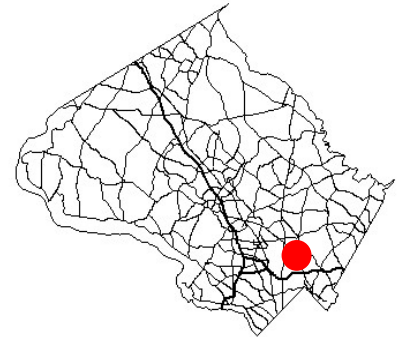




MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
4/14/11



MEMORANDUM

DATE: April 1, 2011

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief
Robert Kronenberg, Supervisor
Area One Division

FROM: Neil Braunstein, AICP (301-495-4532)
Area One Division

REVIEW TYPE: Preliminary Plan of Subdivision

APPLYING FOR: 26 lots for 25 townhouse units and 1 one-family-detached dwelling unit

PROJECT NAME: Kensington Heights
CASE #: 1201010290
REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RT-8
LOCATION: Located in the southwest quadrant of the intersection of University Blvd and the Wheaton Plaza access road.
MASTER PLAN: Wheaton Central Business District and Vicinity Sector Plan

APPLICANT: Kensington Heights 2, LLC
ENGINEER: CAS Engineering

FILING DATE: May 20, 2010
HEARING DATE: April 14, 2011

Approval signatures

--	--	--	--	--

RECOMMENDATION: Approval subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 26 lots for 1 one-family detached dwelling unit and 25 townhouses, including 13.7% moderately priced dwelling units (MPDUs).
- 2) The applicant must comply with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable. Specific conditions include:
 - a. The final forest conservation plan must include a plan to remove and manage non-native and invasive plants within the forest retention and planting areas.
 - b. Any unpaved paths and/or seating within protected forest areas must be shown on the final forest conservation plan.
 - c. Specific numbers, sizes, species, and planting locations for native trees that receive landscape credits in the forest conservation plan worksheet will be determined at site plan.
- 3) The record plat must reflect a Category I conservation easement over all areas of forest retention and forest planting. The Category I conservation easement may be modified to allow for limited unpaved paths and/or seating areas within protected forest areas on the site.
- 4) Specific noise mitigation measures for private, outdoor use areas will be determined at site plan.
- 5) Prior to issuance of building permits for the affected units, the following must be submitted to M-NCPPC staff:
 - a. Certification from an acoustical engineer that the building shell for the dwelling units on proposed Lots 2-13 (identified as proposed Lots 4-14 in the noise analysis report) have been designed to attenuate projected interior levels to or below 45 dBA, Ldn using projected 2030 traffic noise levels identified in the noise analysis report, dated October 12, 2010.
 - b. Signed, notarized commitment to construct the dwelling units on proposed Lots 2-13 (identified as proposed Lots 4-14 in the noise analysis report) in accord with the acoustical design specifications contained in the building shell analysis. Any changes to the building shell construction that may negatively affect acoustical performance must be approved in writing by the acoustical engineer to provide acoustical attenuation for affected units to the same level as the specifications in the building shell analysis. A copy of the written approval must be provided to M-NCPPC staff.
- 6) The applicant must dedicate and the record plat must show dedication of approximately 11,030 square feet of right-of-way for the extension of Findley Road, as shown on the preliminary plan.
- 7) The applicant must construct all 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.
- 8) The applicant must satisfy MCDPS requirements prior to recordation of the plat to ensure the construction of a five-foot-wide sidewalk along the property frontage on the extension of Findley Road, unless construction is waived by MCDPS.

- 9) The record plat must reflect a public use and access easement over all private streets and adjacent parallel sidewalks and all sidewalks that connect between a private street and either University Boulevard or the Wheaton Plaza access road.
- 10) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
- 11) 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.
- 12) The applicant must comply with the conditions of the MCDPS stormwater management approval dated December 22, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 13) The applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated September 13, 2010. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 14) The applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 15) No clearing, grading or recording of plats prior to certified site plan approval.
- 16) The final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
- 17) In the event that a subsequent site plan approval substantially modifies the subdivision shown on the approved preliminary plan with respect to lot configuration or right-of-way location, width, or alignment, the applicant must obtain approval of a preliminary plan amendment prior to certification of the site plan.
- 18) The applicant must comply with the binding elements of County Council Resolution No. 16-1189 approving Local Map Amendment G-877.
- 19) Consistent with condition #1 above, the final number of MPDU’s will be determined at the time of site plan.
- 20) 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 during the site plan process. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”
- 21) Prior to certification of the preliminary plan, the plan drawing must be amended to specify a parcel letter for the common open space along the outside perimeter of the subject property.
- 22) The record plat must show necessary easements.
- 23) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.

SITE DESCRIPTION

The subject property, shown below and in Attachment A, is a platted outlot and is 131,365 square feet (3.02 acres) in area. The property is zoned RT-8. It is located in the southwest quadrant of the intersection of University Boulevard (MD 193) and the Wheaton Plaza access road. The property has frontage on University Boulevard (MD 193) and on the terminus of Findley Road, which ends at the southwestern property line of the site. The site is undeveloped. Surrounding properties to the north, south, and west are developed with one-family detached dwellings in the R-60 zone. North of the site, across University Boulevard (MD 193), special exception uses have been established on several properties. The Wheaton Plaza mall is located east of the site.

