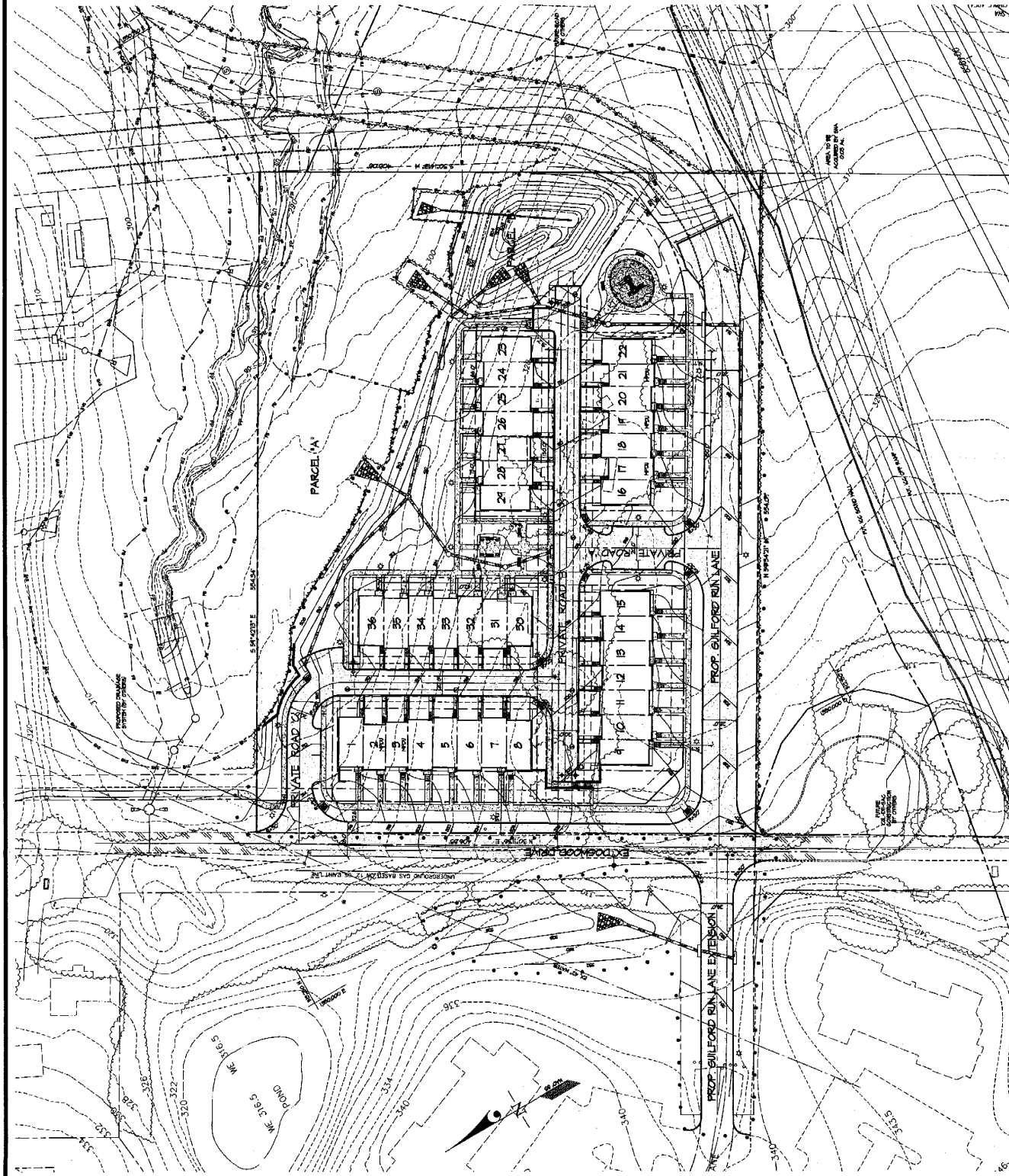
DATE: MAY 29, 2008
TO: ROBERT GOSS, GLW
FROM: MARIE LABAW
RE: TOWNS OF TANGLEWOOD 820080100

PLAN APPROVED.