The subject property is located within the Lower Rock Creek watershed. There are no streams, wetlands, floodplains, or environmental buffers on or adjacent to the site. There are 1.02 acres of existing forest generally located on the southern portion of the site.



PROJECT DESCRIPTION

The applicant proposes to resubdivide the existing outlot into 25 townhouse lots and one lot for a one-family detached dwelling. Four of the proposed townhouses (13.7%) will be moderately priced dwelling units (MPDUs). The proposed one-family detached dwelling lot will front onto a cul-de-sac extension of Findley Road. The townhouse lots will front onto a

proposed private loop street. A forest conservation area is proposed for the southern portion of the site.

(Attachment B – proposed plan)

PREVIOUS APPROVALS

On November 10, 2009, the Montgomery County Council approved local map amendment G-877, which changed the zoning of the site from R-60 and C-T to RT-8. The approval included a number of binding elements, which are addressed below.

ANALYSIS AND FINDINGS

Conformance to the Master Plan

The 1990 Wheaton Central Business District and Vicinity Sector Plan recommends low intensity residential uses for the subject property. The property was rezoned in 2009 to RT-8, despite a recommendation in the Sector Plan for the RT-6 and C-T zones. Notwithstanding the recommendation in the Sector Plan, the hearing examiner and the County Council found that the proposed development and RT-8 zoning were in substantial conformance with the intent of the Sector Plan.

Specifically, the Sector Plan states on page 46 that “low intensity new developments [in this area] are encouraged to buffer existing single-family residences from adverse effects associated with major traffic arteries.” The proposed subdivision will accomplish this goal by providing buffering for existing dwellings from University Boulevard and the Wheaton Plaza access road.

The Sector Plan also recommends on page 48 the use of “Townhouse and Planned Development zoning. This zoning would encourage the development of a variety of housing types on individual parcels. Higher density development should be sited closer to the Metro station, to the business district, and to major roads. Lower density development (primarily single-family homes) would be developed adjacent to existing single-family areas.” The proposed subdivision meets this goal by providing higher density townhouse residential development adjacent to University Boulevard and the Wheaton Plaza mall (i.e., closer to the business district and major roads).

The Proposed Street and Highway Plan on page 96 of the Sector Plan shows that Findley Road should be extended onto the subject property and ended in a cul-de-sac. The proposed subdivision accomplishes this objective.

Based on the above, staff recommends that the Planning Board find that the proposed subdivision substantially conforms to the recommendations of the Sector Plan.

Public Facilities

Roads and Transportation Facilities

Vehicular access to the proposed subdivision will be provided by an extension of Findley Road onto the subject property. Findley Road will be terminated in a cul-de-sac just inside the western property line. The one one-family detached dwelling will have driveway access from the cul-de-sac. A private loop street, with two entrances from the proposed cul-de-sac will provide access to the townhouses. Pedestrian access will be provided by sidewalks on Findley Road, University Boulevard, and the Wheaton Plaza access road, and walkways leading into the site from those streets.

The proposed subdivision does not generate 30 or more vehicle trips during the morning or evening peak hours. Therefore, the application is not subject to Local Area Transportation Review. To satisfy the Policy Area Mobility Review (PAMR) requirements of the Adequate Public Facilities (APF) test, any development located within the Kensington/Wheaton Policy Area is required to mitigate 10 percent of its new peak-hour trips. The proposed development, as a result of being located within a Metro Station Policy Area (MSPA), is estimated to generate 18 percent fewer trips compared to similar uses located outside an MSPA and, therefore, satisfies the 10 percent PAMR trip mitigation requirement. Based on the above finding, the application satisfies the PAMR requirements of the APF test.

Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The property is proposed to be served by public water and public sewer. The application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, schools, and health services are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the property. Electrical, telecommunications, and gas services are also available to serve the Property.

Environment

There are 1.02 acres of existing forest generally located on the southern portion of the site. The forest is identified as moderate priority for retention. Tree species in the forest include maples, black locust, boxelder, and black cherry. Invasive species, including English ivy, Japanese honeysuckle, and mile-a-minute, are present in the forest. The southeastern corner of the site is characterized as a tree cover area, not a forest, because of the large presence of invasive species and the low density of trees that do not meet the definition of forest. The northwestern portion of the site also contains a tree cover area.

There are 15 specimen trees on the site. The majority of these specimen trees lie within the forest area. Two of the specimen trees are located in the tree cover areas. An additional specimen tree (a 30-inch tulip poplar) is located to the west of the site near University Boulevard, but part of the tree's critical root zone lies within the subject site.

There are no streams, wetlands, floodplains, or environmental buffers on or adjacent to the site. The site is located in the Kensington Heights Branch subwatershed of the lower Rock Creek watershed. The 2003 update of the "Countywide Stream Protection Strategy" (Montgomery County Department of Environmental Protection) identifies this part of Rock Creek as a watershed restoration area with poor stream quality.

Preliminary Forest Conservation Plan

As required by the County Forest Conservation Law (Section 22A of the County code), a Preliminary Forest Conservation Plan (PFCP) for the project was submitted with the preliminary subdivision plan.

The PFCP proposes to retain 0.47 acres and clear 0.55 acres of existing onsite forest. The reforestation requirement is 0.46 acres. The applicant proposes to meet this requirement through 0.18 acres of onsite reforestation, 0.09 acres of onsite landscape credits, and 0.19 acres of offsite measures (reforestation at an offsite location or buying credits at a forest bank). The final offsite location will be determined with the Final FCP at Site Plan.

The PFCP includes a conceptual landscape plan that shows the general locations and species of native trees that may be planted within the subdivision and are proposed for use as landscape credits towards meeting part of the subdivision's reforestation requirement. Staff believes that the concept is acceptable, but the details of the species, amounts, planting locations, and allowed credit should be reviewed and determined at the site plan stage. Staff believes that some of the landscaped areas may also be considered to be suitable as a visual screen for some of the residences from traffic noise on University Boulevard (see discussion below on traffic noise impacts).

The proposed subdivision is an optional method of development in the RT-8 zone, a one-family zone, and therefore a minimum amount of forest must be retained onsite. Section 22A-12(f) of the County Forest Conservation Law states:

- (1) General. Any site developed in an agricultural and resource area, any planned unit development, any site developed under a cluster or other optional method of development in a one-family residential zone, and any waiver from a zoning requirement for environmental reasons, must include a minimum amount of forest on-site as part of meeting its total forest conservation requirement.
- (2) Retention, reforestation and afforestation. Forest retention must be maximized where possible on each site listed in this subsection. At a minimum, on-site forest retention, and in some cases reforestation and afforestation, must be required as follows:

(B) In a planned unit development or a site development using a cluster or other optional method of development in a one-family residential zone, on-site forest retention must equal the applicable conservation threshold...

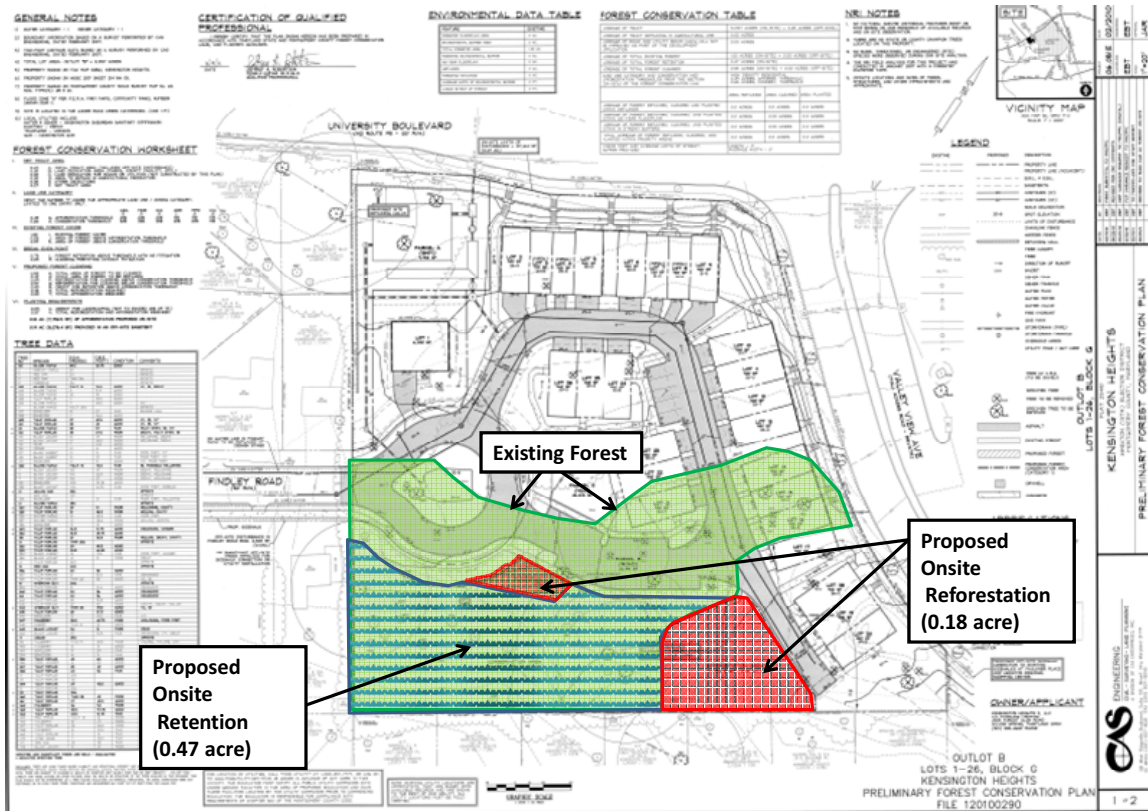
For this site, the applicable conservation threshold is 0.65 acres. The Forest Conservation Law allows for some flexibility of the above requirement for onsite forest retention. Section 22A-12(f)(3) states that “if the Planning Board or Planning Director, as appropriate, finds that forest retention required in this subsection is not possible, the applicant must provide the maximum possible on-site retention in combination with on-site reforestation and afforestation, not including landscaping.” That is, if onsite forest retention cannot be used to partly or entirely meet the conservation threshold amount, then onsite forest planting may be used to meet this threshold amount.