1. Review based only upon information contained on the plan submitted **05-07-08**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

cc: Department of Permitting Services

MNCPPC-MC



GLW GURNEY LITTLE & WEBER, P.A.
 CIVIL ENGINEERS
 1000 WEST 10TH AVENUE, SUITE 200
 DENVER, COLORADO 80202
 PHONE: (303) 733-1100
 FAX: (303) 733-1101
 E-MAIL: GURNEY@GLW-PA.COM

THE TOWNS OF TANGLEWOOD
 LOT 136, PARCELS A & B, BLOCK A
 COVENE ELECTOR DISTRICT NO. 5

PREPARED FOR:
THE TOWNS OF TANGLEWOOD, L.L.C.
 2000 Spring Mountain Road
 DENVER, COLORADO 80202

DATE: 04/15/2004
 DRAWN BY: J. L. WEBER
 CHECKED BY: J. L. WEBER
 SCALE: 1" = 30'

PROJECT NO.: 05.088
 SHEET NO.: 1 OF 1

DATE: 04/15/2004
 DRAWN BY: J. L. WEBER
 CHECKED BY: J. L. WEBER
 SCALE: 1" = 30'



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

January 25, 2008

Carla Reid Joyner
Director

Mr. David Cha
Gutschick, Little & Weber, P.A.
3909 National Drive, Suite 250
Burtonsville, MD 20866

Re: **Revised Stormwater Management CONCEPT**
Request for Kushner Property
Preliminary Plan #: 1-06109
SM File #: 225498
Tract Size/Zone: 5.0 acres / RT-8
Total Concept Area: 5.0 acres
Lots/Block: N/A
Parcel(s): P140
Watershed: Little Paint Branch

Dear Mr. Cha:

Based on a review by the Department of Permitting Services Review Staff, the **revised** stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site water quality control via construction of a Montgomery County Sand Filter (MCSF); and onsite recharge via disconnection of rooftop flows and additional storage below the sand filter. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

The following **item(s)/condition(s)** will need to be addressed **during/prior to the detailed** sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. The main reason for the revised stormwater concept was to add the construction of an extension of Guilford Run Lane, west of the subject property. The majority of this extension will drain via a proposed swale to an existing retention pond.
5. The revised plans also appear to reflect slight modification of the proposed stormwater management facility and the location of the stream valley buffer line. Please note that the stormwater management parcel may not extend into the stream valley buffer as shown on the stormwater concept plan. In addition, the stormwater management parcel must be revised such that it provides clear access to the "proposed swm access".
6. This stormwater management concept approval supercedes the approval granted on March 5, 2007.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Mark Etheridge at 240-777-6338.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard R. Brush", is written over the word "Sincerely,".

Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm mce

cc: C. Conlon
S. Federline
SM File # 225498

QN - ON; Acres: 5
QL - ON; Acres: 5
Recharge is provided



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

MEMORANDUM

TO: Michele Oaks, Development Review Division

VIA: Stephen D. Federline, Supervisor, Environmental Planning, Countywide Planning Division *SD*

FROM: Candy Bunnag, Environmental Planning, Countywide Planning Division *CB*

DATE: August 4, 2008

SUBJECT: The Towns of Tanglewood (Kushner Property), Site Plan No. 820080100

RECOMMENDATION: Approval subject to the following conditions:

1. Prior to the approval of the certified site plan, the applicant must submit a detailed analysis of projected noise levels affecting the townhouses. This analysis may use the existing SHA noise projections and adjust for distance, or have a traffic noise study conducted by a professional engineer with competency in acoustical analysis.
 - a. The report must provide documentation that SHA's proposed noise wall design will mitigate future ICC traffic noise levels to 65 dBA, Ldn or lower for the exterior areas of all proposed townhouses. If SHA's proposed noise wall does not adequately mitigate traffic noise levels to meet the above criteria, the report must identify what modifications are needed to affected townhouse units so that the interior noise level criteria of less than or equal to 45 dBA Ldn can be met for affected units.
 - b. Prior to building permit approval for affected units, the builder must provide a binding commitment to construct noise mitigation measures in accordance with recommendations of the noise analysis and with acoustical specifications as identified by the acoustical professional. Any subsequent changes in building materials (e.g., doors, windows, skylights) or coverage that may affect acoustical performance shall be approved by an acoustical engineer prior to approval of building permits for the affected units.
2. Compliance with the conditions of approval for the final forest conservation plan dated July 1, 2008. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit(s), as appropriate. Conditions include, but are not limited to, the following:

- a. The final forest conservation plan must be revised to include the following items:
 - i. Remove the proposed offsite forest planting along the area that will be cleared for the sewer line construction within the ICC right-of-way.
 - ii. Provide a planting plan for 1.06 acres of offsite planting at the Kruhm Property subdivision.
 - iii. Correct the forest conservation plan worksheet to show a minimum of 0.05 acre of onsite reforestation, 1.06 acres of offsite reforestation, and no reforestation on the offsite sewer line easement.
- b. The NRI/FSD must be revised to include the proposed disturbance area for the extension of Guilford Run Lane and its associated storm drain outfall. In addition, the revision must remove the wetland delineation in the Guilford Run Lane ROW and adjacent area, consistent with staff and the Maryland Department of the Environment (MDE) assessment of the area. The revised NRI/FSD must be submitted for MNCPPC staff review and approval prior to the approval of the certified site plan.

BACKGROUND

The 4.97-acre property includes 3.57 acres of forest and lies within the Little Paint Branch watershed (Use I waters). The forest is classified as high priority because it is in good condition, contains a large number of significant trees, and exists within an environmental buffer. A tributary of Little Paint Branch is located to the north of the property, flows eastward through the northeastern corner of the property and into the SHA property that lies to the east of the subject property. Forested wetlands occur within the environmental buffer on and adjacent to the subject property. A single-family house and driveway exist on the site.

The right-of-way for the Intercounty Connector (ICC) abuts the southern property line of the property.

Forest Conservation

The applicant proposes to retain 0.99 acre of onsite forest. The retained forest lies within the site's environmental buffer. A Category I conservation easement will be placed over the onsite environmental buffer and forest retention area.

Section 22A-12(f)(2)(B) of the Forest Conservation Law states that for a site that uses an optional method of development in a one-family residential zone, "*on-site forest retention must equal the applicable conservation threshold...*". The site is zoned RT-8 and the subdivision uses MPDU optional method of development. Therefore, forest retention on the site must be at least 0.99 acre, which is the conservation threshold that is calculated for the site itself (excluding all offsite clearing). The Forest Conservation Plan provides for the minimum forest retention on the site.

Not all of the required 1.11 acres of reforestation can occur on the subject site. Only a very small portion, about 0.05 acre, of the reforestation will be located on the site. An additional 0.12 acre of reforestation is proposed within the sewer line easement on the adjoining SHA property. In addition, the applicant proposes to reforest an environmental buffer area within a subdivision that is also being developed by the applicant. This subdivision is called the Kruhm Property (preliminary plan no. 120060940). It contains about 25.7 acres of environmental buffers, of which 9.90 acres are existing forest and 6.21 acres will be planted forest. The Kruhm Property subdivision lies within the Patuxent River watershed. There would be 9.68 acres of environmental buffer that could be planted in forest. Staff finds that the use of the Kruhm Property subdivision as an offsite forest planting area for this project is acceptable.

The applicant proposes to clear 2.91 acres of the 3.90 acres of existing forest on and off the site. The forest clearing is associated with the proposed dwelling units, roads, SWM facilities and their outfalls, and the offsite sewer line. About 0.33 acre of the forest clearing will occur offsite, most of which is within an environmental buffer. This clearing is associated with the offsite sewer line construction and is unavoidable. Staff had recommended that the sewer line be relocated westward to try to reduce forest fragmentation and impacts to forested wetlands. However, SHA's current plans for the ICC show that the forested wetlands, streams, and environmental buffers in the same vicinity as the proposed sewer line will result in significant forest removal within the environmentally sensitive area. With the SHA proposal to clear and grade within the environmental buffer, adjusting the proposed sewer line location would not result in less forest fragmentation.

SHA conceptual plans for this section of the ICC show proposed clearing and grading within the environmental buffer area where the sewer line construction and part of the applicant's offsite reforestation is to occur. The current SHA plans continue to show clearing and grading within the same area. There is a conflict between the subdivision's proposed offsite reforestation over the area for the sewer line installation and the SHA's plans for clearing and grading for the ICC: The Forest Conservation Plan must be revised to remove any forest planting within the offsite clearing for the sewer line on SHA property. Staff recommends that all of the subdivision's offsite forest planting requirement be met by planting forest on the Kruhm Property.