Originally, the applicant proposed a subdivision with 27 lots with no onsite forest retention and 0.44 acres of onsite forest planting. This proposal would not be in conformance with Sections 22A-12(f)(2)(B) and (f)(3) and the applicant would have had to request a waiver from these provisions.

However, the applicant has revised the subdivision to delete one of the one-family detached lots, convert a second one-family detached lot into a townhouse lot, and re-arrange the remaining lots to create a 0.65-acre combined onsite forest retention and planting area. The revised layout does not provide the entire onsite forest through retention alone. This is because the density of the RT-8 zone, in combination with infrastructure requirements such as the full cul-de-sac at the public road termination on the site, limits the amount of forest retention that can occur onsite. Staff believes that the maximum forest retention is provided by the revised layout and is in conformance with Section 22A-12(f)(3).

The proposed subdivision complies with the Forest Conservation Law’s minimum onsite forest requirement for an optional method of development in a one-family residential zone (Section 22A-12(f)(2)(B)) and provides the maximum possible on-site forest retention in combination with onsite reforestation (Section 22A-12(f)(3)).

In order to protect the onsite forest a modified Category I conservation easement has been placed over the retained forest area. The modified conservation easement would allow for a limited amount of unpaved paths and seating for use and enjoyment by the residents of the subdivision.



Variance Request for Impacts to or Removal of Trees that are at least 30 inches, DBH (Section 22A-12(b)(3)(C))

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or any 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 Forest Conservation Law. The law requires no impact to trees that measure 30 inches or greater, DBH; trees that are part of a historic site or designated with a historic structure; trees that are designated as a national, state, or county champion tree; trees that are at least 75 percent of the diameter of the current state champion tree of that species; or trees, shrubs, or plants that are designated as federal or state rare, threatened, or endangered species. The applicant submitted a variance request on September 9, 2010, for the impacts to trees with the proposed layout of the subdivision at that time. A revised variance request that reflects the currently proposed layout was submitted March 8, 2011. The applicant currently proposes to remove eight trees that are 30 inches or greater, DBH, and to impact, but not remove, three others. The original variance request would have resulted in the removal of nine large trees.

TREE #	SPECIES	D.B.H. (INCHES)	REMOVED AS PART OF THIS PLAN	% OF CRZ IMPACTED (APPROXIMATE)	COMMENT
302	SILVER MAPLE	51	Y	70%	REMOVED AS PART OF PUBLIC ACCESS IMPROVEMENTS REQUIRED BY REZONING
311	SILVER MAPLE	38	Y	100%	REMOVED AS PART OF PROPOSED TOWNHOUSE CONSTRUCTION
312	TULIP POPLAR	45	Y	100%	REMOVED AS PART OF PROPOSED TOWNHOUSE CONSTRUCTION
320	SILVER MAPLE	51	Y	80%	WITHIN ON SITE ROAD IMPROVEMENTS (PARCEL B)
325	TULIP POPLAR	31	N	5%	PART OF CAT 1 CONSERVATION EASEMENT
329	TULIP POPLAR	34.5	Y	80%	WITHIN ON SITE ROAD IMPROVEMENTS (PARCEL B)
344	AMERICAN ELM	TWIN 33	N	15%	IMPACTED BY RIGHT OF WAY IMPROVEMENTS
349	BLACK LOCUST	34	Y	100%	IN PUBLIC RIGHT OF WAY (FINDLEY ROAD EXTENSION)
355	TULIP POPLAR	42	Y	80%	WITHIN PROPOSED SWM AREA (PARCEL A)
363	TULIP POPLAR	38.5	N	40%	OFF-SITE; ON PT LOT 32 -A; ADDITIONAL MEASURES WILL BE REQUIRED TO ENSURE SURVIVAL
364	TULIP POPLAR	34.5	Y	70%	WITHIN PROPOSED SWM AREA (PARCEL A)

Trees to be removed as part of proposed site work (house/road construction, grading, etc)
 Trees impacted by construction; not removed. Protection measures could be needed for Final Forest Conservation Plan

In accordance with Section 22A-21(c), on September 16, 2010, the Planning Board referred a copy of the original variance request (dated September 9, 2010) to the County Arborist. Since the Arborist elected not to review that request due to the submission date of the project's NRI/FSD, the current variance request (dated March 8, 2011) that reflects the revised layout was not referred to the County arborist.

Section 22A-21 of the Forest Conservation Law sets forth the findings that must be made by the Planning Board in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

- (1) Approval of the variance 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 because disturbance and removal of the specified trees are due to the development of the site, consistent with the density approved in the rezoning to RT-8. The trees and/or their critical root zones lie within the developable area of the site. Granting a variance request to allow land disturbance within the developable portion of a site is not unique to this applicant. The Planning Board has granted variances to applicants of other sites for impacts or removal of large trees within the developable portion of these other sites.

- (2) Approval of the variance is not based on conditions or circumstances which result from the actions by the applicant:

The Council determined that the site is appropriate for townhouse development and provides an appropriate transitional land use from the shopping center to the adjacent one-family detached residential development.

The extent and type of development on the site is based on the goal of the District Council to provide a transitional use on this site between the mall and the residential uses. Therefore, the variance request is not based on the result from actions by the applicant.

- (3) Approval of the variance is not based on a condition relating to land or building use, either permitted or nonconforming, on a neighboring property:

The trees that are subject to this variance request are scattered throughout the site and are being removed or impacted solely due to development on this site, not on a neighboring property.

- (4) Approval of the variance will not violate State water quality standards or cause measurable degradation in water quality:

MCDPS has found the stormwater management concept for the proposed subdivision to be acceptable and has conditionally approved it. In addition, there are no impacts to trees or forest within environmental buffers. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

Stormwater Management

The MCDPS Stormwater Management Section approved the stormwater management concept on December 22, 2009. The stormwater management concept consists of onsite channel protection measures via underground storage; onsite water quality control via disconnects, infiltration filters, and a stormfilter; and onsite recharge via drywells and an infiltration trench.

Noise Impacts

Because the proposed residential subdivision is adjacent to University Boulevard, a designated major highway, adverse impacts from existing and future traffic noise on the proposed dwelling units are a concern. The “Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development” (Environmental Planning Division, June 1983), also known as the “staff noise guidelines,” establish criteria to define transportation noise impacts for sensitive uses and provide recommendations for mitigation of such impacts.

The approved Schematic Development Plan for the property includes a note that a noise analysis incorporating existing baseline noise conditions, 20-year future conditions, and methods to mitigate noise impacts would be submitted with the preliminary subdivision plan.

A noise analysis report, dated October 12, 2010, by Michael Staiano, an acoustical engineer, identifies proposed Lots 2-13 (identified as proposed Lots 4-14 in the report based on an earlier plan with a different lot layout) as being adversely impacted by traffic noise levels over 65 dBA, Ldn using projected traffic counts for the year 2030 for University Boulevard and the Wheaton Mall access road. Consistent with the staff noise guidelines, dwelling units that are impacted by traffic noise levels over 65 dBA, Ldn should be subject to an interior guideline no

greater than 45 dBA, Ldn. Most residential units meet the interior noise level through current construction methods, but, on occasion, additional acoustical noise mitigation is necessary. The additional mitigation typically includes special materials and additional construction measures of the building shell to enable exterior noise levels to be attenuated to acceptable levels inside the dwelling units.

For residential lots, the staff noise guidelines identify backyard areas as noise sensitive areas where residents should be able to enjoy the use of private outdoor areas free of the annoyance and hazards associated with high noise levels. In addition, the guidelines identify outdoor residential noise guidelines which vary depending on where the affected site is located in the county. For the subject site, which is considered to be within the “urban ring,” the recommended outdoor noise guideline level for outdoor use areas is 65 dBA, Ldn.

The noise analysis report for the proposed subdivision applied a more stringent guideline of 60 dBA, Ldn for proposed outdoor backyard areas of residential lots. Based on the more stringent guideline, the report recommends the placement of two noise walls along the northwestern and the northeastern portions of the site. One of the noise walls would be 150 feet long and the second wall would be 30 feet long. To be effective, both walls would be about 7 feet high and would cut across two paths that connect the subdivision to University Boulevard and to the mall access road.

The 60 dBA, Ldn may be too stringent a guideline to apply to this site given the proximity, unit type and design of the site. If 65 dBA, Ldn is used as the guideline level, as recommended by the staff noise guidelines for this part of the county, the projected noise levels for outdoor backyard areas for all proposed lots, except for proposed Lot 11, are at 65 dBA, Ldn or lower without any noise mitigation walls. For proposed Lot 11, the projected backyard outdoor noise impact is 66 dBA, Ldn. This level of noise impact is acceptable for the backyard area of proposed Lot 11 for the following reasons: the noise level is not significantly greater than the guideline level of 65 dBA, Ldn; the backyard area for this type of townhouse is covered in large part by a driveway and outdoor use for residents would be limited; and a more usable outdoor space is being provided for residents in the subdivision within the common area (the playground area).

As noted above, the common outdoor use area for the subdivision (i.e., the playground area) is located in the center of the site. This area would be well protected from traffic noise of the nearby major roads even without the proposed noise walls and would be subject to 2030 projected traffic noise levels below 61 dBA, Ldn.

The appropriateness, including location and height of the applicant’s two proposed noise walls, should be determined during the review of the site plan. Other measures, where possible, to mitigate traffic noise on outdoor use areas should be explored during site plan review. Those measures that are determined to be appropriate for the subdivision and compatible with the surrounding neighborhood should be incorporated into the site plan.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

A private street is proposed to provide access to and frontage for the 25 townhouse lots¹. Section 50-29(a)(2) of the Subdivision Regulations requires that lots must front on a street that has been dedicated to public use or that has acquired the status of a public street. The proposed private street meets the minimum standards necessary to make the finding that it has acquired the status of a public street. These standards, as previously applied by staff for townhouse lots, include a 20-foot pavement width, five-foot sidewalk width, an appropriate circulation pattern, and an appropriate paving cross-section. The road will also be placed within an easement that ensures it remains fully accessible to the public. Staff recommends, therefore, that the Planning Board find that the proposed private street has acquired the status of a public street.