The Forest Conservation Plan, in combination with staff's proposed recommendations, meet the requirements of the Forest Conservation Law.

Environmental Buffers

About 0.97 acre of the 1.00 acre of onsite environmental buffer will remain undisturbed. Forest clearing and land disturbance will occur on about 0.03 acre of the onsite environmental buffer due to the location of three unavoidable storm drain outfalls from the proposed subdivision.

Land disturbance will occur within two offsite environmental buffer areas. In one area, an unavoidable sewer line extension will clear about 0.33 acre of forest, most of which is in an environmental buffer. This disturbance is discussed in more detail in the previous section.

In its review of the preliminary plan for this proposed project, the Planning Board found that the connection of Guilford Run Lane to Dogwood Lane is necessary to provide access to Briggs Chaney Road for properties along Dogwood Drive since the ICC will cut off the current access from Dogwood Lane to Briggs Chaney Road. The NRI/FSD identified the eastern, unbuilt part of the Guilford Run Lane ROW and a small swale to the north of the ROW as a wetland. This wetland information was taken from SHA's roadway concept plan for the ICC, dated December 4, 2006.

The applicant's consultant indicated that he field-checked the area of the Guilford Run Lane ROW and adjacent swale and did not find any indications of wetlands in the area. A field meeting with the applicant's consultant, M-NCPPC staff, and Ms. Pavla Cervova, the Maryland Department of the Environment (MDE) environmental specialist and principal reviewer for wetlands permits in Montgomery County, was held in late July 2008. The MDE reviewer determined that the area in question is not a regulated wetland and that the applicant does not need to include this area in his wetland permit application for work related to the subdivision that impacts wetlands (see Attachment A). Staff concurs in this assessment. Therefore, the proposed extension of Guilford Run Lane does not require an MDE wetland permit.

Since the NRI/FSD shows the Guilford Run Lane ROW and adjacent swale as a wetland, staff recommends that the NRI/FSD is revised to remove the wetland designation, consistent with MDE's field review and determination in July 2008.

Traffic Noise Impacts

An ICC ramp that connects to Briggs Chaney Road will be located adjacent to the subject property. SHA had conducted a noise study that included the subject property. However, the study assessed the noise impact of the ICC on the one existing single-family on the property, not on the proposed townhouse subdivision. The noise study estimates that the ICC will generate traffic noise levels in the year 2030 of 61 dBA, Leq at the existing single-family house. This would result in a 15 dBA increase over existing peak ambient noise levels. This level of increase warrants the investigation of a noise barrier for the property. The noise study also predicts that a noise barrier will decrease traffic noise levels by 7 dBA to 54 dBA, Leq, which is comparable under typical conditions to roughly the same decibel level in Ldn.

The SHA noise study and additional information from SHA's consultant indicates that the noise wall would be adjacent to the segment of the ICC ramp that fronts the subject site and would extend westward and wrap around Briggs Chaney Road. The section of the noise wall adjacent to the subject site is proposed to be about 16 to 20 feet high.

Staff is concerned that the SHA's proposed noise wall may not provide adequate noise attenuation for the proposed townhouses. The proposed units are closer to the ICC than the existing single-family house. In addition, the townhouses are two stories high, compared to the one-story structure of the existing home. Based on cross-sections of the townhouses, the proposed noise walls, and the ICC, the noise walls may not be tall enough to provide sufficient noise mitigation for the upper levels of the eastern townhouses on Guilford Run Lane.

Therefore, staff recommends that the applicant submit a traffic noise study prior to the approval of the certified site plan. The noise study may use the analysis data generated from the SHA noise study, and adjust for distance and height. As another alternative, the applicant would conduct a new study to determine noise impacts of the ICC on the proposed townhouses. The existing house is lower than the proposed townhouses and is further away from the ICC than the proposed row of townhouses on Guilford Run Lane. The proposed townhouses on Guilford Run Lane would be subjected to higher noise levels than the existing house on the site because the townhouses are closer to the ICC and are higher than the existing house.

If the applicant's noise study determines that ICC noise walls will not mitigate the upper levels of the townhouses to an exterior level of 65 dBA, Ldn, then the applicant must be required to construct the affected residential units to mitigate the interior noise due to ICC traffic to acceptable levels of 45 dBA Ldn or below.