The lots were reviewed for compliance with the dimensional requirements for the RT-8 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Compliance with Prior Approvals

The application complies with all applicable binding elements of County Council Resolution No. 16-1189 approving Local Map Amendment G-877. This local map amendment was approved on November 10, 2009, and rezoned the subject property from R-60 and C-T to RT-8. The resolution contains seven binding elements:

1. The maximum number of dwelling units shall be 27 including moderately priced dwelling units (MPDUs). The final number of dwelling units including a minimum 12.5% MPDUs will be established at site plan review.
2. Any units that have lot frontage and direct access on the proposed cul-de-sac and are contiguous to the existing R-60 neighborhood (or are separated from that neighborhood only by a common area) shall be one-family detached homes.
3. The maximum number of units in a townhouse row shall not exceed four units except for any townhouse units facing the proposed Findley Road cul-de-sac, which must not exceed three units per row. Likewise, any townhouse units directly confronting the common property line with houses that front on Faulkner Place must not exceed three units per row. If townhouse rows are located around the Findley Road cul-de-sac or confront the common property line with houses that front on Faulkner Place, these particular units shall be designed to have the appearance of one-family dwelling units with one front door per elevation. The final design, layout, and location will be established during site plan review.

¹ The one one-family lot will be accessed by and will front on the proposed cul-de-sac extension of Findley Road, a public street.

4. The one-family detached units identified on the Schematic Development Plan as Units 1, 2, and 3 shall be set back a minimum distance from the common property line as follows:
 - Unit 1: 25 feet (side)
 - Unit 2: 30 feet (side) and 35 feet (rear)
 - Unit 3: 35 feet (rear)
5. Vehicular access to this site shall be limited to Findley Road.
6. Building coverage shall not exceed 25% of the gross tract area.
7. Green area provided shall not be less than 55% of the gross tract area.

The proposed subdivision is in compliance with each of the binding elements, as evidenced on the preliminary plan.

Citizen Correspondence and Issues

The applicant conducted a pre-submission community meeting on January 20, 2010. At the meeting, citizens asked general questions about the plan, but no concerns were raised. Written notice was also given by the applicant and staff of the public hearing date. As of the date of this report, no citizen correspondence has been received.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Wheaton Central Business District and Vicinity Sector Plan. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

Attachments

- Attachment A – Vicinity Development Map
- Attachment B – Proposed Development Plan
- Attachment C – Agency Correspondence Referenced in Conditions

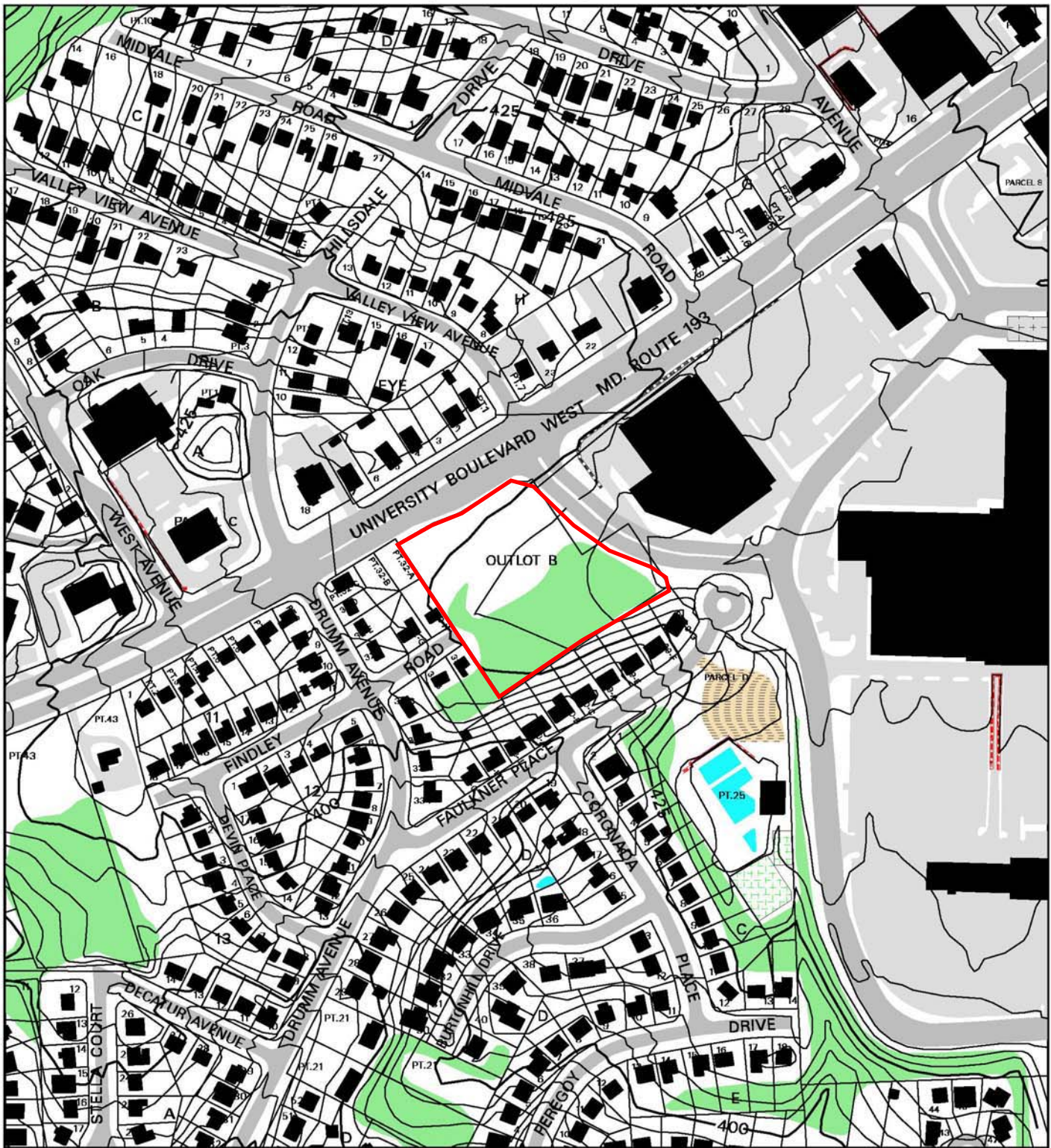
Table 1: Preliminary Plan Data Table and Checklist

Plan Name: Kensington Heights				
Plan Number: 120100290				
Zoning: RT-8				
# of Lots: 26				
# of Outlots: N/a				
Dev. Type: Residential				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	Date
Minimum Tract Area	20,000 sq. ft.	3.02 ac. minimum	NB	4/1/11
Setbacks				
From R-60 Zone	30 ft. Min.	Must meet minimum ¹	NB	4/1/11
Side (End Unit)	10 ft. Min.	Must meet minimum ¹	NB	4/1/11
Rear	20 ft. Min.	Must meet minimum ¹	NB	4/1/11
Height	35 ft. Max.	May not exceed maximum ¹	NB	4/1/11
Max Resid'l d.u. per Zoning	27 ²	26	NB	4/1/11
Maximum Building Coverage	25% Max. ²	May not exceed maximum ¹	NB	4/1/11
Minimum Green Area	55% Min. ²	Must meet minimum ¹	NB	4/1/11
MPDUs	Yes		NB	4/1/11
TDRs	N/a		NB	4/1/11
Site Plan Req'd?	Yes		NB	4/1/11
FINDINGS				
<i>SUBDIVISION</i>				
Lot frontage on Public Street		Yes	NB	4/1/11
Road dedication and frontage improvements		Yes	Agency letter	9/13/10
Environmental Guidelines		Yes	Staff memo	3/15/11
Forest Conservation		Yes	Staff memo	3/15/11
Master Plan Compliance		Yes	Staff memo	4/1/11
<i>ADEQUATE PUBLIC FACILITIES</i>				
Stormwater Management		Yes	Agency letter	12/22/09
Water and Sewer (WSSC)		Yes	Agency comments	7/6/10
10-yr Water and Sewer Plan Compliance		Yes	Agency comments	7/6/10
Well and Septic		N/a	Agency letter	7/6/10
Local Area Traffic Review		N/a	Staff memo	11/12/10
Policy Area Mobility Review		N/a	Staff memo	11/12/10
Transportation Management Agreement		No	Staff memo	11/12/10
School Cluster in Moratorium?		No	NB	4/1/11
School Facilities Payment		No	NB	4/1/11
Fire and Rescue		Yes	Agency letter	10/22/10

¹ As determined during Site Plan review in accordance with the standards in the zoning ordinance.

² As specified in the binding elements of Local Map Amendment G-877.

KENSINGTON HEIGHTS (120100290)



Map compiled on September 13, 2010 at 11:35 AM | Site located on base sheet no - 214NW03

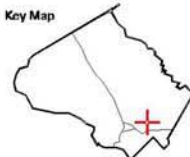
NOTICE

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes, is not recommended. - Copyright 1998

Key Map



N



Research & Technology Center



1 inch = 300 feet
1 : 3600



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

December 22, 2009

Carla Reid
Director

Mr. Eric Tidd
CAS Engineering
108 W. Ridgeville Boulevard, Suite 101
Mount Airy, MD 21771

Re: Stormwater Management **CONCEPT** Request
for Wheaton Parcels/Kensington Heights
Preliminary Plan #: Pending
SM File #: 234274
Tract Size/Zone: 3.02 Ac./RT-10 (Ex.R-60)
Total Concept Area: 3.02
Parcel(s): N600
Watershed: Lower Rock Creek

Dear Mr. Tidd:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site channel protection measures via under ground storage; on-site water quality control via rooftop disconnect, non rooftop disconnect, a natural area conservation credit, infiltration trench/sand filter(s), and a Stormfilter; and, onsite recharge via dry wells and an infiltration trench. Channel protection volume is not required for the Drumm Avenue drainage area because the one-year post development peak discharge is less than or equal to 2.0 cfs. A waiver of water quality control is granted for the area that is located "below" the quality structure and where there are no existing storm drains in Findley Road.