Bunnag, Candy

From: Pavla Cervova [pcervova@mde.state.md.us]
Sent: Thursday, July 24, 2008 11:35 AM
To: Bunnag, Candy
Cc: michael.klebasko@verizon.net
Subject: RE: RE: Request for assistance in identifying a possible wetland

Candy,

In accordance with our discussion at the site. The applicant does not need to apply for modification of the authorization which we have already issued 200765311/07-NT-3392. The proposed impacts to the area in question are exempt from the letter of exemption, permit and mitigation requirements. Please let me know if you have any questions.

With regards
Pavla Cervova

>>> "Bunnag, Candy" <Candy.Bunnag@mncppc-mc.org> 7/14/2008 11:03 AM >>>
Mike Klebasko, with McCarthy and Associates, has confirmed the meeting for 7/23 at 1 p.m. I will send you a copy of the plan and his field data. Once you get the info., let me know if you have questions or need additional info.
Thanks, Candy

-----Original Message-----

From: Pavla Cervova [mailto:pcervova@mde.state.md.us]
Sent: Monday, July 14, 2008 10:39 AM
To: Bunnag, Candy
Subject: RE: RE: Request for assistance in identifying a possible wetland

Yes, I can be there at 1 pm, 7/23. The address you have for our office is correct.

I will see you there.
Pavla Cervova

>>> "Bunnag, Candy" <Candy.Bunnag@mncppc-mc.org> 7/14/2008 10:27 AM >>>
Can we meet at 1 p.m., 7/23? I can send you plans that show the site...is your address 1800 Washington Blvd., Suite 430, Balt.? Thanks, Candy

-----Original Message-----

From: Pavla Cervova [mailto:pcervova@mde.state.md.us]
Sent: Monday, July 14, 2008 10:09 AM
To: Bunnag, Candy
Subject: RE: RE: Request for assistance in identifying a possible wetland

Yes, I can be there at 1 or at 2 pm on 7/23.

Pavla Cervova



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

May 14, 2008

Ms. Michele Oaks
M-NCPPC - Development Review Division
8787 Georgia Ave.
Silver Spring, MD 20910

Re: Towns of Tanglewood (Kushner Property) – Site Plan No. 820080100

Dear Ms. Oaks:

I understand that the above project is scheduled to be heard by the Planning Board in late June or early July. The Department of Housing and Community Affairs (DHCA) has received the revised plans for the project. In the revised plans, the two MPDUs that were previously located on lots 11 and 12 have been moved to lots 2 and 3, in the townhouse stick composed of lots 1 through 8, and the three remaining MPDUs have been located on lots 17, 19 and 21, in the townhouse stick composed of lots 16 through 22.

I have reproduced below the guidance I provided to the applicant via email concerning the MPDU staging requirements of Chapter 25A of the Montgomery County Code:

If the MPDUs are constructed on lots 2, 3, 17, 19, and 21 as proposed below, it would be acceptable to build stick 1-8 first, which would include 2 MPDUs (40% of total MPDUs) and 6 market rate units (19% of total market rate units). You could then construct either a 6 lot or 7 lot market-rate stick (which would bring the percentage of market rate units constructed up to 38% or 42%, respectively) before constructing the second combined MPDU/market rate stick.

I understand that the applicant plans to build stick 1 through 8 first, and he is aware that the stick containing the three remaining MPDUs must be either the second or third stick built in order to comply with the staging requirements of Chapter 25A. As noted in my comments at DRC, the MPDU townhouses will need to have at least three bedrooms.

If you need further information, please contact me at 240-777-3786.

Sincerely,

Lisa S. Schwartz
Lisa S. Schwartz
Senior Planning Specialist

cc: Craig C. Kazanjian, Kaz Brothers L.C.
Douglas E. Lohmeyer, HOC Consultant
Richard Y. Nelson, Jr., DHCA
Scott W. Reilly, DHCA
Joseph T. Giloley, DHCA
Christopher J. Anderson, DHCA

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Division of Housing and Code Enforcement

Code Enforcement
FAX 240-777-3701

Moderately Priced
Dwelling Unit
FAX 240-777-3709

Housing Development
and Loan Programs
FAX 240-777-3691

Landlord-Tenant Affairs
FAX 240-777-3691