The following **items** will need to be addressed **during** 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. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. Infiltration test are required for the trench and the drywells at the time of plan submittal. If the infiltration trench does not work then provide additional recharge areas.
6. Overbank and extreme flood protection are provided for the University Blvd drainage area. Please verify that all pipes and inlets draining to the storage structure are designed to handle the 10 and 100 year storm.
7. A Fluidic Amp is being used in the Cpv control structure to help provide more actual storage.

8. Provide 12 feet of clear access to underground structures. Please provide a revised preliminary plan before going to the planning board.
9. Provide access reinforcement with H-20 loading to allow maintenance vehicles to get to the underground structures.
10. The easement around the Cpv structure must not include the retaining wall.
11. Please verify with the Fire Marshal's Office that the infiltration structure in the middle of the cul-de-sac is acceptable.
12. Maryland Department of the Environment regulations require all final sediment control and stormwater management plans approved on or after May 4, 2010 must comply with the most recent changes to the Maryland Stormwater Design Manual. After that date, previously approved stormwater management concept plans are no longer valid unless they have been designed to the new standards or have been reconfirmed by the Department of Permitting Services.

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 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 David Kuykendall at 240-777-6332.

Sincerely,



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

RRB:dm CN234274 Wheaton Parcel Kensington Heights.DWK

cc: C. Conlon
M. Pfefferle
SM File # 234274

QN - Onsite; Acres: 3.02
QL - Onsite.Waived; Acres: 2.95/.07
Recharge is provided



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

September 13, 2010

Arthur Holmes, Jr.
Director

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #1-20100290
Kensington Heights

Dear Ms. Conlon:

We have completed our review of the preliminary plan with latest revision dated August 23, 2010. This plan was reviewed by the Development Review Committee at its meeting on July 6, 2010. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
2. Access and improvements along University Boulevard (MD 193) as required by the Maryland State Highway Administration.
3. We accept the applicant's storm drain statement; the site controls the 10 and 100 year storms and releases them at or below the pre-developed rates. If this changes at any time the applicant must submit a revised storm drain capacity analysis to this office for review. This condition to be noted on the record plat.
4. The conceptual profile for Findley Road extended is acceptable to this office. We accept the waiver request to reduce the first proposed vertical curve to 50'. Grade establishments for all new public streets must be approved by the Department of Permitting Services (MCDPS) prior to submission of the record plat.
5. Size storm drain easement(s) prior to record plat. No fences will be allowed within the storm drain easement(s) without a revocable permit from the Department of Permitting Services and a recorded Maintenance and Liability Agreement.
6. In accordance with Section 49-35(e) of the Montgomery County Code, sidewalks are required to serve the proposed subdivision. Sidewalks are to be provided on both sides of the proposed public streets unless the applicant is able to obtain a waiver from the appropriate government agency.

Division of Traffic Engineering and Operations

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080
trafficops@montgomerycountymd.gov

7. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
8. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
9. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right of way, shall be approved by the Planning Board during their review of the preliminary plan.
10. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
11. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Traffic Systems Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
12. Trees in the County rights of way - species and spacing to be in accordance with the applicable DOT standards. Tree planting within the public right of way must be coordinated with Mr. Brett Linkletter with our Division of Highway Services, Tree Maintenance Section. Mr. Linkletter may be contacted at (240) 777-7651.
13. Coordinate any impacts to existing County bus stops with our Division of Transit Services. Please coordinate with Ms. Stacey Coletta of that division, Ms. Coletta may be reached at (240) 777-5836.
14. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
 - A. Street grading, paving, curbs and gutters, sidewalks and handicap ramps, storm drainage and appurtenances, and street trees along Findley Road.

Construct cul-de-sac along Findley Road per standard MC-222.01. The design of the island to encourage one way movement must be worked out with MCDPS at the site plan stage.
 - B. Enclosed storm drainage and/or engineered channel (in accordance with the DOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
 - C. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at

Ms. Catherine Conlon
Preliminary Plan No. 1-20100290
September 13, 2010
Page 3

such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.

- D. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Traffic Engineering and Operations Section.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Ms. Dewa Salihi at (240) 777-2197.

Sincerely,



Gregory M. Leck, P.E., Manager
Development Review Team

M:\subdivision\SALIH01\Preliminary Plans\1-20100290 Kensington Heights\1-20100290 Kensington Heights.doc

Enclosures (1)

- cc: Sterling Mehring
Eric Tidd; CAS Engineering
Corren Giles; MSHA
Preliminary Plan Folder
Preliminary Plans Note Book
- cc-e: Henry Emery; MCDPS RWPPR
Sarah Navid; MCDPS RWPPR
Neil Braunstein; M-NCPPC DRD
Shahriar Etemadi; M-NCPPC TPD
Deanna Archey; MCDOT DTS
Stacy Coletta; MCDOT DTS
Brett Linkletter; MCDOT DHS
Dan Sanayi; MCDOT DTEO
Fred Lees; MCDOT DTEO
Dewa Salihi, MCDOT DTEO